Submissions for any SSL docket should be sent to CSG at least eight weeks in advance of any scheduled SSL meeting in order to be considered for the docket of that meeting. Submissions received after this will typically be held for a later meeting. Anyone desiring an exception to this policy must contact the SSL committee leadership and will be responsible for preparing and distributing to the SSL committee any materials that are related to the docket submission in question. The status of any item on this docket is listed as reported by the submitting state’s legislative Internet Web site or by telephone from state legislative service agencies and legislative libraries. Abstracts of the legislation on SSL dockets and in SSL volumes are usually compiled from bill digests and state legislative staff analysis.

CSG COMMITTEE ON
SUGGESTED STATE LEGISLATION

2016 CYCLE
DOCKET BOOK B
June 19 and June 20, 2015

This docket and referenced legislation can be downloaded from www.csg.org.
SSL PROCESS

The Committee on Suggested State Legislation guides the SSL Program. SSL Committee members represent all regions of the country and many areas of state government. Members include legislators, legislative staff and other state government officials.

SSL Committee members meet several times a year to consider legislation. The items chosen by the SSL Committee are published online at www.csg.org/ssl after every meeting and then compiled into annual Suggested State Legislation volumes. The volumes are usually published in December.

SSL Committee members, other state officials, and their staff, CSG Associates and CSG staff can submit legislation directly to the SSL Program. The committee also considers legislation from other sources, but only when that legislation is submitted through a state official. Other sources include public interest groups and members of the corporate community who are not CSG Associates.

It takes many bills or laws to fill the dockets of one year-long SSL cycle. Items should be submitted to CSG at least eight weeks in advance to be considered for placement on the docket of a scheduled SSL meeting. Items submitted after that are typically held for a later meeting.

Committee members prefer to consider legislation that has been enacted into law by at least one state. Legislation that addresses a single, specific topic is preferable to omnibus legislation that addresses a general topic or references many disparate parts of a state code. Occasionally, committee members will consider and adopt uniform or proposed “model” legislation from an organization, or an interstate compact. In this case, the committee strongly prefers to examine state legislation that enacts the uniform or model law, or compact.

In order to facilitate the selection and review process on any submitted legislation, it is particularly helpful to include information on the status of the legislation, an enumeration of other states with similar provisions, and any summaries or analyses of the legislation.

Legislation and accompanying materials should be submitted to the Suggested State Legislation Program, The Council of State Governments, 2760 Research Park Drive, P.O. Box 11910, Lexington, Kentucky 40578-1910, (859) 244-8000, fax (859) 244-8001, or ssl@csg.org.
SSL CRITERIA

- Does the issue have national or regional significance?
- Are fresh and innovative approaches available to address the issue?
- Is the issue of sufficient complexity that a bill drafter would benefit from having a comprehensive draft available?
- Does the bill or Act represent a practical approach to the problem?
- Does the bill or Act represent a comprehensive approach to the problem or is it tied to a narrow approach that may have limited relevance for many states?
- Is the structure of the bill or Act logically consistent?
- Is the language and style of the bill or Act clear and unambiguous?

The word “Act” as used herein refers to both proposed and enacted legislation. Attempts are made to ensure that items presented to committee members are the most recent versions. However, interested parties should contact the originating state for the ultimate disposition in the state of any docket entry in question, including substitute bills and amendments. Furthermore, the Committee on Suggested State Legislation does not guarantee that entries presented on its dockets or in a Suggested State Legislation volume represent the exact versions of those items as enacted into law, if applicable.
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**Summary:** [These are typically excerpted from bill digests, committee summaries, and related materials which are contained in or accompany the legislation.]

**Status:** [Action taken on item in source state.]

**Comment:** [Contains references to other bills or information about the entry and issues the members should consider in referring the entry for publication in SSL. Space may also be used to note reaction to an item, instructions to staff, etc.]

**Disposition of Entry:** [Action taken on item by the SSL Committee.]

- SSL Committee Meeting: (A)(B)(C)
  - ( ) Include in Volume
  - ( ) Include as a Note
  - ( ) Defer consideration:
    - ( ) next SSL mtg.
    - ( ) next SSL cycle
  - ( ) Reject

**Comments/Note to staff:**

*Item was deferred from the previous SSL cycle*
SSL DOCKET CATEGORIES - 2004A and later

(*) Indicates item is carried over from previous SSL cycle.

(01) Conservation and the Environment
(02) Hazardous Materials/Waste
(03) Energy
(04) Science and Technology
(05) Public, Occupational and Consumer Health and Safety
(06) Property, Land and Housing/Infrastructure, Development/Protection
(07) Growth Management
(08) Economic Development/Global Dynamics/Development
(09) Business Regulation and Commercial Law
(10) Public Finance and Taxation
(11) Labor/Workforce Recruitment, Relations and Development
(12) Public Utilities and Public Works
(13) State and Local Government/Interstate Cooperation and Legal Development
(14) Transportation
(15) Communications/Telecommunications
(16) Elections/Political Conditions
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(18) Public Assistance/Human Services
(19) Domestic Relations/Demographic Shifts/Social and Cultural Shifts
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(26) MISCELLANEOUS
01-36B-01 Plastic Bag Ban  
California  
SB 270

Summary:
This bill prohibits stores, as defined, from distributing lightweight, single-use plastic bags after specified dates. Establishes requirements for reusable bags and prohibits stores from distributing reusable bags and recycled paper bags for less than $0.10 per bag.

Status:  Signed into law on September 30, 2014.

Comments:  From CNN Money (February 25, 2015)
The nation's first state-wide ban on plastic bags has been pushed back more than a year after opponents secured enough signatures to put it to a public vote.

California passed a law last year that prohibits stores from handing out single-use plastic bags for free to consumers. The law was set to go into effect in July.

But the plastics industry and bag manufacturers have been up in arms against it. On Tuesday, the California secretary of state announced that opponents had secured enough signatures to put the ban to a referendum in November 2016, meaning the ban is effectively on hold until then.

Supporters of the ban say plastic bags are an environmental hazard that end up in waterways and landfills where they don't break down for years.

The ban is also supported by some local officials, who say it will reduce the amount of money sanitation departments spend to clean up litter.

The plastic bag industry has spent $3.2 million campaigning against the ban, according to Mark Murray of the advocacy group Californians vs. Big Plastic.

Murray said polls suggest that California voters support the ban, and that many cities in the state have already started phasing out plastic bags.

Under the law, stores will be required to offer customers recycled paper bags or bags made of compostable material at a cost of at least 10 cents.

Consumers on the government food-assistance program won't have to pay for bags.

California is the first state to ban plastic bags, and Hawaii has local ordinances on its four main islands that prohibit plastic bags.

Several cities and municipalities already have passed similar laws. San Francisco became the first major U.S. city to ban plastic bags in 2007. Los Angeles announced a ban earlier this year, along with Seattle, Chicago, Portland, and Austin.
The American Progressive Bag Alliance, a group that represents the plastics bag industry, were thrilled that the state ban has now been pushed to a referendum, more than a year away.

"California voters will now have the chance to vote down a terrible law," said Lee Califf, director of the pro-plastic bag group.

The group has argued that the ban would kill manufacturing jobs and is a gift to big grocers, which would be able to charge customers a few cents for paper bags under the law.

According to the plastic bag industry group, more than 800,000 signatures were submitted and the county registrars office verified that more than 500,000 were valid.

However, supporters of the ban have asked California's attorney general to investigate how the signatures were obtained. They allege that signature gatherers misled voters by characterizing the ban as a tax or suggesting that signing the petition would advance the ban, not repeal it.

From Southern California Public Radio (September 30, 2014)

Gov. Jerry Brown has signed legislation imposing the nation's first statewide ban on single-use plastic bags.

Brown on Tuesday signed the bill by Democratic state Sen. Alex Padilla of Los Angeles.

Plastic bags will be phased out of large grocery stores starting next July and convenience stores and pharmacies in 2016. The legislation is meant to encourage consumers to bring their own bags and as a way to reduce litter.

The bill preserves more than 100 local plastic bag bans, including in San Francisco and Los Angeles. Grocers support the ban because it sets a statewide standard and allows them to charge consumers a 10 cent fee for using paper bags.

Plastic and paper bag manufacturers opposed to the legislation say it will result in lost manufacturing jobs in California.

The American Progressive Bag Alliance, an industry trade group, hopes to use the initiative process to thwart the law before it takes effect.

By the end of the year, the group plans to collect more than 500,000 signatures on a referendum to overturn the law. If the referendum is certified, the law would be suspended until the issue is put before voters in November 2016.

In a statement, the group said its research indicated the majority of Californians oppose the bag ban.

Disposition of Entry:

SSL Committee Meeting: 2016 B
( ) Include in Volume
( ) Include as a Note
( ) Defer consideration:
    ( ) next SSL mtg.  ( ) next SSL cycle
( ) Reject

Comments/Note to staff
Summary:
SB 1465 provides disclosure requirements to be included in agreements for the sale or lease of a distributed energy generating system (system).

Current law requires anyone who manufacturers, furnishes for installation or installs a solar energy device to provide a written warranty statement that includes responsibilities assumed or disclaimed and performance data of the device and components of the device. The statement is subject to approval by the Registrar of Contractors, in accordance to rules adopted, and the Governor’s Energy Office. Statute requires a person who sells a solar energy device to provide the written warranty statement and requires solar devices sold and installed to comply with any consumer protection, rating, certification, performance, marking, installation and safety standards that have been adopted by the Governor’s Energy Office.

Bill Provisions:
1. Requires an agreement governing the financing, sale or lease of a system to any person or a political subdivision to:
   a. Be signed and dated by the person buying, financing or leasing the system;
   b. Be in at least 10-point type;
   c. Include a provision granting the buyer or lessee to rescind the agreement within three business days after the agreement is signed and before the system is installed;
   d. Provide a description, including the make and model or a guarantee concerning energy production output that the system would provide;
   e. Separately set forth the total purchase price or cost for the life of the agreement, any interest or fees to be paid, and the total number of payments, payment frequency, the amount of payment and the payment due date, if the system is financed;
   f. Identify current tax obligations, including the assessed value and property tax assessments calculated in the year the agreement was signed;
   g. Disclose and separately identify tax incentives and rebates the buyer may be eligible for and any conditions or requirements to obtain these tax incentives, rebates or other incentives;
   h. Disclose whether the warranty or maintenance obligations may be sold or transferred to a third party;
   i. Disclose and separately acknowledge the ability to modify or transfer ownership of a system or the real property to which the system is affixed, including whether any modification or transfer is subject to review or approval by a third party and include the contact information of the entity responsible for approving or modifying the transfer;
   j. Provide a summary of the total costs of operating, maintaining, financing and constructing the system;
   k. Include a disclosure stating utility rates, structures and projected savings are subject to change and tax incentives may change or be terminated by executive, legislative or regulatory action.
   l. Disclose the make and model of the system’s major components; and
   m. Disclose the system’s energy output over the life of the agreement.
2. Requires the person currently obligated to maintain or warrant the system to disclose the contact information of the person who will assume the obligation if the obligation is transferred.

3. Specifies that if the agreement or marketing materials contain an estimate of the future utility charges based on projected utility rates, the agreement or marketing materials must provide an estimate of the utility charges during the same period as impacted by potential rate changes from plus or minus 5% range from current utility costs.

4. Exempts an individual or company, acting through its officers, employees or agents, that markets, sells, solicits, negotiates or enters into an agreement for the sale, financing or lease of a system as part of a transaction involving the sale or transfer of real property to which the system is or will be affixed.

5. Specifies that agreements containing blank spaces affecting the timing, value or obligations of the agreement in a material manner will be voidable until the distributed energy generation system is installed.

6. Defines distributed energy generation system and seller or marketer.

**Status:** Signed into law on March 30, 2015.

**Comment:**

From State Senator Debbie Lasko:

Senate Bill 1465 passed unanimously in the House and Senate. The law addresses a timely and relevant issue facing state governments across the country by implementing consumer protections for solar energy system lease and finance agreement customers.

In Arizona and throughout the nation there has been an increase in consumer complaints about roof-top solar lease and financing agreements. As this market grows, it is important that consumers be protected. Republican and Democratic U.S. Congressmen from across the nation have asked federal agencies to investigate a growing number of complaints; the number of complaints submitted to the AZ Attorney General’s Office has escalated; the AZ Corporation Commission has opened a docket to investigate; the AZ Auditor General issued an alert to school districts leasing solar systems and consumers from across Arizona have contacted their state legislators about complaints.

From [KTAR News](https://www.ktar.com) (February 12, 2015)

A bill making its way through the Arizona Senate would require companies to disclose the costs of leasing or owning solar panels to homeowners. Republican State Sen. Debbie Lesko said she wrote SB 1465 after an elderly couple in her district purchased solar panels only to find that some of the claims made by the seller were embellished or false.

“The salesman actually told my constituents that the value of their home was going to go up $25,000 once they put the solar panels on their roof,” she said. “Well, the opposite has been true -- they can't even sell the house.”
Lesko said she wants to see more disclosure by solar companies so consumers have a better understanding of the pros and cons when leasing or buying solar panels.

“I would like the companies to disclose very common sense things, like what's the total cost over the 20-year lease, what are the payment plans, how many payments are there (and) what's the lease payment,” she said.

Advocates for the industry see the bill as another attempt to hinder the growth of solar. Attorney Court Rich, senior partner with the Rose Law Group who represents the Alliance for Solar Choice, called the bill “death by a thousand cuts” and said it will end up costing solar companies time and money to meet the new requirements.

“Putting unneeded regulations on industry -- one of the fastest growing industries in the entire country -- is not the way to send out the message that Arizona is open for business,” he said. Rich said he believes the bill is another attempt to preserve the profits of public utilities that stand to lose money should solar continue to grow in Arizona.

Lesko argued her bill would make consumers prepared to enter long-term agreements worth tens of thousands of dollars and the requirements are in line with similar leasing and financing agreements.


Disposition of Entry:

SSL Committee Meeting: 2016 B
( ) Include in Volume
( ) Include as a Note
( ) Defer consideration:
   ( ) next SSL mtg. ( ) next SSL cycle
( ) Reject

Comments/Note to staff
Summary:
In 2012, California implemented reform legislation to address the challenges of its workers’ compensation program. A key provision of Senate Bill 863 impacted how medical necessity determinations are made for the medical care provided to injured workers. The legislation required Independent Medical Review (IMR) services to decide disputes between physicians and claims administrators that involve the authorization and/or payment of requested medical treatment for injured workers. The goal of the California IMR program is to resolve workers’ compensation medical treatment disputes in a timely manner (60 days or less) and at a fraction of the cost of previous programs.

Existing law requires every employer to establish a medical treatment utilization review process, in compliance with specified requirements, either directly or through its insurer or an entity with which the employer or insurer contracts for these services. This bill would require the administrative director to contract with one or more independent medical review organizations and one or more independent bill review organizations to conduct reviews in accordance with specified criteria.

The bill would require that the independent review organizations retained to conduct reviews meet specified criteria and comply with specified requirements. The bill would require that final determinations made pursuant to the independent bill review and independent medical review processes be presumed to be correct and be set aside only as specified.

The independent medical review process established by the bill would be used to resolve disputes over a utilization review decision for injuries occurring on or after January 1, 2013, and for any decision that is communicated to the requesting physician on or after July 1, 2013, regardless of the date of injury. The bill would require an independent medical review organization to conduct the review in accordance with specified provisions, and would limit this review to an examination of the medical necessity of the disputed medical treatment. The bill would prohibit an employer from engaging in any conduct that delays the medical review process, and would authorize the administrative director to levy certain administrative penalties in connection with this prohibition, to be deposited in the Workers’ Compensation Administration Revolving Fund. The bill would require that the costs of independent medical review and the administration of the independent medical review system be borne by employers through a fee system established by the administrative director.

Status: Signed into law on September 8, 2012.

Comment: From Business Insurance (July 6, 2014)
California's workers compensation reforms have produced an unexpected surge in independent medical reviews, but experts and employers say more time is needed to see whether the changes reduce costs and claims management delays.
The legislation, signed into law in September 2012, was intended to reduce workers comp costs for employers and insurers and boost permanent disability benefits for workers by 30% through this year.

Provisions of the law include instituting independent reviews for medical treatment and billing disputes, creating first-time fee schedules for home health care, language interpretation and other workers comp-related services. It also introduced fees that were intended to reduce the number of liens filed for medical payments and other services.

California workers comp experts say more time is needed to determine whether the law will relieve cost pressures for insurers and employers as the California Division of Workers' Compensation in San Francisco continues implementing the law.

“We're starting to see third parties asking for changes, and we just think it's too soon,” said Carlos Rojas, director of risk management at Helpmates Staffing Services in Irvine, California, which provides workers comp coverage for about 2,000 temporary workers a year.

“There's a lot that was done in good faith, where you had labor and employers actually come together, and what we're seeing right now is positive. We just need more time before we make more changes,” Mr. Rojas said.

The law is “playing itself out,” said Steve Suchil, Western region vice president at the American Insurance Association in Sacramento, California.

“We're not seeing everything that was promised, but we're seeing a lot of it.”

Experts see the greatest savings potential from independent medical reviews, where physicians resolve disputes about medical care for injured workers rather than workers comp judges.

The process, which allows 50 days to make such determinations, is meant to expedite resolution of medical disputes. Insurers or employers pay $550 for each physician working as an independent medical reviewer working on a case.

So far, the independent medical review process has been used at a “staggering” rate compared with initial estimates, said Mark Sektnan, president of the Sacramento-based Association of California Insurance Cos.

There were 19,663 independent medical review requests in April for workers comp claims, the California Workers' Compensation Insurance Rating Bureau in San Francisco said in a June report. That compares with 178 independent medical review requests in April 2013, just after the review process was initiated at the beginning of that year.

The state workers comp agency said in a December webinar that it was receiving about 20,000 independent medical review applications per month, about five times greater than had been expected when the review process began in July 2013. About one-third of those applications are duplicates, the division said.
“We anticipated a significant number of independent medical review cases, but we didn't anticipate the huge volume of independent medical review cases that we are seeing,” Mr. Sektnan said.

Despite the spike, the rating bureau said independent medical reviews are expected to reduce some costs. The rating bureau said reducing medical treatment delays is expected to reduce the duration of temporary disability claims by 4% and system costs by 2.1%, or $390 million annually.

Eddy Canavan, vice president of workers compensation practice and compliance at Sedgwick Claims Management Services Inc. in Riverside, California, said workers comp experts are optimistic about the future benefits of independent medical reviews.

“The whole idea of independent medical review is very innovative and refreshing in that they wanted to keep medical decisions with medical professionals, and they wanted to provide fair, nonbiased payment to an injured worker when they wanted to appeal a decision,” Mr. Canavan said.

The California workers comp agency is still drafting regulations and implementing some portions of the law, such as a fee schedule for workers comp-related copy services, and experts say the state needs time to finish its work before determining if further changes are needed.

“The reforms seem to only be good for three or four years before we have a variety of elements that come into play,” Mr. Sektnan said.

“One is the courts make rulings that nobody anticipated. You (also) get changes in behavior that nobody foresaw.”

One behavioral change since the law was enacted is the advent of service providers charging for drug tests that determine if workers comp claimants are using medications correctly or if their prescriptions are causing health problems, Mr. Sektnan said.

“What we're finding is that Medicare charges ... $300 for a drug test and the companies charge the workers comp people, like, $1,000 because there's no fee schedule for drug testing,” he said. “So it gets very complicated.”

While such services could create problems down the road, employers have asked regulators to hold tight on implementing workers comp changes outside the 2012 law to allow the measure to realize its full potential, Helpmates’ Mr. Rojas said.

“We're asking for all the rules and regulations that were implemented to play out and then (the state can) make adjustments later,” Mr. Rojas said.

“We see (the law) as a huge benefit for the employer community.”

Read more: http://www.businessinsurance.com/article/20140706/NEWS08/307069987
From the *Los Angeles Times* (September 1, 2012)

A bipartisan bloc of lawmakers — after being personally lobbied by Gov. Jerry Brown — approved an overhaul of California's $17-billion workers' compensation insurance program that promises to hike benefits for injured workers and cut costs for employers.

On the last night of the legislative session, lawmakers gave final approval to a bill boosting payments to permanently disabled victims of on-the-job accidents by about $740 million a year and handing employers a major break on workers' comp insurance premiums — set to go up as much as 18% in January.

Approval was essential for both workers and employers, the governor told legislators Friday as the package flew through both chambers. The Assembly approved the bill 66 to 4 and the Senate followed with a 34-4 vote, only three days after the measure had its first legislative hearing.

The governor called the proposal an extraordinary bill "to reform a broken system." The legislation would "avert an imminent crisis where workers suffer and rates will skyrocket," he said. "We have the chance to make the workers' compensation system better — much better — for workers and cheaper for business."

The package, which emerged last week after months of negotiations between business and labor groups, streamlines the no-fault-insurance system. Besides the benefit increases, the money-saving provisions of the bill are aimed at reducing litigation and delays in medical treatment. The cost-cutting comes at a crucial time for the 14.4 million employees in the state as well as their 864,000 employers.

Spiraling healthcare inflation is putting pressure on insurers, and experts estimated that employers would be likely to face big hikes in the premiums they pay when their policies renewed. Supporters warned that without the bill, insurance rate increases would possibly spur layoffs as the state is struggling to revive the economy.

The deal-closer came at midday when Brown secured the support of Senate leader Darrell Steinberg (D-Sacramento). The senator wanted and the governor agreed to support a special fund to provide $120 million a year to victims of catastrophic accidents who can't return to work.

Assemblyman Jose Solorio (D-Santa Ana), the coauthor of the bill, SB 863, called the package "a historical compromise." It was put together during nine months of discussions among a small group of labor unions and large employers, including Safeway Inc., Walt Disney Co. and Grimmway Farms, the state's largest organic grower.

"We took the time to actually listen to each other," said Angie Wei, a lobbyist for the California Labor Federation who was a key labor negotiator in the lengthy talks that produced the last-minute compromise.
Other workers' compensation participants, such as lawyers, doctors, chiropractors and other injured-worker service providers, complained that they were frozen out of most of the deliberations until August when the bill emerged in the statehouse.

The bill's major opponents — advocates for some injured workers and the lawyers who represent them — feared that the legal rewrite was being rushed and could create unintended consequences that could actually reduce benefits.

But SB 863's principal author, Sen. Kevin de Leon (D-Los Angeles) disagreed. He said change is needed to restore permanent disability benefits taken away from accident victims by a 2004 law pushed through the Legislature by Gov. Arnold Schwarzenegger.

"This reverses a wrong that happened eight years ago," De Leon said, "and puts $740 million directly back in the hands of injured workers."


**Disposition of Entry:**

SSL Committee Meeting: 2016 B
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Comments/Note to staff
Summary:
The bill prohibits high school and middle school football teams of school districts, charter schools, or private schools that elect to offer an athletic program from conducting more than 2 full-contact practices per week during the preseason and regular season, as defined. The bill also prohibits the full-contact portion of a practice from exceeding 90 minutes in any single day, and completely prohibits full-contact practice during the off-season, as defined. The bill urges the California Interscholastic Federation to develop and adopt rules to implement this provision.

The bill provides that these provisions do not prohibit the California Interscholastic Federation, an interscholastic athletic league, a school, a school district, or any other appropriate entity from adopting and enforcing rules intended to provide a higher standard of safety for athletes than the standard established under the bill.

This bill provides that an athlete suspected of sustaining a concussion or head injury is prohibited from returning to the athletic activity until the athlete is evaluated by a licensed health care provider, as defined to mean a licensed health care provider trained in the management of concussions and acting within the scope of his or her practice, and the athlete receives written clearance from a licensed health care provider. The bill further provides that, if a licensed health care provider determines that the athlete sustained a concussion or a head injury, the athlete is required to complete a graduated return-to-play protocol of no less than 7 days in duration under the supervision of a licensed health care provider. The bill urges the California Interscholastic Federation to develop and adopt rules and protocols to implement this provision.


Comment: From the San Francisco Chronicle (July 22, 2014) California schools will be forced to limit the number of hours and days their football programs' young athletes can practice tackling and other game-speed hitting plays under a bill that responds to concerns over brain injuries that affect thousands of students. The new law, which applies to all middle and high schools, including private schools, is being welcomed by some coaches but criticized by others, who caution that it could result in more injuries as less-prepared athletes take the field.

The law limits full-contact practices to two 90-minute sessions per week during the season and preseason, and prohibits full-contact practices during the off-season. Currently, coaches can hold full-contact practices daily. The law also forces schools to bench players for at least a week if they suffer a concussion. Current rules allow players to return within a day.

"Football is a great sport, but parents want to know if their kids are going to be safe," said Assemblyman Ken Cooley, D-Rancho Cordova, who sponsored the bill. "This is about protecting kids, as well as parents' peace of mind."
A concussion is the "short-lived impairment of neurologic function that resolves spontaneously" but can have lasting physical, emotional and cognitive symptoms that interfere with school and social and family relationships, according to the American Academy of Pediatrics.

Concussions are common among high school football players. A 2012 study by the American Academy of Pediatrics found that 32 percent of high school football players said they had suffered concussion symptoms but didn't seek treatment. A 2013 study by the Institute of Medicine found that high school football players suffered 11.2 concussions for every 10,000 games and practices, almost double the rate of college players. Because the high school data came from only a small number of schools, the study is believed to underreport the rate.

Those statistics, along with steps taken by the National Football League to limit tackling in practice, were the inspiration for the bill, Cooley said.

Many coaches welcomed the new law, saying it will make football a safer sport. "We hold these kids' futures, and that is a grave responsibility," said Mike Ivankovich, head football coach of Acalanes High School in Lafayette. "Reasonable limitations like this are a good thing."

Some coaches said the law, while well-intentioned, could lead to even worse injuries among young athletes because the players won't have adequate training in safe tackling.

"Unless you practice, you're not going to know how to protect your head and neck, how to fall properly, or how to tackle someone else safely," said Chad Nightingale, who has been the head football coach at Salesian High School in Richmond for 19 years. "That's the irony of this." Instruction and practice on dummies is useful, but it's no replacement for body-on-body contact, he said. A better way to reduce head injuries is to improve helmets and pads, and make sure players wear them properly.

California is among several states that have taken steps to address high school football head injuries. Texas restricts full-contact practice to only one 90-minute session per week.


Disposition of Entry:

SSL Committee Meeting: 2016 B
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Comments/Note to staff
Summary: Connecticut will now add text messages to the states’ Do Not Call registry. The new law will increase consumer protections by banning unsolicited commercial text messages, and increasing the penalty for violations. The legislation increases the maximum fine for each registry violation from $11,000 to $20,000, and requires all companies to print a notice at least twice each year that informs consumers of prohibited actions by solicitors and how they can add their numbers to the Do Not Call registry.

Status: Signed into law on May 28, 2014.

Comments: Hartford Business Journal (May 29, 2014). Attention marketers: Gov. Dannel P. Malloy's office announced that he has signed a law that prohibits unsolicited commercial text messages to cell phones and increases fines for violators. The law adds text messages to the national registry, which already prohibits phone calls to consumers who add their number to the list. It also increased from $11,000 to $20,000 the maximum fine for each registry violation and requires telecom providers and others to issue notices at least twice a year informing consumers of prohibited solicitations.

The registry is regulated by the Federal Trade Commission, Federal Communications Commission, and the state's Department of Consumer Protection, which has the power to levy fines against Connecticut violators.

Read More: http://www.hartfordbusiness.com/article/20140529/NEWS01/140529912

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SSL Committee Meeting: 2016 B
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Comments/Note to staff
Summary:
The bill requires all new smartphones sold in Minnesota after July 1, 2015, to have an anti-theft “kill switch” function that will allow smartphone owners to remotely disable their smartphone if it is lost or stolen, rendering the devices useless to thieves and reducing the incentive for a growing wave of violent cell phone thefts.

The law also criminalizes engaging in the business of buying or selling used cell phones without complying with proper recordkeeping requirements, with exceptions under certain conditions. All purchases from individual cell phone owners must be documented with make and model of device, date, time, place, name and address of the seller, record of the buyer’s check or electronic transfer, seller’s driver’s license number or similar ID document, and a statement signed by the seller attesting that the device isn’t stolen. Records must be kept for 3 years, and dealers must safeguard sellers’ personal information. Used cell phone dealers are also barred from buying a phone from anyone under 18.

Status: Signed into law on May 14, 2014.

Comment: From the Washington Post (May 15, 2014)
Minnesota on Wednesday passed the nation’s first law requiring smartphones to have the ability to be remotely disabled.

The law requires smartphone manufacturers to introduce so-called “kill switches” in devices to allow users to make lost or stolen phones unusable. In so doing, the state hopes to remove the incentive for such robberies, which are on the rise. A Consumer Reports survey released last month found that 3.1 million Americans had cellphones stolen in 2013, nearly double the 1.6 million thefts reported the previous year.

“This law will help combat the growing number of violent cellphone thefts in Minnesota,” Gov. Mark Dayton said in a statement to announce the bill’s signing. Minnesota is the first state to pass such a law. A similar measure is working its way through the California legislature.

Between 30 percent and 40 percent of robberies in cities involve cellphones, according to Federal Communications Commission statistics from 2012. The number of cellphone thefts last year rose in San Francisco, New York, Washington and Philadelphia, the Huffington Post reported.

Businesses and industry groups have argued against imposing kill switch mandates because they could pose risks, such as mistaken or malicious disabling of devices.

“Even if technically feasible to develop, a permanent ‘kill switch’ has very serious risks,” CTIA, a wireless industry association, notes in a fact sheet explaining its position against such requirements. In March, a senior CTIA executive testified before the Minnesota House against a version of the kill switch measure.
But last month, in anticipation of the bill’s passage, CTIA and others announced a voluntary initiative that would give users the same basic capabilities: Users will be able to remotely wipe data and disable a device with the ability to restore service and data once it’s back in the authorized user’s hands. The companies that signed onto the initiative were Apple, Asurion, AT&T, Google, HTC, Huawei, LG, Motorola Mobility, Microsoft, Nokia, Samsung, Sprint, TMobile, U.S. Cellular and Verizon Wireless.

Both that voluntary initiative and Minnesota’s go into effect in July 2015. Some devices, such as Apple’s, already have the capability, though many users have to opt in to enable it.


Disposition of Entry:

SSL Committee Meeting: 2016 B
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Comments/Note to staff
Summary:
This bill requires smartphones manufactured after July 1, 2015, and sold in California to contain a technological solution at the time of sale that will render the essential features of the smartphone inoperable when not in the possession of the authorized user, and also provides a civil penalty for violations and limits retail liability if the solution is circumvented.


Comment: From PC World (April 25, 2014)
Smartphones sold in California will soon be required to have a kill switch that lets users remotely lock them and wipe them of data in the event they are lost or stolen. The demand is the result of a new law, signed into effect on Monday, that applies to phones manufactured after July 1, 2015, and sold in the state.

While its legal reach does not extend beyond the state’s borders, the inefficiency of producing phones solely for California means the kill switch is expected to be adopted by phone makers on handsets sold across the U.S. and around the world.

The legislation requires a system that, if triggered by an authorized user, will lock a handset to essentially make it useless. The feature must be installed and activated in new smartphones, but users will be able to deactivate it if they desire, and it must be resistant to attempts to reinstall the operating system.

Police can also use the tool, but only under the conditions of the existing section 7908 of the California Public Utilities Code. That gives police the ability to cut off phone service in certain situations and typically requires a court order, except in an emergency that poses “immediate danger of death or great bodily injury.”

The law doesn’t specify how the system locks the phone, nor what happens to the data on the phone when it’s locked. Each manufacturer can come up with their own system.

The law follows pressure on phone makers from the state’s law enforcement community to do something about rising incidents of smartphone theft, which has become one of the most prevalent street crimes in the state.

Apple has already responded and added a feature called Activation Lock into its iOS 7 operating system, which meets all requirements of California’s kill switch law bar one—it doesn’t come enabled in new phones. That will have to change.

Both Google and Microsoft have said they are introducing similar features in upcoming revisions to their smartphone operating systems.
“California has just put smartphone thieves on notice,” California State Senator Mark Leno, the sponsor of the legislation, said in a statement. “Our efforts will effectively wipe out the incentive to steal smartphones and curb this crime of convenience, which is fueling street crime and violence within our communities.”

