

Office of Legislative Research  
Connecticut General Assembly

 **OLR MAJOR ACTS**

July 8, 2005  
2005-R-0529

**NOTICE TO READERS**



These summaries are intended to describe briefly the most significant, far-reaching, and publicly debated acts adopted by the General

Assembly in its 2005 regular session and June special session (JSS). Not all provisions of these acts are included. The Major Public Acts are posted on the intranet at <http://cgalites/olr/> and on the Internet at <http://www.cga.state.ct.us/olr/>.

The Office of Legislative Research also produces a number of specific reports highlighting legislation in various subject areas, including acts affecting children, senior citizens, the environment, and business. Our 2005 Public Act Summary book, which contains detailed summaries of all public acts, will be available this fall.

**CONTENTS**

Budget and Finances	2
Business and Labor	7
Consumer Protection	9
Education	10
Elections & Government	14
Energy & Technology	16
Health	19
Insurance	21
Judiciary	25
Land Use & Environment	26
Seniors	30
Transportation	32
Veterans/Military	36
Welfare	39

## **BUDGET AND FINANCES**

### ***Appropriations (Provided By the Office Of Fiscal Analysis)***

This act appropriates \$15,282.9 million for FY 06 and \$15,938.4 million for FY 07 to state agencies and accounts. These All Funds appropriations are supported by revenues of \$15,289.8 million in FY 06 and \$15,948.9 million in FY 07, which exceed the appropriated levels by \$6.9 million and \$10.5 million in each of the respective fiscal years. This act also appropriates \$88.1 million in FY 05 deficiency appropriations. Several sections of the act provide for the carry-forward (non-lapse) of funds in specific agencies and accounts from FY 05 into FY 06 and FY 07. This act uses \$603.9 million from the \$700.2 million anticipated FY 05 General Fund surplus for a variety of purposes.

***Carryforwards.*** An estimated \$10.9 million in the General Fund and \$5.7 million in other miscellaneous funds are carried forward as a result of the provisions of this act. The amount to be carried forward into FY 07 is uncertain, as it will depend upon expenditures made in FY 06. OFA's latest General Fund surplus projection of \$700.2 million could potentially be reduced by the \$.6 million in additional carryforwards provided by this act.

***Surplus Use.*** The act uses \$603.9 million from the anticipated FY 05 surplus for the following purposes (figures in millions):

- \$137.7 Economic Recovery Notes
- 100.0 Teachers' Retirement
- 57.3 Education Cost Sharing
- 57.1 Various FY 05 Carryforwards
- 54.8 Managed Care Org. Pre-Payment
- 47.6 Early Retirement Accruals
- 18.0 OPM – Contingency Needs
- 15.7 Town Aid Roads
- 14.7 non-Early Retirement Accruals
- 14.0 Priority School Districts
- 10.7 PILOT – State Property
- 10.6 PILOT – Private Property
- 10.2 PILOT – New Manufacturing
- 55.5 All Other Items
- \$603.9 Total

### ***Major Budget Increases.***

Some of the major programmatic budgetary increases (including both operating and anticipated FY 05 surplus dollars) over the prior year are (figures in millions):

<b>Item</b>	<b>FY 06</b>	<b>FY 07</b>
Medicaid	\$336.4	\$99.3
Debt Service	40.4	194.1
Teachers' Ret.	90.8	60.4
ECS	<u>56.6</u>	<u>32.2</u>
<b>Totals</b>	<b>\$524.2</b>	<b>\$386.0</b>

**Municipal Aid.** Grants to towns increase by \$142.8 million to \$2,448.3 million in FY 06 from estimated expenditures of \$2,305.5 million in FY 05 and by \$28.1 million to \$2,476.3 million in FY 07 from the appropriated level in FY 06. These figures include all operating expenditures, as well as appropriations of the anticipated FY 05 surplus for use during FY 06 and FY 07.

(Please refer to OFA's Highlights of the 2005-2007 Biennial Budget for additional information on these and other major budget changes.)

**Budget Growth Rate.** The budget growth rate based on the budget for FY 06 over estimated expenditures for FY 05 (including OFA adjustments) for all appropriated funds is 8.7% and the adjusted rate for FY 07 over FY 06 is 3.3%.

**Spending Cap.** The FY 05 budget was under the spending cap by \$133.8 million. This act increases FY 05 appropriations by \$634.9 million (including \$546.8 million for miscellaneous appropriations and \$88.1 million for deficiency appropriations) of which \$477.2 million counts toward the spending cap. This \$477.2 million plus additional FY 05 appropriations of \$7.5 million to extend HUSKY A benefits (PA

05-1; sHB 6438) and \$20 million for stem cell research (PA 05-149; sSB 934) totaled \$504.7 million and caused the spending cap to be exceeded by \$370.9 million in FY 05.

The Governor issued a declaration, thus allowing the spending cap to be exceeded by this amount. In her declaration, the governor exercised her option under Section 2-33a (CGS) not to include these anticipated surplus appropriations within the FY 05 base upon which the spending cap for FY 06 would be calculated. The legislature provided the constitutionally required three-fifths affirmative vote to allow appropriations to exceed the spending cap. (Approximately \$32.3 million of the anticipated FY 05 surplus appropriations plus the \$57.1 million in carryforwards are for ongoing programs.)

The calculation of the spending cap (based on interpretation of the statutory spending cap) shows the budget provided by this act to be under the cap by \$24.4 million in FY 06 and \$10.4 million in FY 07.

The FY 06 spending cap calculation assumes that \$244 million in appropriations needed to implement the nursing home provider tax program is considered to be a "non-capped" general budget expenditure for purposes of calculating the cap. The Governor's declaration further specified that this expenditure would be part of the "capped" budget base for FY 07.

Section 50 of this act provides for up to \$15.9 million of the anticipated FY 05 surplus to be appropriated for private provider rate increases after \$76 million has been deposited in the Budget Reserve Fund. If this entire appropriation were made, then the spending cap calculation would put general budget expenditures under allowed expenditures by \$8.5 million in FY 06 and \$26.8 million in FY 07.

***Budget Reserve (Rainy Day)***

**Fund.** Based on a projected FY 05 surplus of \$700.2 million, it is anticipated that \$76.3 million would be transferred to the Budget Reserve Fund (BRF). This transfer would increase the amount in the Budget Reserve Fund (BRF) from the \$302.2 million (deposited from the FY 04 surplus) to \$378.5 million.

Based on FY 06 net General Fund appropriations of \$14,131.7 million, the 10% maximum that could be deposited in the BRF would be \$1,413.2 million. With the potential deposit of \$378.5 million, the BRF would fall short of being fully funded by \$1,034.7 million.

Any additional surplus up to \$15.9 million beyond the amount of \$76 million subsequently realized would be appropriated for private provider rate increases.

**(PA 05-251**, deficiency and surplus-related sections are effective upon passage and new

appropriation sections are effective July 1, 2005)

***Estate, Succession, And Gift Taxes***

The act eliminates the succession tax and gift taxes immediately instead of over several more years as required by current law and replaces them with a uniform tax on transfers of Connecticut taxable gifts and estates that exceed a combined lifetime total of \$2 million. Connecticut's prior estate tax was effectively eliminated as of January 1, 2005 by a 2001 federal law.

The new transfer tax applies to:

1. estates of people who die on or after January 1, 2005 if (a) the estate's taxable value exceeds \$2 million and (b) the person was either a Connecticut resident when he died or owned Connecticut real or personal property;
2. gifts above the federal gift tax threshold (currently \$11,000 per year, per recipient) made on or after January 1, 2005 that, in the aggregate over the donor's life, exceed \$2 million; and
3. a person's estate, if the combined value of all the Connecticut taxable gifts he made after January 1, 2005 and his taxable estate exceeds \$2 million.

A qualifying life income interest in property passing to a surviving spouse is not taxed until the spouse dies. The act requires a Connecticut estate tax return to be filed for all estates, regardless of gross value, if the decedent (1) died on or after January 1, 2005 and (2) was a Connecticut resident or owned real or personal property in the state when he died.

(PA 05-251, §§ 66-70 & 93, effective on passage. The new transfer tax applies to gifts made, and to estates of people who die, on or after January 1, 2005; the gift tax repeal applies to calendar years beginning on or after January 1, 2005; and the succession tax repeal applies to estates of those who die on or after January 1, 2005.)

### ***Corporation Tax Surcharges***

An act imposes corporation tax surcharges of 20% for the 2006, and 15% for the 2007, income year. The surcharges apply to all companies that owe more than the \$250 minimum tax.

(PA 05-251, §§62-63, effective on passage and applicable to income years starting on or after January 1, 2006.)

### ***Maximum Property Tax Credit***

An act delays a scheduled increase in the maximum property tax credit against the income tax. Instead of increasing to a maximum of \$500 starting

with the 2005 tax year, the act maintains the maximum credit at \$350 through the 2005 tax year, and then increases it to \$400.

(PA 05-251, § 77, effective on passage and applicable to tax years starting on or after January 1, 2005)

### ***Income Tax Exemption For Military Retirement Income***

Starting with the 2008 tax year, an act exempts 50% of federally taxable military retirement pay from the state income tax.

(PA 05-251, §§ 71-73, effective on passage and applicable to income years starting on or after January 1, 2008)

### ***Income Tax Reduction Delay For Single Filers***

A new law delays, by two years, scheduled income tax reductions for single filers. It does so by delaying scheduled increases in (1) their adjusted gross income (AGI) exempt from the tax and (2) income thresholds for reducing their personal exemption, personal credit, and property tax credit.

(PA 05-251, §§ 74-76, effective on passage and applicable to tax years beginning on or after January 1, 2005)

### ***Penalties For Failure To Report Listed Transactions***

This act addresses so-called “listed transactions,” which are transactions the Internal Revenue Service identifies as abusive tax shelters or any transactions substantially similar to them.