The law makes California the second state in the U.S. to pass legislation aimed at reducing smartphone theft. Minnesota passed a law in June, but it doesn’t require the kill switch to be enabled as default. Law enforcement says that’s key because it will increase the chance that a new smartphone has the kill switch enabled, hopefully reducing its attractiveness to thieves.

The kill switch function was actively opposed by the wireless industry until earlier in 2014, when carriers and their lobbying group reversed course and came out in favor of the plan. They received more persuasion in the form of two additional bills introduced to the U.S. House of Representatives and the Senate.


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Comments/Note to staff
Summary: HB 1317 establishes a regulatory framework for retail cannabis businesses. The regulations' passage comes six-months after a majority of voters in November 2012 approved Amendment 64, which legalized the adult possession and cultivation of limited quantities of marijuana, and tasked the state with establishing regulations for the plant's retail production and sale of cannabis to the public.

The regulations require marijuana retail outlets to license with the state and for the first nine months, only currently operating medical marijuana dispensaries can apply. Owners must also be Colorado residents. Initially, these stores must sell marijuana that they cultivated themselves, but by October 2014 this restriction will be lifted to allow independent growers and retail outlets. State residents will be able to purchase up to one ounce of usable marijuana at a time, while out of state visitors will be capped at one quarter ounce per purchase. Possession of up to one ounce of marijuana would be legalized for everyone over the age of 21, regardless of residency.

This bill implements major provisions of Amendment 64 by creating the Colorado Retail Marijuana Code. It renames the Medical Marijuana Enforcement Division (MMED) in the Department of Revenue (DOR) as the Marijuana Enforcement Division (MED) and gives the MED the authority to regulate both medical and retail marijuana. It creates a regulatory system for retail marijuana under which existing medical marijuana businesses have the option to convert to retail businesses or to operate both medical and retail businesses. Colorado residents may purchase up to 1 ounce of marijuana in a single transaction as allowed by Amendment 64 but this bill limits nonresidents to purchases of no more than 1/4 of an ounce in a single transaction.

The bill includes a severability clause that allows the bill to be implemented even if certain provisions are found to be unconstitutional as long as those provisions are not essential to fulfilling the legislative intent of the bill. The Colorado Retail Marijuana Code is scheduled to repeal July 1, 2016, after a sunset review.

State licensing. As required by Amendment 64, this bill requires that the DOR adopt rules regarding retail marijuana by July 1, 2013, and begin taking license applications no later than October 1, 2013. The MED must act on a license application between 45 and 90 days after receipt of an application. Until September 30, 2014, only medical marijuana businesses in good standing may apply for a retail license. Beginning January 1, 2014, other interested persons may submit a notice of intent to apply for licensure. The MED will create the notice of intent form and may collect a filing fee to be deducted from the licensing fee. The MED will begin accepting applications on July 1, 2014, and give preference to those applicants who submitted a notice of intent.

New license types are created for retail marijuana stores, products manufacturers, cultivation facilities, and testing facilities. All owners, officers, managers, and employees of a retail marijuana business must meet certain requirements, including Colorado residency, and pass a fingerprint-based criminal history check. The bill includes limitations for licensing of individuals with certain felony convictions. Law enforcement personnel are prohibited from being licensed.
by the MED as are locations currently licensed as retail food or wholesale food businesses. A licensed retail marijuana store is prohibited from selling retail marijuana or retail marijuana products over the Internet or to a person not physically present in the retail marijuana store's licensed premises. Licensed retail marijuana testing facilities are prohibited from having an interest in any other type of medical or retail marijuana business. All licensed retail marijuana businesses must procure a $5,000 surety bond as a guarantee that the business will pay its sales and excise taxes.

Testing of retail marijuana by licensed laboratories is required to verify potency and to ensure that products sold for human consumption do not contain harmful contaminants. The bill gives the DOR rulemaking authority over a variety of issues including licensing, fees, security, labeling, health and safety standards, advertising, enforcement, penalties, inspection procedures, and audits. DOR may limit the number of licenses that it issues as well as limit the amount of production permitted by a retail marijuana cultivation licensee. Any limits on licenses and production may be changed by DOR in the future.

Retail marijuana cannot contain nicotine or alcohol and retail stores must put each item sold in a sealed, opaque container. Retail stores may not sell any products that do not contain marijuana such as soda, candies, baked goods, and cigarettes.

Vertical integration. Until September 30, 2014, the bill requires a retail marijuana store to only sell marijuana grown in its own retail marijuana cultivation facility with some exceptions. Beginning October 1, 2014, a licensed retail marijuana store or products manufacturer may either grow its marijuana at its own retail marijuana cultivation facility or purchase it from a facility with which it does not share common ownership.

Tracking and reporting. The MED is required to develop and maintain a tracking system to track retail marijuana from the immature plant stage until the marijuana is sold to a customer at a retail store. Beginning April 1, 2014, and annually thereafter, the MED is required to report to the House and Senate Finance Committees on licensing activities as well as an overview of the retail marijuana market that includes actual and anticipated market supply and demand. Retail marijuana stores must track all retail marijuana and marijuana product sales from when the items are transferred from a retail marijuana cultivation facility or retail marijuana products manufacturer to the consumer. No transfers of retail marijuana from cultivation or production facilities can be made without proof that the excise tax has been paid on the product.

Testing and certification standards. The Department of Public Health and Environment (CDPHE) is required to provide the MED with standards for licensing the laboratories that will be responsible for the testing and certification of marijuana.

Local licensing. Unlike the state and local licensing requirements for medical marijuana businesses, local jurisdictions are not required to set up a licensing program for retail marijuana businesses. The MED will forward all applications for original or renewal licenses to the applicable local jurisdiction to determine whether the application complies with local restrictions on the time, place, manner, and number of retail marijuana businesses allowed. The local jurisdiction notifies the MED if the application is compliant. Public hearings may be held for all
new license applications. Local jurisdictions are also permitted to prohibit such businesses entirely. If a local jurisdiction does choose to license retail marijuana businesses, new businesses will not be permitted to operate until both the state and local licenses are issued. If the local license is not issued within 1 year of the conditional state license being issued, the conditional state license expires; if the local application is denied, the conditional state license is revoked. Local jurisdictions are permitted to charge operational fees for inspection, administration, and enforcement of retail marijuana businesses.

**Funding sources for marijuana regulation.** House Bill 13-1317 requires that all sales taxes from medical and retail marijuana sales, plus application and licensing fees from marijuana businesses, be used to fund the MED in the DOR. This includes the existing 2.9 percent sales taxes that would otherwise be credited to the General Fund. The application fee for existing medical marijuana businesses that want to apply for a retail marijuana license is set at $500. All other applicants are required to pay a $5,000 application fee. The MED must remit 50 percent of any application fee to the local jurisdiction where the business will be located within 7 days of receipt.

The bill appropriates the balance of the Medical Marijuana License Cash Fund as of July 1, 2013, to the MED and allows the MED to receive moneys from the General Fund if revenues from other sources are insufficient. If the MED receives a General Fund appropriation, the MED will repay that amount when it becomes self-sufficient and generates excess revenue. Beginning September 30, 2014, and annually thereafter, the DOR must report to the Joint Budget Committee and the House and Senate Finance Committees detailing the amount of state revenue generated by medical and retail marijuana, including excise taxes, sales taxes, application and license fees, and any other fees. The report must also discuss the progress in establishing the regulatory environment for marijuana in Colorado.

**Unlawful acts.** The bill identifies a number of unlawful acts including consuming marijuana in a licensed retail marijuana business, buying or selling marijuana outside of the regulated system, selling to a person under 21, distributing marijuana using a mobile distribution center, and failing to pay the lawful excise tax. A person who commits any of these acts commits a Class 2 misdemeanor. In addition, state and local agencies are not required to care for any retail marijuana or retail marijuana product belonging to or seized from a licensed business.

**Status:** Signed into law on May 28, 2013.

**Comment:** From the *Denver Post* (May 8, 2013)
The Colorado legislature made history Wednesday, becoming the first in the country to pass laws regulating recreational marijuana sales and use.

But lawmakers arrived at the historic moment more with trepidation than with enthusiasm about the future in a state where anyone over 21 will soon be able to buy marijuana in special retail stores.
"This is a true game-changer for our state," Sen. Mark Scheffel, R-Parker, said in raising concerns about the impact of marijuana legalization on kids. "And so I think it is important that we do our best to implement the right regulatory environment and fund it."

If Gov. John Hickenlooper signs the four major bills on marijuana that the legislature passed this year — and he has indicated he will — this is what the future will hold:

- Marijuana will be sold in specially licensed stores that can also sell pot-related items such as pipes. Only Colorado residents can own or invest in the stores, and only current medical-marijuana dispensary owners can apply to open recreational pot shops for the first nine months. The first stores will open around Jan. 1.
- Colorado residents will be able to buy up to an ounce of marijuana — the maximum it is legal for non-medical-marijuana patients to possess — at the stores. Out-of-staters can buy only a quarter-ounce at a time. Pot must be sold in child-resistant packages with labels that specify potency. Edible marijuana products will have serving-size limits.
- Voters will have the option of imposing heavy taxes on pot sales. A ballot measure set for November will ask voters to approve a 15 percent excise tax and an initial 10 percent sales tax on marijuana. The excise tax will fund school construction. The sales tax will pay for regulation of marijuana stores.
- Incorporated marijuana collectives will be banned. So, too, will marijuana coffee shops, marijuana smoking in bars and government-run marijuana stores. And, though Colorado will have the most liberal laws for marijuana use and sales in the country, it will have the most restrictive laws in the country for marijuana-themed magazines, which, like pornography, will have to be kept behind the counter. Publications such as High Times and The Daily Doobie have vowed to sue.
- Finally, Colorado drivers for the first time will be subject to a stoned-driving limit. Juries will be allowed to presume that anyone testing above the limit was too high to drive.

The bills are the result of an arduous six-month, law-writing process that began in November, when Colorado voters passed a marijuana-legalization measure. With the bills' passage, a new rulemaking process for marijuana shops by the state Department of Revenue can begin.

Prospective pot-shop owners can start applying for licenses in October.

"We are in uncharted territory," said Rep. Dan Pabon, a Denver Democrat involved in many of the marijuana bills.

Pabon said the bills will keep marijuana within Colorado's borders and provide a barrier between kids and pot — two important factors in keeping the federal government, which considers all marijuana possession and sales illegal, at bay.

A spokesman for the U.S. Attorney's office in Denver declined to say what kind of impact the bills will have on the office's position toward marijuana legalization in Colorado. Instead, Jeff Doroshner wrote in an e-mail that the office is looking at "all aspects of this issue" in its deliberations on how to respond.
A spokesman for Hickenlooper, a legalization opponent, praised the work of lawmakers on the marijuana bills, saying in a statement they "put in place a robust regulatory and enforcement framework, consumer safety measures and a dedicated funding source for state oversight of the industry."

State Attorney General John Suthers, who also opposed legalization, said the legislature did a "credible job" of creating marijuana regulations, despite "an aggressive and well-financed lobbying effort" by cannabis advocates that Suthers saw as trying to weaken the rules.

Those advocates, though, hardly had their run of the legislature. A citizens group worried about the consequences of marijuana legalization hired equally high-priced lobbyists. And, in the most dramatic showdown over marijuana at the Capitol this year, legalization proponents fought back an effort on the session's third-to-last day that could have stalled marijuana sales if the taxes on pot didn't pass.

On Wednesday, marijuana advocates hailed the legislature's final votes as momentous.

"The passage of these bills marks a major milestone toward the creation of the world's first legal, regulated and taxed marijuana market for adults," said Christian Sederberg, one of Amendment 64's authors. Sederberg said the bills show that lawmakers can tackle big issues when they work together. The bills were written by a bipartisan committee and received support from both parties in the state Senate.

But the final votes on the bills in the House on Wednesday split along party lines — Democrats voting for the measures and Republicans voting against. That division occurred even as Republicans grudgingly accepted that the last two bills needed to be passed. One of those bills, House Bill 1317, contained the most significant regulations for marijuana stores. The other, House Bill 1318, held the marijuana tax provisions.

"We do need to do something," Rep. Bob Gardner, R-COLORADO SPRINGS, said. "And that something is House Bill 1317." But he joined his colleagues in voting against the bill's repassage.

The bill moved forward to the governor's desk anyway, while Colorado moved toward an unprecedented future.

Disposition of Entry:

SSL Committee Meeting: 2016 B
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( ) Reject

Comments/Note to staff
Establishes Sales Taxes for Retail Marijuana

Bill/Act: HB 1318

Summary:
Amendment 64, passed by the voters in November 2012, allows for an adult 21 years or older to consume or possess up to 1 ounce of marijuana and requires that a regulatory structure be established. Beginning January 1, 2014, the cultivation, processing, and retail sale of marijuana are allowed in Colorado.

This bill creates an excise tax and special sales tax to be levied on retail marijuana beginning January 1, 2014, and refers a ballot question to the voters at the 2013 general election for approval to increase taxes by $70,000,000 per year. These taxes, if approved, are not subject to the limitations on revenue, spending, or appropriations contained in Section 20 of Article X of the State Constitution (TABOR). The tax revenues are to be used for the enforcement of regulations on the retail marijuana industry and the Department of Revenue has rulemaking authority over implementation of these taxes. Marijuana businesses are required to post a surety bond equal to two months of anticipated tax liability. Retail marijuana licensees that fail to remit sales and excise taxes, or unlicensed individuals who sell or transfer marijuana, are subject to criminal penalties.

Excise tax. The bill creates an excise tax of up to 15 percent of the average market rate of the unprocessed retail marijuana on its first sale or transfer from a cultivation facility to a retail store, product manufacturing facility, or other cultivation facility. The Department of Revenue will set the average market rate twice a year. Retail marijuana businesses are required to keep detailed electronic records on all transactions of retail marijuana. As required by Amendment 64, the first $40 million collected annually in excise tax goes to the Public School Capital Construction Assistance Fund. Any amount remaining will be deposited into the Marijuana Cash Fund.

Retail marijuana sales tax. The bill authorizes a sales tax of up to 15 percent, which is initially set at 10 percent. The retail marijuana sales tax is in addition to the current 2.9 percent state sales tax. Local jurisdictions will receive 15 percent of the proceeds of the retail marijuana sales tax apportioned according to the percentage of retail marijuana sales in their areas, distributed monthly. Local governments may also apply local sales taxes to retail marijuana. Retail marijuana businesses are prohibited from maintaining any portion of the retail marijuana sales tax to cover the expenses of collecting and remitting the tax. The General Assembly can raise or lower the retail marijuana sales tax at any time through legislation, but cannot increase it above 15 percent. Beginning April 1, 2014, and annually through April 1, 2016, the House and Senate Finance Committees are required to review the percent of revenue allocated to local governments is set at the appropriate level.

Status: Signed into law on May 28, 2013.

Comment: From the Huffington Post (May 8, 2013)
Colorado's Taxpayers' Bill of Rights requires that Coloradans vote on any tax increases so they will be asked to weigh in on the proposed 15 percent excise tax and 10 percent sales tax on the November 2013 ballot.
Amendment 64 states that the first $40 million raised from the 15 percent excise tax would go to school construction. And although many voters who supported A64 did so because it could raise money for schools, lawmakers are concerned that even fans of that excise tax rate and the use of its revenue could be turned off by a total tax rate of 25 percent, not including additional state and local taxes that could lead to marijuana taxes exceeding 30 percent in some areas.

From the Denver Post (November 5, 2013)

Further bringing marijuana into the mainstream, Colorado voters decided Tuesday to treat the blossoming industry like other businesses by passing hefty taxes designed to raise money for schools and regulation.

With 90 percent of the projected vote counted, the taxes were passing with 65 percent of voters in favor.

The measure, Proposition AA, implements a 15 percent pot excise tax plus a 10 percent sales tax—taxes that are estimated to bring in $70 million a year.

The taxes are in addition to a 2.9 percent sales tax that pot stores will be subjected to for marijuana regulation. Sales of recreational marijuana become legal in Colorado on Jan. 1.

"The passage of Proposition AA means Colorado will have a strong and well-funded regulatory system, along with funding for education, prevention, treatment, and other safety issues that may arise," said Michael Elliott, executive director of the Medical Marijuana Industry Group.

Opponents argued that marijuana should be taxed like beer, which has a lower tax rate. They handed out free joints at rallies to show their displeasure with the suggested tax.

"They won. The people have spoken," said Robert Corry, a prominent marijuana attorney who opposed the taxes. "What I'd like to see is everyone coming together and trying to make this recreational-marijuana market work."

Opponents of the taxes expressed concern that the proposed taxes were so substantial that it would drive recreational marijuana users into the black market.

"That's a major concern. We still have that concern," Corry said. "We hope we're wrong."

But supporters, including pot legalization advocates, called the measure an opportunity to show the marijuana industry can be beneficial. They also said it fulfilled a promise made to voters who approved the recreational use of marijuana last year with the assurance that there would be a tax to fund school construction.

Many municipalities are counting on the windfall from additional taxes to deal with unexpected consequences of marijuana legalization. Even counties that are choosing to ban retail pot shops have indicated they want a share of any additional tax revenue.
It's not yet known how the taxes will affect recreational pot prices when retail sales begin. But if current prices hold, Colorado's proposed tax rate would add about $50 to an ounce of medium-quality loose marijuana, roughly the amount that would fit in a sandwich-sized plastic bag.

Still, exact tax burden on individuals are less clear.

Like alcohol, marijuana can vary widely in potency, quality and price. Both Washington and Colorado plan to use taxes based on price. By contrast, alcohol is taxed by the gallon and cigarettes by the pack.

Another unknown is how much regulation will cost.

Democratic Gov. John Hickenlooper and Republican Attorney General John Suthers, both of whom opposed the legalization of pot, supported the taxes.

Disposition of Entry:

SSL Committee Meeting: 2016 B
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Comments/Note to staff
Summary:
Conditional upon certain events occurring, the bill allows for the creation and regulation of marijuana financial services cooperatives referred to as "cannabis credit co-ops" or CCCs, a new type of financial services entity with membership restricted to licensed marijuana businesses, industrial hemp businesses, and other entities providing goods and services to licensed marijuana businesses that can document the inability to get comparable services from a bank or credit union. CCCs are regulated by the Division of Financial Services in the Department of Regulatory Agencies (DORA) in a manner similar to credit unions with certain exceptions.

Specifically, the bill:
- limits the number of CCC charters to 10 at any given time;
- requires that CCCs make certain disclosures to prospective members that, among other things, their assets may be subject to seizure under federal law and that they deposits are not federally insured;
- requires incorporators of a CCC to provide written evidence of approval by the Federal Reserve System Board of Governors for access by the CCC to the federal reserve system;
- specifies that the Division of Financial Services must examine CCCs at least every six months;
- specifies that once a CCC member no longer owns or operates a licensed marijuana business, they are no longer qualified to be a CCC member;
- prohibits a CCC from referring to itself as a bank or credit union;
- does not require CCCs to acquire and maintain deposit insurance;
- specifies that CCCs are subject to taxation and must comply with federal requirements relating to marijuana businesses;
- requires CCCs to file a report with the Division of Financial Services regarding their compliance with federal law and guidance; and
- allows the start-up costs of CCC regulation in DORA to be funded from the Marijuana Tax Cash Fund.

Once an incorporator of a CCC receives approval from the Federal Reserve System Board of Governors, DORA must convene a stakeholder group to discuss any conflicts in law that may exist and to recommend ways to resolve any conflicts. No CCC application may be approved until this stakeholder group has met and the General Assembly has resolved all identified conflicts. The regulation of CCCs is subject to a sunset review prior to its schedule repeal on September 1, 2020.

Status: Signed into law on June 6, 2014.

Comments: From Reuters (May 8, 2014)
The Colorado legislature on Wednesday voted to create the nation's first state-run financial cooperative for marijuana sellers, with the aim of giving newly legalized cannabis retail outlets access to key banking services through the U.S. Federal Reserve.
The approval of the so-called "cannabis credit co-ops" came on the final day of the legislative session, as lawmakers seek to address problems marijuana retailers face in having to operate on a cash-only basis, such as burglary threats.

The proposal's chief sponsor, Representative Jonathan Singer, said the cooperatives are needed because traditional banks and credit unions have been hesitant to serve the burgeoning marijuana industry as long as the drug remains outlawed by the U.S. government.

"This is the final piece to our pot puzzle," said Singer, a Democrat.

The final approval on Wednesday came after both chambers of the General Assembly cleared their own versions of the bill. The bill now heads to Democratic Governor John Hickenlooper for his signature.

Voters in Colorado and Washington state legalized the possession and use of small amounts of cannabis by adults for recreational purposes in 2012. Both states are among 20 that allow the use of cannabis for medical reasons.

The first recreational cannabis shops opened in Colorado in January, and Washington is set to follow suit later this year.

Singer said the cash-only nature of the industry makes pot businesses targets of crime, limits owners' access to credit and capital and hinders the state's ability to track revenues for tax-collection purposes.

Under the bill, the financial cooperatives would operate similarly to credit unions - without a deposit insurance requirement - and would be governed by the state's financial services commissioner.

But to gain access to banking services such as credit card processing and checking accounts, the Federal Reserve would need to approve the plan, which critics say is unlikely in the absence of a deposit insurance mandate.

Republicans who voted against the measure said such complex legislation needed further study and should not have been rushed through the legislature at the end of its session.

The Obama administration in February issued new law-enforcement guidelines aimed at encouraging banks to start doing business with state-licensed marijuana suppliers, even though such enterprises remain illegal under federal law.

The guidance stopped short of promising blanket immunity to banks, and financial industry officials have said they doubted many banks would begin to accept cannabis suppliers as customers without changes in federal law.
For years, financial hassles have forced a multimillion-dollar industry to rely almost entirely on cash and to keep any bank accounts under hush-hush names because fed-fearing financial institutions are wary of doing business with state-legal pot shops. But dispensaries in Colorado are finally seeing a ray of hope, now that a marijuana banking co-op that received its charter from the state is moving forward with plans to open in the new year.

There are still hurdles ahead for the Fourth Corner Credit Union, namely getting approval and insurance from the National Credit Union Administration. But at the state level, the credit union is set to open and even has the backing of Governor John Hickenlooper, who calls it the "end of the line" for the banking issues that have kept dispensaries in the dark ages.

Banking issues have been a constant thorn in the side of an industry that wants to be considered legitimate. Because marijuana remains illegal federally and banks have to be insured by the federal government, many businesses have been hesitant to get involved with state-legal dispensaries, which the feds still consider as being involved in criminal activity. The lack of banking services means that dispensaries sit on large amounts of cash and can't offer customers things like credit-card services; it also makes bookkeeping a nightmare. On top of that, cash-heavy dispensaries make very attractive targets for criminals.

There have been several attempts to right this through the years, with proposals going back as far as 2011 at the state level. The most recent attempt was at the end of the legislative session in May, when lawmakers passed a complicated bill that, in the words of Rep. Jonathan Singer, the sponsor, "creates a financial-services cooperative for the marijuana industry that's otherwise up until this point been unbanked. It gives businesses the opportunity to form a cooperative that works like a credit union, but with even more scrutiny -- and no federal insurance."

The new credit union isn't related to the cooperative bill, however; that measure would require the approval of the feds. Instead, the Fourth Corner plan followed the standard state credit-union licensing process.

The credit union could open as early as January 1, even without approval from the NCUA. State law allows new credit unions to open with pending licenses, and Fourth Corner officials say they hope to get it up and running to prove to the NCUA that the credit union can function without any problems.

Disposition of Entry:

SSL Committee Meeting: 2016 B
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    ( ) next SSL mtg. ( ) next SSL cycle
( ) Reject

Comments/Note to staff
Summary:
The bill requires that medical marijuana be sold in a package or container meeting requirements established by the Marijuana Enforcement Division (MED) in the Department of Revenue (DOR) similar to the federal "Poison Prevention Packaging Act of 1970." Alternately the medical marijuana can be placed in an opaque and resealable package or container at the point of sale prior to exiting the store.

It gives a retail marijuana store owner or employee the ability to confiscate proof of age suspected to be fraudulent from a person under 21 years of age who is attempting to purchase retail marijuana. The licensee or employee or a member of law enforcement may also detain and question the person. The bill changes the classification of the crime for selling, or permitting the sale of, retail marijuana to a person under 21 from a class 2 to a class 1 misdemeanor.

Finally, the bill specifies the enclosure and locked space requirements for cultivation of marijuana in a residence where a person under 21 years of age lives or visits.

Status: Signed into law on March 17, 2014.

Comments: From Children’s Hospital Colorado (March 17, 2014)
Denver, Colo. (March 17, 2014) – Colorado Governor John Hickenlooper signed into law today a marijuana safe-packaging bill that enhances protection for kids with respect to marijuana edibles. The new law requires marijuana edibles to be sold in child-resistant, opaque, re-sealable packaging.

Children’s Hospital Colorado (Children’s Colorado) played a major role in crafting and supporting this legislation. Working closely with Representative Daniel Kagan, Senator Linda Newell and their colleagues in both chambers, the hospital was pleased to see the unanimous passing of House Bill 1122, Concerning Provisions to Keep Legal Marijuana from Underage Persons.

“The safety of our children must remain a priority in addressing marijuana regulation,” said George Sam Wang, MD, who practices pediatric emergency medicine and toxicology at Children’s Colorado. “With the increasing availability of marijuana, Children’s Colorado is concerned that Colorado hospitals will see a rise in unintentional exposures in children. This new law is a step in the right direction to help protect our most vulnerable citizens.”

Accidental exposures of marijuana products to children in Colorado have increased in the past three years, based on the rate of emergency department visits and admissions at Children's Colorado. According to published studies by Dr. Wang, since 2005, states that allow some form of legal marijuana have seen a 30 percent annual increase in calls to poison control centers for marijuana ingestion, relative to a 1 percent increase in non-legal states.

Most of the accidental ingestion incidents in Colorado requiring hospital admission involve young children, especially toddlers. Many of these children are getting into edible products with
high concentrations of THC. Symptoms vary anywhere from mild sleepiness, to poor respiratory effort, to coma requiring insertion of a breathing tube.

Proven methods of prevention, such as child-resistant packaging, are currently required for household items like aspirin, Tylenol and even some nutritional supplements.

The new law both strengthens and simplifies the retail and medical laws regulating marijuana packaging, as well as other provisions intended to keep marijuana from kids.

The big loophole in current law, which House Bill 1122 closes, is that an edible medical marijuana product can be sold with a warning label but not in child-resistant packaging. Now that the bill is signed into law, our state's packaging requirements will be stronger and easier for businesses, consumers, parents and law enforcement to understand and follow.

Disposition of Entry:

SSL Committee Meeting: 2016 B
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Comments/Note to staff
Summary:
- Establishes the cannabis patient protection act.
- Adopts a comprehensive act that uses the regulations in place for the recreational market to provide regulation for the medical use of marijuana.
- Ensures that patients: (1) Retain their ability to grow their own marijuana for their own medical use; and (2) Have the ability to possess more marijuana-infused products, useable marijuana, and marijuana concentrates than what is available to a nonmedical user.
- Creates a medical marijuana endorsement to a marijuana retail license to permit a marijuana retailer to: (1) Sell marijuana for medical use to qualifying patients and designated providers; and (2) Provide marijuana at no charge, at their discretion, to qualifying patients and designated providers.
- Establishes a medical marijuana consultant certificate.
- Requires the department of health to: (1) Develop recommendations on establishing medical marijuana specialty clinics that would allow for the authorization and dispensing of marijuana to patients of health care professionals who work on-site of the clinic; and (2) Contract with an entity to create, administer, and maintain a secure and confidential medical marijuana authorization database.
- Allows a qualifying patient and his or her designated provider to be placed in the medical marijuana authorization database at a marijuana retailer with a medical marijuana endorsement.
- Allows health care professionals to authorize the medical use of marijuana for qualifying patients who are under the age of eighteen if certain conditions are met.
- Authorizes qualifying patients or designated providers to form a cooperative to produce and process marijuana only for the medical use of members of the cooperative.
- Requires the board of naturopathy, the board of osteopathic medicine and surgery, the medical quality assurance commission, and the nursing care quality assurance commission to develop and approve continuing education programs related to the use of marijuana for medical purposes for the health care providers that they each regulate.
- Changes the name of the state liquor control board to the state liquor and cannabis board.

Comments: From the Seattle Times (April 24, 2015)
Nearly two decades after voters passed a medical-marijuana law that often left police, prosecutors and even patients confused about what was allowed, Gov. Jay Inslee signed a bill Friday attempting to clean up that largely unregulated system and harmonize it with Washington’s new market for recreational pot.

Among the law’s many provisions, it creates a voluntary registry of patients and, beginning next year, eliminates what have become in some cases large, legally dubious “collective gardens” providing cannabis to thousands of people.
Instead, those patients will be able to purchase medical-grade products at legal recreational marijuana stores that obtain an endorsement to sell medical marijuana, or they’ll be able to participate in much-smaller cooperative grows of up to just four patients.

And those big medical-marijuana gardens will be given what lawmakers describe as a path to legitimacy: The state will grant priority in licensing to those that have been good actors, such as by paying business taxes.

“I am committed to ensuring a system that serves patients well and makes medicine available in a safe and accessible manner, just like we would do for any medicine,” Inslee wrote in his signing message to the Legislature.

The proliferation of green-cross medical dispensaries has long been a concern for police and other officials who decry them as a masquerade for black-market sales. Some proprietors of new, state-licensed recreational pot businesses — saddled with higher taxes — called them unfair competitors.

Washington in 1998 became one of the first states to approve the use of marijuana for medical purposes, but the initiative passed by voters did not allow commercial sales. Instead, patients had to grow the marijuana for themselves or designate someone to grow it for them. The measure did not prohibit patients from pooling their resources to have large collective gardens on a single property, but the size of some made law enforcement queasy, and raids sometimes resulted.

Medical-marijuana growers repeatedly sought legislation that would validate their business model, coming closest in 2011, when the Legislature approved a bill to create a licensing framework for medical dispensaries. But then-Gov. Chris Gregoire vetoed much of the measure.

This time, with the state seeking to support its nascent recreational-pot industry after the passage of Initiative 502 in 2012, there was a financial impetus to pull the medical users into the recreational system. The recreational businesses pressed for a tight rein on the medical industry with newfound lobbying muscle, and the medical businesses countered with some of their own.

That left advocates concerned that the people who are actually sick were the ones losing out.

Under the new system, patients will be buying more heavily taxed marijuana, and they’ll be allowed to grow fewer plants at home.

“This is pejorative to patients while being friendly to those who are in the business of patients,” said Muraco Kyashna-tocha, who operated a Seattle medical dispensary. “There are sincere patients who don’t have any money. They’re cancer patients who are being bankrupted by their treatment.”

Under the new law, patients who join the voluntary registry will be allowed to possess three times as much marijuana as is allowed under the recreational law: 3 ounces dry, 48 ounces of marijuana-infused solids, 216 ounces liquid and 21 grams of concentrates. Such a patient could also grow up to six plants at home, unless authorized to receive more.
Patients who don’t join the registry can possess the same as the recreational limit of 1 ounce, and grow up to four plants at home — which recreational users can’t.

State Sen. Ann Rivers, R-La Center and the sponsor of the measure, said part of the reason the registry is so important is to find out if there are enough stores providing medical products to patients.

“We have no idea how many patients we have in this state,” she said.

Inslee, who vetoed some minor sections of the bill, was joined during the signing by Ryan Day and his epileptic 6-year-old son, Haiden. The boy’s seizures have been managed with an extracted liquid form of marijuana.

Day said the new law gives his family more certainty.

“We were under the threat every single year that the system was going to change in a way that was going to take away my ability to help my son,” he said.


Disposition of Entry:

SSL Committee Meeting: 2016 B
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Comments/Note to staff
Summary:
The bill prohibits companion animal piercing and tattooing except when performed by a licensed veterinarian or under his or her supervision in conjunction with a medical procedure for the benefit of the animal. Tattooing is permissible for the purpose of identification of the companion animal. The new restrictions do not prohibit ear tags on rabbits and cavies.

Status: Signed into law on December 15, 2014.

Comments: Office of the Governor (December 15, 2014)
Governor Andrew M. Cuomo today signed a bill to increase protections for pets across New York State. The bill prohibits the unnecessary piercing and tattooing of cats, dogs, and all other pets for purely cosmetic purposes for the pleasure of the owner, except under limited circumstances. Those who violate the law will be subject to criminal penalties.