The act imposes a penalty on promoters who deliberately make material false statements in connection with organizing or selling a listed transaction, if the activities affect Connecticut tax returns. The false statement must relate to the allowability of any deduction, credit, income exclusion, or other tax benefit arising from the transaction. The penalty is 50% of the gross income the promoter derives or expects to derive from the activity.

Federal law requires taxpayers to report their participation in listed transactions to the IRS on their federal corporation and income tax returns. The act establishes a separate, higher penalty for any corporation and personal income tax deficiency attributable to a taxpayer’s failure to comply with the federal disclosure requirement. The new penalty is 75% of the deficiency assessment the Department of Revenue Services makes when any part of a tax deficiency is attributable to a taxpayer’s failure to disclose a listed transaction.

**(PA 05-116**, effective on passage. The penalty on tax

shelter promoters applies to any open tax period. The increased penalty for failure to report a listed transaction on a federal return applies to audits of returns that begin on or after January 1, 2006. The remaining provisions apply to income years starting on or after January 1, 2005.)

### ***Bond Authorizations for Capital Improvements***

This act authorizes additional state general obligation (GO) bonds for various programs for FYs 06 and 07, including \$150 million for urban development projects under the Urban Act, \$60 million for local capital improvement projects for cities and towns, \$40 million for the Small Town Economic Assistance Program (STEAP), \$18 million for farmland preservation, and \$10 million for the Manufacturing Assistance Act. It also authorizes \$100 million in revenue bonds for Clean Water Fund projects.

The act also eliminates the population restrictions for STEAP eligibility, making Fairfield, Glastonbury, Greenwich, Southington, Trumbull, and Wallingford eligible for the program. It gives Enfield an extra Clean Water Fund grant to pay additional costs for upgrading its wastewater treatment plant.

**(PA 05-5, J.S.S.**, most provisions effective July 1, 2005.)

## **BUSINESS AND LABOR**

(PA 05-284, effective October 1, 2005)

### ***Minimum Wage Increase***

A new law increases the state's minimum hourly wage from \$7.10 to \$7.40 on January 1, 2006 and to \$7.65 on January 1, 2007.

(PA 05-32, effective October 1, 2005)

### ***Disability Retirement Benefits For Correction Officers***

This act creates a higher level of disability retirement benefit for a state correction officer whose case is designated an "extraordinary circumstances" disability. It establishes guidelines and a mechanism, including the option of binding arbitration, for designating the retirement benefit. Under the act, if an employee receives the designation, his disability retirement benefit is calculated using the highest pay grade in his bargaining unit, regardless of his pay grade at the time of the disability. To qualify, the disability must be a result of the special hazards inherent in the duties of a correction officer, and the employee must be permanently disabled and unable to engage in other comparable employment.

The act does not change the benefits due a correctional officer under the state Workers' Compensation Act or disability compensation law.

### ***Assistance for the Groton Sub Base and Defense Manufacturers***

This act provides \$10 million to improve the infrastructure at the Navy's submarine base in Groton in a way that supports its long-term, ongoing naval operations. It also provides \$1 million for helping small- and medium-sized manufacturers who are in danger of losing contracts with larger defense manufacturers for supplying parts and services. The funds go to the Connecticut Center for Advanced Technology (CCAT) for establishing and operating a center to help the suppliers keep up with their customers' changing needs and demands. CCAT is a federally funded public-private partnership that helps universities, industries, and government agencies find ways to collaborate on developing new technologies.

(PA 05-143, effective July 1, 2005)

### ***Continuing Education For Plumbers***

This act exempts plumbers who have served apprenticeships that included at least 700 hours of related classroom instruction from continuing education requirements. By law, the Department of Consumer Protection commissioner must

adopt regulations to establish requirements for accredited continuing professional education for plumbers. They require plumbers to take at least three, and as much as nine, hours of continuing education per year, depending on the type of license the plumber holds.

(PA 05-3, J.S.S., §48, effective on passage)

### ***Innovation Network***

This act requires the state's economic development agencies and the University of Connecticut to create an Innovation Network through which university scientists and business researchers can find new ways to apply research and new technologies. The agencies and UConn can use up to \$10 million of their existing resources to create and operate the network, which must stimulate at least \$40 million in additional private investments. They must develop the network's plan and budget in consultation with various state agencies and other technology-focused organizations.

(PA 05-165, effective on passage)

### ***New Opportunities Fund***

This act authorizes the creation of a fund for investing in newly formed Connecticut companies that cannot raise venture capital or face other barriers despite the potential demand for the products or services. The state's quasi-public

venture capital agency, Connecticut Innovations, Inc., must establish the fund, which can make equity or similar investments. Pension funds, foundations, and other private entities can also invest money through the fund, whose term is 10 years.

(PA 05-129, effective July 1, 2005)

### ***Holiday Closing Schedules For Banks And Credit Unions And ATM Use***

A new law allows (1) Connecticut banks and credit unions to close the day before or after a bank and credit union holiday and (2) state banks and state or federal credit unions to limit the use of satellite automated teller machines (ATMs) and point-of-sale terminals by individuals who are not their customers.

(PA 05-47, effective October 1, 2005)

### ***Regulating Charities***

This act requires the consumer protection commissioner to publicize the terms of a paid solicitor's contract, including the percentage of donations the solicitor will keep, before a solicitation campaign begins and increases the paid solicitor registration fee from \$120 to \$500.

It prohibits anyone conducting a charity's affairs



from engaging in a financial transaction that is unrelated to the accomplishment of the charity's purpose or which jeopardizes or interferes with a charity's ability to accomplish its purpose. The law already prohibits a charity from engaging in such transactions. Further, the act prohibits anyone from appropriating a charity's property for private use. The penalties for violating the Solicitation of Charitable Funds Act include a fine of up to \$5,000, up to one year in prison, or both and registration suspension or revocation.

(PA 05-101, effective on passage)

## **CONSUMER PROTECTION**

### ***“Freezing” Credit Reports and Requiring Notification of Breaches in the Security of Personal Information***

This act (1) allows a consumer to freeze his credit report and (2) requires businesses to inform the affected consumers if the security of their computerized personal information has been breached.

The act prohibits a credit rating agency from releasing a frozen credit report, or any information in it, without the consumer's express authorization. It requires an agency to freeze a report in five business days. The act creates a means by which a consumer can release his report, permanently, temporarily, or to a specific third

party. It allows agencies to charge a consumer up to \$10 for each freeze or removal and up to \$12 for a temporary removal for a specific third party.

The act requires a business that has suffered a security breach involving personal information to disclose it to affected consumers, generally without unreasonable delay. It generally requires the notice to be given in writing, by telephone, or electronically. It allows a substitute form of notice when the cost of providing it is high or the number of affected people is large. It prescribes the form of the substitute notice.

(PA 05-148, effective January 1, 2006)

### ***Direct Shipment of Wine to Connecticut Consumers***

This act allows Connecticut farm wineries to ship directly to Connecticut consumers, establishes a procedure they must follow to do so, and requires out-of-state wineries shipping directly to Connecticut consumers to follow the same procedure.

The act requires in-state and out-of-state wineries to send their wine using delivery companies that hold in-state transporter's permits. As an alternative, the act allows wineries to obtain in-state transporter's permits. It requires (1) packages containing wine to bear labels stating their contents and (2) delivery companies to

obtain an adult's signature before delivery after checking the recipient's age using specific forms of identification.

The act also requires all shippers, both in-state and out-of-state, to pay any sales and alcoholic beverages tax due from the sales to the Department of Revenue Services (DRS) and prohibits them from (1) shipping more than five gallons in a 60-day period to any one consumer and (2) shipping into a "dry" town. The act also includes record-keeping and advertising requirements.

**(PA 05-274,** effective on passage)

### ***Gift Cards***

The law deems most types of property held or owed in this state to be abandoned if the owner fails to claim it after three years. This act (1) exempts the value of gift cards from the law; (2) eliminates the current law that explicitly states that the value of an unredeemed gift card is presumed abandoned three years after the purchase date or its last use, whichever is later; and (3) eliminates the requirement that gift card sellers obtain and keep the purchaser's address.

It also forgives holders of abandoned property from liability to the state for interest or penalty if they failed to report or deliver abandoned gift certificates to the state treasurer before August 16, 2003.

**(PA 05-189,** effective October 1, 2005)

### ***Income Tax Refund Anticipation Loans***

A new law requires refund anticipation loans to be made only at locations where tax preparation is the principal business. It also limits the interest rate on such loans to no more than 60% annually for the first 21 days of the loan and reduces the rate to 20% beginning on the 22<sup>nd</sup> day of the loan until the date it is repaid. A refund anticipation loan is a loan that is to be repaid directly from the proceeds of a borrower's income tax refund.

Under the act, anyone who violates these provisions is subject to a \$500 fine and, in a civil action brought by the borrower or the attorney general on the borrower's behalf, is liable to the borrower for three times the amount of the loan fee plus reasonable attorney's fees.

**(PA 05-107,** effective October 1, 2005)

## **EDUCATION**

### ***School Nutrition***

This act requires a 20-minute minimum period of physical exercise for students in full-day kindergarten through grade five, in addition to any physical education requirements. It generally limits the beverages that may be offered in schools to:

(1) water, (2) dairy and non-dairy milk, (3) 100% fruit juice, 100% vegetable juice or a combination of the two, and (4) beverages that contain only water and fruit juice with no added natural or artificial sweeteners. However, high schools may also sell diet soda and electrolyte replacement beverages during certain times of the day. The act also requires boards of education to implement and enforce a State Department of Education (SDE)-published list of recommended foods as the only foods offered for sale to students at schools.

Foods that are not on the recommended list may be sold in connection with school-sponsored events if the event occurs outside of normal school hours and the food is sold at the event and not from a vending machine or school store. Beverages that are not listed may be sold under the same conditions, but only in middle and high schools.