"This is animal abuse, pure and simple," Governor Cuomo said. "I'm proud to sign this common sense legislation and end these cruel and unacceptable practices in New York once and for all."

The bill (A.739-D/S.6769-C) prohibits the piercing or tattooing of all pets, including cats and dogs, to protect the animals from unnecessary harm. The bill allows the use of piercing and tattooing in only limited circumstances, such as ear tags on rabbits, tattoos for identification purposes only, or where the piercing provides a medical benefit to the animal and is performed by or under the supervision of a licensed veterinarian. A violation of the law is punishable by imprisonment for a period not to exceed 15 days and/or a fine not to exceed $250. The law will take effect in 120 days.

Senator Tom Libous, sponsor of the bill, said, "Subjecting animals to body piercing or tattooing is unconscionable and cruel. Animals can't speak out against undergoing a painful procedure like piercing or tattooing – I'm glad we're standing up for them and banning this heartless practice."

Assemblymember Linda B. Rosenthal, sponsor of the bill, said, "While people can decide whether they would like to undergo the pain associated with a tattoo or piercing, animals do not have that luxury. Subjecting animals to painful cosmetic procedures, such as tattooing and piercing, merely to satisfy an individual’s misguided and selfish aesthetic predilections, is inhumane and should be considered cruelty by the law. I am pleased that the Governor signed my bill into law; doing so sends a strong message that this kind of behavior constitutes animal abuse and that it will not be tolerated."

Disposition of Entry:

SSL Committee Meeting: 2016 B
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Comments/Note to staff
Summary:
The Uniform Voidable Transactions Act (UVTA), formerly named the Uniform Fraudulent Transfer Act (UFTA), strengthens creditor protections by providing remedies for certain transactions by a debtor that are unfair to the debtor’s creditors. The 2014 amendments to the UVTA address a small number of narrowly-defined issues, and are not a comprehensive revision of the act.

The Uniform Fraudulent Transfer Act was promulgated in 1984 and has been enacted by 43 states, the District of Columbia, and the U.S. Virgin Islands as of 2014. The act replaced the very similar Uniform Fraudulent Conveyance Act, which was promulgated in 1918 and remains in force in two states as of 2014.

The Uniform Act: Nature of Amendments
The 2014 amendments are the first made to the act since its original promulgation. The amendments address a small number of narrowly-defined issues, and are not a comprehensive revision. The principal features of the amendments are as follows:

Name Change. The amendments change the title of the act to the “Uniform Voidable Transactions Act.” The name change is not motivated by the substantive revisions made by the amendments, which are relatively minor. Rather, the original title of the act, though sanctioned by historical usage, has always been a misleading description of its provisions in two respects. First, fraud is not, and never has been, a necessary element of a claim under the act. Second, the act has always applied to the incurrence of obligations as well as to transfers of property.

Choice of Law. The amendments add, for the first time, a choice of law rule for claims of the nature governed by the act.

Evidentiary Matters. New provisions add uniform rules allocating the burden of proof and defining the standard of proof with respect to claims and defenses under the act.

Deletion of the Special Definition of “Insolvency” for Partnerships. Under the general definition of “insolvency” in the act, a debtor is insolvent if, at a fair valuation, the sum of the debtor’s debts is greater than the sum of the debtor’s assets. The act as originally written set forth a special definition of “insolvency” applicable to partnerships, which adds to the sum of the partnership’s assets the net worth of each of its general partners. The amendments delete that special definition, with the result that a partnership will be subject to the general definition.

Defenses. The amendments refine in relatively minor respects several provisions relating to defenses available to a transferee or obligee, as follows:

- As originally written, Section 8(a) of the act creates a complete defense to an action under Section 4(a)(1) (which renders voidable a transfer made or obligation incurred with actual intent to hinder, delay, or defraud any creditor of the debtor) if the transferee or obligee takes in good faith and for a reasonably equivalent value. The amendments add to Section 8(a) the further requirement that the reasonably equivalent value must be given the debtor.
• Section 8(b), derived from Bankruptcy Code §§ 550(a), (b) (1984), creates a defense for a subsequent transferee (that is, a transferee other than the first transferee) that takes in good faith and for value, and for any subsequent good-faith transferee from such a person. The amendments clarify the meaning of Section 8(b) by rewording it to follow more closely the wording of Bankruptcy Code §§ 550(a), (b) (which is substantially unchanged as of 2014).

• Section 8(e)(2) as originally written created a defense to an action under Section 4(a)(2) or Section 5 to avoid a transfer if the transfer results from enforcement of a security interest in compliance with Article 9 of the Uniform Commercial Code. The amendments exclude from that defense acceptance of collateral in full or partial satisfaction of the obligation it secures (a remedy sometimes referred to as “strict foreclosure”).

Series Organizations. The amendments add a new section which provides that each “protected series” of a “series organization” is to be treated as a person for purposes of the act, even if it is not treated as a person for other purposes. This change responds to the emergence of the “series organization” as a significant form of business organization.

Medium Neutrality. In order to accommodate modern technology, the amendments replace references in the act to a “writing” with “record,” and make related changes.

Conclusion
The amendments do not contemplate enactment by states with a uniform effective date. However, the lack of a choice of law rule for claims of the nature governed by the act under current law has led to uncertainty and wasteful litigation in respect of such claims in regard to transactions that touch on more than one jurisdiction. To alleviate that problem and install a clear and uniform choice of law regime for such claims, all states are urged to adopt the 2014 amendments as quickly as possible.

Status:  Signed into law on March 20, 2015.

Comments: From the Uniform Law Commission
The Uniform Voidable Transactions Act (UVTA), formerly named the Uniform Fraudulent Transfer Act, strengthens creditor protections by providing remedies for certain transactions by a debtor that are unfair to the debtor’s creditors. For example, the UTVA provides a remedy to a creditor whose debtor transfers property to a relative or third party to keep the property away from the creditor’s reach.

The 2014 amendments to the UVTA update the existing Uniform Fraudulent Transfer Act, originally promulgated in 1984, with a number of key changes described below.

• The amendments clarify terminology that was confusing to many courts and litigants. The change of the act’s title to the Uniform Voidable Transaction Act does not change the meaning of the act. Rather, the new title is a more accurate description of what the act already says, and will reduce misunderstanding by courts, lawyers, and others affected by the law.

• The amendments add a clear choice-of-law provision that offers predictability and reduces costs. Courts have used various legal theories to determine which state’s voidable transaction
law should apply in a given case. These court decisions are unpredictable and inconsistent. The UTVA resolves these choice-of-law questions by providing a straightforward solution for transaction parties and courts to apply uniformly. Clarifying these rules will reduce transaction and litigation costs and conserve court resources.

- **The amendments improve provisions for determining a debtor’s insolvency.** The amendments delete the former requirement that the net worth of a general partner be included in determining the insolvency of a partnership, and otherwise refine the rules for determining a debtor’s insolvency.

- **The amendments address emerging legal developments.** For example, the amendments add new provisions addressing electronic communications and the treatment of “series organizations,” a new and increasingly utilized type of business entity.

- **The amendments provide crucial guidance to courts and litigants regarding key evidentiary matters.** The amendments set out the burden of proof of each party in a UVTA lawsuit. The amendments clarify that the “preponderance of the evidence” standard applies throughout the act, meaning that the party required to prove a fact must establish that the fact is more likely to be true than not true.

A state that has enacted the Uniform Fraudulent Transfer Act will want the benefit of these changes. A state that has not enacted the Uniform Fraudulent Transfer Act will want to consider enacting the act with the 2014 amendments.

**Disposition of Entry:**

SSL Committee Meeting: 2016 B
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( ) Reject

Comments/Note to staff
Summary:
Establishes a process for the licensing of transportation network companies (TNCs) by the Department of Motor Vehicles (DMV), provided that TNCs comply with the requirements for licensure. The bill requires TNCs to screen drivers (TNC partners), ensure that all drivers are at least 21 years old and properly licensed to drive, and conduct background checks on all drivers including a national criminal background check, a driving history report, and status on the state and national sex offender registries.

The bill also requires that TNC partner vehicles be titled and registered personal vehicles; be insured; have a maximum seating capacity of no more than seven persons, excluding the driver; be registered with DMV for TNC use; and display TNC and DMV identification markers. The bill further requires that TNC drivers be covered by a specific liability insurance policy and specifies the nature and limits of the insurance coverage. The bill also imposes several other operational requirements, including requirements that the TNC provide a credential to the driver and disclose information about the TNC partner and TNC policies to passengers.

The bill authorizes DMV to conduct periodic reviews of TNCs to confirm compliance and authorizes fees to cover DMV's costs of administering the program, an initial TNC license fee of $100,000 and an annual license renewal fee of $60,000. The bill requires DMV to review the fee structure and report by December 1, 2016.

Status:  Signed into law on February 17, 2015.

Comments:  From the Washington Post (February 18, 2015)
Uber and Lyft now have permanent legal status in Virginia.

Gov. Terry McAuliffe (D) on Tuesday signed legislation setting a regulatory framework for the app-based car services— and allowing them to legally operate in the state.

The new regulations require such companies:
- Pay $100,000 for a license to operate in the state.
- Drivers must be at least 21 years old and properly licensed to drive.
- Drivers must undergo a background check—including a comprehensive review of history of felonies and a search of the sex offender and crimes against minors registry.
- The company or the driver must have insurance that covers up to $1 million in accident damage and they must abide by a zero-tolerance policy regarding the use of drugs and alcohol.

A result of months of negotiations between lawmakers, the Virginia Department of Motor Vehicles and the two companies, the new rules put an end to a past of uncertainty for the app-based ride-sharing services. Just a year ago, Virginia officials had fined the two companies more than $35,000 in civil penalties and in June, DMV commissioner Richard D. Holcomb sent a
cease and desist letter to both companies saying “I am once again making clear that Uber must cease and desist operating in Virginia until it obtains proper authority.

Uber and Lyft had vowed to continue operating in the commonwealth and after escalating tension, McAuliffe and Attorney General Mark R. Herring announced last summer a temporary deal that allowed the companies to continue operating in the state. That agreement was a temporary solution until lawmakers developed the more comprehensive legislation.

“Virginia is leading the way on attracting and supporting innovative companies in every sector of our economy,” McAuliffe said in a statement.

Virginia officials say the reached compromise ensures the safety of passengers, and promotes a level playing field for transportation providers, while it addresses the concerns of the services’ impact on the taxi industry. The legislation also is seen as good news for the industry and its growing consumer base that prefers the app-based services to traditional taxis.

“Virginia has taken a stand for innovation and consumer choice,” Uber spokesman Taylor Bennett said in a statement. “We’re excited to make the Commonwealth a permanent home and look forward to continuing to provide access to safe rides and job opportunities to thousands of Virginians.”

Herring said other states grappling with regulating the growing industry should look up to Virginia “where we have found a balance between safety, passenger protection, and innovation.”

“This law will strengthen our economy, give consumers more transportation options, and further cement Virginia’s reputation as a national leader for pro-business policies and reasonable regulation,” he said.

Uber, Lyft and other car services have ignited tension across the United States in recent years. Cabbies, in particular, have complained about ride-share drivers having an unfair advantage because they don’t face the same licensing and permitting requirements as cab drivers. This has prompted policymakers across the country to find ways to regulate the new services.


Disposition of Entry:

SSL Committee Meeting: 2016 B
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( ) Reject

Comments/Note to staff
Summary:
This bill makes it a Class A misdemeanor for a person to sell or offer for sale for human consumption powdered or crystalline alcohol.

This offense will not apply to the following:
(1) Any substance regulated by the FDA that is not beer, intoxicating liquor, or a compound that could be converted into beer or intoxicating liquor;
(2) A medication that requires a prescription; or
(3) An over-the-counter medication.

In addition to any criminal penalty imposed by this bill, the alcoholic beverage commission may suspend or revoke any license or permit related to alcoholic beverages held by a person who violates this bill.

Status:  Signed into law on May 6, 2015.

Comment:  WKRN (March 12, 2015)
Powdered alcohol may have been given the green light by the federal government, but Tennessee is headed toward banning sale of the product.

A powdered alcohol called Palcohol was approved by the Alcohol and Tobacco Tax and Trade Bureau on Wednesday.

Thursday morning, the Tennessee Senate voted for Senate Bill 374, which bans the sale of Palcohol in Tennessee.

The bill was sponsored by Sen. Bill Ketron (R-Murfreesboro).

“We want to get out in front of it because of the opportunity for abuse,” said Ketron.

Ketron pointed to a number of concerns about the powdered form of alcohol, like the availability to minors and the possibility of the powder being snorted.

“There is also concern that the product could be misused by adults if it is sprinkled onto someone’s food or in their drink without the other person’s knowledge,” he explained.

Addiction experts also warned about the possibility of minors being attracted to the product.

“The packaging appears to be very similar to Capri Sun,” said Brian Sullivan, public relations manager for Addiction Campuses in Brentwood. “That type of product can be easily marketable to children.”

In an online video, Palcohol creator Mark Phillips explained and defended his product.
“All the hysteria about the dangers of Palcohol are unfounded,” Phillips said. “And anyone who makes those claims is either ignorant or just being untruthful to promote their agenda.”

From *Governing* (January 8, 2015)

States across the country, both liberal and conservative, are finding common ground in stopping a powdered alcohol product before it gets started.

Even before legislative sessions start, lawmakers are listing a ban of an as-yet-unapproved product called Palcohol among their top priorities. Legislators in Colorado, Nebraska and Utah want to join lawmakers in Louisiana, Michigan, Minnesota, New Jersey, New York, Ohio, South Carolina and Vermont in prohibiting stores from selling powdered alcohol. South Carolina is looking to permanently extend a ban passed last year, when other states took action after news of the product surfaced. The powder comes in a four-inch by six-inch sealable pouch in vodka, rum and a variety of mixed-drink flavors. The product, developed by Arizona-based Lipsmark, dissolves in water. One serving, which fills about a third of a standard glass tumbler, is equivalent to a single shot of alcohol, according to its creator, Mark Phillips.

The company has declined to say how the product is made, beyond containing powdered alcohol, "natural flavorings" and a sweetener, in the case of the mixed-drink flavors.

The Alcohol and Tobacco Tax and Trade Bureau, an agency within the Treasury Department that regulates alcohol products, granted approval in April of last year. But the Bureau declared less than two weeks later that it had issued the approval in error, and Phillips maintains his company voluntarily surrendered approval because of a mistake on the product’s proposed label.

By the time news of the reversal broke, various outlets had already looked at early drafts of Palcohol’s website, which included passages touting the product as an efficient and surreptitious new way to get drunk by sprinkling it on food or sneaking it into events. It didn’t recommend snorting the product but said “you’ll get drunk almost instantly because the alcohol will be absorbed so quickly.”

That reporting helped draw the attention of Sen. Chuck Schumer of New York, who called for the Food and Drug Administration to ban Palcohol (an FDA spokeswoman said it doesn’t have the authority to do that). But powdered alcohol also drew the attention of state legislatures, which started banning the substance before it becomes available in stores, which Lipsmark says won’t come until spring at the earliest.

“The approval process is complicated, and one never knows how long it will take, but I'm hoping within the next few weeks,” Phillips said by email. A Lipsmark spokeswoman said Phillips was unavailable for a phone interview.

A Bureau spokesman didn’t return multiple requests for comment on the product’s status.

Efforts to commercialize powdered alcohol date back decades and have surfaced in countries such as Germany and the Netherlands, but they’re never been able to sustain interest in international markets where they have appeared, according to Smithsonian magazine.

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State lawmakers cited public health concerns in their preemptive bans, saying they feared the product would increase alcohol abuse, particularly among teenagers.

Phillips has since posted a video on Palcohol’s website to defend the product. He said the website’s previous statements were an attempt to sound edgy but were misguided. He now points out that snorting the product would be painful and ultimately would take longer to consume than a typical shot. He also says the argument that teenagers will abuse the product is overblown; Palcohol can only legally be sold to people 21 and older. And both the volume of powder in a serving and the size of the packaging make it hard to sneak into events, he added. Phillips argued that the product could be convenient because of its light weight. It might be useful in hospitality business and for people doing activities that make carrying liquid alcohol difficult.

“When I hike, kayak, backpack, whatever, I like to have a drink when I reach my destination,” Phillips said in the video. “Carrying liquid alcohol and mixers in bottles to make a margarita, for instance, was totally impractical.”

Lawmakers like Rep. Steve Eliason of Utah, however, aren’t buying it. For one, he said, transportation would still require a liquid -- water -- to make a drink, so he doesn’t believe the convenience argument. And even if the product remains illegal to teenagers, it will appeal to them by its very nature, Eliason said.

“I guess the question our legislature will decide is do the public health concerns outweigh the convenience of someone being able to bring it on a hike?” he said.

Disposition of Entry:

SSL Committee Meeting: 2016 B
( ) Include in Volume
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( ) Reject

Comments/Note to staff
Summary:
The Illinois Secure Choice Savings Program will give millions of private sector workers the opportunity to save money for retirement by expanding access to employment-based retirement savings accounts. The bill will automatically enroll workers without access to an employment-based retirement plan into the Secure Choice program. While workers can opt-out of the program, those that do participate will be able to build savings in an Individual Retirement Account (IRA) through a payroll deduction. All accounts are pooled together and professionally managed; ensuring that fees are low and investment performance is competitive.

The new program will require businesses with 25 or more year-round employees that have been in business for 2 or more years, and don't currently offer a retirement savings option to offer the Secure Choice Program to its workers by June 2017.

Status: Signed into law on January 5, 2015.

Comment: From USA Today (January 30, 2015)
Illinois gets whacked plenty for its troubled public pension plan systems. But now it's getting high praise for being the first state in the USA to offer a novel type of retirement plan, which goes into effect in 2017. Earlier this month, Pat Quinn, the governor at the time, signed legislation that will establish individual retirement accounts for some 2.5 million private-sector employees who don't have a retirement plan at work in the Prairie State.

Dubbed the Illinois Secure Choice Savings Program, the plan works much like Roth 401(k) or 403(b) plans. Workers will be automatically enrolled in the program and contribute 3% of every paycheck after taxes into the account through payroll deduction. Unlike typical Roth 401(k) plans, however, the Secure Choice is portable; workers can keep the same account as they move from job to job.

Workers will have the ability to opt out of the program as well as increase the percent deducted from their paychecks. According to the key backer of the new law, Sen. Daniel Bliss, (D-Evanston), worker's funds will be pooled and professionally managed by a private investment company chosen by a competitive bidding process. A seven-member board, chaired by the state's Treasurer, will oversee the program.

Participants will be able to select from a mix of investments, from low- to high-risk options. But no state or employer contributions would be made to the accounts, and administrative costs would be covered by participant contributions.

What's more, businesses would not be responsible for running or funding the program, nor would they be liable for the performance of their employees' investments. Of note, not all businesses are required to participate in the program; it applies only to workers whose employers have at least 25 employees year round; have been in existence for at least two years; and offer no retirement plan besides Social Security. Companies that don't offer the plan will, of course, face penalties.
Experts, meanwhile, are praising the program. According to Shriver Center, Illinois' Secure Choice Program is the most comprehensive automatic enrollment program of its kind in the country. It's also the first among some 16 other states, including Maryland, Connecticut and California, that are in some stage of legislating state-administered plans that will deliver retirement plan access to the country's smallest employers, according to the Pension Rights Center's website.

And, the federal government is also taking steps to get employers who currently don't offer retirement plans in the workplace to offer the myRetirement Account, or myRA for short. MyRA is a type of Roth IRA account that is now being offered workers at a limited number of firms but could become widely available if employers warm to the idea of this plan.

In launching the program, Illinois hopes to address one of the biggest problems affecting those saving for retirement. Households with access to a workplace retirement plan are less at risk of not being able to maintain their standard of living in retirement, according to the latest findings from National Retirement Risk Index (NRRI), which was published by the Center for Retirement Research (CRR) at Boston College and sponsored by Prudential.

Consider: Nearly seven in 10 (68%) households with no employer-sponsored retirement are at risk of not being able to maintain their standard of living in retirement, according to the CRR. By contrast, just 20% of households with a defined benefit plan through their current employer are at risk, while 53% with only a defined contribution plan are at risk.

According to published reports, one-half of working Americans and many part timers don't have access to a retirement plan in the workplace.

"I like the (Secure Choice) savings program because it encourages savings where workers might not have the knowledge to go out and get it themselves while still remaining voluntary … opt-out much stronger than opt-in," says Karen Nystrom, the director of advocacy at the Financial Planning Association in Denver.

Nystrom also says it will be "very important to vet" who serves on the seven-member board that oversees the Secure Choice program. "Hopefully those who serve in a fiduciary capacity in their primary business," she says, "It has the potential to go very well, or not, depending on who's making the fund decisions."

Others agree that oversight of the Secure Choice program is of paramount importance. "I am concerned with the trust structure of the funds," says Carol Bogosian, president of CAB Consulting in Chicago. "Given Illinois' funding status and past proven mishandling of public funds, will these funds be secured from general use by the State of Illinois? What protections will be given from fraud and mishandling of the investments?"

Read more: http://www.usatoday.com/story/money/columnist/powell/2015/01/16/illinois-401k-retirement/21511583/
Disposition of Entry:

SSL Committee Meeting: 2016 B
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( ) Reject

Comments/Note to staff
Summary: SB862 prohibits any person to compel another person to accept gold or silver coins except as agreed upon by contract.

The measure also removes the requirement that gold, silver, platinum, palladium or other precious metal items be stored within a recognized depository facility in order to be exempt from state sales tax.

Status: Signed into law on June 4, 2014.

Comments: A new law signed by the governor makes gold and silver coins legal tender in the State of Oklahoma. Organizers say it’s good news for investors of precious metals but it’s not intended to help people pay their day-to-day bills. Officials say the goal is to eliminate a tax that some lawmakers called nonsensical.

“This is not something so people can buy a pack of gum or buy a car with a stack of gold coins. This is not that,” said Oklahoma Sen. Kyle Loveless.

The law specifically reads, “No person may compel another person to accept gold or silver coins, except as agreed upon by contract.” However, it does eliminate a tax on precious metals for investors.

“This is a no-brainer. You wouldn’t tax a currency. You don’t tax the cash in your pocket,” said Loveless.

The law puts gold and silver on the same playing field as stocks. For example, if you buy shares of Google, you wouldn’t be taxed on the purchase, only on the profits following a sale. Lawmakers say the law could encourage more Oklahomans to invest gold and silver for long-term savings.

“When you buy real estate or buy any investment, there is no tax on the purchase of it, and that’s what this is,” said Loveless. “It’s a nonsensical tax, I’m glad we were able to get rid of it.”

Disposition of Entry:

SSL Committee Meeting: 2016 B
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( ) Reject

Comments/Note to staff
These next two bills focus on offering tax credits for investments in education and training. In Alabama, a scholarship fund was created for high school students to earn college credit and certification to become welders, electricians, mechanics or other trades. A dual enrollment program is offered to students as an incentive to keep them engaged in school, thereby reducing the dropout rate, as well as filling gaps in talent development in the job market. Taxpayers donate towards the scholarship fund and receive a credit on their state income tax up to 50 percent of their donation.

In Indiana, businesses are eligible for a state tax credit when they partner with local school districts and charter schools to train students for high demand careers requiring industry certification. The Economic Development for a Growing Economy program was expanded to allow secondary schools to partner with businesses who invest in the school’s curriculum and training of students. The businesses receive a tax credit when they employ the student(s) once an industry-recognized certification is obtained.

*11-36A-01 State Income Tax Credit for Career-Technical Dual Enrollment Program Alabama Bill/Act: HB 384

Summary: The bill sets up a scholarship fund for high school students to train at two-year colleges to become welders, electricians, mechanics or other types of skilled workers through a dual enrollment program. Proponents of the bill contend it is a way to fill gaps in the workforce and lower the dropout rate by keeping some students interested in school. Donations from taxpayers would fund the scholarships. Donors would get a credit on their state income taxes worth up to 50 percent of their donation, up to 50 percent of their tax liability. The total amount of tax credits paid per year could not exceed $5 million.

Status: Signed into law on March 4, 2014.

Comments: From the Tuscaloosa News (May 19, 2014)
State lawmakers and representatives with the Alabama Community College System predict a new tax credit will help boost funding and enrollment in the state's career technical dual enrollment program for high school students.

"In my opinion, this is the beginning," said Rep. Bill Poole, R-Tuscaloosa. Poole was among legislators and officials with Shelton State Community College, the Department of Postsecondary Education, and Mercedes-Benz U.S. International who discussed the dual enrollment program Monday, using a lab filled with mills and other precision machining equipment at Shelton as a background.

The bill enacted during the regular legislative session earlier this year would give an income tax credit beginning in 2015 to individuals and businesses that make contributions to cover tuition, fees, books and other costs associated with participation in the Career Technical Dual enrollment program. The act allows the contributors to direct as much as 80 percent of their donations to a
particular career technical program or courses at a specific two-year campus. The two-year system will work with business and industry partners, the state's workforce training council and the Regional Workforce Development Councils ensure the donations for the dual enrollment program address regional workforce needs, according to the speakers.

Terry Waters, executive director of economic and workforce development for the Alabama Department of Postsecondary Education, said taxpayers can contribute as much as $10 million annually under the new tax credit program, which allows them to receive a credit for as much as 50 percent of their total contributions. The tax credit cannot exceed 50 percent of the taxpayers' total state income tax liability or $500,000 in any year. The act caps the annual tax credits given by the state at $5 million. The bill was sponsored during the 2014 regular session by Rep. Mac Buttram, R-Cullman.

Waters, Poole and State Sen. Gerald Allen said there has been an ongoing conversation between two-year officials and lawmakers during the past couple years about the growing need for additional funding for the dual enrollment program, which allows high school students in grades 10-12 to enroll career technical courses at community colleges.

This year, the program was only able to award 2,100 scholarships, Waters said. "We hope to be able to expand career technical dual enrollment scholarships to 10,000 annually," he said. In a best-case scenario, the tax credit could lead to as many as 300 to 350 scholarships and waivers per two-year campus in the state, with a third being needs-based awards, according Allen.

Waters said the combination of an additional $5-million line item for the program included in the fiscal year 2015 education budget for the dual enrollment program and the tax credit are expected to allow the program to expand. The $5 million will help buy new equipment and assist with transportation needs in rural areas, Waters said

"What a difference this program is going to make in Alabama," Waters said.

Read more:  http://www.tuscaloosanews.com/article/20140519/NEWS/140519668

Disposition of Entry:

SSL Committee Meeting: 2016 B
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( ) Reject

Comments/Note to staff
Student Training Cooperative Arrangements

**Bill/Act:** **HB 1003**

**Summary:** Indiana HB 1003 allows school districts and charter schools to partner with businesses to train students for high demand careers requiring industry certification. Businesses that hire students who have participated in cooperative programs are eligible for a state tax credit.

**Status:** Signed into law on March 26, 2014.

**Comment:** From *Indianapolis Business Journal* (January 23, 2014)

House Bill 1003, authored by Rep. Steven Braun, R-Zionsville, aims to create programs that help high school students obtain the skills they need for high-demand jobs.

“A highly educated workforce is the key factor to Indiana’s future economic success, in my opinion,” Braun said.

The bill would expand the Economic Development for a Growing Economy program, commonly known as EDGE. Under the program, secondary schools partner with businesses who invest in the school’s curriculum and training of students. The businesses are then allowed a tax credit if they hire the previously interned student once he or she obtains certification.

Kathy Heuer, R-Columbia City, co-authored the bill and worked primarily on the business-school partnership portion.

“The bill will help create career pathways for students who are unsure of their future plans and are not college-bound,” Heuer said. “By giving these kids opportunities to experience jobs before they graduate, they can have a much better opportunity to establish that career path.”


**Disposition of Entry:**

SSL Committee Meeting: 2016 B
( ) Include in Volume
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( ) Reject

Comments/Note to staff
Summary: The bill prohibits any employer from including a question on a job application regarding whether a potential employee has ever been arrested, charged or convicted of any crime. After determining that a candidate is a finalist or a conditional job offer has been made, an employer may then ask about criminal background. This does not apply to educational facilities or law enforcement agencies.


Comments: From the National Employment Law Project (April 22, 2015)
Nationwide, 100 cities and counties have adopted what is widely known as “ban the box” so that employers consider a job candidate’s qualifications first, without the stigma of a criminal record. These initiatives provide applicants a fair chance by removing the conviction history question on the job application and delaying the background check inquiry until later in the hiring.


Six states—Hawaii, Illinois, Massachusetts, Minnesota, New Jersey, and Rhode Island—have removed the conviction history question on job applications for private employers, which advocates embrace as the next step in the evolution of these policies.

From the Providence Journal (January 1, 2014).
With the start of the new year, Rhode Island employers will have to wait a little longer to ask job applicants if they have a criminal record. Rather than ask on job applications, employers will have to wait until the first interview.

Advocates say the so-called “Ban-the-Box” law, passed by state lawmakers last year and signed by Governor Chafee, will give applicants with past convictions a better chance to make a case for why they should be hired.

“People who have made mistakes need to be able to move on, to move forward with their lives, and we need to change our laws to allow them, even encourage them, to do so,” Rep. Scott Slater, D-Providence, one of the lead sponsors, said in a statement shortly after the bill passed.

“They are not being allowed to do so if every application they fill out looks like an instant dead-end because of that one question about criminal history.”

The law applies to employers with at least four workers. But it provides exceptions, allowing employers to ask up front about past convictions in cases where a criminal record would
disqualify an applicant based on federal or state law, or make it impossible for an applicant to obtain insurance protection that is needed to do the job.

Read More: http://www.providencejournal.com/breaking-news/content/20140101-rhode-island-has-new-laws-for-job-applications-pay-days-and-wages-for-workers.ece

Disposition of Entry:

SSL Committee Meeting: 2016 B
( ) Include in Volume
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( ) next SSL mtg.  ( ) next SSL cycle
( ) Reject

Comments/Note to staff
Summary: This bill prohibits a public employer from inquiring into or considering the criminal record, criminal history or credit history or score of an applicant before it makes a conditional offer to the applicant. It permits inquiry and consideration of criminal background after the conditional offer has been made. The bill specifies that once a background check is conducted an employer shall only consider felonies for 10 years from the completion of sentence, and misdemeanors for 5 years from the completion of sentence. Further, employers are required to consider several enumerated factors when deciding whether to revoke a conditional offer based on the results of a background check.

Police forces, the Department of Corrections and other positions with a statutory mandate for background checks are excluded from these provisions. The bill also requires contractors with State agencies to employ similar policies where not in conflict with other State or federal requirements.

Status: Signed into law on May 08, 2014.

Comments: Delaware Online (May 1, 2014).
‘Ban the Box,’ the name of a measure that would prohibit most public agencies in Delaware from requiring job applicants to disclose their criminal history during the early steps of the hiring process, passed in the Senate Thursday.

Gov. Jack Markell mentioned the effort, which passed 15-5, during his State of the State speech earlier this year. If it becomes law, it would not apply to law enforcement agencies and private businesses. The bill has already passed the House and now awaits Markell’s signature.

Under the legislation, employers could only ask a job candidate about their criminal background once the first interview was completed.

Sen. Bryan Townsend, D-Newark, said the legislation is a step in the right direction to assist those with a criminal charge who are trying to get back on their feet. But he wishes it went further.

“We want people to look for jobs. We want people to take initiative. We want people to have hope. We want people to believe that they’ve made amends and they’ll have opportunity,” he said. “I think it’s important to emphasize how many people don’t even apply because they know by checking that box their application will not be looked at.”

Several lawmakers raised concerns that the legislation offers those people false hope, but also makes a critical employment decision on behalf of the state’s local governments.

“I feel like this is going a bit too far,” said Senate Minority Leader Gary Simpson, R-Milford. Sen. Brian Bushweller, D-Dover, expressed similar concern, but supported the bill.
“I’m uncomfortable with forcing what we would consider to be good employment practices of this nature on local governments,” he said.

Several Republicans voted for the bill, including Senate Minority Whip Greg Lavelle, R-Sharpley, who said he agreed with the intent of the legislation, but expressed “great reservations” that it could cause litigation and could come back to be extended to private businesses.

“I hope we don’t come back here some day and my vote was proven to be wrong,” he said. “I will adamantly fight any future bill to make this apply to the private sector.”

Rep. James “J.J.” Johnson, D-Wilmington and the bill’s prime sponsor, said he was pleased with the passage and the fact that it gained some bipartisan support.