**(PA 05-117, VETOED)**

### ***Education Cost Sharing (ECS) Grants***

***ECS Grant Allocations for FY 06 and FY 07.*** For FY 06 and FY 07, an act requires each town to receive an ECS grant equal to its FY 05 grant plus 2%. In addition, for each of the two fiscal years, the act increases grants by specified amounts for each town.

***Non-Supplant Requirement and Penalty.*** The act requires

budgeted education appropriations in towns receiving ECS increases to be at least the amount the town appropriated for education in the previous year plus the ECS increase and it imposes a penalty on any town that violates these non-supplant requirements. The penalty is twice the amount of any shortfall, which SDE must withhold from the town's ECS grant.

**(PA 05-245, §§31-33, effective July 1, 2005)**

### ***School Construction***

This act authorizes \$605 million in state grant commitments for 49 school construction projects and \$101 million in increased grant commitments for 28 previously authorized projects that have changed substantially in cost or scope.

The act establishes two grant programs for state charter school capital projects, one to provide financing for facility upgrades and debt repayment and the other a pilot grant to one charter school for FY 06 to fund the purchase and renovation of a building for use as a charter school facility. It authorizes \$10 million in bonding over two years to fund the facility upgrade and debt repayment grants.

It also:

1. restricts increases in certain types of professional or consulting fees during a state-

- assisted school construction project;
- 2. sets accoustical standards for state-assisted school building projects and provides for limited exemptions from those standards;
- 3. exempts very small school districts from standard space specifications for state-assisted school projects;
- 4. allows regional school districts to issue bond anticipation notes with a maximum term of eight rather than four years under certain conditions; and
- 5. extends through FY 07, an authorization for a grant for Hartford school students participating in the Open Choice interdistrict attendance program to attend all-day kindergarten programs in other districts.

The act adds several projects to the 2005 priority list, increases existing grant authorizations to include improvements for athletic fields at two vocational-technical schools, and exempts various local school projects from state laws and regulations to make them eligible for state reimbursement under the school construction grant program.

**(PA 05-6, J.S.S.,** most provisions effective on passage)

### ***Funding Formula For RESC-Operated Magnet Schools***

This act establishes separate per-student grants for RESC-operated interdistrict magnet schools. For such schools where students from a single town constitute less than 55% of total enrollment, per-pupil grants will be \$6,250 for FY 06 and \$6,500 for FY 07 and subsequent years. For schools where 55% or more of students come from a single town, the grant must be at least \$3,000 per-pupil in FY 06 and all subsequent years.

**(PA 05-245, §36,** effective July 1, 2005)

### ***Charter School Per-Pupil Grants***

An act increases state charter school operating grants from the current \$7,250 per pupil to \$7,625 for FY 06 and \$8,000 for FY 07 and subsequent years.

**(PA 05-245, §38,** effective July 1, 2005)

### ***Education Funding For Tribal Agency Placed Children***

A new law requires the state to reimburse school districts for the costs associated with educating a child placed by a tribal government in the same way it reimburses for those placed by state agencies. It does this by amending the definition of an “agency” to include tribal agencies in certain sections of the education statutes.

(PA 05-245, §18-20, effective July 1, 2005)

### ***School Readiness***

This act makes many changes in the school readiness program including (1) increasing the per-child cost limit on the State Department of Education's (SDE) part of the program from \$6,400 to \$6,650 per child for FY 06 and to \$6,925 per child for FY 07 and subsequent fiscal years; (2) requiring SDE to develop a statewide assessment of kindergarten readiness by October 1, 2009; (3) establishing an Early Childhood Cabinet to, among other things, develop early childhood program budget requests and promote consistent quality and comprehensiveness for early childhood programs; and (4) raising minimum school readiness staff qualifications to require, as of July 1, 2015, either (a) a bachelor's degree in early childhood education, child development, or a related field or (b) a teaching certificate with an early childhood or special education endorsement.

(PA 05-245, §§1, 3, 8, and 9, effective July 1, 2005)

### ***9<sup>th</sup> – 10<sup>th</sup> Grade Technology Pilot Program***

The act allows the SDE to, within available appropriations, establish a pilot program for 9<sup>th</sup> and 10<sup>th</sup> grade students in the public schools for the use of technology in providing computer

assisted writing, instruction, and testing.

The commissioner must select a diverse group of participants, based on population, geographic location, and economic characteristics of the district or school. Grant funds may be used for computer hardware and software, professional development, technical consulting assistance, and other related activities.

(PA 05-245, § 39, effective July 1, 2005)

### ***Capitol Scholarship Grant Increase***

An act increases the maximum per student award for students attending Connecticut institutions under the Capitol Scholarship Grant Program from \$2,000 to \$3,000 annually.

(PA 05-245, §42, effective July 1, 2005)

### ***Research and Development Grant Programs***

Another act requires the Office of Workforce Competitiveness (OWC) to establish, within available appropriations, four new grant programs to prepare college students for careers in research and development and spur research collaborations between academia and industry. The new OWC grants go to colleges and universities, businesses, and technology-focused organizations according to a priority order the act

establishes and with advice from the Council of Advisors on Strategies for the Knowledge Economy.

The act also requires (1) the state's economic development agencies and the University of Connecticut to recommend a plan for promoting technology transfer and (2) OWC to make recommendations on advancing nanotechnology development in the state.

(PA 05-198, effective July 1, 2005, except for the technology transfer plan and nanotechnology study provisions, which are effective on passage)

## **ELECTIONS & GOVERNMENT**

### ***Direct Recording Electronic Voting Machines***

This act sets standards for direct recording electronic voting machines (DREs). As of July 1, 2005, DREs must, among other things, (1) produce a voter-verified paper record and a voting machine-generated paper record, both with an identical unique identifier that can be matched against the other; (2) permit all voters to verify their selections and make changes; (3) secure the secrecy of each elector's ballot; and (4) ensure accessibility to blind or visually impaired individuals by providing an audio description.

The act also establishes procedures for elections and primaries that use DREs. The procedures require all votes to be

tallied immediately following the close of the polls. If a recanvass is needed, the procedures require a manual recount of the voter-verified paper records, establishing them as the official record if the recount does not reconcile with the electronic vote tabulation. If an elector's voter-verified paper record is damaged, the voting machine-generated paper record bearing the same identifier becomes the official record.

Within five days after each election or primary, the registrars of voters must conduct a manual audit of at least two randomly selected DREs in each assembly district. If the officials are unable to reconcile the manual count with the electronic tabulation, the secretary of the state must conduct an investigation, and may order a recanvass.

(PA 05-188, §§ 7 & 8, effective on passage)

### ***Office Of State Ethics And The Citizen's Ethics Advisory Board***

This act abolishes the nine-member State Ethics Commission (SEC) and establishes the Office of State Ethics (OSE) and a nine-member Citizen's Ethics Advisory Board as its successor. The board is located within the office, which is an independent state agency.

Once established, the OSE, like the SEC, will administer and enforce the Code of Ethics for

Public Officials and the Code of Ethics for Lobbyists. Unlike current law, the act clearly delineates the ethics responsibilities of the board as opposed to the staff of the OSE. The OSE must primarily perform the day-to-day administrative functions that, in practice, are currently performed by SEC staff, and the board must perform the functions of the current nine-member commission. The OSE must follow similar procedures as the SEC. However under the act, a judge trial referee, rather than the new office, holds probable cause hearings and determines if probable cause exists to believe that an ethics violation was committed. Another significant difference from prior law is that the act requires the board to delay the effect of any decision for up to seven days upon the request of any aggrieved party.

(PA 05-183, effective on July 1, 2005, except for provisions on an interim transitional executive director and current SEC staff transfers, which are effective upon passage)

### ***State Contracting Reform***

This act establishes a State Contracting Standards Board (SCSB) as an independent state agency and the successor agency to the State Properties Review Board (SPRB). The new board is also charged with various other responsibilities that reform state contracting processes. It must

establish uniform procurement standards, audit state contracting agencies, and discipline them for failure to comply with the act or the uniform procurement code.

The act establishes:

1. grounds for suspending and disqualifying contractors and subcontractors from bidding on or participating in state contracts;
2. a procedure for the legislature to exempt construction contracts from the competitive bidding process;
3. conditions precedent to state privatization contracts; and
4. procedures for state agencies to use when entering purchase of service agreements.

It eliminates certain requirements from the contractor prequalification process and generally bans state and municipal agencies from receiving state funds for construction if they accept bids from a contractor without proof of his prequalification.

The act prohibits the state from contracting with corporations that receive a tax benefit as a result of reincorporating outside of the United States. The act changes the definition of small contractor under the set-aside program.

Lastly, it requires state agencies to obtain from certain contractors an affidavit

identifying consultants who work with them on that contract.

**(PA 05-286, VETOED)**

### ***Expanding Exemptions to the Freedom of Information Act***

This act exempts from the Freedom of Information Act's (FOIA) disclosure requirements e-mail messages sent to or by legislators and legislative employees.

Under prior law, FOIA authorizes state and local government agencies to keep confidential the home addresses of certain public employees, such as police officers, correction department employees, firefighters, judicial branch employees, current and former prosecutors and public defenders, and others.

The act requires, rather than authorizes, public agencies to keep such addresses confidential, and expands the prohibition to all public agencies' own officials and employees. It does not prohibit disclosure of home addresses by agencies other than those for which the officials or employees work. The act maintains the prohibition against disclosing the home address of any federal or state judge or magistrate. But the prohibition apparently no longer applies to former prosecutors and public defenders. It does not exempt from disclosure home addresses (1) of elected officials or (2) listed on a grand list, tax delinquency list, elector

registration or enrollment form, voting list, or any record the law requires be made public.

**(PA 05-278, effective on passage)**

## **ENERGY & TECHNOLOGY**

### ***Energy Independence***

This act establishes several initiatives to reduce charges associated with congestion on the electric transmission system. It creates incentives for customers for installing distributed resources on their premises. The act also provides awards to electric companies for their efforts in connection with the installation of these resources.

The act requires the Department of Public Utility Control (DPUC) to identify near-term measures that could reduce the transmission congestion costs and order the electric companies to begin implementing the steps DPUC considers appropriate by January 1, 2006.

The act requires DPUC to conduct a request for proposals to identify measures that would reduce congestion costs over the 2006 to 2010 period. Proposals can be submitted for distributed resources, larger generating plants, and contractual rights to the generating capacity of power plants. Electric companies can submit bids but, if selected, the companies (1) can build only 250 megawatts of generation capacity statewide, (2) can only recover the costs they submitted in their



bids, and (3) must sell off the plants or auction the power they produce within five years of the plants going into service, unless DPUC waives this requirement. Proposal submitted by entities other than electric companies that are selected by DPUC are eligible to enter into long-term contracts with the companies, with DPUC approval. Distributed resources projects are eligible for the incentives described above, other than the capital cost subsidy. The act also entitles electric companies to an award for generation proposals submitted by other entities that are selected by DPUC.

The act facilitates the siting of the generation projects approved or ordered by DPUC and makes other changes in the Siting Council law.

The act requires that the groups that recommend how the Conservation and Load Management and Clean Energy funds are used give a preference to funding projects that maximize the reduction in these congestion costs. It also requires these groups to evaluate the effectiveness of the funds' programs every five years, starting December 31, 2006. It modifies how money in the Conservation and Load Management funds are spent. It provides incentives for the electric companies to develop new conservation programs.

The act requires the electric companies and competitive suppliers to acquire 1% of their

supply from distributed resources starting in 2007. This proportion increases to 4% by 2010.

Under the act, the companies must implement, with DPUC approval, (1) mandatory daily rates for large commercial and industrial customers and voluntary time-of-use rates for other customers starting June 1, 2006 and (2) mandatory seasonal rates for all customers starting June 1, 2007.

The act entitles the electric companies to recover their costs and investments incurred pursuant to its provisions through several mechanisms, including the existing congestion charge and placing the costs in the companies' rate bases. In addition, the act:

1. sets a floor on municipal electric utility expenditures on conservation and load management programs, phased in over five years;
2. requires DPUC to conduct a study on establishing a procurement fee for the services electric companies must provide starting in 2007;
3. requires DPUC to conduct an assessment of distributed resources;
4. makes several changes to the requirements that the electric companies obtain part of their power from renewable resources and enter into long-term

- contracts with specified renewable energy generators;
5. allows the Clean Energy Fund to invest in combined heat and power (cogeneration) and waste heat recovery systems;
  6. reduces, from 500 to 100 kilowatts, the demand a customer must have to be directly billed by a competitive supplier rather than an electric company;
  7. requires DPUC, the Energy Conservation Management Board, and the electric companies to establish links on their websites to the federal Energy Star energy efficiency program;
  8. exempts gas pipelines that have a design capacity of less than 20% of its specified minimum yield strength from the Siting Council's jurisdiction, thereby subjecting them local planning and zoning regulation:
  9. exempts bonding by municipalities for cable TV systems from statutory bond limits;
  10. generally requires that utility dispositions of property be done by public auction or other public sale procedure; and
  11. modifies who can file a claim for a property tax exemption for air or water pollution control equipment and structures

and establishes procedures for continuing the exemption, under certain conditions, when the ownership of the equipment or structure changes.

**(PA 05-1, J.S.S.,** most provisions effective on passage)

### ***Telecommunications Services Regulation***

By law, telecommunications services are classified as competitive, emerging competitive, and noncompetitive, with the classification affecting how a service is regulated. This act deems certain services offered by telephone companies (Verizon in parts of Greenwich, SBC elsewhere) or their affiliates to be competitive and therefore subject to less extensive regulation. But it precludes a telephone company from obtaining a waiver from a pricing standard with regard to these services before January 1, 2010.

Under the law, the Department of Public Utility Control (DPUC) must order a telephone company to unbundle its network, under certain circumstances, to make its components available to the company's competitors. (Federal law has a similar provision.) The act exempts the company's hybrid fiber coaxial facilities or networks from unbundling unless specifically ordered by the Federal Communications Commission.

By law, DPUC can investigate any tariff and suspend a tariff during the investigation. The act specifies that the investigation can include a determination as to whether the tariff is predatory, deceptive, anticompetitive, or violates the pricing standard.

The law specifies the state's telecommunications goals. The act specifies that DPUC can enter into memoranda of understanding with third parties to foster these goals.

By law, DPUC must report to the legislature annually on the status of telecommunications competition and regulation. The act requires that the report describe the act's implementation.

(PA 05-231, effective July 1, 2005)

## **HEALTH**

### ***Dental Scope of Practice Revisions***

This act revises the scope of practice for dentists, dental hygienists, and dental assistants, including establishing conditions under which licensed dentists can practice oral and maxillofacial surgery. It allows a candidate for a dentist's license to substitute a year of post-graduate training for the practical portion of the licensing exam and provides a way for foreign-trained dentists to become licensed as dentists or dental hygienists. It also creates

continuing education requirements for dentists.

(PA 05-213, effective October 1, 2005)

### ***Stem Cell Research And The Cloning Of Human Beings***

This act permits research involving embryonic stem cells in Connecticut if (1) it is conducted with full consideration of its medical and ethical implications and before the embryo undergoes a series of complex movements; (2) before beginning the research, the researcher provides documentation to the public health commissioner verifying that any human embryos, embryonic stem cells, human unfertilized eggs, or human sperm used were donated voluntarily; (3) the general research program under which the stem cell research is conducted is reviewed and approved by an institutional review committee as required by federal law; and (4) the specific protocol used to derive stem cells from an embryo is reviewed and approved by an institutional review committee. The act creates a Stem Cell Research Fund and authorizes \$100 million over ten years for grants to eligible institutions for stem cell research.

The act also:

1. requires physicians or other health care providers treating a patient for infertility to provide the patient with

- timely, relevant, and appropriate information sufficient to allow the patient to make an informed and voluntary choice about the disposition of any embryos or embryonic stem cells remaining after an infertility treatment;
2. prohibits a person from knowingly (a) engaging or assisting, directly or indirectly, in cloning a human being, (b) implanting human embryos created by nuclear transfer into a uterus or device similar to a uterus (“nuclear transfer” means replacing the nucleus of a human egg with the nucleus from another human cell); and (c) facilitating human reproduction through clinical or other use of human embryos created by nuclear transfer (violating any of these provisions results in a fine of up to \$100,000, imprisonment up to 10 years, or both, with each violation a separate offense);
  3. establishes a nine-member Stem Cell Research Advisory Committee responsible for establishing and administering, in consultation with the Department of Public Health (DPH)

commissioner, a program to provide stem cell research grants to eligible institutions; and

4. establishes a five-member Stem Cell Research Peer Review Committee responsible for reviewing all applications for grants and making recommendations to DPH and the advisory committee on the ethical and scientific merits of applications.

**(PA 05-149, effective on passage)**

### ***Mental Health Initiatives***

This act creates a Behavioral Health Partnership between the Social Services and Children and Families (DCF) departments to develop and implement an integrated behavioral health system for children and families enrolled in HUSKY A and B, children enrolled in DCF’s voluntary services program, and other children and families DCF serves. The act allows the agencies to set provider-specific rates for inpatient and some intensive outpatient services and requires them to contract with a single administrative services organization to provide utilization review, quality management, and other functions. It establishes an oversight council to review the agencies’ contract with the administrative services organization and the provider-

specific rates, and other partnership activities.

The act requires the Department of Mental Health and Addiction Services (DMHAS) to provide up to 500 additional units of supportive housing for people with mental illness and creates a mechanism to fund them using the resources of several state agencies and the quasi-public Connecticut Housing Finance Authority. It also addresses several other issues related to services for people with mental illness including seeking Medicaid reimbursement for (1) DMHAS' assertive community treatment teams and (2) community support and home- and community-based services to help people diverted or discharged from nursing homes.

(PA 05-280, §§ 92-102, 32-34, 84-90, effective on various dates)

### ***Prescriptions for Anabolic Steroids and Internet Prescribing***

A new law (1) prohibits physicians and other prescribers from prescribing anabolic steroids for the sole purpose of enhancing a patient's athletic ability or performance and (2) makes prescriptions for controlled substances invalid if they are based solely on the results of an electronic questionnaire, the type often offered on the Internet, and not a physical examination.

(PA 05-73, effective on passage)

## **INSURANCE**

### ***Insurance Plan Designs, MEHIP, and Small Employer Groups***

This act requires the insurance commissioner to approve insurance and HMO health benefit plans that offer a flexible design if certain conditions are met.

The act permits an insurer or HMO to offer as flexible plan designs (1) a choice of different sized provider networks; (2) different deductibles depending on the type of health facility used; or (3) prescription drug benefits that use a combination of deductibles, copayments, or coinsurance not to exceed 30%.

The act expands eligibility for the Municipal Employee Health Insurance Plan (MEHIP) to (1) individuals eligible for a municipal retirement benefit ("retired members") and (2) federally qualified nonprofit corporations that have contracts with the state or receive any public funding, or have federal 501(c)(5) tax-exempt status (e.g., labor unions).

The act excludes small employer groups purchasing health insurance through MEHIP or an association group plan from the existing small employer rating law, which requires adjusted community rating, at the comptroller's or association

group plan administrator's option.

The act also expands the list of plans that are exempt from the 1.75% HMO premium tax to include certain policies issued to community action agencies and retired members.