“This is a very good step to show that the state is practicing what they are preaching, that people deserve an opportunity to recover,” he said.


Disposition of Entry:

SSL Committee Meeting: 2016 B
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( ) Reject

Comments/Note to staff
Bill/Act: **SB 1002**

**Summary:**
Encourages local workforce investment boards to implement pay-for-performance contract strategy incentives for training services as an alternative model to traditional programs. The bill also authorizes local workforce investment boards to allocate funds to the extent permissible under §§ 128(b) and 133(b) of the Workforce Innovation and Opportunity Act of 2014 (P.L. 113-128) for pay-for-performance partnerships.

**Status:** Signed into law on March 23, 2015.

**Comment:** From [America Forward](https://www.americafoward.org)
On July 22nd, President Obama signed the Workforce Innovation and Opportunity Act (WIOA) into law. WIOA is a product of months of negotiations among leaders in the House and the Senate to reauthorize the Workforce Investment Act (WIA), the law formerly governing the workforce development system in the United States. WIOA updates the current workforce development system to reflect the changed education and training needs of our current workforce, as the original WIA legislation was passed in 1998, a time of nearly full employment. While WIOA preserves the current WIA formula funding streams, it includes new requirements for a more cohesive education and training system through a new unified plan to be submitted by states annually that includes workforce, adult and vocational education programming, along with cross title performance measures to better assess programmatic performance.

WIOA also includes several new provisions that can significantly improve job training and employment for adults and youth. America Forward and the America Forward Coalition championed one of these innovative provisions on Pay for Success, a funding approach that can greatly improve outcomes among government, reward outcomes-based service programs, and save taxpayer dollars.

**PAY FOR SUCCESS OVERVIEW:** Referred to in the legislation as ‘Pay for Performance,’ the concept allows the federal government to incentivize public-private partnerships to tackle tough social challenges that cost the taxpayers significant resources if they are not addressed. These kinds of payment structures provide funds only to programs that achieve pre-determined outcomes.

At the most basic level, Pay for Success is a performance-based contracting arrangement between government and a social service provider in which impact is measured rigorously for “high bar” outcomes and government only pays ‘for success’ when results are achieved within a specific timeframe. By only paying for programs that are working, these funding models use taxpayer dollars more efficiently and direct resources to programs getting real results, instead of only measuring the number of people they serve. Because Pay for Success arrangements do not require pre-determined interventions, local and state governments can be flexible in selecting innovative and effective programs to deliver much needed services in their community and may lean toward strategies that prevent bad outcomes instead of waiting until remediation is necessary. In some cases, private sector funders may provide up-front financing for the delivery
of services (an arrangement known as “Social Impact Bonds”), taking on the risk that the intervention will not succeed and receiving success payments only if it does.

Read more:  

Disposition of Entry:

SSL Committee Meeting: 2016 B  
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( ) Defer consideration:  
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( ) Reject

Comments/Note to staff
Bill/Act: LD 1832

Summary: The legislation permits a private employer to apply a voluntary veteran preference to employment decisions regarding hiring, promotion or retention during a reduction in workforce. The policy must be in writing and must be applied uniformly to employment decisions regarding hiring, promotion or retention during a reduction in workforce.

Status: Signed into law on April 28, 2014.

Comment: From Employment Law Daily (April 23, 2015)

These laws allow employers to implement a voluntary preference for hiring or retaining a veteran over another qualified applicant or employee. Some laws include promotion; others do not so specify. Some specify a veterans’ preference for retention during a reduction in force. A few extend the preference to spouses under certain conditions. Almost all state in some fashion that granting a veterans’ preference won’t violate any local or state equal employment opportunity law or regulation, including antidiscrimination provisions.

Florida’s law (H. 7015, L. 2014), enacted last year, extends further and allows preference in hiring to an honorably discharged veteran; the spouse of a veteran with a service-connected disability; the un-remarried widow or widower of a veteran who died of a service-connected disability; or the un-remarried widow or widower of a member of the U.S. Armed Forces who died in the line of duty under combat-related conditions.

Georgia sent its voluntary veterans’ preference bill (HB 443) to the governor on April 6, 2015; Indiana has a bill pending (H. 1530); and Idaho’s law, passed in 2014, says that private, nonpublic employers may give preference in the hiring and promotion of employees to those who are eligible for public employment preferences (S. 1316). Iowa’s law is broader, like Florida’s: It extends not only to veterans but also to the spouse of a veteran who has sustained a permanent, compensable, service-connected disability and the surviving spouse of a deceased member of the United States armed forces who died while serving on active duty during a time of military conflict or who died as a result of such service (S. 303, L. 2013).

Kentucky recently enacted a law allowing private employers to have a voluntary veterans’ preference employment policy (H. 164, L. 2015); Maine did last year (Ch. 576 (S. 735). Massachusetts’ law, also enacted in 2014, includes a voluntary preference for spouses of disabled veterans and surviving spouses of veterans (Ch. 62 (S. 2052). Michigan’s 2014 law, Public Act 508 (H. 5418), does not extend to spouses.

Both Montana (S. 196) and Nebraska (L.B. 272) passed laws in 2015; only Nebraska’s includes spouses of veterans under certain conditions.
Oklahoma’s governor signed 2015 legislation (S. 195) on April 10. Oregon enacted its law last year to allow private employers to give preference in hiring and promotion to specified veterans (H. 4023). Also last year, South Carolina accomplished the same thing, essentially, by amending its fair employment practices law to provide that it is not an unlawful employment practice for a private employer to give hiring preferences to a veteran, and to extend the preference to the veteran’s spouse if the veteran has a service-connected permanent and total disability (H. 4922).

Effective May 12, 2015, Utah private employers will be allowed to create voluntary, written veterans’ employment preference programs (H. 232). Finally, Virginia’s law relating to preference for veterans and spouses of certain veterans in private employment (Ch. 570 (S. 516)) was enacted last year.

Early adopters: It appears that Washington passed its voluntary veterans’ preference law for private employers in 2011; Minnesota followed in 2012; and Arkansas passed a similar law in 2013.

What about Title VII? The Equal Employment Opportunity Commission Compliance Manual notes that federal, state, or local laws that confer special rights or privileges on veterans with respect to hiring are not affected by Title VII. However, if the veterans’ preference is not required by a local, state, or federal law (and these private employer laws are voluntary), the situation is not quite as clear.

Veterans’ preference statutes have, in the past, operated “overwhelmingly to the advantage of men,” the EEOC noted in a 1990 Policy Guidance. Things have changed in the past 25 years, but that Guidance stated that “where an employment preference is conferred upon veterans on the employer’s own initiative and is not mandated by statute, the discriminatory impact of the preference is not shielded from scrutiny under Title VII. As the language of Section 712 makes clear, the deference provided by that section applies only to veterans’ preferences that are created by law and not to those that are voluntarily accorded to veterans by employers. Falling outside the terms of Section 712, voluntary preferences are subject to Title VII adverse impact analysis.”

Disposition of Entry:

SSL Committee Meeting: 2016 B
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   ( ) next SSL mtg. ( ) next SSL cycle
( ) Reject

Comments/Note to staff
Summary: Provides that it is not an unlawful employment practice for a private employer to give preference in employment to a veteran. This preference is also extended to the veteran's spouse if the veteran has a service-connected permanent and total disability. A private employer who gives a preference in employment provided by this item does not violate any other provision of this chapter by virtue of giving the preference.

Status: Signed into law on June 2, 2014.

Disposition of Entry:

SSL Committee Meeting: 2016 B
( ) Include in Volume
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( ) Reject

Comments/Note to staff
11-36B-04 Veterans Hiring Preference       Iowa
Bill/Act:  SF 303

Summary:
Part of a larger bill, Section 29 allows private sector employers to grant a preference in both hiring and promotion to veterans and some spouses. The section applies to veterans as defined in Iowa Code currently. Private employers will also be able to grant this preference to the spouses of veterans who have a permanent, service-connected disability or who lost their lives while serving on active duty during a time of military conflict. The preference is optional for private sector employers, and can only be granted as far as is consistent with federal law and regulations.

Status:  Signed into law on May 26, 2014.

Disposition of Entry:

SSL Committee Meeting: 2016 B
( ) Include in Volume
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( ) Reject

Comments/Note to staff
Summary: The bill seeks to encourage employers to hire homeless people by providing a tax credit of $2,000 for each qualified new hire. A qualified person who is homeless is an individual whose primary nighttime residence is a permanent housing facility, a permanent supportive facility, or a transitional facility. The employee must be continually employed for nine months for the employer to qualify, and the employer must have paid the worker at least $4,000 in wages during that period. The legislation limits the pool of available tax credits $100,000 in its inaugural year.

Status: Signed into law on April 1, 2014.

Comment: From St. George News (May 24, 2014)
Under a new law that became effective May 13, businesses may receive tax credits for hiring homeless people. The law allows for tax credits to businesses up to $2,000 per homeless person employed per year with a cap at 50 such employees.

As one of 486 bills passed during the 2014 General Session of the Utah Legislature, House Bill 140, the “Tax Credit Amendments” bill, looks to provide incentives for employers to hire homeless people.

As defined by the law, in order for the employer to qualify for tax credits, the employed homeless person must meet all of the following criteria:

- have a primary nighttime residence on the date of hire
- be hired as an employee, not an independent contractor
- be legally eligible to work in the United States
- have not worked for the employer for more than 40 hours during a 60-day period immediately preceding the date of hire

The employer must abide by specific requirements, such as complying with all state, federal and local employment requirements related to the person who is homeless. The employer cannot be a government entity and must file an application for each homeless individual to receive a “tax credit certificate.”

The idea of this law is to help people who are trying to help themselves and to help employers who want to help people help themselves, Rep. Michael Noel said. For many homeless people, finding a job is extremely difficult without having a home and the security it provides. Often times homeless people become addicted to alcohol and drugs because of this lack of security and responsibility.

“Working with the jail programs in my district, especially in working to obtain funding that will help people succeed. In many cases, you have people ending up back in the system,” Noel said. “Any area I can help with people who have substance abuse problems I feel the need to. It’s a very human thing to help other people in need. It changes not just one life, it changes the lives of the friends and families, too.”
Some of the concerns prior to enrolling HB 140 pertained to the identification and verification of homeless people, Rep. Jon Stanard said. Stanard voted against the bill.

After reading the bill multiple times throughout the past several years, Stanard found flaws with the technicalities of it and whether the law could work in the real world. There is a chance that some businesses could take advantage of the law by hiring on homeless people for the tax credits. If the homeless person found a home, would the employer keep that person employed long-term or just hire another homeless person to receive the tax credits?

“I wasn’t against the concept of this bill,” Stanard said. “My concern is whether it has been well thought out and can work in practice. How do you prove who is, or isn’t homeless? How will it work to benefit the person who needs it? Once a homeless person is hired and finds a place to live, are they still considered homeless?”

Under Utah Code Section 35A-5-302, a homeless person is defined as:
An individual whose primary nighttime residence is a permanent housing, permanent supportive or transitional facility — which are in turn defined as — a facility located within the state that provides supervision of residents of the facility and that is a publicly or privately operated shelter.

“It’s been a bill that’s been in the Legislature for a couple years. I think there is finally that appetite around to try it out,” Sen. Evan Vickers said. “The main incentive for it is to get people off the streets, especially on the Wasatch Front. There is a group of employers in Salt Lake City who were for the bill.”

According to the fiscal notes on the bill, beginning in 2015, this law may decrease the state’s education fund by $100,000 annually and cost $23,300 in federal funds annually for tax credit certification.

Read more: https://www.stgeorgeutah.com/news/archive/2014/05/24/ams-new-law-creates-incentives-to-hire-homeless-people/#.VVkoFCHBzGc

Disposition of Entry:

SSL Committee Meeting: 2016 B
( ) Include in Volume
( ) Include as a Note
( ) Defer consideration:
          ( ) next SSL mtg. ( ) next SSL cycle
( ) Reject

Comments/Note to staff
Summary:
Abusive conduct is defined as repeated verbal abuse, threats, intimidation, humiliation or work sabotage. Public sector agencies (all branches of state, county, metropolitan and municipal governments) are given an incentive to adopt the model policy to prevent abusive conduct in the workplace, which will be created before March 1, 2015 by TACIR, the Tennessee advisory commission on intergovernmental relations. Alternately, government employers may create their own policy if it (1) assists employers in recognizing and responding to abusive conduct, and (2) prevents retaliation against any reporting employee.

Status:  Signed into law on May 22, 2014.

Comments: From the National Law Review (December 22, 2014)
While more than two dozen states have introduced workplace anti-bullying bills, Tennessee is the first state to enact workplace anti-bullying law.

The Volunteer State’s Healthy Workplace Act encourages public-sector employers to prevent abusive conduct in the workplace by adopting model policy to be created by the Tennessee Advisory Commission on Intergovernmental Relations (TACIR).

Under the new law, a public-sector employer would be legally immune to bullying-related lawsuits if it adopts a policy that complies with the law, but individuals may still be held personally liable for abusive conduct. A model policy from the TACIR should be available no later than March 1, 2015.

Private employers are not affected by the new law. However, there is legislation pending to extend the law to private-sector employers. As State Representative Antonio Parkinson (D-Memphis), who introduced the bill in the state House, said, “While we would love for the private sector to adopt this policy, we needed a place to get it in the code first….We needed to get something on the books that we could build upon.” It is not clear whether the new law applies to local governmental entities, such as sheriff’s departments, school systems, and the like.

Under the Act, “abusive conduct” means acts or omissions that would cause a reasonable person, based on the severity, nature, and frequency of the conduct, to believe that an employee was subject to an abusive work environment, such as:
(A) Repeated verbal abuse in the workplace, including derogatory remarks, insults, and epithets;
(B) Verbal, non-verbal, or physical conduct of a threatening, intimidating, or humiliating nature in the workplace; or
(C) The sabotage or undermining of an employee’s work performance in the workplace.

The Act provides that the model policy should:
1. Assist employers in recognizing and responding to abusive conduct in the workplace; and
2. Prevent retaliation against any employee who has reported abusive conduct in the workplace.
Though federal laws ban workplace discrimination based on race, color, religion, sex and other protected statuses, advocates say laws are needed to recognize the verbal abuse of employees regardless of whether they fall under a protected class.

From the Wall Street Journal (June 20, 2014)

Last month, after a decade of stalled progress in 26 states, advocates of workplace bullying legislation scored their first victory. But they’re not entirely pleased.

Tennessee approved the Healthy Workplace Act on May 22, a law designed to curb verbal abuse at work by making public-sector employers immune to bullying-related lawsuits if they adopt a policy that complies with the law.

Though federal laws outlaw workplace discrimination based on race, color, religion, sex and other protected statuses, advocates like Gary Namie, director of the Workplace Bullying Institute, are lobbying for laws that recognize the verbal abuse of coworkers regardless of whether they fall under a protected class.

Dr. Namie, a social psychologist, said the Tennessee law doesn’t go far enough. The bill his staff drafted for the legislature would have allowed both public and private employers to be held liable in civil lawsuits regarding incidents of alleged workplace bullying if they failed to enforce policies that recognize and protect workers who claim physical or mental harm as a result of bullying.

However, the signed law applies only to public-sector employers, and administrators aren’t required to follow guidelines that the law ordered a state commission to draft by March 2015.

Instead, they’re incentivized to do so in exchange for immunity from potential lawsuits.

Under the new law, individual employees may still be held personally liable for abusive conduct. “I think it’s a misinterpretation of our bill in its full context,” Dr. Namie said of the Tennessee legislation, arguing that employers won’t be convinced to faithfully enforce policies if they’re not under threat of litigation.

State Rep. Antonio Parkinson (D-Memphis), who introduced the bill in the state House, said it is a step in the right direction.

“While we would love for the private sector to adopt this policy, we needed a place to get it in the code first,” Parkinson said. “We needed to get something on the books that we could build upon.”

Across the country, Dr. Namie said, pro-business lobbyists have fought to make private employers exempt from similar bills.

Bradley Jackson, vice president for government relations and community affairs at the Tennessee Chamber of Commerce and Industry, said his organization is concerned about any bill that creates a new cause of legal action against employers. In its original form, the Healthy
Workplace Act was unnecessary, Jackson said, because many businesses already have anti-bullying policies in place.

Craig Cowart, a labor attorney at Atlanta-based Fisher & Phillips LLP who has been tracking the legislation in Tennessee, said actions taken by state legislators suggest that many feel there are sufficient laws in place that protect employees. He said he helps his corporate clients understand the concept of workplace bullying, but he doesn’t think regulation is necessary.

“I would encourage employers to have policies, but I think it can be handled by the employers themselves,” Cowart said.

The Workplace Bullying Institute has been able to get its bill introduced in 26 states and two territories—Puerto Rico and the U.S. Virgin Islands—but has had little success so far, according to a map on its website. On Monday, the governor of Puerto Rico vetoed a workplace bullying bill that was passed by both chambers of legislature there.

**Disposition of Entry:**

SSL Committee Meeting: 2016 B
( ) Include in Volume
( ) Include as a Note
( ) Defer consideration:
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( ) Reject

Comments/Note to staff
Note: This language is an update to the existing Nurse Licensure Compact, first implemented in 2000. Currently 25 states have adopted the Nurse Licensure Compact: AZ, AR, CO, DE, ID, IA, KY, ME, MD, MS, MO, MT, NE, NH, NM, NC, ND, RI, SC, SD, TN, TX, UT, VA, WI.

Summary: (From the National Council of State Boards of Nursing) Telehealth is one of the fastest growing sectors within the health care industry. Nurses are increasingly being asked to deliver care through electronic means, offering opportunities for better patient care regardless of geographic boundaries. The NLC is a state-based licensure model that facilitates innovative care models by allowing nurses to legally deliver that care to patients through a multistate license. The NLC also has economic benefits, as it facilitates and expedites the hiring process for employers in their state, by enabling them to verify licenses online and to recruit from other states without having to go through the entire endorsement process. The NLC reduces licensure fees for nurses who practice in more than one state, eliminates unnecessary duplicative license procedures, reduces a nurse’s ability to move to another state to avoid a disciplinary action, and provides more expedient access to nurses in times of national crises. In the face of calls for the federal government to address health care licensing nationally, the NLC also offers a state-based solution to the claims that licensure is a barrier to interstate practice.

Two models of nurse licensure currently exist in the U.S.: the historical single-state licensure model and the NLC. In 1997, boards of nursing recognized the importance of facilitating interstate practice by endorsing the mutual recognition model of nurse licensure. This led to the development of model legislation for the NLC, which was first implemented in 2000. The NLC is an interstate compact agreement among participating states that allows for the mutual recognition of licensure between and among states. It facilitates mobility of RNs and LPN/VNs across state lines. Under the NLC, a license is issued in the jurisdiction of the nurse’s state of residence, granting the nurse a privilege to practice, otherwise known as a multistate license, in all other states participating in the NLC.

To date, a total of 25 states have adopted the NLC, with 24 having already implemented it. Most recently, the NLC was adopted by Montana. Implementation there is expected in October 2015.

Revising the NLC and APRN Compacts:
Beginning in 2013, NCSBN’s member boards began revising the NLC in an effort to address concerns raised by states that have not yet joined. The drafting process was led by the NCSBN Executive Officer Forum, which engaged in a dialogue to identify barriers to the adoption of the NLC by member boards. The goal was to reach consensus among the executive officers who participated and to propose revisions to the NLC that are intended to accomplish its expeditious adoption by member boards. Throughout the process, revisions were made to the APRN compact in order to align it with the NLC where possible.

Notably, the mutual recognition model of licensure was maintained in both Compacts. The revision process for both Compacts concluded in March 2015.
On May 4, 2015, the NCSBN Delegate Assembly voted to approve final versions of both Compacts. Each state seeking to join either of the new Compacts, regardless of whether they are currently an NLC member, needs to adopt new legislation in order to join either Compact. NCSBN is preparing for states to be able to adopt the new NLC and APRN Compact legislation beginning in 2016 legislative sessions.

(Policy changes from the 1997 NLC are in italics.)

Article I Findings and Declaration of Purpose

- Facilitate the states’ responsibility to protect the public’s health and safety;
- Ensure and encourage the cooperation of party states in the areas of nurse licensure and regulation;
- Facilitate the exchange of information between party states in the areas of nurse regulation, investigation and adverse actions;
- Promote compliance with the laws governing the practice of nursing in each jurisdiction;
- Invest all party states with the authority to hold a nurse accountable for meeting all state practice laws in the state in which the patient is located at the time care is rendered through the mutual recognition of party state licenses;
- Decrease redundancies in the consideration and issuance of nurse licenses; and
- Provide opportunities for interstate practice by nurses who meet uniform licensure requirements.

Article II Definitions (self-explanatory)

Article III General Provisions and Jurisdiction

- **Eligibility and uniform licensure requirements for a multistate license**
- Authority to take adverse action against a multistate licensure privilege with application of state due process laws
- Nurse compliance with state practice laws
- Exclusion of advanced practice nurses
- **Grandfathering provision**

Article IV Applications for Licensure in a Party State

- Required verification of licensure information via the coordinated licensure information system
- Limitation to one home state license
- Outlines process for change of primary residence/home state

Article V Additional Authorities Invested in Party State Licensing Boards

- Provides authority to
  - Take adverse action against a multistate licensure privilege
  - Allow cease and desist orders to limit privileges
  - Issue subpoenas
  - Obtain and submit criminal background checks
- Requires deactivation of multistate licensure privileges when license encumbered
- Allows for alternative to discipline program participation
Article VI Coordinated Licensure Information System and Exchange of Information
- Requires participation in Coordinated Licensure Information System
- **Requires prompt reporting of** adverse action, current significant investigative information and participation in alternative to discipline programs when known to the board of nursing.
- Provides for exchange of information with other party states

Article VII Establishment of the Interstate Commission of Nurse Licensure Compact Administrators
*Establishes the governing body as a public agency known as an “Interstate Commission.” This term is commonly used by other interstate compact governing bodies.*

Article VIII Rulemaking
*Allows for rules to be adopted directly by the Commission. Such rulemaking is legally binding in all party states. There is no requirement that rules be ratified or adopted by individual states. Such rulemaking authority has been permitted and exercised by other interstate compacts. The procedural requirements are based on the national Model Administrative Procedures Act, which is similar to most state APAs and includes:*
  - Provision for notice to the public of proposed and adopted rules
  - Opportunity for comment
  - Opportunity for public hearing
  - Consideration and voting upon proposed rules
  - Responding to comments received

Article IX Oversight, Dispute Resolution and Enforcement
Ensures compliance with the compact by member states. The procedures to be followed in the event of a failure by a party state to comply with the Compact include:
  - A period of technical assistance in curing the default
  - Improved dispute resolution processes; and
  - Termination from the Compact in the event no other means of compliance has been successful.

Article X Effective Date, Withdrawal and Amendment
*Addresses the method for states to enter, withdraw from or amend the compact.*

Article XI Construction and Severability
Provides for the compact to remain valid in a state when any provision is declared to be contrary to a party state’s constitution.

**Disposition of Entry:**  
SSL Committee Meeting: 2016 B  
( ) Include in Volume  
( ) Include as a Note  
( ) Defer consideration:  
( ) next SSL mtg.  ( ) next SSL cycle  
( ) Reject  
Comments/Note to staff
Advanced Practice Registered Nurse Compact

**Note:** In 2002, the NCSBN Delegate Assembly approved the adoption of model language for a licensure compact for APRNs that would facilitate interstate practice for all four APRN roles: nurse practitioners, nurse midwives, clinical nurse specialists, and nurse anesthetists. Under the APRN Compact, only states that adopted the RN and LPN/VN NLC would be eligible to implement the compact for APRNs.

Utah was the first state to pass APRN Compact legislation in 2004 (Senate Bill 107) with Iowa following shortly thereafter that same year (House File 784). Texas passed the law in June 2007 (House Bill 2426).

Implementation of the APRN Compact was halted due to issues surrounding lack of uniformity of APRN titles and practice from state to state. In response, NCSBN, along with other nursing organizations, developed and began implementing the APRN Consensus Model, which addressed these problems.

**Summary:**

**Article I Findings and Declaration of Purpose**
- Facilitate the states’ responsibilities to protect the public’s health and safety;
- Ensure and encourage the cooperation of party states in the areas of APRN licensure and regulation, including promotion of uniform licensure requirements;
- Facilitate the exchange of information between party states in the areas of APRN regulation, investigation and adverse actions;
- Promote compliance with the laws governing APRN practice in each jurisdiction;
- Invest all party states with the authority to hold an APRN accountable for meeting all state practice laws in the state in which the patient is located at the time care is rendered through the mutual recognition of party state licenses;
- Decrease redundancies in the consideration and issuance of APRN licensure; and
- Provide opportunities for interstate practice by advanced practice registered nurses who meet uniform licensure requirements.

**Article II Definitions (self-explanatory)**

**Article III General Provisions and Jurisdiction**
- A member state must implement procedures for considering the state and federal criminal history records of applicants for initial APRN licensure or APRN licensure by endorsement.
- The APRN Uniform Licensure Requirements (“ULRs”) adopted by the Commission provide the minimum requirements for APRN multistate licensure.
- To obtain/retain a multistate license, an APRN must meet the home state’s qualifications, in addition to the ULRs.
- The Commission identifies in rule the approved APRN roles and population foci for licensure. An APRN shall be licensed in an approved APRN role and at least one approved population focus.
• An APRN multistate license is recognized as authorizing the APRN to practice in each party state, under a multistate licensure privilege, in the same role and population focus as in the home state.
• An APRN multistate license shall include prescriptive authority for non-controlled prescription drugs. An APRN shall satisfy all requirements imposed by the state for each state in which an APRN seeks authority to prescribe controlled substances.
• An APRN multistate license holder is authorized to practice independent of a supervisory or collaborative relationship with a physician.
• Authority to take adverse action against a multistate licensure privilege with application of state due process laws.
• Nurse compliance with state practice laws.

Article IV Applications for APRN Licensure in a Party State
• Required verification of licensure information via the coordinated licensure information system
• Limitation to one home state license
• Outlines process for change of primary residence/home state

Article V Additional Authorities Invested in Party State Licensing Boards
• Provides authority to
  o Take adverse action against a multistate licensure privilege
  o Allow cease and desist orders to limit privileges
  o Issue subpoenas
  o Obtain and submit criminal background checks
• Requires deactivation of multistate licensure privileges when license encumbered
• Allows for alternative to discipline program participation

Article VI Coordinated Licensure Information System and Exchange of Information
• Requires participation in Coordinated Licensure Information System
• Requires prompt reporting of adverse action, current significant investigative information and participation in alternative to discipline programs when known to the board of nursing.
• Provides for exchange of information with other party states

Article VII Establishment of the Interstate Commission of APRN Compact Administrators
Establishes the governing body as a public agency known as an “Interstate Commission.” This term is commonly used by other interstate compact governing bodies.

Article VIII Rulemaking
Allows for rules to be adopted directly by the Commission. Such rulemaking is legally binding in all party states. There is no requirement that rules be ratified or adopted by individual states. Such rulemaking authority has been permitted and exercised by other interstate compacts. The procedural requirements are based on the national Model Administrative Procedures Act, which is similar to most state APAs and includes:
• Provision for notice to the public of proposed and adopted rules
• Opportunity for comment
• Opportunity for public hearing
• Consideration and voting upon proposed rules
• Responding to comments received

Article IX Oversight, Dispute Resolution and Enforcement
Ensures compliance with the compact by member states. The procedures to be followed in the event of a failure by a party state to comply with the Compact include:
• A period of technical assistance in curing the default
• Improved dispute resolution processes; and
• Termination from the Compact in the event no other means of compliance has been successful.

Article X Effective Date, Withdrawal and Amendment
• Addresses the method for states to enter, withdraw from or amend the compact.
• Compact is effective when Compact has been enacted into law in ten (10) party states.

Article XI Construction and Severability
Provides for the compact to remain valid in a state when any provision is declared to be contrary to a party state’s constitution.

Disposition of Entry:

SSL Committee Meeting: 2016 B
( ) Include in Volume
( ) Include as a Note
( ) Defer consideration:
    ( ) next SSL mtg.   ( ) next SSL cycle
( ) Reject

Comments/Note to staff
Summary:
This bill enacts the Interstate Medical Licensure Compact. The compact:
- Becomes effective when adopted by seven states;
- Creates an interstate commission comprised of two representatives from each member state to oversee operation of the compact;
- Provides for physicians licensed in one compact state to obtain an expedited license in another compact state;
- Directs the commission to maintain a database of licensed physicians, and disciplinary records involving licensed physicians, from compact states;
- Provides for joint investigations and disciplinary actions;
- Authorizes the commission to levy and collect an assessment on member states to cover the cost of commission operations, and provides civil immunity for commission representatives and employees;
- Reserves member states’ rights to determine eligibility for physician licensure, license fees, grounds for discipline and continuing education requirements.

Status: Signed into law on February 27, 2015.

Comment: From the Federation of State Medical Boards:
Recognizing that divergent federal and state solutions may ultimately frustrate the regulation of medical practice, the Federation of State Medical Boards, together with its member boards and other stakeholders, began exploring new mechanisms that could streamline current licensing processes for physicians and better accommodate the use of telemedicine in the delivery of health care while protecting the public. In April 2013, the FSMB’s House of Delegates unanimously approved Resolution 13-5: Development of an Interstate Compact to Expedite Medical Licensure and Facilitate Multi-State Practice. The resolution, introduced by the Wyoming Board of Medicine, directed the FSMB to convene representatives from state medical boards and special experts to aggressively study the development of an interstate compact to facilitate license portability. After 15 months of study and drafting, a model legislation was available for states to consider in their 2015 sessions.

The interstate medical licensure compact model legislation creates a new process for faster licensing for physicians interested in practicing in multiple states and establishes the location of a patient as the jurisdiction for oversight and patient protections. The compact is a dynamic system of expedited licensure over which the member states can maintain control through a coordinated legislative and administrative process. Participation in an interstate compact would be voluntary, for both states and physicians.

The compact will aid physicians across the country seeking to provide and improve access to care for patients in multiple jurisdictions. The expedited process will let allow state medical and osteopathic boards to meet their responsibility to allow capable and qualified physicians to practice medicine in a safe and accountable manner while protecting patients and expanding and improving care. The interstate compact is expected to significantly reduce barriers to the process of gaining licensure in multiple states, helping facilitate licensure portability and telemedicine.
while expanding access to health care by physicians, particularly in underserved areas of the nation.

As of May 20, 2015, eight states have enacted the Interstate Medical Licensure Compact. In its first year of legislative introduction, the bill was introduced in 18 states. Additional introductions may occur in Wisconsin and the District of Columbia in the summer of 2015. Over 25 state medical and osteopathic boards have endorsed the compact and will be working on future introductions.

From the *Wyoming Tribune Eagle* (March 22, 2015)
A new law could increase the number of physicians who can practice in the state.

Wyoming became the first state in the nation to join the Interstate Medical Licensure Compact when Gov. Matt Mead signed House Bill 107 at the end of February. The compact creates a fast-track process for physicians who are licensed in one state to become licensed in another that is also a member of the compact.

Supporters say this could expand health-care options for residents who want to get remote telemedicine care or have out-of-state specialists come to them.

"Wyoming is so small that we just can't support large numbers of highly specialized physicians, so (the residents) often have to go across the border to Salt Lake City, Denver or Billings to get their care," said Kevin Bohnenblust. He is executive director of the Wyoming Board of Medicine.

"But if we get these physicians licensed here, they can come to the state or provide care through telemedicine," he said.

Bohnenblust said it now can take several months - and require the Board of Medicine's approval at one of its quarterly meetings - to approve a license for an out-of-state physician. But with the compact, that time could be reduced to a matter of days.

Bohnenblust predicts this could lead to a 10 percent increase in the 400 or so licenses that the board approves each year. For Wyoming, which faces a health provider shortage, this could make a major impact, he added.

Bohnenblust said this could, for example, make it easier for a Fort Collins, Colorado, doctor to travel to Wyoming to work a few hours at a clinic on the weekends.

With the growing use of telemedicine, Bohnenblust said this also would make it easier for a Wyoming hospital to electronically send an X-ray or other medical information to an out-of-state specialist.