**(PA 05-238**, effective on passage, except for (1) the premium tax exemption, which is effective July 1, 2005 and applies to income years beginning on or after January 1, 2005 and (2) approval of policies with flexible plan designs, which is effective October 1, 2005)

### ***Insurance Producer Compensation***

This act prohibits an insurance producer or his affiliate from receiving compensation from an insurer in certain situations. A producer or affiliate who receives compensation directly from a customer for an insurance sale is prohibited from also accepting compensation from an insurer or other third party for the sale unless, before he delivers the insurance policy to the customer, the producer (1) obtains the customer's acknowledgement that he or his affiliate will receive compensation from the insurer and (2) discloses the compensation amount. If the amount is unknown, he must give a reasonable estimate, if possible, and how the compensation is calculated.

Compensation from a customer refers to commissions that are deductible from the customer's premium payment. Compensation from the insurer means payments, commissions, fees, awards, overrides, bonuses, contingent commissions, loans, stock options, gifts, prizes, or other valuable consideration, whether agreed to in writing or not.

The act also makes a misrepresentation to induce the purchase of insurance an unfair and deceptive insurance practice. It also includes an intentional premium rate misquote as a misrepresentation. An unfair and deceptive insurance practice is subject to fines, license suspension or revocation, restitution, or any combination of these.

**(PA 05-61**, effective October 1, 2005)

### ***Insurance Coverage for Breast Cancer Ultrasound Screening***

This act requires individual and group health insurance policies to cover physician-recommended comprehensive ultrasound screening of an entire breast or breasts for a woman classified as a category 2, 3, 4, or 5 on the American College of Radiology's Breast Imaging Reporting and Database System (BI-RADS), subject to any policy provisions applicable to other covered services.

A radiologist includes a BI-RADS Category in the

mammogram report he prepares for the patient's doctor. Each category has a specific finding and recommendation. For Category 0, additional imaging is needed to make an evaluation; Category 1, results are negative; Category 2, results are benign and the patient should continue with annual mammogram screening; Category 3, results are probably benign and a six-month follow-up mammogram is suggested; Category 4, there is a suspicious abnormality and a biopsy should be considered; and Category 5, there is a likelihood of malignancy and the doctor should take appropriate action.

(PA 05-69, effective October 1, 2005)

### ***Insurance Coverage for Infertility Treatment***

This act requires individual and group health insurance policies to cover medically necessary expenses incurred for diagnosing and treating infertility. Individuals and religious employers can exclude infertility coverage if it is contrary to their religious tenets.

The act permits coverage to be limited to people under age 40 who have been covered by the policy at least 12 months. A policy can also limit in-vitro fertilization (IVF), gamete intra-fallopian transfer (GIFT), zygote intra-fallopian transfer (ZIFT), or low tubal ovum transfers to people who have used less expensive and medically viable

treatments or procedures covered under the policy but remain infertile.

A policy can also limit (1) ovulation induction coverage to four cycles; (2) intrauterine insemination coverage to three cycles; and (3) IVF, GIFT, ZIFT, or low tubal ovum transfers to two cycles and two embryo implantations per cycle, where each fertilization and transfer procedure counts toward the maximum as one cycle. The policy can require a person seeking infertility coverage to disclose to her insurer any previous infertility treatment for which she received coverage under a different health insurance policy.

A policy can require that services be performed at facilities that conform to the standards and guidelines developed by the American Society for Reproductive Medicine or the Society of Reproductive Endocrinology and Infertility.

The act also requires a clinical practice that performs insurance-covered IVF, GIFT, or ZIFT procedures to report certain information to the Department of Public Health on forms it prescribes by each February 1.

(PA 05-196, effective October 1, 2005)

### ***Medical Malpractice***

This act makes numerous changes in the laws dealing with civil litigation, primarily relating to medical malpractice; medical

malpractice insurance regulation and oversight; and the regulation, oversight, and disciplining of doctors.

Regarding litigation reform, the act, among other things:

1. permits claimants to pay more than the contingency fee sliding scale allows under certain circumstances, but prohibits a fee of more one-third of the settlement or the damages awarded;
2. requires, as a condition of filing a medical malpractice lawsuit, a signed opinion from a similar health care provider indicating that malpractice has occurred;
3. reduces the interest rate the court may award with respect to an offer of compromise (formerly know as an offer of judgment) for cases that accrue after September 30, 2005 from 12% to 8%, and establishes some additional requirements for such cases;
4. makes expressions of sympathy by health care providers inadmissible in lawsuits by victims of unanticipated outcomes of medical care;
5. requires the court to review the evidence in medical malpractice cases that award \$ 1 million or more in noneconomic damages to determine if the award is excessive as a matter of law; and

6. eliminates the medical malpractice screening panels.

Regarding insurance regulation and oversight, the act, among other things:

1. requires prior rate approval when an insurer wants to increase medical malpractice insurance rates by 7.5% or more for physicians, hospitals, and certain other health care providers, and requires an insurer to notify policy holders of (a) the proposed rate increase and (b) their right to request a hearing on the matter before the insurance commissioner;
2. requires the insurance commissioner, no sooner than October 1, 2008, to review professional liability insurance rates and requires her to convene a working group to recommend appropriate changes to the law to decrease rates or establish reasonable rates if after review she determines that rates have not decreased and are not reasonably related to the costs of writing such insurance;
3. requires the commissioner to develop a plan to maintain a viable medical malpractice insurance industry in Connecticut and submit it to the governor; and
4. requires insurers to report to the insurance



commissioner on each malpractice claim that they close and requires her to compile and analyze the reported data, and report on it to the Insurance and Real Estate Committee and the public.

Regarding medical provider regulation and oversight, the act, among other things:

1. requires the Department of Public Health (DPH), to adopt guidelines for investigating complaints against, and disciplining, physicians;
2. amends the physician profile law to require more information about adverse licensure actions in other states, professional liability insurance, and active involvement in patient care, and requires physicians to report any changes or updates in mandatory reporting information;
3. establishes continuing education requirements for physicians as a condition of license renewal;
4. requires each health care facility to develop surgery protocols and the DPH commissioner to report on them to the Public Health Committee; and
5. requires each hospital to contract with a patient safety organization to gather medical or health care related data from the hospital and make

recommendations to the hospital on ways to improve patient care and safety.

(PA 05-275, effective on various dates)

## **JUDICIARY**

### ***Civil Unions***

This act authorizes same-sex couples to enter into civil unions, granting them the same legal benefits, protections, and responsibilities as married couples. It (1) restricts civil unions to couples over age 18, (2) exempts people authorized to perform civil union ceremonies from liability for failing or refusing to do so, and (3) requires town clerks to give civil union license applicants copies of the relevant laws. Otherwise, the act's substantive provisions and penalties are identical to current marriage statutes.

The act also defines "marriage" as the union of one man and one woman.

(PA 05-10, effective October 1, 2005)

### ***Criminal Justice Policy and Planning Division***

This act creates the Criminal Justice Policy and Planning Division within the Office of Policy and Management to develop a plan to promote a more effective and cohesive state criminal justice system. Among other things, it must conduct an

in-depth analysis of the criminal justice system, determine the system's long-range needs and make recommendations, identify critical problems, advise the General Assembly, and determine information needs. The division can perform any of these functions to promote an effective and cohesive juvenile justice system.

The division must develop a reporting system to track trends and outcomes related to policies designed to reduce prison overcrowding, improve rehabilitation efforts, and enhance reentry strategies for offenders released from prison. It must issue monthly and annual reports and make an annual presentation to the Appropriations and Judiciary committees.

(PA 05-249, effective July 1, 2006)

### ***Small Claims Court***

This act increases, from \$3,500 to \$5,000, the maximum amount of damages that may be claimed in small claims court actions. Small claims court has jurisdiction over all matters, except libel or slander, involving money damages up to the statutory maximum.

(PA 05-42, effective October 1, 2005)

### ***Crack and Cocaine Penalties***

This act eliminates the disparity in the minimum

amount of crack and powder cocaine that a non-drug dependent person must possess to be guilty of selling or manufacturing, distributing, prescribing, compounding, transporting, or possessing cocaine with intent to sell. It accomplishes this by increasing the minimum amount of crack cocaine from one-half gram to one-half ounce and decreasing the minimum amount for powder cocaine from one ounce to one-half ounce.

By law, the penalty for this crime is five years to life in prison. Besides crack and cocaine, this also applies to one ounce of heroin and methadone. The five-year sentence is a mandatory minimum but a court may suspend it under certain circumstances.

(PA 05-248, effective October 1, 2005)

## **LAND USE & ENVIRONMENT**

### ***Housing Trust Fund***

***Establishment.*** The act creates a Housing Trust Fund and authorizes the State Bond Commission to capitalize it by issuing up to \$100 million in bonds, with \$20 million effective each July 1, from 2005 to 2009. It establishes a Housing Trust Fund Program to expand affordable housing opportunities for low- and moderate-income people and requires the bond proceeds to be used for this purpose.

The act specifies that the bond commission may only authorize bonds for the Housing Trust Fund when there has been an authorization request filed with it. The Office of Policy and Management (OPM) secretary must have signed the request, which must state the terms and conditions the commission may require.

The act establishes housing trust fund program goals and defines the types of housing to be developed and who is eligible for it. It (1) requires the Department of Economic and Community Development (DECD) to develop and administer the program, including adopting regulations and forming a Housing Trust Fund Program Advisory Committee, the membership of which the act details, and (2) gives the DECD commissioner the power to inspect records and other financial or project-related information of those who receive financial assistance under the program to protect the state's interest or obligations concerning such assistance.

***Eligible Applicants.***

Financial assistance, paid from the Housing Trust Fund for the development of quality rental and ownership housing for low- and moderate-income people, is available to:

1. nonprofit entities;
2. municipalities and municipal developers;
3. housing authorities;

4. the Connecticut Housing Finance Authority (CHFA);
  5. community development financial institutions;
  6. businesses that have as one of their purposes the construction, financing, acquisition, rehabilitation, or operation of affordable housing, including (a) corporations incorporated or authorized to do business, by law, that have a CHFA-approved certificate or articles of incorporation and (b) any partnership, limited partnership, limited liability company, joint venture, sole proprietorship, trust, or association that has CHFA-approved basic documents or organization; or
  7. any combination of these.
- (PA 05-5, J.S.S., §§16-22, most provisions effective July 1, 2005.)

***New Farmland Preservation and Affordable Housing Fund***

This act creates new farmland preservation programs and funds them and several existing programs through a new \$30 document-recording fee. Towns collect the fee for each document they record in the land records and keep \$3 to fund local capital improvement projects. The new programs must help farmers improve their operations, develop new products, and find new

markets for them. They must also link people who want to sell farms with people who want to farm or start an agricultural business.

The act reinstates a program under which the state acquired and sold agricultural real property and allocates a portion of the fee revenue to fund this and the existing purchase of farmland development rights program. It also allocates a portion of the fee revenue to the environmental protection department for open space grants, the Connecticut Housing Finance Authority for affordable housing programs, and the Cultural and Tourism Commission and the Connecticut Trust for Historic Preservation for preserving historic properties and sites.

Lastly, the act allows towns to exempt from the property tax up to \$100,000 of the assessed value of agricultural buildings used to house seasonal agricultural employees and create quasi-public authorities to help preserve land for farming, recreation, and open space uses.

**(PA 05-288 as amended by PA 05-3, effective October 1, 2005)**

### ***Plans Of Conservation And Development***

This act makes many changes in the requirements and processes for preparing state, regional, and local land-use plans. It requires the State Plan

of Conservation and Development (Plan of C&D) to identify areas suitable for mixed-use developments and target development funding. It requires regional planning agencies (RPAs) to revise their existing plans of development by July 1, 2008 and at least once every 10 years thereafter. It modifies the process for adopting these plans and requires them to (1) identify any inconsistencies with six growth management principles, which are included in the current draft state Plan of C&D and (2) note on the record any inconsistencies with that plan and the reasons for them. It expands the contents of local plans of C&D, requires them to address the same six principles, modifies the process for adopting the plans, and establishes a process under which anyone may request plan changes. The act bars the environmental protection commissioner from denying a water quality permit based on the proposal's inconsistency with the plan.

The act establishes a process for the Office of Policy and Management (OPM) to designate priority funding areas, subject to legislative approval. It generally restricts state funding for growth-related projects to such areas and establishes new criteria for targeting state funding for such projects.

**(PA 05-205, effective July 1, 2005, except for the validating provision and related provisions, which are effective on passage)**

### ***Minimum Water Flow Regulations***

This act requires the Department of Environmental Protection (DEP) commissioner to revise minimum flow regulations for all rivers and streams where a dam impounds or diverts the water flow. It expands the scope of these regulations to all such rivers and streams, rather than just those DEP has stocked with fish. She must revise the regulations by December 31, 2006.

The regulations must be based on the best available science, and provide for the requirements of stream and river ecology, natural aquatic life and wildlife, public recreation, public health, flood control, industry, public utilities, water supply, public safety, agriculture and other water uses.

The act subjects municipally-owned dams to the new regulations and exempts from them certain flow management plans.

(PA 05-142, effective October 1, 2005)

### ***Municipal Water Authorities***

An act allows large municipalities to create water authorities and to transfer all or part of their water systems to them. It establishes procedures for creating such authorities and establishes their powers, tax status, rights, and liabilities.

(PA 05-5, J.S.S., §23, most provisions effective July 1, 2005.)

### ***Commercial Underground Storage Tank Program***

The act revises the commercial Underground Storage Tank (UST) clean-up program.

Major changes include:

1. authorizing an inspection program of commercial USTs, and permitting private licensed environmental professionals (LEPs) to evaluate USTs for compliance with the law and regulations;
2. authorizing the Department of Environmental Protection (DEP) to stop deliveries to, and operation of, non-compliant commercial USTs;
3. expanding the categories of people eligible for reimbursement from the UST account ("responsible parties");
4. allowing UST owners and operators to assign their claims;
5. requiring applicants to submit requests for reimbursement by certain deadlines, and to achieve remediation milestones;
6. requiring a compliance report before the board acts on a request for reimbursement, and allowing the DEP commissioner to deny or

- reduce payment if she finds an applicant is not in compliance with UST regulations;
7. allowing the commissioner to create a price schedule that limits the amount the board can reimburse applicants for the costs of labor, equipment, and material;
  8. authorizing the UST review board, with an applicant's consent, to pay up to 90% of certain requested costs in exchange for a review of the claim within 90 days;
  9. limiting the amount of legal fees the board may reimburse;
  10. requiring LEP or DEP commissioner approval of expenditures made after October 1, 2005;
  11. requiring UST owners and operators to reimburse the board if they receive payments for leaks from insurance or other sources; and
  12. authorizing the attorney general to recover damages from owners of property on which there is a leaking UST if certain conditions are met, and changing some of the conditions under which he may sue.

**(PA 05-3, J.S.S., §§ 89-96, effective on passage)**

## **SENIORS**

### ***Department On Aging 2007 Reestablishment***

This act reestablishes a Department on Aging on January 1, 2007. Connecticut had such a department from 1969 to 1993, when it was disbanded and most of its functions were merged into the Department of Social Services. The act also creates a 23-member task force to make further recommendations on revising the statutes to implement the change.

**(PA 05-280, § 52-53, effective January 1, 2007 for creation of the department and July 1, 2005 for the task force)**

### ***Asset Limit Increase For State-Funded Home Care Program***

Starting April 1, 2007, asset limits will increase for seniors in the state-funded side of the Connecticut Home Care Program for Elders (CHCPE). Currently, these limits are 100% of CSPA (\$19,020) for a single person and 150% for a couple (\$28,530). The CSPA is the federally set "minimum community spouse protected amount" of assets that a Medicaid-eligible nursing home resident's spouse living in the community can keep. The act increases these limits to 150% for individuals and 200% for a couple. The increase would result in new asset limits of \$28,530 for single people and \$38,040 for married couples if it

were in effect in 2005. But since the federal government adjusts the CSPAs annually for inflation, the limits will likely be somewhat higher by 2007, when the change takes effect.

(PA 05-280, § 9, effective July 1, 2005)

### ***Establishment Of Independent Transportation Networks To Serve The Elderly***

The act requires DSS, within existing budgetary resources, to provide \$100,000 for grants of \$25,000 each for FY 06 to up to four towns with populations of at least 25,000 or nonprofit organizations located in them. The grants are seed money for planning and developing financially self-sustaining, community-based regional transportation systems that, through a combination of private donations and user fees, provide rides in passenger cars for seniors who can no longer drive. Before receiving the grant, the town or entity must show that it has secured at least \$25,000 in matching private funds.

A grant recipient must, to the extent practicable, model its community-based system on the "ITNAmerica" model. ITNAmerica is a national nonprofit organization engaged in planning to replicate a model first developed by the Independent Transportation Network (ITN) in the Portland, Maine, area in other locations. ITN obtains its operating funds through

memberships in the organization; riders' fares; and support from individuals, community businesses, and private foundations. It uses passenger automobiles and operates with a combination of volunteers who drive their own vehicles and paid drivers for vehicles ITN owns. There are no restrictions on the trip's purpose.

(PA 05-280, §§ 54, effective on passage)

### ***State Response To Federal Medicare Part D Prescription Plans***

This act changes state law to respond to a new federal Medicare Part D prescription program. Part D begins January 2006 and allows Medicare beneficiaries to enroll in private prescription plans that must offer at least a specified "standard" benefit package. People with low incomes and assets and those eligible for both Medicare and Medicaid (the "dually eligible") will receive extra federal help with deductibles, premiums, copays, and coverage. The plans only cover prescription drugs designated "Medicare Part D covered drugs" and, to some extent, they can choose which of these they will put on their formularies.

The act requires participants in the Connecticut Pharmaceutical Contract to the Elderly and Disabled (ConnPACE) program to (1) enroll in a Part D plan; (2) disclose their income

and assets to the Department of Social Services (DSS) to determine their eligibility for the extra federal help; and (3) appoint the DSS commissioner as their authorized representative to enroll them in a plan if they do not choose one in time and to represent them in Part D appeals.

It coordinates the state ConnPACE benefits with Part D so that participants do not pay more than ConnPACE's \$30 annual registration fee and \$16.25 per-prescription copayment for drugs that are (1) preferred drugs on their plan's formulary or (2) not designated a Part D covered drug. ConnPACE participants may pay less than the \$16.25 copay if their federal copays are lower. But they may have to pay the difference between DSS's payment and the price of a drug that is on the formulary but not a preferred drug. DSS generally pays nothing for Part D covered drugs that are not on a plan's formulary, but under a federal exception procedure, if the client or DSS appeals and wins, drugs not on the formulary could be treated and paid for as though they were.

DSS will pay ConnPACE participants' Part D monthly premiums. It will cover drugs to the same extent as otherwise during the federal deductible period and the gap in the "standard" benefit. The standard benefit, after a \$250 annual deductible, pays 75% of the drug

costs up to \$2,250 and then pays nothing (this is the gap) until total drug costs reach \$5,100, after which it generally pays 95%.

Consistent with the federal law, dually eligibles will no longer receive Medicaid benefits for Part D covered drugs, even if they are not on the plan's formulary. For drugs on a formulary, the federal Medicare copays for this group will be \$1 to \$5 depending on income and drug type. They will not have to pay premiums or deductibles and will not be subject to the coverage gap. Medicaid continues to cover their drugs that are not Part D covered drugs. Dually eligible nursing home residents will not have copays.