The compact will only take effect when seven other states have joined. So far, only South Dakota has followed Wyoming's lead.
But Humayun Chaudhry, president and CEO of the Federation of State Medical Boards, said 16 states are considering bills to join the compact. And he said he expects the compact to grow to seven later this year. At that point, a commission will be formed to develop how the expedited licensure process would work.

But Chaudhry said states would keep their authority to decide who can practice in their state.

"The commission won't be issuing licenses or investigating physicians," he said. "The basic functions of state medical boards would fully be retained."

Rep. Sue Wilson, R-Cheyenne, was the lead sponsor of House Bill 107. It passed with overwhelming support in the House and Senate earlier this year. She said she was looking for ways to improve access to care in the state.

And when she found out that the Wyoming Board of Medicine was one of the groups that has been pushing for the interstate compact, she said it seemed like a smart choice to be one of the first states to be part of it.

"It is really a great opportunity, especially for a rural state like us, to make it easier for physicians to want to practice in Wyoming," she said. "And it maintains the local oversight role of the board, which is important."

Disposition of Entry:

SSL Committee Meeting: 2016 B
( ) Include in Volume
( ) Include as a Note
( ) Defer consideration:
   ( ) next SSL mtg. ( ) next SSL cycle
( ) Reject

Comments/Note to staff
Bill/Act: **SB 367**

Status: Signed into law on April 6, 2014.

Summary: SB 367 allows the Virginia Department of Motor Vehicles to designate autism spectrum disorder and intellectual disabilities on applicants’ driver’s licenses, as well as autism, intellectual disabilities, hearing and speech impairments, and insulin-dependent diabetes on special identification cards. These designations are optional for applicants, and they must have a signed statement from a physician confirming their condition.

Comment: From [WRIC](https://www.wric.com) (June 18, 2014)

A new tool will soon be available in Virginia to help people who have autism or intellectual disabilities enhance their lives.

For Pam Mines, JP's Law is literally her dream come true. "June 19, 2013. And I woke up that morning and I was like 'I have to call Senator McEachin,'" says Pam Mines, who helped pass JP's Law.

Named after her 10-year-old son JP, who has autism, the new law allows people who have an intellectual disability to get a code put on their Virginia driver's license or state ID card.

"My son, he's a wanderer. If something happened and he had that and we're able to teach him to have a wallet and have his id, when law enforcement pulls that out they will see it."

Pam played a major role in helping to get the law passed, including working with congressmen, local advocacy groups and law enforcement.

Sergeant Tim Sutton with the Hanover County Sheriff's Office says these medical indicators will alert officers so they can better understand and handle traffic stops and other situations.


Disposition of Entry:

SSL Committee Meeting: 2016 B
( ) Include in Volume
( ) Include as a Note
( ) Defer consideration:
( ) next SSL mtg. ( ) next SSL cycle
( ) Reject

Comments/Note to staff
Summary:
This bill, for any lease executed, renewed, or extended on and after July 1, 2015, requires a lessor of a dwelling to approve a written request of a lessee to install an electric vehicle charging station at a parking space allotted for the lessee in accordance with specified requirements and that complies with the lessor’s approval process for modification to the property. The bill excepts from its provisions specified residential property, including a residential rental property with fewer than 5 parking spaces and one subject to rent control. The bill requires the electric vehicle charging station and all modifications and improvements made to the property comply with federal, state, and local law, and all applicable zoning requirements, land use requirements, and covenants, conditions, and restrictions.

The bill also requires a lessee’s written request to make a modification to the property in order to install and use an electric vehicle charging station include his or her consent to enter into a written agreement including specified provisions, including compliance with the lessor’s requirements for the installation, use, maintenance, and removal of the charging station and installation of the infrastructure for the charging station. The bill also requires the lessee to maintain in full force and effect a $1,000,000 lessee’s general liability insurance policy, as specified.

This bill voids any term in a lease renewed or extended on or after January 1, 2015, that conveys any possessory interest in commercial property that either prohibits or unreasonably restricts, as defined, the installation or use of an electric vehicle charging station in a parking space associated with the commercial property. The bill prescribes requirements for lessor approval of a lessee request to install or use an electronic vehicle charging station and would require that a lessor approve a request to install a charging station if the lessee agrees in writing to do specified acts, including paying for various costs associated with the charging station and maintaining insurance naming the lessor as an insured.

Status: Signed into law on September 21, 2014.

Comments: From EVFleetWorld (May 18, 2015)
Landlords in California will have to approve tenants’ applications to install an electric vehicle charging point. AB 2565 will void any terms in leases renewed or extended from January 1, 2015 which would otherwise prohibit a charging point being installed at a property.

Instead, landlords will have to approve applications to install the charger in an allotted parking space at the property. The only exclusions are rent-controlled properties, parking lots where 10% of spaces already have a charging point, or where there are less than five parking spaces such as in an apartment block.

Properties where a parking space is not included are also not covered by the bill, but landlords can designate an electric vehicle space and add this to the cost of the lease.
Tenants must apply in writing, and all installations must comply with federal, state and local laws. Responsibility for the installation, maintenance, repair and removal of the unit and supporting wiring also falls on the tenant, who must have a $1,000,000 general liability insurance policy to cover its use.


AB 2565 gives residential and commercial tenants new rights to install electric vehicle (EV) charging stations.

AB 2565 provides that for a residential lease executed, extended, or renewed after July 1, 2015, “a lessor of a dwelling shall approve a written request of a lessee to install an electric vehicle charging station at a parking space allotted for the lessee that meets the requirements of this section and complies with the lessor’s procedural approval process for modification to the property.”

AB 2565 further implies that even if a tenant does not have a reserved parking space, the tenant could effectively obtain one by installing an EV charging station: “[i]f the installation of an electric vehicle charging station has the effect of granting the leaseholder a reserved parking space and a reserved parking space is not allotted to the leaseholder in the lease, the owner of the commercial property may charge a reasonable monthly rental for the parking space.”

Tenants installing parking pursuant to this statute must pay all costs of installation, electricity, maintenance, and repair. The statute does not appear to prevent a landlord from performing installation, maintenance, and repairs on behalf of a tenant requesting an EV charging station, and obtaining reimbursement from the tenant for those costs.

Commercial landlords and tenants will want to consider the impacts of AB 2565 early in the lease negotiation process. Commercial landlords providing an allocation of reserved parking to a tenant may want to provide in their lease that future EV parking will come out of that allocation.

A *Capitol Review* article explored the growing gap between EV adoption and charging infrastructure:

“In 2012, the ratio of EVs to charging ports was about 7 to 1. As EV sales skyrocketed, the gap widened. In 2013, the ratio grew to about 8 to 1.”

**Disposition of Entry:**

SSL Committee Meeting: 2016 B

( ) Include in Volume

( ) Include as a Note

( ) Defer consideration:

( ) next SSL mtg.  ( ) next SSL cycle

( ) Reject

Comments/Note to staff
Summary:
This bill would require the California Building Standards Commission, commencing with the next triennial edition of the California Building Standards Code adopted after January 1, 2014, to adopt, approve, codify, and publish mandatory building standards for the installation of future electric vehicle charging infrastructure for parking spaces in multifamily dwellings and nonresidential development. The bill would require the Department of Housing and Community Development to propose mandatory building standards for the installation of future electric vehicle charging infrastructure for parking spaces in multifamily dwellings and submit the proposed mandatory building standards to the commission for consideration. The bill would require the department and the commission, in proposing and adopting the mandatory building standards, to use specified sections of the California Green Building Standards Code as the starting point for the mandatory building standards and to actively consult with interested parties.

Status: Signed into law on September 21, 2013.

Comments: From PlugInCars (September 12, 2013)
AB1092 requires that the California Building Standards Code be amended to require "infrastructure" for electric vehicle charging in multi-family dwellings and non-residential places like businesses, and shopping centers. The code amendment would occur sometime after Jan. 1, 2014.

The law, as worded, doesn't outline specifically how these changes will work, but it does require that the California Green Building Standards Code be used as the starting point. Those voluntary standards require that at least 3 percent of parking spaces in multi-family dwellings have the wiring to allow charging station installation. At non-residential buildings, such as office buildings, at least 10 percent of parking spaces should be designated for "low emitting" cars, like electric vehicles.

Read more: http://www.plugincars.com/california-enacts-sweeping-charging-station-infrastructure-128249.html

An article in Wired (October 1, 2013) emphasized the effect the bill would have on city-dwellers, who often have difficulty charging their electric vehicles:

The bill aims to address one of the biggest hurdles for city dwellers who want to go electric, since it’s hard (and dangerous) to run a 100-foot cable out your window to charge your EV on the street.

Read more: http://www.wired.com/2013/10/california-bills-ev-ready/
Disposition of Entry:
SSL Committee Meeting: 2016 B
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( ) Reject

Comments/Note to staff
Summary:
This bill creates the Electric Vehicle Charging Stations Open Access Act, which would prohibit the charging of a subscription fee on persons desiring to use an electric vehicle charging station, as defined, and would prohibit a requirement for persons to obtain membership in any club, association, or organization as a condition of using the station, except as specified. The bill requires the total actual charges for the use of an electric vehicle charging station to be disclosed to the public at the point of sale. The bill requires an electric vehicle charging station to provide to the general public two specified options of payment.

This bill requires the service provider of electric vehicle service equipment, as defined, at an electric vehicle charging station, as defined, to disclose to the National Renewable Energy Laboratory the charging station’s geographic location, a schedule of fees, accepted methods of payment, and the amount of network roaming charges for nonmembers, if any.

This bill, if no interoperability billing standards have been adopted by a national standards organization by January 1, 2015, authorizes the state board to adopt interoperability billing standards, as defined, for network roaming payment methods for electric vehicle charging stations, and requires, if the state board adopts standards, all electric vehicle charging stations that require payment to meet those standards within one year.

Status: Signed into law on September 28, 2013.

Comments: From PlugInCars (September 12, 2013)
SB454 is more sweeping. It seeks to increase access to all charging stations. As Jay Friedland, Legislative Director of Plug-in America, put it to the State Senate committee: "Can you imagine a scenario where you pull into a gas station and you don't know whether or not it will take your credit card and you don't know how much the gas is going to cost you?"

Friedland described SB454 as having a "fairly simple purpose," which is "to allow consumers with plug-in cars to use electricity as a transportation fuel in a similar or better way than those who are still driving gasoline cars are able to access gas stations today."

Anybody will be able to drive up to any charging station and use it—whether or not they have a membership arrangement with the station owner. Further, all fees to use the station, including "roaming fees for nonmembers," must be fully disclosed at the charging stations. The current practice of charging station network membership can continue, but the charging stations will have to allow anybody with a credit card to use their stations as well.

Another provision in SB454 aims to create conditions whereby a member of one charging network could use their membership card at charging stations owned by other charging networks.

The charging station industry, through a committee of the National Electrical Manufacturers Association (NEMA), is developing "interoperability billing standards" that will enable using
charging stations as freely as we use ATM machines today. EV owners will be able to use a larger set of charging stations, but might have to pay a roaming charge, just like you pay ATM fees at some machines (at banks where you do not have an account).

If the charging station industry does not finalize these interoperability standards, then the California Air Resources Board (CARB) may develop such standards. On the other hand, if the industry does finalize the standards, then CARB may adopt those standards instead. In other words, one way or another, billing interoperability must be implemented.

Read more: http://www.plugincars.com/california-enacts-sweeping-charging-station-infrastructure-128249.html

From Wired (October 1, 2013)
The final bill, SB 454, could have the most impact on current EV drivers, requiring all charging station providers to allow any vehicle to plug in and pay with a credit card. Currently, several charging station companies require users to be registered, pay a monthly fee, or both to access their network of stations. SB 454 would eliminate that requirement, making charging stations more like gas stations by allowing anyone to top off using a standard method of payment.

Read more: http://www.wired.com/2013/10/california-bills-ev-ready/

Disposition of Entry:
SSL Committee Meeting: 2016 B
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Comments/Note to staff
Summary:
This bill prohibits a landlord or a common interest community (i.e., home owner associations (HOA)) from preventing a tenant from installing an electric vehicle charging system on property owned or exclusively controlled by a unit owner. A tenant or homeowner must agree to comply with design specifications and other limitations.

Under current law, only local governments may apply for and receive grant funding from the Electric Vehicle Grant Fund, administered by the Colorado Energy Office (CEO). This bill permits landlords of multi-family apartment buildings and HOAs to apply for grants to install electric vehicle charging stations.

Status: Signed into law on May 3, 2013.

Comments: From Colorado Home Owner’s Association Law:
The primary purpose of this section is to ensure that common interest communities provide their residents with at least a meaningful opportunity to take advantage of the availability of plug-in electric vehicles rather than create artificial restrictions on the adoption of this promising technology.

The new law further encourages associations to apply for grants to assist with funding electric vehicle charging stations on common elements. SB13-126 goes on to state requirements for electric vehicle charging stations that associations must permit. With this new legislation, which is effective immediately, associations cannot prohibit installation of electric vehicle charging stations on an owner’s unit or limited common element designated for the owner’s use and cannot charge owners a fee for the right to install a charging station.

While SB13-126 grants owners permission to pursue the installation of electric vehicle charging stations, the law does not require associations to incur expenses related to the installation or use of these stations.


Disposition of Entry:
SSL Committee Meeting: 2016 B
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Comments/Note to staff
Summary:
Authorizes the utilities and transportation commission, in establishing rates for electric companies, to allow an incentive rate of return on investment on capital expenditures for electric vehicle supply equipment that is deployed for the benefit of ratepayers, provided that the capital expenditures do not increase costs to ratepayers in excess of one-quarter of one percent.

Status: Signed into law on May 11, 2015.

Comments: From Inside EVs (May 13, 2015).
Under the new measure, the state Utilities and Transportation Commission can allow utilities to realize a limited rate of return on investments in EV charging stations and related infrastructure.

Magendanz said the legislation essentially restores the incentive a power company would normally have to invest in equipment that would increase its sales, but that have been eliminated through conservation programs. Utilities have the expertise and purchasing power to dramatically reduce costs of this essential infrastructure build-out, he said, and can break down barriers to EV ownership in high-density regions with condos, apartments and office buildings where getting garage chargers installed can be more difficult.

According to Smart Grid News (May 19, 2015)
Washington Governor Jay Inslee has signed a bill to offer financial incentives for utilities to build electric vehicle (EV) charging station infrastructure. According to the House Bill (HB) 1853, sponsored by Washington State Rep. Chad Magendanz, the Washington Utilities and Transportation Commission (UTC) will help utilities see a rate of return on their investments in EV charging stations and any related infrastructure.

"We're addressing one of the major impediments to increasing EV purchases and use: a lack of charging stations," Rep. Magendanz said in a statement.

HB 1853 would empower utilities "to be engaged in electrification of our transportation system," and would add to previous directives for utilities to become more energy efficient.

Magendanz explained that the bill would define EV charging stations, and related infrastructure, as equipment that would increase utility sales, something utilities can normally receive an incentive for.

"My vision is for utility customers to be able to simply request an EV charging station for their garage, just like they'd request a cable modem installation from the cable company," Magendanz added. "Because there's no up-front cost to the ratepayer or property owner, many of the current obstacles to charging at home or work will disappear."

The transportation sector is Washington's largest contributor to greenhouse gas (GHG) emissions and air pollutants, according to HB 1852, which is "significantly higher" than the national
average "because our state relies heavily on hydropower for electricity generation, unlike other states that rely on fossil fuels such as coal, petroleum, and natural gas to generate electricity."

The bill would reduce these emissions and improve air quality by speeding up the transition to EVs.

Magendanz said the bill will dramatically reduce barriers to EV ownership, especially in high-density regions where installing personal garage chargers may be more difficult.

He explained, "The end result, we believe, will be more people driving EVs and fewer pollutants in our air."

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SSL Committee Meeting: 2016 B
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Comments/Note to staff
Summary:
This bill exempts an electric vehicle charging station provider from being considered a competitive electricity provider. The bill defines what constitutes an electric vehicle charging station provider and allows a provider to install an electrical submeter and to charge a submeter user only for kilowatt hours used.

Status: Signed into law on April 16, 2015.

Comments: From The Greater Portland Council of Governments:
Owners of public electric charging stations will now be allowed to charge customers a fee for kilowatt usage when they plug in their Electric Vehicles. It is anticipated that this will be an incentive for more EVSE installation providing EV owners more opportunities to charge up throughout the state.

From The Portland Press-Herald
Senate Democrats point out there are only 30 electric vehicle charge stations across Maine at places like Thomas College and Mt. Abram Ski Mountain. Democratic Sen. Rebecca Millett, who sponsored the bill, said that the lack of stations limits the travel of those who have plug-in electric vehicles.

The measure attempts to provide an incentive to other places to implement electric charging stations statewide by allowing the stations to charge for kilowatt usage, among other things.

Disposition of Entry:
SSL Committee Meeting: 2016 B
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Comments/Note to staff
Summary:
House Bill 2177 requires the Oregon Department of Transportation (ODOT) to share information (including age, residence, citizenship data, and copies of signatures as maintained by the agency) digitally with the Secretary of State’s office. The Secretary of State will use this information to register voters and maintain up-to-date voter rolls. The bill provides for the voter registration of individuals in the Driver and Motor Vehicle Services (DMV) database who meet voter eligibility requirements, unless the individual chooses to opt out. The bill directs the Secretary of State to ensure that notices are sent to each eligible person describing how to opt out of registration and how to select a political party affiliation. The bill also increases the maximum number of electors in a precinct from 5,000 to 10,000, and establishes July 1, 2015, as the date for determination of the total number of registered voters in Oregon for the purpose of maintaining status as a minor political party for the 2016 general election. The bill stipulates that voter registration information for those who are under the age of 18 will not be a public record until the individual turns 18.

Status: Signed into law on March 16, 2015.

Comment: From Reuters (March 16, 2015)
Sweeping first-in-the nation legislation making voter registration automatic in Oregon was signed into law on Monday by Governor Kate Brown, potentially adding 300,000 new voters to state rolls.

The so-called Motor Voter legislation will use state Department of Motor Vehicles data to automatically register eligible voters whose information is contained in the DMV system, with a 21-day opt-out period for those who wish to be taken off the registry.

Supporters say the legislation's goal is to keep young voters, students and working families who move often from losing their right to vote. Republican lawmakers, who unanimously voted against the bill, complain it puts Oregonians' privacy at risk.

"I challenge every other state in this nation to examine their policies and to find ways to ensure there are as few barriers as possible for citizens' right to vote," said Brown, a Democrat who took office last month after John Kitzhaber stepped down amid an ethics scandal.

The current legislation, which Brown had pushed for as secretary of state, goes further than a 1993 federal motor voter law that required states to make voter registration available for people getting or renewing a driver's license.

Under the state law, the Oregon Secretary of State will use the DMV data, which includes information on whether a person is a citizen, to register voters, who would then be sent a postcard with information on how to opt out of registration altogether.

The postcard will also instruct voters on how to choose a political party, and those who do not choose will be registered as unaffiliated under the law.
"A one-size-fits-all approach to voter registration does not work for our most vulnerable citizens that could be endangered if their personal information is suddenly made public," Republican state Senator Kim Thatcher said in a statement.

Oregon is among a handful of states that conduct elections in a vote-by-mail system and has historically had a high voter turnout rate, above the national average.

Read more: http://www.reuters.com/article/2015/03/16/us-usa-politics-oregon-iduskbn0mc27f20150316

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Comments/Note to staff
SB 1009 makes “non-consensual dissemination of private sexual images,” otherwise known as “revenge porn” a Class 4 felony. It is a crime to knowingly post sexually explicit photos, video, voice recordings, etc. of another person online without the person’s consent.

Revenge porn is a growing problem due to increased use of social media and other technology. Posts are sexual exploitation and often include names, addresses, e-mail addresses and other information that compromises the safety of victims and their families.

The bill includes exceptions for telecommunications and law enforcement and voluntary exposure in public or commercial settings. The bill does not include intent to cause emotional distress that was in earlier bills. SB 1009 makes it illegal to post a video, audio recording or pictures of sexual intimate parts, a sexual act or sexual activity.

Non-consensual dissemination occurs when the offender intentionally disseminates an image of someone who is at least 18 years old; and:
- the person is identifiable from the image or other information; and
- the person is engaged in a sexual act or whose private parts are fully or partially exposed; and
- the offender knows or should have known images were private and the victim did not consent.

Non-consensual dissemination of private sexual images is punishable by up to 3 years in prison, a $25,000 fine, and forfeiture of property used to disseminate revenge porn or proceeds from disseminating revenge porn.


Comments: From the Chicago Tribune (December 30, 2014)
Democratic Gov. Pat Quinn on Monday signed a measure into law that will make it a felony to post sexually explicit videos and photos of another person online without his or her permission.

The law is aimed at preventing a practice known as "revenge porn," in which a former lover shares online what were intended to be private images as a means of retribution.

Under the law, which goes into effect June 1, the "non-consensual dissemination of private sexual images" becomes a Class 4 felony, punishable by one to three years in prison and a fine of up to $25,000. The law also would require the forfeiture of any money or goods received in exchange for posting the images.

Supporters said the law was needed to deter acts of vengeance that are usually targeted at women and can destroy reputations and careers. Opponents argued the law would infringe on the right to free speech.
"Cyberbullying can have lasting and often devastating effects on a person, especially when it involves the distribution of very personal images," Quinn said in a statement. "This shameful act can be as harmful as any other form of abuse."

The measure, sponsored by Democratic Sen. Michael Hastings of Tinley Park, aims to close a loophole in current law. It's already illegal to post on a pornographic site such images of a minor or adult without consent, but there was no law to prevent a former romantic partner from taking images shared privately and posting them on social media sites.


From the Cyber Civil Rights Initiative:
On Monday Quinn signed a new law making it a felony to post sexual videos or photos of another person without his or her permission. It goes into effect June 1, 2015. The law, modeled after legislation crafted by Professor Mary Anne Franks, Cyber Civil Rights Initiative (CCRI)’s Legislative and Tech Policy Director, criminalizes the practice of non-consensual pornography.

Of the sixteen states that have passed some form of revenge porn legislation, Illinois’s law is the best. Here’s why:

Motive doesn’t matter. Illogically, some states’ laws require that the offender have the intent to cause emotional distress to the victim. While the intent to cause distress may drive the offender’s behavior in the classic revenge porn case – punishing an ex after a breakup – perpetrators can be driven by a number of other motivations. Some people engage in non-consensual pornography out of a desire for financial gain, for the “lulz,” for entertainment, for sexual gratification, or for no particular reason at all. Intent to harm requirements leave many serious violations of sexual privacy beyond the reach of the law – consider the celebrity “nude photo” hack and vicious GamerGate attacks against female game developers. Illinois’s law wisely prioritizes the harm to the victim over the motive of the offender. After all, the harm is devastating no matter the offender’s motivation.

Selfies are included. The Illinois law applies to images that victims take of themselves. California’s original 2013 “revenge porn” law, for example, only applied to images taken by somebody other than the victim. Fortunately, California amended its law in 2014 following input from CCRI. The vast majority of intimate images (83%) originate as selfies.

Strong punishments. Illinois leads the pack in taking this crime seriously. It does so in two ways: First, the law makes non-consensual pornography a Class 4 felony, punishable by one to three years in prison, while also hitting perpetrators in the wallet with fines up to $25,000 and restitution to victims for any costs incurred. Secondly, it includes an additional provision requiring forfeiture of any profits derived from the distribution of the material.

Not just nudity. Some laws only apply when a victim’s “sexual parts” are exposed. The Illinois law, by contrast, recognizes that not all intimate sexual acts involve nudity. For instance, the
Illinois law would apply when a victim is depicted performing oral sex or has been ejaculated upon, regardless of whether the victim is nude.

Downstream distributors. Several revenge porn laws punish only the original non-consensual distribution, doing nothing to deter secondary recipients from forwarding and redistributing the images. Illinois solves that problem by employing a “reasonable person” standard. The law considers whether a reasonable person would know or understand that the image was to remain private and that the person depicted has not consented to the dissemination. This provision will help prevent material from going viral when it is clear that the distribution is non-consensual. In other words, this law requires that people think before they click.

It honors the First Amendment. The Illinois law is narrowly tailored, so as not to sweep up expressive conduct vital to a free society. The statute doesn’t apply to images that are distributed for a “lawful public purpose.” Other exceptions include images that are distributed in connection with the reporting of unlawful conduct, lawful criminal investigations, and images depicting voluntary exposure in public or commercial settings. That means no journalist ever has to fear being prosecuted under this law for publishing photographs of a topless protest and no porn enthusiast needs to worry about going to jail for forwarding links to his favorite commercial hardcore sites.

Doxxing. The Illinois law recognizes that personal identifying information of over half (59%) of victims is posted alongside nude images, including the victim’s full name, email address, social network screenshots, home address, workplace, school etc. The harm caused by the publication of this identifying information cannot be overstated. This disclosure of private information jeopardizes victims’ employment, employability, relationships, reputation, and safety. Revenge porn consumers often interpret victims’ contact information as an invitation to stalk and threaten them, and the material often dominates victims’ online presence. The Illinois law applies when a victim is identifiable from his or her face as well as when as other identifying information is displayed in connection with the image.

Read more: http://www.cagoldberglaw.com/blog/2014/12/31/seven-reasons-illinois-is-leading-the-fight-against-revenge-porn

Disposition of Entry:

SSL Committee Meeting: 2016 B
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Comments/Note to staff
Establishing THC Blood Levels for Purposes of DUI Law  Colorado

Bill/Act: HB 1325

Summary:
This bill states that if a driver's blood contains five nanograms or more of delta 9-tetrahydrocannabinol (THC) per milliliter in whole blood (5 ng/mL) at the time of the offense or within a reasonable time thereafter, this fact gives rise to a permissible inference that the defendant was under the influence of one or more drugs. THC is the primary psychoactive component of marijuana. DUI and DWAI are misdemeanors. Vehicular homicide is a class 3 felony if the driver was under the influence of alcohol, drugs, or both. Vehicular assault is a class 4 felony if the driver was under the influence of alcohol, drugs, or both.

In a trial for DUI or DWAI, a defendant's valid medical marijuana registry identification card may not be used as part of the prosecution's case in chief. In addition, in a traffic stop, the driver's possession of a valid medical marijuana registry identification card must not, in the absence of other contributing factors, constitute probable cause for a peace officer to require the analysis of the driver's blood.

The bill also clarifies state law to match current practice by stating that in cases of vehicular homicide or vehicular assault, if a driver's BAC was 0.08 or greater at the time of the offense or within a reasonable time thereafter, this fact gives rise to a permissible inference that the defendant was under the influence of alcohol, rather than stating that it is presumed that the defendant was under the influence of alcohol. Finally, the bill repeals the law specifying that it is a misdemeanor for a habitual user of any controlled substance to drive a motor vehicle or low-power scooter. Other references to charges of "habitual user" are also repealed.

A permissible inference allows a judge to instruct a jury that if it finds that a defendant's whole blood contained at least 5 ng/mL of THC while driving or shortly thereafter, then the jury may conclude that the defendant was driving under the influence. A permissible inference does not require a jury to conclude that a defendant was driving under the influence when a THC concentration level is met. In addition, the jury may consider all of the evidence in the case to evaluate whether the prosecution has proved the offense beyond a reasonable doubt.

Status: Signed into law on May 28, 2013.

Comments: From the Huffington Post (January 23, 2014)
People taking advantage of the state-legal marijuana sales that begin Jan. 1 in Colorado should be aware of another new law there – a measure passed last spring that creates a "permissive inference" of intoxication when a driver tests above five nanograms of THC per milliliter of blood.

Among states' legal limits for marijuana in the bloodstream while driving, Colorado's is relatively lenient. More than a dozen states have "per se" cannabis driving laws that hand a DUI conviction, without a trial, to anyone exceeding the state's THC blood limit. Most of those limits are set at zero. Most states have effect-based laws that require evidence of impairment due to recent ingestion of a controlled substance for a DUI conviction. Get the specifics on your state's drugged driving laws here.
There is no evidence that per se laws reduce traffic fatalities, according to a recent study by D. Mark Anderson of Montana State University and Daniel Rees of the University of Colorado. They may also "inadvertently become a criminal mechanism for law enforcement and prosecutors to punish those who have engaged in legally protected behavior and who have not posed any actionable traffic safety threat," Paul Armentano of the National Organization for the Reform of Marijuana Laws said in a peer-reviewed report examining the limitations of per se cannabis driving laws.

In Washington state, where recreational marijuana use is legal and a per se driving law has been passed, a growing number of drivers are testing positive for marijuana. According to the Associated Press, a State Patrol spokesman said the increase might be because "we're testing blood we didn't test before."

The White House has recommended that all states pass zero-tolerance per se drugged driving laws.

From the Huffington Post (May 7, 2013)
A controversial measure which sets a THC-blood limit for Colorado motorists -- a concept which has failed six times in the last three years in the state legislature -- passed in the state Senate, Tuesday.

The Senate passed House Bill 1325 on a 24-11 vote and it now heads to Gov. John Hickenlooper who has said he supports a marijuana DUI framework for the state.

Under HB 1325, drivers caught with 5 nanograms of THC, the psychoactive ingredient in marijuana which produces the "high" sensation, in their blood would be considered too stoned to drive and could be ticketed similarly to a person who was considered too drunk to drive.

The bill, which was just introduced last week, is an exact copy of another bill which was killed by the Senate earlier this year. Also last week, an identical measure which had been amended to House Bill 1317, the recreational marijuana regulatory framework proposal, was stripped from the bill in Senate committee. But this newly introduced stand-alone version appears poised to now become law.

As in previous years when marijuana DUI bills have come up for debate, opponents say that the 5 nanogram standard is too low for frequent pot smokers, especially medical marijuana patients, who regularly have this level of THC in the bloodstream and therefore, if passed, these people would lose their driving privileges, The Denver Post reports.

But HB-1325 allows for a person who has been charged with having 5 nanograms of THC in their blood to rebut the charge that they are too impaired to drive.

"For example, if you did not exhibit poor driving, you can put that on as evidence to say, 'Look my driving was not poor, I'm not unsafe to operate a motor vehicle,'" Rep. Mark Waller (R-Colorado Springs) said during earlier hearings of an identical bill which was killed.
All of the previous failed marijuana DUI bills were "per se" bills -- meaning if a driver tested above the legal 5 nanogram limit, the result would be an automatic conviction nearly every time. But are drivers measurably impaired while under the influence of marijuana like they clearly are when under the influence of alcohol? That has been one of the core questions opponents of the bill have been asking about bills like these each year they are introduced. Westword spoke to Attorney Leonard Frieling in 2012 over last year's marijuana DUI bill who described the clear correlation between blood alcohol level and driving impairment -- the higher the blood alcohol level, the more impaired drivers are. But he questions the correlation between marijuana blood levels and driving impairment saying to Westword, "that appears not to hold true as cleanly with cannabis. So talking about impaired driving is one thing, but trying to give a number a meaning it doesn't have is something else entirely."

Last year Sen. Pat Steadman (D-Denver) spoke out about the issues that make marijuana blood limits problematic like the fact that THC is fat-soluble, so blood limits could remain above the 5 nanogram limit for days after the user last legally smoked pot, CBS4 reported. The user would not appear stoned, but legally they could still be considered impaired.

With this thinking in mind, Steadman tried to exempt medical marijuana patients in the bill -- as he'd done in years past -- but ultimately failed, according to Fox31.

This fact of THC's different effect on the body than alcohol's was stunningly shown in 2011 by Westword pot reporter William Breathes. After a night of sleep and not smoking pot for 15 hours, a sober Breathes still tested nearly three times higher than the proposed legal limit. To add confusion to the matter, Washington state television station KIRO recently assembled a group of volunteers, had them smoke pot and set them loose on a driving test course to try and answer the question: How high is too high to drive?

The less-than-scientific results, while entertaining, unfortunately don't add much clarity to the question at hand. A regular smoker of marijuana tested above the legal limit to begin with, yet drove without much of a problem. Two casual smokers also navigated the course without incident. However, after smoking more marijuana, driving ability began to devolve quickly. Washington state voters, along with voters in Colorado, passed recreational marijuana amendments last November, but Washington, unlike Colorado, already passed a marijuana DUI bill in 2012 setting the legal impairment standard at 5 nanograms in the state.

And in Washington, the enforcement of the law ultimately comes down to common sense.

Explains Bob Calkins, a Washington State Patrol spokesman, to The Oregonian, "We don't just pull people over and draw blood... If you're driving OK, we're not going pull you over. But driving impaired is still driving impaired."