(PA 05-280, §18-29, effective July 1, 2005)

## **TRANSPORTATION**

### ***New Haven Rail Line Revitalization And Other Improvements***

New transportation legislation:

1. requires the transportation commissioner to acquire new self-propelled rail cars for the New Haven Rail Line and construct maintenance facilities for them, construct operational improvements on I-95, purchase 25 transit buses, and, in consultation with the Transportation Strategy



- Board (TSB) and appropriate regional planning and governmental bodies, evaluate, design, and construct transportation improvements in places other than on I-95;
2. authorizes \$485.65 million in bonding for the rail-related improvements the act requires and \$344.5 million in bonding for the other required transportation improvements;
  3. authorizes \$136.9 million in bonding for general transportation purposes in FY 06, \$144.6 million for these purposes in FY 07, and \$49 million for capital resurfacing and related construction projects in FY 07;
  4. establishes a \$1 per-trip surcharge on tickets for travel on the New Haven Line for the seven and one-half-year period from January 1, 2008 through June 2015 and dedicates the revenue from the surcharge to the rail line improvements required by the act;
  5. increases the petroleum products gross earnings tax rate from 5% to 5.8% in FY 06, 6.3% in FY 07, 7% in FY 08, 7.5% in FY 09 through FY 13, and 8.1% in FY 14 and thereafter;
  6. annually transfers specified amounts from the Special Transportation Fund (STF) to the TSB projects account and directs specified amounts to be spent from the projects account on the rail-related improvements the act requires;
  7. increases the \$5.25 million quarterly transfer to the STF of petroleum products tax receipts attributable from motor vehicle fuel sales to \$10.875 million in FY 06, \$15.25 million in FY 07, \$21 million in FY 08, \$25.225 million in FY 09 through FY 13, and \$29.85 million in FY 14 and beyond; and
  8. requires \$5 million to be spent by the TSB in both FY 06 and FY 07 for the municipal dial-a-ride matching grant program.
- (PA 05-4, J.S.S., effective July 1, 2005, except (1) the New Haven Rail Line \$1 per-trip surcharge, rail revitalization account, and revitalization program status report provisions are effective January 1, 2006; (2) the \$49 million bond authorization for capital resurfacing is effective May 1, 2006; and (3) the FY 07 STO bond authorization for general transportation purposes and the provision requiring annual expenditures of \$ 15 million from the TSB projects account for FY 08 through FY 15 for the rail revitalization program are effective on July 1, 2006)**

### ***Additional Training And Restrictions For Drivers Under The Age Of Eighteen***

This act requires 16- and 17-year-olds learning to drive under learner's permits to have a minimum of 20, instead of eight, hours of behind-the-wheel instruction before they qualify for licensure. It also prohibits 16- or 17-year-old licensed drivers from driving from 12:00 a.m. to 5:00 a.m. unless they are traveling because of employment, school or religious activities, or medical necessity. It exempts a 16- or 17-year old licensee from the passenger and hour restrictions if he is an active member of a volunteer fire company or department, a volunteer ambulance service or company, or an emergency medical service organization and is responding to an emergency or carrying out his duties as a member. Finally, it permits 16- and 17-year olds to transport more than one of their parents during the first three months they are licensed.

(PA 05-54, effective October 1, 2005)

### ***Use Of Child Restraint Systems***

This act (1) with one exception for children being transported in student transportation vehicles, extends child restraint system use requirements from children under age four weighing less than 40 pounds to children

under age seven or who weigh less than 60 pounds, regardless of age; (2) requires any child under age one or weighing less than 20 pounds to be transported in a rear-facing position in his child restraint system; and (3) requires children restrained in booster seats to be anchored by a seat belt that includes a shoulder belt. Children transported in student transportation vehicles remain under the law's prior requirements.

The act also requires that children be restrained in booster seats only when the restraining seat belt includes a shoulder belt and meets other applicable statutory requirements on belt strength and latch release. Use of a lap belt only is prohibited.

Under the act, violators of the rear-facing positioning requirement for infants and the booster seat anchorage requirements are subject to the following penalties: an infraction for a first offense; a fine of up to \$199 for a second offense; and a fine of up to \$2,000, imprisonment for up to one year, or both (Class A misdemeanor) for a third or subsequent offense. Mandatory attendance at an approved child car seat safety course is required following a first or second violation of any of the child restraint requirements.

(PA 05-58, effective October 1, 2005)

***Restrictions On Using Mobile Telephones And Mobile Electronic Devices By Drivers In Moving Motor Vehicles***

A new law prohibits a driver from using (1) a mobile telephone to engage in a call while the vehicle is moving unless he uses a hands-free telephone, except under certain limited circumstances and (2) a mobile electronic device in a moving vehicle under any circumstances. It also prohibits (1) drivers under age 18 from using a mobile electronic device or any mobile telephone while the vehicle is moving, whether or not it has a hands-free accessory; (2) a school bus driver from using either a mobile telephone or any mobile or other electronic device in a moving bus containing passengers unless its use qualifies under one of the act's exceptions; and (3) any driver from engaging in an activity not directly related to the actual operation of the vehicle in a manner that interferes with its safe operation.

Violations of the mobile telephone and electronic device use prohibitions are punishable by a fine of up to \$100 but a first time violator who is neither a school bus driver nor under age 18 can avoid the fine if he proves that he has acquired a hands free telephone accessory before the fine is imposed.

The act also requires an additional \$100 fine to be

assessed whenever a driver commits a moving violation while engaged in any non-driving related activity that interferes with safe vehicle operation.

A law enforcement officer who issues a summons for a violation of any of the prohibitions must record on the summons form the specific nature of any distracted driving behavior he saw that contributed to issuing the summons.

The act defines a "mobile electronic device" as any hand-held or other portable electronic equipment capable of providing data communication between two or more people, including devices for text messaging or paging, a personal digital assistant, a laptop computer, equipment capable of playing a video game or digital video disk, or equipment on which digital photographs are taken or transmitted. Audio equipment or any equipment installed in the vehicle to provide navigation, emergency, or other assistance to the driver or video entertainment to passengers in the vehicle's rear seats is not considered a mobile electronic device.

A driver may use a hand-held mobile telephone regardless of the prohibition (1) for the sole purpose of communicating an emergency situation with an emergency response operator, hospital, physician's office or health clinic, ambulance company, or fire or police department or (2) if age 18 or older, if he is a peace officer,

firefighter, or an ambulance or authorized emergency vehicle driver and performing official duties within the scope of employment. In addition, school bus drivers may use a hand-held mobile telephone or other electronic device to place an emergency call to school officials without violating the prohibition.

(PA 05-159, effective October 1, 2005)

### ***Restrictions On The Operation Of Mini-Motorcycles***

This act prohibits someone from operating or riding as a passenger on a mini-motorcycle or, as the owner of such a vehicle, allowing someone to operate or ride as a passenger on one on any highway, public sidewalk, or public property in the state. It also prohibits operation on private property without the property owner's written permission. The act includes a specific definition of "mini motorcycle." These vehicles are widely referred to as "pocket bikes."

The act requires anyone offering a mini-motorcycle for sale, lease, or rent to provide warning labels and advisories on the safe and legal use of such vehicles, the limitations on their use, and the possible consequences for violating the limitations.

Until DMV adopts the implementing regulations the act requires anyone offering a mini-motorcycle for sale, lease, or rent

to display warning information, advertise, and make oral communications in a manner that is consistent with the act's requirements. The Department of Motor Vehicles (DMV) must adopt implementing regulations by January 1, 2006.

The act designates violations of any of its provisions as infractions and requires that the police impound the mini-motorcycle for 48 hours for illegal operation. It does not preclude municipalities from adopting more restrictive limitations on the use, sale, lease, or rent of mini-motorcycles.

(PA 05-173, effective October 1, 2005)

## **VETERANS/MILITARY**

### ***Death Benefits For Service***

The act gives death benefits to certain survivors of Connecticut-domiciled, armed forces members and reservists who are killed in action or die from an illness or accident suffered while deployed in active duty service in Southwest Asia in support of Operation Enduring Freedom or Operation Iraqi Freedom between September 11, 2001 and July 1, 2006. The amounts are up to \$100,000 for a surviving spouse, \$50,000 for a surviving parent, and \$50 per month for a dependent child. The act requires the state treasurer to make the payments and reduce payments by any amount of death benefit

paid under federal law for the member's death.

(PA 05-3, J.S.S., §8, effective July 1, 2006)

### ***Military Family Relief Fund***

The act establishes the Military Family Relief Fund as a separate, nonlapsing General Fund account. The Military Department must use the fund to make grants to immediate relatives of Connecticut-domiciled, armed forces members on active duty, including guardsmen, to pay for essential personal or household goods or services, if paying for them would be a hardship for the relatives because of the member's service.

(PA 05-3, J.S.S., §10, effective on passage)

### ***Taxpayer Contributions To The Military Family Relief Fund***

The act allows taxpayers filing returns for tax years starting on or after January 1, 2005 to contribute all or part of their personal income tax refund to the Military Relief Fund by indicating this on their tax returns, in a manner provided by the revenue services commissioner.

Contributions are irrevocable once the return is filed. Filers must make contributions in a manner the DRS commissioner prescribes.

(PA 05-3, J.S.S., §11, effective July 1, 2005 and applicable to tax years commencing on or after January 1, 2005)

### ***Volunteer Service Program***

The act requires the National Guard's Family Program to establish a volunteer service program for armed forces members, including guardsmen, on active duty and residing in Connecticut. The services may include repairs, gardening, transportation, babysitting, tutoring, cooking, or other services the recipient finds helpful.

Under the program, a volunteer service coordinator works with towns and local organizations throughout the state to provide volunteer services to the members and their families. The volunteer services coordinator must identify and help towns and organizations that provide volunteer services to members and their families in communities throughout the state.

(PA 05-3, J.S.S., §12, effective on passage)

### ***Therapy Support Groups***

The act requires the National Guard's Family Program to publicize to all members of the armed forces, including guardsmen, and their families the availability throughout the state of therapy support groups for them.