Read more: http://www.huffingtonpost.com/2013/05/07/marijuana-dui-bill-passes_0_n_3230947.html
From: The Associated Press (September 1, 2014)

As states liberalize their marijuana laws, public officials and safety advocates worry that more drivers high on pot will lead to a big increase in traffic deaths. Researchers who have studied the issue, though, are divided on the question.

Studies of marijuana's effects show that the drug can slow decision-making, decrease peripheral vision and impede multitasking, all of which are critical driving skills. But unlike with alcohol, drivers high on pot tend to be aware that they are impaired and they try to compensate by driving slowly, avoiding risky actions such as passing other cars, and allowing extra room between vehicles.

On the other hand, combining marijuana with alcohol appears to eliminate the pot smoker's exaggerated caution and it seems to increase driving impairment beyond the effects of either substance alone.

"We see the legalization of marijuana in Colorado and Washington as a wake-up call for all of us in highway safety," said Jonathan Adkins, executive director of Governors Highway Safety Association, which represents state highway safety offices.

"We don't know enough about the scope of marijuana-impaired driving to call it a big or small problem. But anytime a driver has their ability impaired, it is a problem."

Colorado and Washington are the only states that allow retail sales of marijuana for recreational use. Efforts to legalize recreational marijuana are underway in Alaska, Massachusetts, New York, Oregon and the District of Columbia. Twenty-three states and the nation's capital permit marijuana use for medical purposes.

It is illegal in all states to drive while impaired by marijuana.

Colorado, Washington and Montana have set an intoxication threshold of 5 parts per billion of THC, the psychoactive ingredient in pot, in the blood. A few other states have set intoxication thresholds, but most have not set a specific level. In Washington, there was a jump of nearly 25 percent in drivers testing positive for marijuana in 2013 — the first full year after legalization — but no corresponding increase in car accidents or fatalities.

What worries highway safety experts are cases like that of New York teenager Joseph Beer, who in October 2012 smoked marijuana, climbed into a Subaru Impreza with four friends and drove more than 100 mph before losing control. The car crashed into trees with such force that the vehicle split in half, killing his friends.

Beer pleaded guilty to aggravated vehicular homicide and was sentenced this past week to 5 years to 15 years in prison.

A prosecutor blamed the crash on "speed and weed," but a Yale University Medical School expert on drug abuse who testified at the trial said studies of marijuana and crash risk are "highly inconclusive." Some studies show a two- or three-fold increase, while others show none, said Dr.
Mehmet Sofuoglu. Some studies even showed less risk if someone was marijuana positive, he testified.

Teenage boys and young men are the most likely drivers to smoke pot and the most likely drivers to have an accident regardless of whether they're high, he said.

"Being a teenager, a male teenager, and being involved in reckless behavior could explain both at the same time — not necessarily marijuana causing getting into accidents, but a general reckless behavior leading to both conditions at the same time," he told jurors.

In 2012, just over 10 percent of high school seniors said they had smoked pot before driving at least once in the prior two weeks, according to Monitoring the Future, an annual University of Michigan survey of 50,000 middle and high school students. Nearly twice as many male students as female students said they had smoked marijuana before driving.

A roadside survey by the National Highway Traffic Safety Administration in 2007 found 8.6 percent of drivers tested positive for THC, but it's not possible to say how many were high at the time because drivers were tested only for the presence of drugs, not the amount.

A marijuana high generally peaks within a half hour and dissipates within three hours, but THC can linger for days in the bodies of habitual smokers.

Inexperienced pot smokers are likely to be more impaired than habitual smokers, who develop a tolerance. Some studies show virtually no driving impairment in habitual smokers.

Two recent studies that used similar data to assess crash risk came to opposite conclusions.

Columbia University researchers compared drivers who tested positive for marijuana in the roadside survey with state drug and alcohol tests of drivers killed in crashes. They found that marijuana alone increased the likelihood of being involved in a fatal crash by 80 percent.

But because the study included states where not all drivers are tested for alcohol and drugs, a majority of drivers in fatal crashes were excluded, possibly skewing the results. Also, the use of urine tests rather than blood tests in some cases may overestimate marijuana use and impairment.

A Pacific Institute for Research and Evaluation study used the roadside survey and data from nine states that test more than 80 percent of drivers killed in crashes. When adjusted for alcohol and driver demographics, the study found that otherwise sober drivers who tested positive for marijuana were slightly less likely to have been involved in a crash than drivers who tested negative for all drugs.

"We were expecting a huge impact," said Eduardo Romano, lead author of the study, "and when we looked at the data from crashes we're not seeing that much." But Romano said his study may slightly underestimate the risk and that marijuana may lead to accidents caused by distraction. Many states do not test drivers involved in a fatal crash for drugs unless there is reason to suspect impairment. Even if impairment is suspected, if the driver tests positive for alcohol, there may be
no further testing because alcohol alone may be enough to bring criminal charges. Testing procedures also vary from state to state.

"If states legalize marijuana, they must set clear limits for impairment behind the wheel and require mandatory drug testing following a crash," said Deborah Hersman, former chairman of the National Transportation Safety Board. "Right now we have a patchwork system across the nation regarding mandatory drug testing following highway crashes."


**Disposition of Entry:**

SSL Committee Meeting: 2016 B
( ) Include in Volume
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( ) Defer consideration:
             ( ) next SSL mtg.  ( ) next SSL cycle
( ) Reject

Comments/Note to staff
Summary:
HB 60 ends the practice of civil forfeiture but preserves criminal forfeiture, in which property is subject to forfeit if the owner is convicted of a crime. It requires proceeds to go to the state’s general fund, not to individual law enforcement agencies.

House Bill 560 rewrites and adds new sections to the New Mexico Forfeiture Act (the Act). HB 560 amends and revises the forfeiture procedures when the State seeks to administer pecuniary punishment on a person convicted of a crime in instances where the State can also prove that property was used in or acquired from criminal activity.

HB 560 revises many subsections for clarity and additionally:
- Provides greater details as to the Act’s purpose, including protection against the wrongful seizure of property;
- Creates definitions, as used in the Act, for “abandoned property,” “actual knowledge,” “contraband,” “conveyance,” and “instrumentality,” and amends the definition of “property subject to forfeiture.”
- Provides language to clarify when property becomes subject to forfeiture;
- Provides for replevin hearings (hearings to recover property);
- Adds requirement that forfeiture hearings are to take place post-conviction (though property may be subject to seizure—but not forfeiture—prior to conviction where procedures in Act are followed);
- Provides factors of consideration for courts when determining whether extent of forfeiture is constitutional;
- Sets forth a specific procedure for innocent owners to pursue retrieval of property but places burden on the alleged innocent owner;
- Provides that proceeds from the sale of forfeited property received by the state from another jurisdiction shall be deposited in to the general fund;
- Provides that a law enforcement agency shall not retain forfeited or abandoned property;
- Provides circumstances under which a law enforcement agency shall and shall not transfer seized property to the federal government;
- Provides a procedure and requirement for law enforcement to record property seized;
- Provides for penalties of second and third degree felonies for any racketeering activity related to forfeited property, as well as forfeiture of the property.

Status: Signed into law on April 10, 2015.

Comments: From the Albuquerque Journal (April 10, 2015)
Gov. Susana Martinez does not like the term “policing for profit,” but she still signed into law today a measure aimed at barring law enforcement from seizing money, cars or other types of property from people on civil grounds during an arrest or traffic stop on suspicion the property was connected to a crime.
The civil asset forfeiture legislation, House Bill 560, was approved unanimously by both the New Mexico House and Senate but Martinez did not act on the measure until today, her final day to sign or veto bills passed during the 60-day session.

In an executive message explaining her decision to sign the bill, Martinez said that as a former prosecutor she understands the importance of protecting constitutional rights and innocent property owners.

However, the Republican governor took issue with the term “policing for profit,” which backers of the legislation have used to describe civil asset forfeiture.

“… I must make it clear that ‘policing for profit’ is an overused, oversimplified and cynical term that, in my opinion, disrespects our law enforcement officers,” Martinez wrote, adding the catch phrase impugns the motives of police officers.

The practice of civil asset forfeiture has funneled millions of dollars and property to state and local law enforcement agencies, some of which sent letters to the governor asking her to veto the legislation.

Martinez, whose husband is a former Dona Ana County undersheriff, wrote in her executive message that funds acquired through forfeiture have been beneficial to law enforcement efforts, adding, “We cannot allow this new law to undermine our efforts to combat crime throughout this state.”

Backers of the legislation celebrated Martinez’s decision to sign the bill, saying the new law is one of the toughest of its kind in the nation.

“This is a good day for the Bill of Rights,” said ACLU of New Mexico Executive Director Peter Simonson in a statement. “For years police could seize people’s cash, cars, and houses without even accusing anyone of a crime. Today, we have ended this unfair practice in New Mexico and replaced it with a model that is just and constitutional.”

From the New York Times (April 9, 2015)

In March, New Mexico’s divided Legislature voted unanimously to end the contentious practice of civil forfeiture, which lets law enforcement agencies take property suspected of ties to crime even if no charges are ever filed.

Despite widespread bipartisan support for the measure, law enforcement strongly opposes it. And now lawmakers are waiting to see whether Gov. Susana Martinez, a Republican and a former district attorney, will sign it. She has been silent about her intentions, but if she does not sign the bill by noon on Friday, it will die.

“We passed along to the governor information that we think, when she reads it, will be clear that we’re not hurting law enforcement,” said Brad Cates, a lawyer for the House Judiciary Committee and the architect of the law. Mr. Cates’s position carries particular weight because he
was, in the 1980s, the director of the federal asset forfeiture program, but now says civil forfeiture distorts police priorities and should be abolished.

Critics say it amounts to policing for profit, since police departments and prosecutors share in the proceeds from whatever they seize, including cash and cars. Hundreds of law enforcement agencies depend on civil forfeiture proceeds for a significant portion of their budgets.

To regain their property, owners must frequently pay court fees and lawyers and prove they are innocent of wrongdoing. In some jurisdictions, they appear not before a judge, but before a prosecutor with wide discretion to keep the property or charge the owner steep fees for its return.

Elsewhere, the police have used minor drug sales as a pretext to forfeit valuable assets such as houses.

Members of Congress have floated legislation to rein in widely chronicled abuses of civil forfeiture, and in January Attorney General Eric H. Holder Jr. imposed severe limits on a federal forfeiture program that has shared billions of dollars’ worth of seizures with local law enforcement agencies.

Several states, including Texas, Georgia, Maryland, Minnesota and Virginia, have bills that would restrict or regulate civil forfeiture, according to the Institute for Justice, a libertarian group that has led a public relations and legal campaign against the practice.

In New Mexico, pressure mounted after The New York Times reported late last year on a video in which the Las Cruces city attorney described police officers trying to seize a late-model Mercedes-Benz and called Philadelphia’s asset forfeiture program “a gold mine.”

The bill also followed a case in which the American Civil Liberties Union of New Mexico successfully fought the seizure of $17,000 from a man and his son on a road trip to Las Vegas.

The bill before Governor Martinez would end civil forfeiture but preserve criminal forfeiture, in which property is subject to forfeit if the owner is convicted of a crime. It would require proceeds to go to the state’s general fund, not to individual law enforcement agencies.

The state Department of Public Safety has warned that the bill “directly jeopardizes” drug investigations by removing both the incentive for interagency cooperation and the influx of forfeiture cash that is normally used to fund operations. It would, the department said in an analysis of the bill, result in “less training, less resources, less equipment, and a reduction of criminal investigations,” but would increase requests for state funding. A stream of law enforcement groups have said they will request a veto.

Groups like the A.C.L.U., Drug Policy Alliance and Institute for Justice have campaigned for the bill, and Grover G. Norquist, the anti-tax conservative, has written an open letter asking the governor to sign it. Opponents have kept a low profile. “It’s revealing that law enforcement says nothing in a public hearing, because it’s clear that New Mexico residents oppose seizure for salaries and policing for profit,” said Lee McGrath, a lawyer at the Institute for Justice.
Paul Gessing, the president of the Rio Grande Foundation, a small conservative think tank in Albuquerque, said that vetoing the bill might hurt Ms. Martinez if she were looking to run for higher office. “This may be one of those rare circumstances where politics may lead someone to do what I think is the best thing morally and policy-wise.”

**Disposition of Entry:**

SSL Committee Meeting: 2016 B
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( ) Reject

Comments/Note to staff
17-36B-04 Uniform Act on Prevention of and Remedies for Human Trafficking (UAPRHT)

Summary:
Described as modern-day slavery that victimizes over 27 million people worldwide, human trafficking is a global concern that affects the United States on federal, state, and local levels. By 2012, human trafficking had become the second fastest growing criminal activity in the United States, following drug trafficking.

In recognition of the human trafficking crisis and of the need to “create uniform state anti-human trafficking legislation,” the Uniform Law Commission, in response to a July 2010 proposal from the American Bar Association (ABA) Center for Human Rights, began its work directed against human trafficking. This new uniform state law—the Uniform Act on Prevention of and Remedies for Human Trafficking (UAPRHT)—received final approval at the ULC’s Annual Meeting in July 2013 and at the ABA’s House of Delegates in August 2013.

The UAPRHT offers a comprehensive approach that holds traffickers accountable and provides critical support for victims. The Act has been described as “a major milestone,” a “groundbreaking” act, and a “game-changer” by those working most closely with law enforcement and victims.

The UAPRHT is a comprehensive law directed against human trafficking. It provides the three components necessary for ending human trafficking: comprehensive criminal penalties; protections for human-trafficking victims; and public awareness and prevention methods.

Working with states to combat human trafficking
The UAPRHT enables states to update and strengthen their existing state laws with state-of-the-art provisions that reflect emerging best practices. Some states have comprehensive criminal laws on most facets of human trafficking. Others have only minimal criminal provisions. Some states cover all forms of labor and sex trafficking and protect all children under eighteen. Others may cover only sex trafficking or fail to protect all children under eighteen. Some states cover all methods that traffickers use to keep their workers as virtual slaves. Others do not cover some methods that traffickers use to ensure their workers remain under their control and unable to escape, such as threatening to hurt or kill the workers’ loved ones, confiscating the workers’ immigration papers, or “debt bondage” (ensnaring victims in ever-rising and often-fictitious debt to be repaid through physical labor that can never satisfy the debt).

The three-pronged fight against human trafficking
The uniform act presents the three-pronged approach that law enforcement and victims’ advocates consider essential. Under the first prong, the uniform act seeks to prevent and to penalize the criminal conduct—trafficking, forced labor, and sexual servitude—at the core of human trafficking. Clear offenses are created that reflect the ways in which human traffickers operate: the act provides states the latitude to align the classification of offenses with existing state law. The act recognizes the forms of coercion that human traffickers use, including threats, force, debt bondage, abuse of the legal process, and use of a victim’s disability/mental impairment.
Section 1 (Short Title) and Section 2 (Definitions) open the UAPRHT. In the Definitions section, key terms associated with human trafficking—including ‘coercion,’ ‘commercial sexual activity,’ and ‘debt bondage.’

Section 3 (Trafficking an Individual) offers a comprehensive definition tied to the act’s provisions on forced labor (Section 4) and sexual servitude (Section 5). Trafficking occurs when a person ‘knowingly recruits, transports, transfers, harbors, receives, provides, obtains, isolates, maintains, or entices an individual.’ The crime of forced labor occurs when a person knowingly uses coercion to compel an individual to provide labor or services (with enhanced penalties if the individual is a minor. Similarly, sexual servitude gives rise to an enhanced penalty when a minor is made available or maintained for the purposes of commercial sexual activity.

Two provisions (Section 6: Patronizing a Victim of Sexual Servitude and Section 7: Patronizing a Minor) augment existing criminal penalties in most states for patrons of commercial sexual activity. Section 6 imposes felony-level punishment when the defendant offers anything of value to engage in commercial sexual activity with an individual that the defendant knows is a victim of sexual servitude. When the defendant intends to engage in commercial sexual activity with a minor and offers anything of value, felony-level penalties are imposed.

Section 8 (Business Entity Liability) establishes liability when an entity knowingly engages in human trafficking or does not effectively stop an employee or agent from doing so (when the entity knows of the human-trafficking activity). The Act creates an aggravating circumstance when the defendant (under Section 3, 4, or 5) recruited, enticed, or obtained the victim from a shelter for human-trafficking victims or others (Section 9).

Courts shall order persons convicted under Section 3, 4, or 5 to pay restitution to the victim (Section 10). On motion, a court shall order forfeiture of real or personal property used in or derived from human trafficking activities under Section 3, 4, or 5 (Section 11). The statute of limitations under the UAPRHT is twenty years (Section 12).

Under its second prong, the uniform act provides essential protections for human trafficking victims. The identity and images of the victim and the victim’s family shall be kept confidential unless required for investigation or prosecution (Section 13). Consistent with states’ rape shield laws, the act prohibits evidence of the alleged victim’s past sexual behavior (Section 14).

Section 15 provides immunity to minors who are human trafficking victims and commit prostitution or nonviolent offenses directly resulting from being a victim and classifies such minors as children in need of services. Immunity for minors and the ability to seek vacation of convictions allow victims to rebuild their lives and restore their future. New York, Illinois, Minnesota, Tennessee, Vermont, Massachusetts, Connecticut, Kentucky, Louisiana, New Jersey, and Washington have ‘safe harbor’ laws; the Texas Supreme Court recently ruled that minors are victims, not criminals, in prostitution cases (The Polaris Project).

An affirmative defense to a charge of prostitution or other non-violent offense is created (Section 16). All victims may seek vacation of convictions for prostitution or other non-violent offenses
that directly resulted from being a human-trafficking victim (Section 17). Section 18 allows victims to bring a civil action against their traffickers.

The act’s third prong promotes partnerships in the fight against human trafficking, elevates public awareness, and fosters development of coordinated victim services. A human-trafficking council is created to develop a systematic plan to assist victims, collect human trafficking data, and promote awareness (Section 19). Public awareness signs and the national human trafficking hotline number are to be posted in locations where victims of human-trafficking are often found (Section 20). The act ensures that human-trafficking victims have access to a state’s crime victims’ compensation fund (Section 21). The act provides that law enforcement officers shall provide visa information to persons reasonably believed to be human-trafficking victims (Section 22). Finally, the act permits the state to grant funds—to the extent that funds are appropriated—to third-party providers of victim services (Section 23).

The advantages of uniformity
State enactment of this new uniform law will aid efforts to combat human trafficking in the United States. Uniformity will improve coordination and “promote collaboration among law enforcement officers, prosecutors, NGOs, lawyers, and other stakeholders in the investigation and prosecution of human trafficking,” as stated in the 2010 ABA Proposal to the ULC. The act discourages ‘forum-shopping’ by traffickers who seek to operate in jurisdictions with fewer and/or lower criminal sanctions. National and regional victim-advocates organizations will be better able to advise victims across the country.

During the drafting process, the ULC Drafting Committee worked closely with representatives of a wide range of organizations, including the ABA Center for Human Rights, the ABA Task Force on Human Trafficking, the ABA Section on Business Law, the Polaris Project, the National Association of Attorneys General, the National Violence Against Women Project, the U.S. Department of State Office to Monitor & Combat Trafficking in Persons, Shared Hope International, the Global Freedom Center, LexisNexis, and representatives from a number of state and local prosecutors’ offices.

Status: Because every state had enacted some human-trafficking laws, primarily focused upon establishing definitions and criminal sanctions, the UAPRHT has not been enacted in whole in any one state. Rather, states have used the UAPRHT to update their criminal laws and to add victim remedies and protections, public awareness, and support provisions.

Disposition of Entry:

SSL Committee Meeting: 2016 B
( ) Include in Volume
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( ) Defer consideration:
      ( ) next SSL mtg.  ( ) next SSL cycle
( ) Reject

Comments/Note to staff
Summary:
Criminal convictions often bring not only jail or fines, but also legal disqualifications that are not part of any sentence imposed. These “collateral consequences” include bars to professional licenses, public housing and many more impacts. Such collateral consequences can interfere with defendants’ legal employment and community involvement, plus pose issues of fairness, public safety and fiscal responsibility. The UCCCA provides states with a process to notify defendants, before trial or plea, of indirect penalties their charges may bring, and to offer them the opportunity to ask partial relief from those penalties, if appropriate.

In 1974, 1.8 million people, or 1.3% or the adult population, had been imprisoned at some point of their life. By 2001 that number rose to number 5.6 million people, or 2.7% of the adult population. The Department of Justice estimates that if the 2001 imprisonment rate remains unchanged, 6.6% of Americans born in 2001 will serve prison time during their lives. In addition to those who have served prison time, an even larger proportion of the population has been convicted of a criminal offense without going to prison. According to a 2003 report of the Department of Justice, nearly 25% of the entire population (some 71 million people) had a criminal record.

Concern about the impact of collateral consequences has grown in recent years as the numbers and complexity of these consequences have mushroomed and the U.S. prison population has grown. Collateral consequences are the legal disabilities that attach as an operation of law when an individual is convicted of a crime but are not part of the sentence for the crime. Examples of collateral consequences include the denial of government issued licenses or permits, ineligibility for public services and public programs, and the elimination or impairment of civil rights. There is a real concern on a societal level that collateral consequences may impose such harsh burdens on convicted persons that they will be unable to reintegrate into society.

Indeed, the judge and lawyers in the case are frequently unaware of collateral consequences that will predictably have a substantial impact upon a defendant. Few jurisdictions provide a reliable way of avoiding or mitigating categorical restrictions based solely on conviction even years after the fact. Fewer still give decision-makers useful guidance in applying discretionary disqualifications on a case-by-case basis, or a measure of protection against liability.

Jurisdictions are frequently at a loss about the effect to give relief granted by other jurisdictions. The Uniform Collateral Consequences of Conviction Act, promulgated by the Uniform Law Commission in 2009, is an effort to improve public and individual understanding of the nature of this problem and to provide modest means by which people who suffer from these disabilities may, in appropriate circumstances, gain partial relief from those disabilities.
The key provisions of the UCCCA are:

**Collection**
All collateral consequences contained in state laws and regulations, and provisions for avoiding or mitigating them, must be collected in a single document. The compilation must include both collateral sanctions (automatic bars) and disqualifications (discretionary penalties). In fulfilling their obligations under the Uniform Act, jurisdictions will be assisted by the federally-financed effort to compile collateral consequences for each jurisdiction that was authorized by the Court Security Act of 2007.

**Notification**
Defendants must be notified about collateral consequences at important points in a criminal case: At or before formal notification of charges, so a defendant can make an informed decision about how to proceed; and at sentencing and when leaving custody, so that a defendant can comport his or her conduct to the law. Given that collateral consequences will have been collected in a single document, it will not be difficult to make this information available.

The 2010 Supreme Court decision in Padilla v. Kentucky has significantly raised the profile of the problem of collateral consequences with the public and the bar. Judges, prosecutors, and other policy makers who understand the risk that defense counsel’s failure to adequately advise as to important and certain collateral consequences will want to put measures in place to be sure that such consequences are addressed. Section 5 of the Act instructs trial courts to confirm that the defendant has received and understood notice of collateral consequences and had an opportunity to discuss them with defense counsel.

The UCCCA facilitates notification of collateral consequences before, during, and after sentencing and aids courts and lawyers in providing the defendant with a constitutionally adequate defense.

**Authorization**
Collateral sanctions may not be imposed by ordinance, policy or rule, but must be authorized by statute. An ambiguous law will be considered as authorizing only discretionary case-by-case disqualification.

**Standards for Disqualification**
A decision-maker retains the ability to disqualify a person based on a criminal conviction, but only if it is determined, based on an individual assessment, that the essential elements of the person’s crime, or the particular facts and circumstances involved, are substantially related to the benefit or opportunity at issue.

**Overturned and Pardoned Convictions; Relief Granted by Other Jurisdictions**
Convictions that have been overturned or pardoned, including convictions from other jurisdictions, may not be the basis for imposing collateral consequences. Charges dismissed pursuant to deferred prosecution or diversion programs will not be considered a conviction for purposes of imposing collateral consequences. The Act gives jurisdictions a choice about
whether to give effect to other types of relief granted by other jurisdictions based on rehabilitation or good behavior, such as expungement or set-aside.

**Relief from Collateral Consequences**
The Act creates two different forms of relief, one to be available as early as sentencing to facilitate reentry (Order of Limited Relief) and the other after a period of law-abiding conduct (Certificate of Restoration of Rights).

- An Order of Limited Relief permits a court or agency to lift the automatic bar of a collateral sanction, leaving a licensing agency or public housing authority, for example, free to consider whether to disqualify a particular individual on the merits.
- A Certificate of Restoration of Rights offers potential public and private employers, landlords and licensing agencies concrete and objective information about an individual under consideration for an opportunity or benefit, and a degree of assurance about that individual’s progress toward rehabilitation, and will thereby facilitate the reintegration of individuals whose behavior demonstrates that they are making efforts to conform their conduct to the law.

**Status:** Signed into law on June 10, 2014.

**Comments:** From the Uniform Law Commission:
The Uniform Collateral Consequences of Conviction Act, promulgated by the Uniform Law Commission in 2009 and amended in 2010, provides states with a process whereby defendants are both notified of indirect penalties that may attach to their convictions, and have an opportunity for partial relief from those penalties, when appropriate. Criminal convictions frequently carry not only a prison sentence or fine, but also result in numerous disqualifications or legal disabilities (“collateral consequences”), such as bars to professional licenses and government housing, making it difficult for a person to successfully reenter society.

The UCCCA, largely a procedural act, was designed to rationalize and clarify policies and provisions that are already widely accepted in many states. The Act is divided into two components: notice and relief. First, the Act includes a number of provisions related to the collection, notification, and authorization of collateral consequences. Second, the Act provides options for relief from collateral consequences, including those associated with overturned or pardoned convictions, or those that may have been set aside in other jurisdictions.

States should adopt the UCCCA for the following reasons:

- **Fairness** – By requiring that defendants be notified about collateral consequences at important points in their case, the UCCCA produces a more fair and just criminal justice system. Specifically, under the Act the defendant must be notified: (1) at or before formal notification of charges, so that a defendant can make an informed decision about how to proceed; (2) at sentencing; and (3) when leaving custody, so that a defendant can conform his or her conduct to the law.

- **Ensures Competent Representation** – In the 2010 case *Padilla v. Kentucky*, the U.S. Supreme Court held that in order to provide competent representation, a lawyer must inform a client whether a plea carries a risk of deportation. The requirements in *Padilla* may well be extended to require accurate counseling about collateral consequences beyond immigration
issues. By requiring a defendant be notified of collateral consequences at various points in his or her case, and by instructing the courts to confirm with the defendant that he or she has been so advised, the UCCCA helps to ensure a defendant is represented by constitutionally competent counsel in keeping with Padilla.

- Clarity – The UCCCA removes ambiguity surrounding and streamlines access to collateral consequences. The Act requires all collateral consequences contained in a state’s laws and regulations, and provisions for avoiding or mitigating them, to be collected in a single document. Further, collateral sanctions (automatic legal disabilities) must be authorized by statute, limiting the confusion that may result from sanctions imposed by ordinance, policy, or administrative rule without notice to the public.

- Successful Reentry – The UCCCA removes barriers, when appropriate, to successful and productive reintegration for ex-offenders. The UCCCA carefully balances the interests of public safety with the need to provide opportunities for successful reentry. The Act creates two forms of relief—one available as early as the sentencing phase to facilitate reentry (an Order of Limited Relief) and the other after someone has demonstrated law-abiding conduct for a certain period of time (a Certificate of Restoration of Rights).

- Discretionary Relief – The UCCCA allows a court or agency to issue an Order of Limited Relief in appropriate circumstances. These orders remove a collateral sanction’s automatic bar, essentially converting it into a discretionary disqualification. A licensing agency, public housing authority, or the like, would then be free to consider whether to disqualify a particular individual on the merits. In order to be granted an Order of Limited Relief, the petitioner must show that relief would “materially assist” in obtaining employment, education, housing, public benefits or occupational licensing, that the individual has a “substantial need” for the benefit to live a law-abiding life, and that “granting the petition would not pose an unreasonable risk to the safety or welfare of the public or any individual.”

- Reward Rehabilitation – The UCCCA allows an individual to seek general restoration of his or her rights after a period of time has passed, so long as that the individual has adhered to the law during that time and granting the certificate would not pose an unreasonable public safety risk. A Certificate of Restoration of Rights offers potential public and private employers, landlords, and licensing agencies concrete and objective information about an individual under consideration for an opportunity or benefit, and a degree of assurance about that individual’s progress toward rehabilitation. The certificate thereby facilitates individuals’ successful reintegration, when their behavior demonstrates that they are making efforts to conform their conduct to the law.

Disposition of Entry:

SSL Committee Meeting: 2016 B
( ) Include in Volume
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( ) Defer consideration:
   ( ) next SSL mtg.  ( ) next SSL cycle
( ) Reject

Comments/Note to staff
Summary:
This bill:
- amends existing law regarding the use of forcible entry by a law enforcement officer when executing a warrant;
- requires that the Utah Peace Officer Standards and Training Council recommend guidelines and procedures regarding use of force in executing a warrant;
- requires a law enforcement officer to wear a badge, label, or clothing that identifies that person as a peace officer;
- provides that if the deploying law enforcement agency owns and operates body camera devices, the officer who executes a warrant shall be equipped with a body camera that actively records through the duration of the execution of the warrant;
- provides that a search or administrative warrant may not be issued by a justice court judge;
- provides that a warrant authorizing forcible entry may not be issued solely for the purpose of an alleged controlled substance or for drug paraphernalia; and
- provides that any evidence obtained in violation of these provisions is not admissible in any civil, criminal, or administrative proceeding.

Status: Signed into law on March 30, 2015.

Comments: From KSL (March 15, 2015)
The Utah Legislature passed two bills Wednesday that would place tighter requirements on law enforcement regarding forcible entry practices. The Senate voted unanimously to pass SB82, a bill prohibiting no-knock forced entries in drug possession raids. The bill, sponsored by Sen. Steve Urquhart, R-St. George, would require officers to announce themselves before a forced entry in drug possession raids.

SB82 would also require officers to wear clothing that clearly identifies them as law enforcement when executing forcible entries, as well as body cameras if their agency has the equipment.

Disposition of Entry:
SSL Committee Meeting: 2016 B
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Comments/Note to staff
Summary:
This law prohibits a law enforcement agency from receiving the following property from a military surplus program operated by the federal government:
   a) drones that are armored, weaponized, or both;
   b) aircraft that are combat configured or combat coded;
   c) grenades or similar explosives and grenade launchers;
   d) silencers; or
   e) militarized armored vehicles.

If a law enforcement agency purchases property from a military equipment surplus program operated by the federal government, the agency may only use state or local funds for the purchase. Federal funds may not be used.

If a law enforcement agency requests property from a military equipment surplus program, the agency must publish a note of the request on a publicly accessible website within 14 days of the request.

Status: Signed into law on April 23, 2015.

Comments: From the Bozeman Daily Chronicle (April 24, 2015)
Gov. Steve Bullock surprised a Republican lawmaker Thursday by signing a bill that limits what state and local police forces can take from the Pentagon’s warehouses of surplus military equipment.

Though it passed with bipartisan support, Rep. Nicholas Schwaderer, R-Superior, was shocked when the Chronicle contacted him with the news that Bullock had signed HB 330. He had worried Bullock would appease law enforcement groups who opposed the measure by issuing a veto.

The new law bans receiving weaponized drones, combat aircraft, grenades, grenade launchers, silencers and militarized armored vehicles from the Pentagon’s 1033 program. It also requires agencies to publish their requests within 14 days.

“I’m incredibly pleased. In the latter part of the session you see so much partisanship so it’s heartening to see that both Democrats and Republicans could get behind it,” Schwaderer said Thursday. “It’s no lightweight bill. It substantially changes policy in a way that strengthens the civil liberties of Montanans.”

The 1033 program was authorized by Congress in the early ‘90s as part of the war on drugs. Since then, over $4 billion dollars worth of assault rifles, night vision equipment, aircraft, armored vehicles and clothing have been acquired by state and local police.

The August 2014 clashes between protesters and heavily equipped police in Ferguson, Missouri, led to a national conversation about the militarization of police forces.
Soon after, Bozeman’s mayor and residents were surprised to learn that local police had acquired an armored vehicle.

Legislation aimed at limiting the program was introduced in nine states, both red and blue, and in Congress by Democratic U.S. Rep. Hank Johnson of Georgia. Congress has acted with disinterest.

“Our founders opposed using a standing army to patrol our streets,” Johnson said last month. “In fact, James Madison called this ‘one of the greatest mischiefs that can possibly happen.’ Under the 1033 program, however, America’s streets are becoming increasingly militarized.”


From Stateline (March 24, 2015)

Police in Minneapolis-St. Paul trained military-grade launchers and used flash bang and tear gas grenades on protesters at the 2008 Republican National Convention. The Richland County, South Carolina, Sheriff’s Department got an armored personnel carrier to help fight drug and gambling crime. And Ohio State University police acquired a 19-ton armored truck that can withstand mine blasts.

These are just a few examples of the growing militarization of police in America. It’s been ongoing for more than a decade, but rarely grabbed the nation’s attention until civil unrest erupted in Ferguson, Missouri, last August after the killing of Michael Brown, an unarmed black teenager shot by a white police officer.

Now, eight months after the confrontations in Ferguson between heavily armed police and protesters, lawmakers in more than a half-dozen states are trying to rein in the militarization of their own police forces. They point to Ferguson and say they want to prevent similar highly weaponized responses in their states.

The legislative response — backed by Democrats and Republicans, in red states and blue states — is a reaction to what one sponsor of such a bill calls the “law enforcement-industrial complex,” a play on the “military-industrial complex” term first used by President Dwight D. Eisenhower.

“You get these pictures that just shock the conscience,” said Republican state Sen. Branden Petersen of Minnesota, referring to news footage of heavily armed police patrolling streets or carrying out sting operations. His bill would bar law enforcement in the state from accepting gear that’s “designed to primarily have a military purpose or offensive capability.”

But Petersen and those backing similar efforts in other states — they’ve come up in California, Connecticut, Indiana, Montana, New Hampshire, New Jersey, Tennessee and Vermont — face an uphill climb, partly because of the way law enforcement acquires the gear.
The equipment flows through a Pentagon surplus operation known as the 1033 Program, which makes available gear that the military no longer wants. Local agencies — including state and local police, and others such as natural resources departments — make requests through a designated state coordinator, who with Defense Department officials, has final say. There’s no federal requirement for state or local lawmaker approval or oversight, and any gear distributed is free of charge. About $5.4 billion worth has been distributed since the program began in 1997.

The program is a key source of tactical equipment, along with clothing (everything from parkas to mittens), office supplies, exercise equipment and appliances. Police say it’s invaluable in providing supplies they cannot afford and gear that can save officers’ lives.

But others call it a shadowy program that lacks oversight and lets police request anything they want, regardless of whether they need it. Some say it even tramples the 1878 Posse Comitatus Act, which prohibits the U.S. military from operating on American soil.

As Petersen put it: “The 1033 Program is a workaround.”

State Impact
One reason the reaction to images of militarized police in Ferguson has reverberated in other states is the 1033 Program has been an equal-opportunity distributor, sending equipment all over the country to satisfy law enforcement requests.

A Stateline analysis of 1033 Program data shows that the 50 states hold nearly $1.7 billion worth of equipment, an average of nearly $34 million per state. Per capita, equipment values held by states range from less than $1 for Alaska, Pennsylvania and Hawaii to more than $14 for Alabama, Florida, New Mexico and Tennessee.

The type of gear the states have also varies widely. Alaska law enforcement, for example, has 165 rifles and almost $170,000 in night vision equipment, among other items.

But law enforcement in Florida, has 47 mine-resistant vehicles, 36 grenade launchers and more than 7,540 rifles. In Texas, there are 73 mine-resistant vehicles and a $24.3 million aircraft. In Tennessee, there are 31 mine-resistant vehicles and seven grenade launchers. North Carolina has 16 helicopters and 22 grenade launchers.

The steady flow of gear has made the program popular among law enforcement, some of which say it’s necessary to combat criminals who have access to ever-more-powerful weaponry.

“Our chiefs used the program to obtain both practical and tactical equipment. They called it a really vital resource for acquiring vital public safety tools especially in a time of tight budgets,” said Andy Skoogman of the Minnesota Chiefs of Police Association.

He said police have found ways to repurpose battlefield gear, including armored vehicles, for civilian law enforcement needs.
“Those vehicles have been used to transport citizens, officers and equipment when the roads are closed due to snow, flooding and severe weather,” Skoogman said. “This program has really helped acquire key equipment.”

National police groups sound similar notes.
“...improved the safety of our nation’s law enforcement officers and enhanced their abilities to protect citizens and communities from harm,” Yost Zakhary, then-president of the International Association of Chiefs of Police, said in a statement last year as criticism of the program mounted. “I have seen firsthand the life-saving benefit of the 1033 program.”

The Pentagon also defends the program. “...not tactical,” Pentagon Press Secretary Rear Adm. John Kirby said last August. “It's not weapons. It's shelving, office equipment, communications gear, that kind of thing — furniture. I think it's important to keep this thing in perspective.”

Legislative Outlook
None of that has stymied the push to reform the program. Last year, President Barack Obama’s administration released a review, which called for more local engagement and transparency, better federal coordination and additional training requirements.

That’s the tack many state lawmakers have taken in proposing bills to change the program. New Jersey became the first state to do so earlier this month, when Republican Gov. Chris Christie signed a bill increasing local oversight of the 1033 Program after it passed unanimously in both legislative chambers. (Christie vetoed a separate bill that would have given the state’s attorney general oversight of the program.)

In California, a bill introduced would also give local governments a say over what law enforcement can receive. In Tennessee, a bipartisan bill would limit the type of offensive weapons law enforcement can receive. Another bill there would provide more local control. Some bills simply aim for transparency. A bill in Montana, sponsored by Republican Rep. Nicholas Schwaderer, would require local authorities to notify citizens of any request for equipment — even a Facebook post would satisfy the requirement.

The Montana bill also would bar some types of equipment. But Schwaderer said the reporting requirement as “the most helpful part of this bill,” which is his top legislative priority this session. He said he’s alarmed by the way some agencies have amassed gear in the last decade without input from the public.

“This foundation sets a massive precedent in Montana and the country as to what kind of society we want to have,” Schwaderer said of his bill. “If you get to the point where you need a grenade launcher, we’ve got the National Guard.”
Whether any other state follows New Jersey’s lead in changing the program this year is uncertain. Some sponsors admit they face tough opposition from law enforcement officials and lawmakers who support them.

There’s little interstate coordination among lawmakers pushing the measures, although groups like the 10th Amendment Center, a think tank focused on limited government and states’ rights, have tracked some of the bills, and the American Civil Liberties Union has fought the militarization of police departments for years.

Some localities already have taken steps to pare down or roll back military weapons and equipment. In Minneapolis, the police department stopped bringing it in several years ago, and is trying to return or destroy what it still has.

And because of Ferguson, some citizens’ groups say they are more aware of how their police departments have been transformed and of the possible dangers an overly militarized police force poses.

As Anthony Newby, director of the Minneapolis-based Neighborhoods Organizing for Change, put it: “Ferguson really shed light on the fact that we are really just one or two decisions away from being in that position. It was just a reminder for us to really track it, and see if there’s a way to stop that from ever being an issue.”


Disposition of Entry:

SSL Committee Meeting: 2016 B
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Comments/Note to staff
Surplus Military Equipment to Local Police Departments

Bill/Act:  S 2364

Summary:
Senate Bill No. 2364 requires local approval of applications for surplus Department of Defense military equipment under the federal 1033 program.

The federal 1033 program permits the Secretary of Defense to transfer to State and local agencies personal property of the United States Department of Defense that the secretary determines is suitable for use by agencies in law enforcement activities, including counterdrug and counterterrorism activities, and is excess to the needs of the Department of Defense. The authority granted to the secretary has been delegated to the Defense Logistics Agency (DLA), which determines whether property is suitable for use by agencies in local law enforcement activities.

The Office of Emergency Management in the New Jersey Division of State Police serves as State Coordinator for local (county and municipal) law enforcement agencies that participate, or seek to enroll, in the 1033 program. As the program currently operates, local law enforcement agencies must request enrollment through the State Coordinator and the DLA Law Enforcement Support Office. If enrollment is approved, the law enforcement agency is required to sign a memorandum of agreement with the State Coordinator agreeing to the terms and conditions of the 1033 program. The acquisition of property through the 1033 program or the transfer between law enforcement agencies of property obtained through the 1033 program also must be approved by State and local authorities. The program procedures do not require local law enforcement officials to obtain the approval of the governing body of a local unit before submitting an application to enroll in, or acquire property, through the 1033 program.

The bill requires an application for the enrollment of a county or municipal law enforcement agency in the 1033 program to be approved by a resolution adopted by a majority of the full membership of the governing body prior to the submission of an application to the State Coordinator. This legislation also requires the actual acquisition of property through the 1033 program to be approved by a resolution adopted by the full membership of the governing body.

Status:  Signed into law on March 6, 2015.

Comments:  From NJ.com (March 16, 2015)
New Jersey police departments seeking surplus military hardware—including combat vehicles, assault rifles and grenade launchers—will first need the approval of local officials, under legislation approved today by Gov. Chris Christie.

But the governor shot down a companion bill requiring approval by the state Attorney General as well, conditionally vetoing the measure and sending it back to the Senate with recommended amendments.

Christie said he agreed the acquisition of tactical equipment from Department of Defense should be subject to administrative and logistical oversight, signing the bill requiring formal approval by local authorities of all surplus gear made available through the Pentagon’s 1033 program.
"This local approval adds an additional layer of oversight to the existing supervision provided by the DOD Law Enforcement Support Office and the Office of Emergency Management in the New Jersey State Police," said Christie in signing off on one of the bills.

However, he called the requirement of having the Attorney General review all equipment transfers "a burden to that department," noting that the State Police is able to handle such a role.

"The Attorney General advises me that in the last federal fiscal year, which ended in September of 2014, the New Jersey State Police reviewed approximately 2,000 transfer requests for over 17,000 individual pieces of equipment under the 1033 program," said Christie in his conditional veto. "This bill would have the unintended consequence of completely consuming the time and attention of the Attorney General."

Both pieces of legislation — which sponsors said would add transparency and supervision to the controversial federal program — sailed through the Statehouse with bipartisan support.

State Sen. Nia Gill (D-Essex), one of the sponsors of the legislation, has repeatedly questioned whether police agencies in New Jersey need equipment "more suited for war rather than for use in our communities."

Gill, who said New Jersey is the first state in the nation to require local oversight of the federal program, called it "a very significant change" to the way it will be administered in the state. "It is a huge victory for transparency and community participation," she said following the action by the governor.

While the Legislature will be looking at the proposals in the conditional veto, Gill said she still believes the Attorney General should be involved in directly monitoring the program.

The governor said the existing oversight requirements mandated by the federal government, as now administered by the State Police, combined with the new authority provided to local governments through the companion bill he signed today, created substantial transparency and oversight of the program.

Free for the asking
The Pentagon giveaway has come under question since police in Ferguson, Mo., last August responded to demonstrators with armored vehicles and tactical armor following the fatal shooting of an unarmed black teen by a white police officer.

Much of the equipment under the program—all of it made available for free to law enforcement agencies across the United States—has no tactical use, and includes material such as surplus office equipment, computers, pumps, winches and trucks. Police officials say the program has allowed them to greatly stretch their budgets.

Critics, however, have questioned whether police departments need high-powered rifles, mine-resistant armored vehicles, or sniper scopes.
In New Jersey, records examined by NJ Advance Media found 155 law enforcement agencies have obtained material under the Pentagon giveaway, which has grown tremendously in recent years.

Those records show 80 police departments acquired 894 M-16 and M-14 military assault rifles, an armored combat vehicle that went to Middletown, a grenade launcher that went to the Bergen County Sheriff's Department, and a free Vietnam-era helicopter to Newark that has cost the financially strapped city more than $2 million in maintenance, salaries and operational costs, an analysis of city records revealed.

In December, the White House said it would impose more controls over what federal property was allowed for transfer as well, and require local police departments get proper training on use of military equipment.

Ari Rosmarin, public policy director of the ACLU of New Jersey, called the new oversight requirement a positive step for the state.

"The growing trend toward militarization of police departments is one the ACLU has been concerned about for some time. The chance for local official to weigh in first is a welcome step," he said. "The challenge is now for local government to pay attention and engage."

Read more:

Disposition of Entry:

SSL Committee Meeting: 2016 B
( ) Include in Volume
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Comments/Note to staff
Summary:
Establishes ABLE savings trust accounts to be administered by the Virginia College Savings Plan to facilitate the saving of private funds for paying the qualified disability expenses of certain disabled individuals. Under the federal Achieving a Better Life Experience Act of 2014, Congress authorized states to establish ABLE savings trust accounts to assist individuals and families in saving and paying for the education, housing, transportation, employment training and support, assistive technology and personal support services, health, prevention and wellness, financial management and administrative services, and other expenses of individuals who were disabled or blind prior to the age of 26. Earnings on contributions to ABLE savings trust accounts are exempt from federal income tax.

Because Virginia conforms to the federal income tax laws, earnings on contributions to ABLE savings trust accounts will also be excluded from Virginia taxable income.

Status: Signed into law on March 17, 2015.

Comments: From Disability Scoop (March 19, 2015)
Three months after federal law established a new way for people with disabilities to save without jeopardizing their government benefits, the legislative hurdles are over in one state. Virginia became the first state to approve legislation related to the Achieving a Better Life Experience, or ABLE, Act, when Gov. McAuliffe signed a bill this week allowing for the new savings vehicle.

Under federal law, the ABLE Act allows people with disabilities to open special accounts where they can save up to $100,000 without risking eligibility for Social Security and other government programs. However, states must put regulations in place before financial institutions can begin offering the accounts.

In addition to Virginia, legislatures in West Virginia and Utah have sent ABLE bills to their governors. What’s more, legislation is under consideration in 29 other states and draft bills are in the works in another seven, according to Heather Sachs, director of state government affairs for the National Down Syndrome Society.

Sachs said there is “special significance” in the fact that Virginia was the first to approve the ABLE Act since the idea for the bill was born out of a kitchen-table conversation among a group of parents in the state. “So far we’ve seen a lot of legislative victories and we expect more as the weeks go by,” Sachs said.

Even after legislation is approved, however, state governments and the financial industry are likely to need time to set up the new offerings before they are available to consumers and some states are further along than others in hammering out the behind-the-scenes details. Accordingly, advocates say, the first states to enact ABLE legislation may not be the first to offer accounts.
Sachs said she expects it will be at least late this year but more likely 2016 or 2017 before people with disabilities can begin opening ABLE accounts.


Read more: http://www.disabilityscoop.com/2015/03/19/able-green-light-state/20145/

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SSL Committee Meeting: 2016 B
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Comments/Note to staff
Exploration and Experiential Learning

*20-35B-03 Innovation Education Campus Fund
*20-36A-05 College and Career Coaches Program
*20-36A-10 High School Career Option Program

This set of bills targets innovative use of funds, personnel and other resources to advance connection with business and industry. Missouri created the Innovation Education Campus Fund for campuses where collaborative partnerships are created to offer applied and project-based learning experiences for students, work to lower the cost of degree completion and reduce the time to degree attainment. Businesses, K-12 education and institutes of higher education are partnering to offer on-the-job training and mentoring while students begin or complete a bachelor’s degree.

In Arkansas, the pilot College and Career Coaches Program was expanded with an emphasis on providing college planning to low-income students. Coaches work with students beginning at ninth grade and combine experiential learning and counseling on career pathways related to needs of industry.

The Louisiana bill creates a career diploma – to be recognized in the same manner as a standard high school diploma – based on career major programs. A requirement is middle school career exploration to connect students with business highlighting occupations in demand in the state. Local business leaders, economic development officials and education representatives annually review career major offerings and permit a student to complete an approved training program leading to an industry-based credential.

*20-35B-03 Innovation Education Campus Fund  Missouri
Bill/Act: SB 381

Summary: Creates the Innovation Education Campus Fund to provide funding to innovation education campuses - an educational partnership between high schools or school districts, a Missouri four-year public or private institution of higher education, a Missouri-based business or businesses, and either a Missouri public two-year institution of higher education or Linn State Technical College. Specifies criteria that must be met to receive funding which include actively working to lower the cost for students to complete a college degree; decrease the amount of time required for a student to earn a college degree; and provide applied and project-based learning experiences for students. Requires the Coordinating Board for Higher Education to conduct a review every five years of any innovation education campus for compliance with the requirements.

Status: Signed on July 11, 2013.

Comments: From the Office of Gov. Jay Nixon (July 11, 2013) Innovation Campuses throughout Missouri connect students with careers in high-demand fields through local partnerships; cut the time it takes to earn a degree. Gov. Nixon launched the Innovation Campus initiative in 2012 to train students for careers in high-demand fields, cut the time it takes to earn a college degree, and reduce student debt.
"The Innovation Campus initiative is connecting Missouri businesses with local institutes of higher education to make sure that students today are preparing for the jobs of tomorrow," Gov. Nixon said. "The strength of our economy and the future of our state are directly tied to ensuring that higher education remains affordable and provides students with the knowledge and skills they need to be successful in the global marketplace. I anticipate the Innovation Campus initiative could become a model for the rest of the nation."

Last fall, Gov. Nixon announced $9 million in Innovation Campus grants to establish partnerships between local high schools, community colleges, four-year colleges and universities, and area businesses.

Senate Bill 381 officially defines in state statute an Innovation Campus as an educational partnership comprised of one or more Missouri public community colleges or Linn State Technical College; one or more Missouri public or private four-year institutions of higher education; one or more Missouri high schools or K-12 education districts; and at least one Missouri-based business.

Innovation Campuses offer students accelerated degree programs specifically designed to prepare them for careers in science, technology and other high demand fields, and to reduce the time and cost needed to earn their degrees.

Employees recommended by area businesses also participate in the program, obtaining scholarships to begin or complete a baccalaureate degree, while receiving on-site training and mentoring beyond what would otherwise occur within the company. Participants receive college credit for these applied learning experiences, and the corporate partners benefit from a pool of highly trained candidates for positions once they have completed their degrees and the apprenticeship training.


Disposition of Entry:

SSL Committee Meeting: 2016 B
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Comments/Note to staff
**Summary:** HB 2039 expands the piloted College and Career Coaches Program, which will aid students at low-income schools in the college planning process. College and Career Coaches will be located at higher education institutions and at nonprofits and will begin working with students and their school counselors when the students are in ninth grade. Combining experiential learning and counseling on career tracks and industry needs, coaches will help students complete high school ready for postsecondary education.

**Status:** Signed into law on April 16, 2013.

**Comment:** From the Associated Press (November 9, 2009) Forty-three "career coaches" will be placed in high schools around Arkansas next year to help students chart their college and career goals. The coaches will be placed in schools starting in January as part of a $10 million expansion of Arkansas Works, a state program to coordinate education, training and economic development. The three-year pilot program is funded by federal money, officials said.

Gov. Mike Beebe said the career coaches would assist existing guidance counselors at the schools by providing help to students in planning their careers and college goals.

"Our counselors are overworked in our high schools," Beebe said at a joint meeting of the state boards of education and higher education at Pulaski Tech. "We've asked our counselors to be mama and daddy and social worker, disciplinarian, sometimes health expert. We've asked them to do everything in the world without giving them additional resources."

The career coaches will be employed by the two-year colleges located in the communities where the coaches are placed. The coaches will be placed in 58 school districts in 21 counties, mostly in the Arkansas Delta, and the counties were chosen because they had either high unemployment or a low percentage of students going to college.


**Disposition of Entry:**

SSL Committee Meeting: 2016 B
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Comments/Note to staff
Summary: Provides that a career diploma is earned through a career major program. Requires that a career diploma be recognized in the same manner as a standard diploma by all Louisiana public postsecondary institutions, as well as for purposes of the school and district accountability system. Provides a school or school system may not be penalized in any manner for students who are issued a career diploma.

Removes references to word processing, desktop production, computer-assisted drafting and graphics, and other uses of technology in provisions related to middle grades career exploration. Requires middle grades career exploration to introduce students to occupations in demand in the state. Substantively revises procedures for creation and modification of Individual Graduation Plans.

Allows students to change their career major at the end of a semester (previously only at the end of the academic year). Requires local career major programs to be aligned to state and regional workforce demands. Repeals provision that allowed school systems to apply for a waiver from offering one or more career major programs. Requires schools to include local business and industry leaders, local economic development agencies, and postsecondary education leaders in their annual review of career major offerings. Adds industry training programs as a potential component of career major programs. Permits a student to complete a career major by completing an approved training program leading to an industry-based credential (previously career and technical sequence of courses only option for completing career major). Specifies English and math courses from which students must choose to complete career major graduation requirements, and includes courses offered by Jump Start regional teams. Removes provision that English or math electives may be fulfilled by courses comparable or identical to those offered by the Louisiana Technical College. Increases career/technical education (CTE) course credits required for career major from 7 to 9; amends provisions on types of courses that may fulfill these requirements. Requires a student to complete a regionally designed series of CTE Jump Start coursework and workplace-based learning experiences leading to a statewide or regional Jump Start credential. Reduces social studies and science credit requirements for career major from 3 to 2; specifies science and social studies courses that may fulfill these credit requirements.

Removes language requiring career diploma modifications to questions on an end-of-course exam required for high school graduation. Requires a student pursuing a career diploma to take the ACT and permits a student to take the WorkKeys. Directs the state board to develop a system of equivalent scores for the ACT and WorkKeys and use a student's highest score for school and district accountability. Repeals most criteria students could choose one from to be eligible to pursue the career major curriculum.

Status: Signed into law on June 12, 2014.
Comment: From The Advertiser (April 3, 2014)
Rep. Jim Fannin wants to erase the stigma of receiving a “career” diploma and make it just as valuable as a traditional one.

Fannin, R-Jonesboro, got House backing 94-0 Thursday for legislation that would require public high school graduates who aren’t going to college to earn certifications so they can get decent-paying jobs straight out of high school.

“The career diploma starts in sixth grade, encouraging students to look at options,” Fannin told the House.

HB 944 calls for a second review of students in eighth grade to see if students are leaning toward going to college, going to work straight from high school or are in danger of become high school dropouts.

If the new version is approved, “to me, it’s a job preparedness bill as much as it’s a dropout prevention bill,” Fannin said.

Superintendent of Education John White has been traveling the state promoting the changes, which have been adopted by the Board of Elementary and Secondary Education. Fannin’s bill revises current law to allow the new plan.

Students choosing a career track could switch to an academic diploma if they complete the necessary courses.

Those who don’t would co-enroll in community or technical college skill training in 10th grade to gain certification in a selected job that’s needed in the job market at that time.


Disposition of Entry:

SSL Committee Meeting: 2016 B
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Comments/Note to staff
Innovation and Flexibility for Graduation
*20-35B-04  Flexible Pathways to high School Completion
*20-35B-08  College Readiness Framework
*20-36A-01  Career and Technical Course Equivalencies and Evaluation
*20-36A-02  Career and Technical Education Credits
*20-36A-06  Foundation High School Program
*20-36A-09  Computer Science, Including Graduation Requirement Substitutions

These bills focus on alternative pathways to high school graduation including course substitutions, college opportunities and student choice. The Vermont legislation created the Flexible Pathways Initiative for high school students to become college-ready. Each student can enroll in two dual enrollment courses at no cost, and expands early college programs where seniors complete their final year of high school entirely on a college campus. The bill also ensures a personalized learning planning process for students in grades 7 through 12 based on their individual goals, learning styles and abilities.

In Washington, the Office of the Superintendent of Public Instruction, in collaboration with technical working groups, must create curriculum frameworks of career and technical education courses that align with science, technology, engineering and mathematics courses. Students take courses at local high schools, skill enters, inter-district cooperatives or through online education program.

Minnesota’s legislation allows students to substitute qualifying career and technical education courses for math and science credits towards high school graduation. Districts and charter schools are required to revise career and technical education course standards to ensure they adequately meet rigorous academic requirements.

Wisconsin expanded the math and science graduation requirements from two credits each to three credits each. Approved career and technical education courses may count for one credit in both areas including allowing computer science to count as a math credit.

The Foundation High School Program in Texas offers flexible coursework to high school students. After taking three English classes, Algebra and Geometry, students use remaining credits to earn an endorsement based on their interests and career goals. Endorsements are available in STEM, business and industry, public services, arts and humanities and multidisciplinary studies. Students that earn an endorsement and meet other state requirements are eligible for top 10 percent automatic admission – guaranteed admission – to any public college in Texas.

Florida’s bill requires public schools to offer computer science, including computer coding and computer programming, in digital classrooms that provide opportunities to expand digital literacy and competency, digital skills and earn grade-appropriate, technology-related industry certifications. Computer science courses fulfill high school graduation requirements, including substituting a computer science credit and earning the related certification for math or science credit towards graduation.
*20-35B-04 Flexible Pathways to High School Completion  Vermont

Bill/Act: **SB 130**

**Summary:** The bill creates the Flexible Pathways Initiative to expand opportunities for secondary students to complete high school and achieve postsecondary readiness. The focus is on creativity and innovation in local school districts to provide 21st Century classrooms. The act provides the opportunity for each high school student to enroll in two dual enrollment courses at no expense to the student, authorizes the development of additional early college programs through which students complete 12th grade entirely on a college campus, and removes the upper age limit for participation in the High School Completion Program. Additionally, each student grade 7 through 12 will participate in an ongoing personalized learning planning process based on their individual goals, learning style and abilities.

**Status:** Signed into law on June 6, 2013.

**Comments:** From [VTDigger.org](http://vtdigger.org) (May 17, 2013)

The Legislature made good on Gov. Peter Shumlin’s vision for expanding college opportunities for Vermont high school students. S.130 does exactly what Shumlin proposed during his inaugural speech — it doubles the funding for dual enrollment, which allows juniors and seniors to take college courses while in high school, and it lays the foundation for expanding early college programs, which allow students to simultaneously complete their senior year of high school and their first year of college.

Currently, eligible 11th- and 12th-graders can take one college course at the University of Vermont, the Vermont State Colleges, or seven private colleges at public expense. During the 2011-2012 school year, the state gave out 584 course vouchers for students participating in dual enrollment programs.

Under the new proposal, students could take two courses, fully funded, either at the college or onsite at the high school. To pay for it, the Legislature increased the allocation for the program — the money is drawn from the Next Generation Fund — from $400,000 to $800,000 in the 2014 budget. The state will pay 100 percent of tuition for FY 2014 and FY 2015; after that it will share the cost with the student’s high school.

Vermont Academy of Science and Technology (VAST), the state’s only early college program, serves about 40 students each year. Eighty-seven percent of the base education amount is used to pay for students’ enrollment in this program. S.130 authorizes the Secretary of Education to pay this same rate to UVM, Vermont State Colleges or approved private colleges if these institutions start early college programs.

S.130 also requires schools to develop “personalized learning plans” for students in seventh-grade and above. The secretary will publish “guiding principles” by Jan. 20, 2014, and the plans will be implemented on a rolling basis starting in 2015.

Read more: [http://vtdigger.org/2013/05/17/legislative-wrap-up-flexible-pathways](http://vtdigger.org/2013/05/17/legislative-wrap-up-flexible-pathways)
Disposition of Entry:

SSL Committee Meeting: 2016 B
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Comments/Note to staff
Summary: The Office of the Superintendent of Public Instruction (OSPI), in consultation with one or more technical working groups, is directed to develop curriculum frameworks for a selected list of CTE courses whose content in science, technology, engineering, and mathematics is considered equivalent, in full or in part, to science or mathematics courses that meet high school graduation requirements. The course content must be aligned with industry standards and with the adopted state learning standards in mathematics and science.

Beginning no later than the 2015-16 school year, school districts are required to grant academic credit in science or mathematics for CTE courses on the OSPI list if the course is offered, but are not limited to the courses on the list. School districts must provide high school students with the opportunity to access at least one CTE course from the OSPI list that is equivalent to mathematics or one that is equivalent to science. Students may access these courses at high schools, skill centers, inter-district cooperatives, or through online learning or the Running Start program.

Status: Signed into law on April 3, 2014.

Comments: From the Bonney Lake Courier-Herald (March 14, 2014)
SB 6552 authorizes the 24-credit graduation requirement framework developed by the SBE, provides flexibility to school districts in meeting the instructional hour requirement, and expands math and science course equivalencies for Career and Technical Education (CTE) programs.

“The career and college ready diploma is a big win for kids,” said Board Chair Dr. Kristina Mayer. “Establishing a meaningful high school diploma that prepares students for their next step in life, whatever that might be, has been a top priority for the board for nearly a decade.”

This bill embraces a multiple pathway approach providing more student choice in math and science course-taking decisions, seven combined credits of electives and Personalized Pathway Requirements that allow students to explore or focus on a range of fields of knowledge that interest them, and increased opportunities to earn course equivalency credits in CTE courses.

While the framework increases the credits needed to graduate from 20 to 24, SB 6552 also makes the culminating project voluntary, somewhat offsetting the change.

In addition, the bill provides school districts the opportunity to request a waiver of up to two years to fully implement the new requirements, and the ability to waive up to two of the 24 credits for individual students in unusual circumstances.

Finally, the bill directs the Office of the Education Ombuds to convene a task force to review barriers to the 24-credit diploma for students with special needs.
“The new framework is rigorous and flexible,” explained Executive Director Ben Rarick. “It sets high graduation standards for all students, yet is sensitive to those who many need extra help to get there.”


Disposition of Entry:

SSL Committee Meeting: 2016 B
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Comments/Note to staff
*20-36A-01 Career and Technical Course Equivalencies and Evaluation  Minnesota

Bill/Act: HF 630

**Summary:** Chapter 116 of H.F. 630 allows students to use qualifying career and technical education courses to substitute for math and science credits. It also requires school districts and charter schools to revise standards for career and technical education courses, ensuring that they are adequate. Administrators must establish a formal process for periodic review of these courses.

**Status:** Signed into law on May 22, 2013.

**Comments:** Every Minnesota high school student is required to take at least three science credits, one of which must be biology. The remaining two may be filled with chemistry, physics or an elective science. Chapter 116 of the omnibus bill allows for an agricultural science or career and technical education course to replace the chemistry, physics or elective science course if the district decides that the course satisfactorily meets the underlying academic standards set for chemistry or physics. Students may not use a career and technical course to substitute for the necessary biology credit. In addition, Chapter 116 allows students to use a district-approved career and technical education course as one of the three math credits needed to graduate, or for the one needed credit in general arts.

As part of adopting these changes, school districts and charter schools must align district or school standards for career and technical education courses with state standards to ensure that they are appropriately rigorous. Districts and charter schools must establish their own formal review process to be carried out periodically in order to maintain a high level of instruction in career and technical education.

**Disposition of Entry:**

SSL Committee Meeting: 2016 B
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   ( ) next SSL mtg. ( ) next SSL cycle
( ) Reject

Comments/Note to staff
Summary: SB 51 expands math and science graduation requirements – from two credits each to three credits each – but allows for approved career and technical education courses to count for one credit in both areas. This includes allowing computer science to count as a math credit towards graduation.

Status: Signed into law on December 12, 2013.

Comment: From Wisconsin Public Radio (December 12, 2013)
Wisconsin students will soon have to take more math and science courses before they can graduate high school under a bill signed into law on Wednesday by Gov. Scott Walker. Right now, students are required to take two years of math and two years of science before they can graduate. Under this new law, students will have to take three years of each. Walker signed the bill at SOLOMO Technology, a Madison-based information technology company.

SOLOMO CEO Liz Eversol said they rely on people well-versed in technology. “A strong math and science education is critical to a career path, and it's really critical to the success of our Wisconsin companies,” she said.

The plan would give schools some flexibility on how they meet the three-year requirement. A student who takes a computer science course would be granted one math credit. They don't get that credit right now, which Walker said doesn't make a lot of sense.

“In many ways, some of the computer science courses that are offered or could be offered in our high school environments are just as relevant if not more so than some of the math and science courses they'd be taking for requirements to graduate.” he said.

The new law would also grant math or science credits to students who've taken multiple technical education courses. The plan passed the state Assembly and Senate on bipartisan voice votes. It won't take effect until the 2016-2017 school year.