(PA 05-3, J.S.S., §13, effective on passage)

### ***Bonus Program For Certain Guard Members***

Under the act, current or former guard members (1) called to active service on or after September 11, 2001; (2) who were in active service for at least 90 consecutive days; (3) deployed in active service in a combat zone and, if discharged, were honorably discharged or discharged because of a line-of duty injury are entitled to a \$50 bonus for each month or major part thereof, up to a maximum of \$500. The member has three years after the date when the operation in which he served ends to apply for the bonus.

(PA 05-3, J.S.S., §14, effective on passage)

### ***Registry Of Veterans And Armed Forces Members***

The act requires the Department of Veterans' Affairs (DOVA) to create a registry of veterans and armed forces members to facilitate notification of listed persons about benefits and services available to, and legislation affecting, them.

(PA 05-3, J.S.S., §22, effective July 1, 2005)

### ***Tests On Armed Forces Members For Depleted Uranium Exposure***

Beginning October 1, 2005, the act requires the adjutant general and the veterans' affairs commissioner to help eligible guardsmen and veterans get federal treatment services, including a best-practice health screening test for exposure to depleted uranium, if they (1) are assigned a risk level I, II, or III for depleted uranium exposure by their branch of service; (2) are referred by a military physician; or (3) have reason to believe that they were exposed to depleted uranium during service. The best-practice uranium test must use (1) a bioassay procedure involving methods sensitive enough to detect depleted uranium at low levels and (2) equipment capable of discriminating between different radioisotopes in naturally occurring levels of uranium and the characteristic ratio and marker for depleted uranium.

The act prohibits the use of state funds to pay for the tests or other federal treatment services.

By October 1, 2005, the adjutant general must report to the Veterans' Affairs Committee on the scope and adequacy of training guardsmen receive on detecting whether their service has exposed them to depleted uranium.

(PA 05-3, J.S.S., §33, effective on passage)

***Health Effects Of The  
Exposure To Hazardous  
Material Task Force***

The act establishes a task force to study, within available appropriations, the health effects of the exposure to hazardous material, including depleted uranium, as it relates to military service. The task force must, within available appropriations, (1) commission a study to consider the health of service members who may have been exposed to hazardous materials since August 2, 1990 and conduct a scientific conference on those health effects; (2) initiate a health registry for veterans and military personnel returning from Afghanistan, Iraq, or other countries in which depleted uranium or other hazardous material may be found; (3) develop a plan for outreach to, and follow-up of, military personnel; (4) prepare a report for service members about potential exposure to depleted uranium and other toxic substances and precautions recommended in combat and noncombat conditions while in a combat zone; and (5) make any other recommendations. The task force must report by January 31, 2006 to the Veterans' Affairs Committee.

(PA 05-3, J.S.S., §34, effective on passage)

**WELFARE**

***Husky A***

***Income Limits.*** Effective July 1, 2005, this act increases the income limit for adult coverage in the HUSKY A (Medicaid) program from 100% to 150% of the federal poverty level (FPL). HUSKY A coverage is available to adults who are parents or caretaker relatives of children receiving HUSKY A. The income limit for the children is 185% of the FPL. The current FPL is \$19,350 for a four-person household.

***Transitional Medicaid for Families.*** Under the law, families who lose eligibility for HUSKY A coverage due to employment or child support income are eligible for transitional Medicaid. This act reduces from two years to one the time that these families can receive this assistance. Federal law requires states to provide one year of transitional Medicaid but allows states to provide an additional year.

Under the act, a family already receiving transitional Medicaid on July 1, 2005 can receive the balance of such benefits, but they may not receive more than 12 additional months of assistance.

***Cost Sharing.*** The act also requires the Department of Social Services (DSS) commissioner, to the extent permitted by federal law or waiver, to impose cost sharing requirements on parents and needy caretaker relatives

receiving HUSKY (presumably HUSKY A since HUSKY B is for children only) with income over 100% of the FPL. The cost sharing includes (1) a \$25 monthly premium and (2) \$1 co-payment for outpatient medical services. Previously, there were no cost sharing requirements in HUSKY A. If DSS seeks a federal waiver, it must submit a copy of the waiver to the Appropriations and Human Services committees for review, which is required by law for most waiver requests.

The act permits the commissioner to implement policies and procedures needed to administer the cost sharing while in the process of adopting regulations.

Federal Medicaid law limits the circumstances under which states may impose cost sharing requirements on Medicaid (HUSKY A is a subset of Medicaid in Connecticut) recipients without a waiver. Federal regulations also establish maximum cost sharing amounts.

**Presumptive Eligibility.** The act requires the DSS commissioner to reinstitute presumptive eligibility (PE) for children applying for HUSKY A coverage. PE determinations must be made in accordance with applicable federal law. In essence, PE enables children to start getting HUSKY A coverage while DSS is in the process of completing the eligibility determination.)

(PA 05-280, §§1 & 9, effective July 1, 2005)

### ***Husky B Premiums for Band 2 Families***

HUSKY B provides subsidized, managed health insurance to children in families with incomes between 185% and 300% of the FPL. Families with incomes between 235% and 300% (Band 2) of the FPL currently pay \$30 per month in premiums, as well as co-payments on most medical services, with an overall annual cost sharing cap of \$1,250. Families with lower incomes (Band 1) pay no premiums, but they pay up to \$650 annually in co-payments.

Prior law permitted the DSS commissioner to increase the maximum annual cost sharing caps, provided they do not exceed 5% of the family's gross annual income, and it allowed the commissioner to impose premiums on the lower income families. The act requires the commissioner (1) beginning July 1, 2005, to increase the caps, (2) to impose premiums on families with incomes between 185% and 235% of the FPL, and (3) to increase the premiums for the Band 2 families.

(PA 05-280, §7, effective July 1, 2005)

### ***Enrollees' Ability to Change MCOs***

The act requires HUSKY A and B beneficiaries to remain enrolled in a managed care plan for 12 months before they can



switch to another plan, unless (1) they can demonstrate good cause for switching sooner or (2) the beneficiary no longer meets the program's eligibility requirements. Under current DSS regulations, HUSKY B enrollees may only switch plans once a year. HUSKY A enrollees can switch more often.

(PA 05-280, §9, effective July 1, 2005)

### ***Elimination of Self Declaration of Income***

The act eliminates the DSS commissioner's authority to rely on income information that HUSKY A and B applicants put on the program renewal application unless she has reason to believe it is inaccurate or incomplete.

(PA 05-280, §5, effective July 1, 2005)

### ***Nursing Home Resident User Fee***

The act imposes a nursing home user fee on the state's nursing homes. The act directs the DSS commissioner to file an amendment to its Medicaid State Plan to implement the fee, and to seek a federal Medicaid waiver to enable her to exempt continuing care retirement communities (CCRCs) from the fee and charge certain homes a lower fee.

The act increases the Medicaid rates the state pays to nursing homes and intermediate care facilities for people with mental retardation (ICF-MR) in

FY 06, and increases state payments to residential care homes in FY 06. All of the increases are contingent upon the nursing home fee's implementation and the availability of federal Medicaid matching funds.

(PA 05-251, as amended by 05-280, effective July 1, 2005)

### ***Legislative Review And Approval Of Waiver Applications***

This act strengthens legislative oversight of DSS's federal waiver applications. By law, whenever DSS submits an application to the federal government to waive certain requirements of a federal program, it must first submit the waiver application to the Human Services and Appropriations committees. Currently, the committees can, but are not required to, advise the DSS commissioner of their opinion of the application, which, in practice, has not been binding on her.

(PA 05-112, VETOED)

### ***Medicaid Waivers For Family Planning Services***

This act requires the DSS commissioner to apply for a federal "Section 1115" waiver to provide Medicaid coverage for family planning services to adults in households with income up to 185% of the federal poverty level (FPL) (currently \$29,766

annually for a family of three) who are not otherwise eligible for Medicaid. In general, adults who are not aged or disabled qualify for Medicaid in Connecticut only if they (1) have children who receive Medicaid and (2) have incomes no higher than 150% of the FPL (\$24,135 for three people). Family planning services are eligible for a 90% federal Medicaid match; the state's normal federal match is 50%.

(PA 05-120, effective July 1, 2005)

### ***State Supplement—Pass-Thru of SSI COLAs***

This act requires the DSS commissioner, beginning January 1, 2006 and on each January 1 thereafter, to increase the amount of unearned income she disregards when determining eligibility and benefits for the State Supplement Program. She must increase the disregard by the amount of the cost-of-living adjustment (COLA), if any, provided to federal Supplemental Security Income (SSI) recipients for the corresponding calendar year.

(PA 05-243, effective on passage)

### ***Transfer of Assets Waiver Repeal***

This act repeals the requirement that the DSS commissioner submit a federal waiver request to delay the start

date for the penalties she imposes for long-term care Medicaid applicants that transfer assets for less than fair market value solely to qualify for Medicaid do so within 36 months of applying. Under federal law, the penalty period (i.e., period of Medicaid ineligibility) starts from the date the asset is transferred. Under prior state law, the penalty period would have started on the date the applicant was determined otherwise eligible for Medicaid if the waiver had been approved. The governor announced recently that she would be withdrawing the waiver request.

(PA 05-209, effective July 1, 2005)

### ***Least Restrictive Setting Option for Long-Term Care***

This act requires the state's long-term care plan and policy, developed by the inter-agency Long-Term Care Planning Committee, to provide that people who need long-term care have the option to receive it in the least restrictive, appropriate setting. This is consistent with a 1999 U. S. Supreme Court decision that states cannot discriminate against people with disabilities by offering them long-term care services only in institutions when they could be served in the community, given state resources and other citizens' long-term care needs (*Olmstead v. L. C.*, 119 S. Ct. 2176). State law requires the

plan to serve as a guide for state agencies' programs serving people who need long-term care.

**(PA 05-14**, effective October 1, 2005)  
SC:tjo