Read more: http://www.wpr.org/governor-signs-bill-requiring-more-high-school-math-science

Disposition of Entry:

SSL Committee Meeting: 2016 B
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Comments/Note to staff
*20-36A-06 Foundation High School Program Texas

Summary: HB 5 creates the Foundation High School Program, which allows high school students to partake in more flexible coursework. While maintaining some statutory requirements – such as three standard English classes and Algebra and Geometry – the program then permits students to use remaining credits to earn an endorsement dependent on their interests and college or career goals. Endorsements are available in STEM, business and industry, public services, arts and humanities, and multidisciplinary studies.

Furthermore, students who earn an endorsement and meet other credit and grade requirements will be eligible for top 10 percent automatic admission, meaning they will receive guaranteed admission to any public college in Texas.

Status: Signed into law on June 10, 2013.

Comment: From the Dallas News (August 5, 2013)
Texas eighth- and ninth-graders getting ready to go back to school need to add an item to this year’s to-do list: Getting clear on a new graduation plan. HB 5, the sweeping education bill passed last legislative session, killed what was called the “four-by-four” and replaced it with something more flexible.

But more flex means more responsibilities. Not only will many schools need to revamp course offerings and retrain counselors, but students and their parents must start talking about career choices long before high school. Supporters say the changes will particularly prepare students who aren’t headed to college for careers. But even those who like the plan recognize there’s a danger.

Some districts are looking forward to the graduation plan changes in HB 5. “Everyone is excited about the No.1 word you get from this bill: flexibility,” said Jim Hirsch, Plano ISD’s associate superintendent for academic and technology services.


Disposition of Entry:

SSL Committee Meeting: 2016 B
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( ) Reject

Comments/Note to staff
Summary: (Section 19) Requires public schools to provide K-12 students with opportunities for learning computer science, including computer coding and computer programming. Authorizes elementary and middle schools to establish digital classrooms to provide students with opportunities to improve digital literacy and competency; to learn digital skills, such as coding, multiple media presentation, and the manipulation of multiple digital graphic images; and to earn digital tool certificates and certifications and grade-appropriate, technology-related industry certifications. Authorizes high schools to provide opportunities to take computer science courses to fulfill high school graduation requirements, including substituting a computer science credit and earning the related industry certification for a math or science credit for high school graduation. Permits one or more high school computer technology courses in 3D rapid prototype printing and related industry certifications to satisfy up to two math credits for high school graduation. Authorizes the state board to adopt rules to administer these provisions.

Status: Signed into law on June 2, 2014.

Comment: From Orlando Sentinel (June 24, 2014)
Florida is now one of 22 states where students can use a computer science course to meet high school graduation requirements. The state's new rules -- approved by state lawmakers and the governor this spring -- are part of a national push by technology companies to get more students studying computer science, a field where there is a demand for workers.

The non-profit Code.org, backed by Microsoft, among others, has been lobbying states for such changes, arguing that if computer science remains an elective (as it has been) very few students -- even those with potential interest -- will take it because their schedules will be full meeting all their other graduation requirements.

"Computing jobs are in high demand in Florida and across the country," Gene McGee, an official with Microsoft and Code.org told Florida lawmakers this spring as he urged them to change graduation requirements in favor of computer science.

Florida's new rules allow students to substitute computer courses of "sufficient rigor" for some required math and science courses.

Florida initially proposed that high school students be able to swap a computer science course for a math, science, foreign language or physical education class, which are required for graduation and/or admission at state universities. The proposed P.E. swap upset P.E. teachers, who argued it made no sense to cut student a physical education class in an era when so many worry about sedentary, overweight kids. That proposal was dropped. The foreign language idea, also dropped, has been opposed by Code.org when it was pushed in other states. The group argued computer science was "more math and science than anything," among other issues.

But the math/science swap has detractors, too.
Paul Cottle, an FSU physics professor and advocate for K-12 science education, recently posted a blog entry that began, "Code.org has it wrong."

He said the math/science swap may lead to fewer students taking physics in high school and then fewer in college studying engineering or physics, fields that also offer plentiful job opportunities. "Ironically, this strategy may actually reduce the number of engineers and physicists that our nation educates," Cottle wrote.

Code.org makes similar arguments about computer science, saying students needs to learn "foundational" skills in high school, if they want to pursue the field in college.

And the group says the country needs more people to do that. It estimates that by 2020, there will be 400,000 college students studying computer science and more than 1.4 million available jobs.

Read more: http://www.orlandosentinel.com/features/blogs/school-zone/os-florida-high-school-computer-science,0,5769705.post

Disposition of Entry:

SSL Committee Meeting: 2016 B
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( ) Reject

Comments/Note to staff
Summary: HB 150 addresses STEM education beginning in middle school, in part by funding the STEM Action Center, which can give grant money to school districts or charter schools to create and maintain nationally recognized STEM certification programs. To provide a STEM certification program, school districts and charter schools can partner with a Utah College of Applied Technology campus, Salt Lake Community College, Snow College or a private sector employer.

Status: Signed into law on April 1, 2014.

Comment: From Deseret News (May 15, 2014)
HB150 was approved by unanimous votes in both the Utah House and Senate and included more than 40 co-sponsors. The bill creates a number of STEM initiatives, including an endorsement and initiative program to provide training for Utah's science, technology, engineering and mathematics teachers.

Gov. Herbert said taxpayer dollars are finite and must be responsibly prioritized. But he added that investing in education is a key component to maintaining a healthy and growing state economy. "My focus is on economic development, but we also understand that long-term economic growth can only be sustained if we have an educated labor force that has the skills that are demanded in the marketplace," the governor said. Science and technology have the potential to improve lives, Herbert said, but the needs of employers to fill STEM jobs has been insufficiently met. "We’re having to import engineers into Utah," he said. "In fact, we’re having to import engineers from outside the country into America, and that ought not to be."

UVU President Matthew Holland described HB150 and Herbert's continued focus on STEM education as "near and dear to the heart of Utah Valley University." Holland said educators recognize there is a demand for workers with STEM-related skills and higher education is working to respond to those market needs.


Disposition of Entry:

SSL Committee Meeting: 2016 B
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Comments/Note to staff
Summary: Requires postsecondary institutions to adopt a policy to award academic credit for military training applicable to the student's certificate or degree requirements. Requires that the policy apply to any individual who is enrolled in the institution who has successfully completed a military training course or program as part of his or her military service that is: (1) recommended for credit by a national higher education association that provides credit recommendations for military training courses and programs; (2) included in the individual's military transcript issued by any branch of the armed services; or (3) other documented military training or experience.

Status: Signed into law on April 2, 2014.

Comment: From The Oregonian (March 7, 2014)

Veterans will be able to receive academic credit for certain military training courses at all public colleges in Washington. The bill passed both houses of the Legislature unanimously.

The bill would require all public colleges and universities in the state to award credit for applicable military training. Each institution would be required to have an accreditation system in place by the end of 2015.


Disposition of Entry:

SSL Committee Meeting: 2016 B
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Comments/Note to staff
Summary:
HB 2064 directs the State Board of Education to include the requirement for students to pass a civics test in the high school competency requirements for graduation, beginning in the 2016-17 school year.

1. Requires the SBE to include in the high school competency requirements a requirement for students to correctly answer at least 60 out of 100 questions on a test identical to the civics component of the naturalization test used by USCIS.
   a. The new requirement is effective for the 2016-17 school year.
   b. Passage of the test is required in order to graduate from high school or obtain a high school equivalency diploma.
   c. The requirement applies to district and charter schools.
2. Allows a school district governing board or charter school governing body to determine the manner and method to administer the test.
3. Requires the school to document on a student’s transcript when the student passes the test.
4. Permits a student who does not pass the test to retake it until he or she passes.
5. States that students who receive special education are not required to pass the test unless specific conditions are met.


Comments: From the Arizona Republic (January 16, 2015)
Arizona will become the first state to require students to pass a civics test to graduate from high school, following swift moves Thursday by state legislators and Gov. Doug Ducey.

Beginning with the class of 2017, students will have to prove they know the history and workings of American government before they can receive diplomas.

The bill sailed through the Arizona Legislature's committees Thursday morning, was approved by both houses Thursday afternoon and was signed by Ducey Thursday evening.

The American Civics Act will require students to pass 60 of the 100 questions on the U.S. Immigration and Naturalization civics test. They can first take the test in eighth grade, and can retake it until they pass.

School districts and charter schools will determine how to include civics instruction in their curricula and how to test their students. Ducey, who had promised in his State of the State address on Monday that he would sign the bill, said a firm understanding of civics is vital for future voters. Critics said a required test is unnecessary and would cost schools money.

The House vote on House Bill 2064 was 42-17-1, and the Senate vote was 19-10-1.

Sydney Hay of Silver Bullet, a consulting firm, said Arizona is the first state to pass the measure. Her firm is working to pass the bill in all states by Sept. 17, 2017, the 230th anniversary of the
U.S. Constitution. She said North Dakota is also fast-tracking the bill. In all, 18 states are likely to pass the bill this year, she said.

Sen. Steve Yarbrough, R-Chandler, responded to criticism that the bill was rushed by saying the idea has been discussed for months.

"I've read that anything of real value is worth appropriately measuring," he said. "I would submit that a minimal understanding of American civics is of real value and therefore worthy of measurement."

Critics of the bill cited the potential cost to schools and the burden of adding another test.

Stephanie Parra, a member of the Phoenix Union High School District governing board, told the Senate Education Committee that the requirement will be a waste of classroom time.

"Having students memorize and regurgitate facts is not going to get to the goal of what we want to accomplish here, which is retaining the importance and value of what American civics education should be," she said.

But Rep. David Farnsworth, R-Mesa, said the cost of the test will be "infinitesimal," and that students already memorize facts such as the periodic table as a method of learning.

The test is the same one that immigrants take when seeking citizenship.

"As an immigrant and naturalized citizen, I observed and assisted my parents as they studied for their citizenship test and shared in their pride as they passed it," Moses Sanchez told the Senate Education Committee. He is a governing-board member of the Tempe Union High School District. "As a parent, I support this bill."

The test asks questions including "What is freedom of religion?" and "What are the two parts of the U.S. Congress?"

A working knowledge of history and government should be minimum requirements, according to Eileen Sigmund, president and chief executive of the Arizona Charter Schools Association, which released a statement supporting the bill.

"This legislation will provide the means to measure whether Arizona students are learning the civics essentials necessary to grow into our nation's next generation of leaders."

Steve Ramos, a retired civics teacher from Mesa Public Schools, said he is dismayed there's an impression that civics has been poorly taught.

"Civics has been part of the curriculum of every grade level for some time," he told the Senate Education Committee. He taught for 32 years and students were required to pass his course to graduate.
"To now mandate another 100-question civics test seems to fit the governor's definition of waste and duplication of effort," he said.

In his State of the State speech, Ducey cited dismal student results from a civics study that has since been discredited.

The Associated Press reported Wednesday that the survey Ducey relied upon was done for the Goldwater Institute, which withdrew the survey results in 2009 after the company that conducted it failed to show that its basic research met Goldwater's standards.

Other measures, including the National Assessment of Educational Progress, have found low civics literacy among students.

Scott Leska, a member of the governing board of the Amphitheater Unified School District in Tucson, said he supports the requirement but is worried about students taking the test online.

"My concern is that going online and putting your address in is giving the federal government one more piece of information on our students that could be used for whatever reasons — commercial, political, whatever," he said.


Disposition of Entry:

SSL Committee Meeting: 2016 B
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Comments/Note to staff
Summary:
Upon request of a school district, existing law authorizes the Superintendent of Public Instruction to issue a license to teach to a person who is not a citizen or lawful permanent resident of the United States but who is otherwise entitled to work in the United States pursuant to federal laws and regulations if: (1) the school district has demonstrated to the satisfaction of the Superintendent that a shortage of teachers exists in the subject area for which the person is qualified; (2) the person is otherwise qualified to teach in the subject area for which there is a shortage of teachers; and (3) the school district agrees to employ the person to teach in the subject area for which there is a shortage of teachers.

This bill removes the requirement that a school district demonstrate that a shortage of teachers exists in a particular subject area as a condition to licensure and instead allows such a person to be licensed to teach if: (1) the school district can demonstrate that any shortage of teachers exists or that the school district has not been able to employ a person possessing the skills, experience or abilities of the person to be licensed and such skills, experience or abilities are needed to address an area of concern for the school district; (2) the person is otherwise qualified to teach; and (3) the school district agrees to employ the person. This bill also authorizes the governing body of a charter school to request the Superintendent to issue a license to such a person and employ such a person in the same circumstances as a school district.

Status: Signed into law on May 13, 2015.

Comments: From the Las Vegas Sun (May 13, 2015)
Gov. Brian Sandoval has signed a bill that would make it easier for immigrants with temporary legal status to get a Nevada teaching license. The Republican governor signed AB27 on Wednesday and was flanked by legislators and a student who will benefit from the law.

The measure affects immigrants including those who have work permits through the Deferred Action for Childhood Arrivals program, also known as DACA recipients or DREAMers. Existing law allowed the state superintendent to give a teaching license to someone who is not a citizen but has a work permit only if there's a teacher shortage for a subject the person can teach. The new law allows those immigrants to get a teaching license if a district has a teacher shortage of any kind.

Disposition of Entry:
SSL Committee Meeting: 2016 B
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( ) Reject

Comments/Note to staff
Summary:
Existing law requires the governing boards of each community college district, the Trustees of the California State University, the Regents of the University of California, and the governing boards of independent postsecondary institutions to adopt and implement written procedures or protocols to ensure that students, faculty, and staff who are victims of sexual assault on the grounds or facilities of their institutions receive treatment and information, including a description of on-campus and off-campus resources.

This bill would require the governing boards of each community college district, the Trustees of the California State University, the Regents of the University of California, and the governing boards of independent postsecondary institutions, in order to receive state funds for student financial assistance, to adopt policies concerning sexual assault, domestic violence, dating violence, and stalking that include certain elements, including an affirmative consent standard in the determination of whether consent was given by a complainant. The bill would require these governing boards to adopt certain sexual assault policies and protocols, as specified, and would require the governing boards, to the extent feasible, to enter into memoranda of understanding or other agreements or collaborative partnerships with on-campus and community-based organizations to refer students for assistance or make services available to students. The bill would also require the governing boards to implement comprehensive prevention and outreach programs addressing sexual assault, domestic violence, dating violence, and stalking. By requiring community college districts to adopt or modify certain policies and protocols, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement. This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Status: Signed into law on September 28, 2014.

Comments: From the Associated Press
Gov. Jerry Brown announced Sunday that he has signed a bill that makes California the first in the nation to define when "yes means yes" and adopt requirements for colleges to follow when investigating sexual assault reports.

State lawmakers last month approved SB967 by Sen. Kevin de Leon, D-Los Angeles, as states and universities across the U.S. are under pressure to change how they handle rape allegations. Campus sexual assault victims and women's advocacy groups delivered petitions to Brown's office on Sept. 16 urging him to sign the bill.

De Leon has said the legislation will begin a paradigm shift in how college campuses in California prevent and investigate sexual assaults. Rather than using the refrain "no means no,"
the definition of consent under the bill requires "an affirmative, conscious and voluntary agreement to engage in sexual activity."

"Every student deserves a learning environment that is safe and healthy," De Leon said in a statement Sunday night. "The State of California will not allow schools to sweep rape cases under the rug. We've shifted the conversation regarding sexual assault to one of prevention, justice, and healing."

The legislation says silence or lack of resistance does not constitute consent. Under the bill, someone who is drunk, drugged, unconscious or asleep cannot grant consent.

Lawmakers say consent can be nonverbal, and universities with similar policies have outlined examples as a nod of the head or moving in closer to the person.

Advocates for victims of sexual assault supported the change as one that will provide consistency across campuses and challenge the notion that victims must have resisted assault to have valid complaints.

"This is amazing," said Savannah Badalich, a student at UCLA, where classes begin this week, and the founder of the group 7000 in Solidarity. "It's going to educate an entire new generation of students on what consent is and what consent is not... that the absence of a no is not a yes."

The bill requires training for faculty reviewing complaints so that victims are not asked inappropriate questions when filing complaints. The bill also requires access to counseling, health care services and other resources.

When lawmakers were considering the bill, critics said it was overreaching and sends universities into murky legal waters. Some Republicans in the Assembly questioned whether statewide legislation is an appropriate venue to define sexual consent between two people.

There was no opposition from Republicans in the state Senate.

Gordon Finley, an adviser to the National Coalition for Men, wrote an editorial asking Brown not to sign the bill. He argued that "this campus rape crusade bill" presumes the guilt of the accused.

SB967 applies to all California post-secondary schools, public and private, that receive state money for student financial aid. The California State University and University of California systems are backing the legislation after adopting similar consent standards this year.

UC President Janet Napolitano recently announced that the system will voluntarily establish an independent advocate to support sexual assault victims on every campus. An advocacy office also is a provision of the federal Survivor Outreach and Support Campus Act proposed by U.S. Sen. Barbara Boxer and Rep. Susan Davis of San Diego, both Democrats.
Disposition of Entry:

SSL Committee Meeting: 2016 B
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( ) Reject

Comments/Note to staff
**Summary:** (Section 12) Among other provisions, HB 1 specifies that the state will join the Prescription Monitoring interstate compact, which allows state governments to share prescription drug monitoring information with the governments of other states in the compact. The provisions of the bill regarding the compact are to become effective and binding upon the legislative enactment of the compact into law by no less than six states.

The bill enacts the Prescription Monitoring Compact to provide a mechanism for state prescription monitoring programs to securely share prescription data to improve public health and safety.

This interstate compact is intended to:
- Enhance the ability of state prescription monitoring programs, in accordance with state laws, to provide an efficient and comprehensive tool for:
  - Practitioners to monitor patients and support treatment decisions;
  - Law enforcement to conduct diversion investigations where authorized by state law;
  - Regulatory agencies to conduct investigations or other appropriate reviews where authorized by state law; and
  - Other uses of prescription drug data authorized by state law for purposes of curtailing drug abuse and diversion.
- Provide a technology infrastructure to facilitate secure data transmission.

The compact address issues specific to prescription drug data sharing such as the following: authorized uses and restrictions on the prescription drug data, technology, security, and funding.

Additionally the compact ensures that each member state retains control and sovereignty over their existing prescription monitoring program, while also being to share data across state lines.

Kentucky is the first state to join the compact.

**Status:** Signed into law on April 24, 2012.

**Disposition of Entry:**

SSL Committee Meeting: 2016 B
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( ) Reject

Comments/Note to staff
Summary:
This bill would authorize a pharmacist to furnish naloxone hydrochloride in accordance with standardized procedures or protocols developed and approved by both the board and the Medical Board of California, in consultation with specified entities. The bill would require the board and the Medical Board of California, in developing those procedures and protocols, to include procedures requiring the pharmacist to provide a consultation to ensure the education of the person to whom the drug is furnished, as specified, and notification of the patient’s primary care provider of drugs or devices furnished to the patient, as specified. The bill would prohibit a pharmacist furnishing naloxone hydrochloride pursuant to its provisions from permitting the person to whom the drug is furnished to waive the consultation described above. The bill would require a pharmacist to complete a training program on the use of opioid antagonists prior to performing this procedure. The bill would require each board to enforce these provisions with respect to its respective licensees.

Status:  Signed into law on September 15, 2014.

Comment:
From the Pharmacy Times (December 14, 2014)
With Pennsylvania pharmacies now authorized to fill third-party naloxone prescriptions and California pharmacies set to dispense naloxone without any prescription at all, more and more pharmacists are providing a critical public pathway to the opioid overdose antidote.

“We see our naloxone access legislation as one more way California pharmacists are becoming primary care providers,” Jon Roth, CEO of the California Pharmacists Association (CPhA), told Pharmacy Times in an exclusive phone interview. “Dispensing naloxone is one more pathway for pharmacists to serve their communities.”

When the state’s new naloxone law takes effect on January 1, 2015, Roth said California pharmacists who wish to dispense the opioid reversal drug without a prescription must complete a 1-hour continuing education (CE) course that the CPhA is currently developing.

Well over 100 pharmacists in New Mexico have undergone similar training to dispense naloxone since last January, when the New Mexico Board of Pharmacy amended the Pharmacist Prescriptive Authority Act to include the opioid overdose reversal drug alongside vaccines and tobacco cessation therapy.

“One of the purposes of this new protocol was to address complaints that pharmacies were not stocking naloxone because prescribers were not prescribing it. So, it was believed that if pharmacists could prescribe it, then it would be in stock,” Dale Tinker, executive director of the New Mexico Pharmacists Association, told Pharmacy Times in a phone interview. “Now, other practitioners are now prescribing it definitely more than they were before…and we’re letting pharmacists who fill opioid prescriptions know that if a prescriber doesn’t co-prescribe naloxone, then the pharmacist can do that.”
In a policy statement issued in October 2014, the National Association of Boards of Pharmacy (NABP) said it “recognizes the value of pharmacists in assuring optimal medication therapy and promotes the pharmacist’s role in delivering opioid overdose reversal therapy.” In light of those sentiments, the NABP stated it “resolves to address the drug overdose epidemic crippling our nation by engaging with state and federal officials and representatives from national associations to support programs that involve an active role for pharmacists in expanding access to the opioid overdose reversal drug.”

Since November 5, 2014, a total of 25 states and the District of Columbia have passed naloxone access laws, according to The Network for Public Health Law. However, only New Mexico, Washington, New York, Rhode Island, and Vermont make the opioid overdose agent available from pharmacists without a prescription.

In Washington and Rhode Island, pharmacists are entering into collaborative practice agreements with physicians to gain prescriptive authority for naloxone. Through such agreements, pharmacists “work more closely with providers and their patients to increase awareness of overdose risk and to increase community protection from opioid overdose death by greatly increasing access to naloxone, particularly to those who do not know their risk,” Jeffrey Bratberg, PharmD, co-chair of the Rhode Island Pharmacists Association’s legislative committee, told Pharmacy Times in an email.

“I hope that with this increased knowledge of the problem and one solution to this problem, naloxone, literally in their hands, pharmacists will help reduce the stigma associated with opioid abuse and educate more and more people about their risk for overdose and how to prevent death as a result of overdose,” Dr. Bratberg added.

Read more: http://www.pharmacytimes.com/news/Pharmacists-Provide-New-Pathway-to-Naloxone#sthash.y9YfgkLh.4oD1UKWy.dpuf

From KPCC (Southern California Public Radio) (September 16, 2014)
California is joining five other states in allowing residents to access the overdose antidote naloxone without a prescription.

Naloxone is regularly used in emergency rooms to restore breathing in people who overdose on opiates such as oxycodone and heroin. Until now it has only been available in California through a doctor’s prescription or from one of a handful of naloxone distribution programs. Once the law takes effect on January 1, pharmacists will be able to provide the drug to family members or the drug user directly to have on hand in case of an overdose.

The state pharmacy and medical boards will develop guidelines for pharmacists on when and how to dispense naloxone. The law also calls for education and training for pharmacists and consumers.
The author of the bill, Assemblyman Richard Bloom (D-Santa Monica), said the law "will have a real and immediate impact on reducing overdose deaths in California and will empower families throughout the state to access this life-saving drug."

"Lives can be lost in the minutes waiting for an officer or an ambulance to arrive with naloxone," said Meghan Ralston, harm reduction manager of the Drug Policy Alliance, one of the co-sponsors of the bill. The California Pharmacists Association was also a co-sponsor.

Naloxone is already available from a pharmacist without a prescription in Washington, Rhode Island, New Mexico, New York and Vermont.


Disposition of Entry:

SSL Committee Meeting: 2016 B
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( ) Reject

Comments/Note to staff
Bill/Act: **AB 8637**

**Summary:**
Allows for the prescribing, dispensing and distribution of an opioid antagonist by a non-patient specific order.

Authorizes the Commissioner of Health to establish standards for the prescribing, dispensing, distribution, possession and administration of opioid antagonist under the Opioid Overdose Prevention Program. Expands a health care professional’s authority to prescribe, dispense or distribute, directly or indirectly, an opioid antagonist by authorizing such by non-patient-specific prescription. Provides that a pharmacist may dispense through a non-patient-specific prescription. A recipient of the opioid antagonist is authorized to possess, distribute and administer the opioid antagonist. Clarifies that any recipient acting reasonably and in good faith pursuant to this section shall not be liable. Requires the program to report annually.

**Justification:** New York State, like the nation, is in the midst of a severe prescription drug crisis. Prescriptions for opioids, particularly oxycodone and hydrocodone have skyrocketed. The Centers for Disease Control and Prevention reports that every 19 minutes, one person dies as a result of prescription drug abuse. In 2012, the legislature enacted the seminal I-STOP legislation to track controlled substance prescribing, prevent doctor shopping and weed out unscrupulous doctors. One unfortunate side effect of successfully restricting street access to these controlled substances is that addicts are turning to other drugs, such as heroin. Heroin has now become the cheaper alternative to opioids. On Long Island it is estimated that heroin addiction has increased four-fold since 2011.

As detailed in the Senate Health Committee's white paper The Prescription Drug Crisis in New York: A Comprehensive Approach, there is a need to look at the complete spectrum of drug abuse in order to address this crisis. While the state has made great advances, much more is needed. One of the topics raised at the roundtables held by the Health Committee in 2011 and 2012, was access to Naloxone (Narcan). Naloxone, sometimes referred to as the drug-overdose antidote, counteracts the life threatening depression of the central nervous system and respiratory system caused by an opioid or heroin overdose. If timely administered, Naloxone can prevent overdose deaths. The Department of Health recommends administering Naloxone directly to an individual overdosing on an opioid after calling 911 and checking for breathing.

In 2005, the state authorized non-medical persons to administer Naloxone to an individual in order to prevent an opioid or heroin overdose from becoming fatal. In 2011, the state adopted Good Samaritan protections for witnesses and victims of overdoses. By removing the threat of prosecution, this measure encourages witnesses of an overdose to call 911 before it becomes deadly.

Due to the increase of opioid abuse, expanded access to Naloxone has become a necessary priority to save lives. In Nassau County, EMTs administer Naloxone through their police department's ambulance services and in Suffolk County the state provided first responders with Naloxone. Expanding upon the success of existing programs, more lives could be saved if Naloxone was available to addicts, their families and other people likely to be in a position to...
assist a person at risk of an opioid related overdose. Currently, parents and family members of addicts are being turned away from Naloxone training programs or are attending the programs and not receiving Naloxone due to the shortage of prescribers participating in such programs.

Under this legislation one prescriber would be able to issue a non-patient specific order to numerous programs, allowing for increased access. This legislation will also allow for expanded access through pharmacies. By increasing access, this legislation will equip individuals likely to discover an overdose victim with the ability to save their life.

**Status**: Signed into law on June 24, 2014.

**Comment**: From the [Associated Press](May 7, 2014)
New York lawmakers have passed a bill to boost the availability of a drug that reverses heroin overdoses. The bipartisan measure would allow health care professionals to provide orders for naloxone to certified training programs and pharmacies.

Pharmacists would then be able to issue naloxone kits to anyone at risk of an overdose or their caretaker and instruct them on how to administer the drug. Naloxone is marketed under the name Narcan.

The legislation comes at a time where heroin deaths in the state have more than doubled from 215 in 2008 to 478 in 2012, a trend that’s expected to increase.

The practice of equipping people with Narcan has been growing in popularity amid the surge of heroin overdose deaths. Last month, New York Attorney General Eric Schneiderman announced a program that would let every state and local law enforcement officer to carry the antidote


**Disposition of Entry:**

SSL Committee Meeting: 2016 B
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Comments/Note to staff
Summary: An act requiring health care facilities that perform mammography examinations to communicate mammographic breast density information to patients.

The legislation requires that women who have mammograms be informed of their breast tissue type. Specifically, women who have dense breast tissue will receive the following statement in writing as part of their mammogram result:

"Your mammogram indicates that you may have dense breast tissue. Dense breast tissue is relatively common and is found in more than forty percent (40%) of women. The presence of dense tissue may make it more difficult to detect abnormalities in the breast and may be associated with an increased risk of breast cancer. We are providing this information to raise your awareness of this important factor and to encourage you to talk with your physician about this and other breast cancer risk factors. Together, you can decide which screening options are right for you. A report of your results was sent to your physician."

Status: Signed into law on July 23, 2013.

Note: The Committee rejected a Connecticut bill on this topic in May 2012. Unlike the previously considered legislation, this bill specifically requires the patient’s BI-RADS classification be reported to them within their breast density report from the radiologist. The Connecticut law requires general BI-RADS breast density information be relayed to the patient, but not their specific BI-RADS classification that will show them they have dense breast tissue and at what level. Proponents of the law argue that communicating this information directly to the patient saves a step by not requiring them to proactively speak with their radiologist and/or physician to get their BI-RADS classification.

Comment: From the Asheville Citizen Times (October 1, 2014)
Julie Young, a lawyer and Wells Fargo bank vice president, boogie boarder and mountain climber, has always been a woman to take charge, ask questions, and make things happen. That's why the 56-year-old from Arden started getting mammograms at age 30. Her grandmother had been diagnosed with breast cancer at an early age, and Young, knowing family history is a risk factor, wanted to take a proactive role in her health.

Except that more than 20 years of mammograms failed her. In April 2012, Young was diagnosed with breast cancer. It was discovered, not by any of her mammograms, which always produced normal results, but when she herself felt a lump. It was a hard way for Young to learn she didn't ask enough questions, especially about the effectiveness of mammograms when it comes to dense breasts.

Now Young is hoping that a new North Carolina law mandating that women be informed of their breast density will help educate and empower other women to ask questions that could help save their lives.
The new legislation, known as the "breast density law," went into effect Jan. 1. It requires health care facilities that perform mammograms to let patients know by letter which of four types of breast density they have.

For women with dense breasts, the letter includes the warning that the density "may make it more difficult to detect abnormalities ... and may be associated with an increased risk of breast cancer."

But the law does not require physicians to call their patients to discuss the findings.

"I remember gynecologists or technicians saying that I had dense breasts but I didn't know what that meant," Young said. "I'm usually much more inquisitive, and I'll ask questions if I don't understand. But I think with this, because it's breasts and we're women, we don't want to think about losing them."

In a growing trend, more state lawmakers are taking note of breast density as a risk factor for breast cancer. North Carolina is now one of 14 states to enact laws requiring medical facilities to tell women what their breast density classification is in mammogram reports.

"The interesting thing to note about this bill," said Rep. Susan Fisher, D-Buncombe, one of the law's sponsors, "especially in a session that was as divided as this one was, here's a bill that has Republicans and Democrats sign on as sponsors, and it's something that promotes health care for women."


Disposition of Entry:

SSL Committee Meeting: 2016 B
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Comments/Note to staff
21-36B-04 Patient Protection and Transparency Act        West Virginia
Bill/Act: SB 366

Summary:
The purpose of this bill is to enact the Patient Protection and Transparency Act which requires information to be made available online to persons who purchase or are interested in purchasing insurance through the West Virginia Health Benefit Exchange or an exchange website operated by the federal government.

Some highlights of the West Virginia law include, but are not limited to, the following public disclosure of:

- The names of the physicians, hospitals and other health care providers that are in network;
- Restrictions on use or quantity of covered items and services by category of benefits;
- The dollar amount of copayments;
- The percentage of coinsurance by item and service;
- Information sufficient to determine whether a specific drug is available on formulary;
- Clinical prerequisites or authorization requirements for coverage of specific drugs;
- A description of out-of-pocket costs that may not apply to the deductible for a medication;
- An explanation of the amount of coverage for out-of-network providers or noncovered services; and
- The process for a patient to appeal a health plan decision.

Status: Signed into law on March 18, 2015.

Comments: From Health Care Highlights, a publication of the West Virginia State Medical Association (March 9, 2015)

The Patient Protection and Transparency Act (SB 366), advanced Thursday by the House Committee on Health and Human Resources, requires that specific information be available to consumers for each qualified health plan offered for sale through a health insurance exchange. Proponents say the measure helps consumers make informed choices.

The list of 15 items includes: names of physicians, hospitals and other providers in network; a list of the types of specialists in network; exclusions from coverage by category of benefits; restrictions on use or quantity of covered items and services by category of benefits; the dollar amount of copayments; the percentage of coinsurance by item and service; required cost-sharing; information sufficient to determine whether a specific drug is available on formulary; clinical prerequisites or authorization requirements for coverage of specific drugs; a description of how medications will be included in or excluded from the deductible; a description of out-of-pocket costs that may not apply to the deductible for a medication; information sufficient to determine whether a specific drug is covered when furnished by a physician or clinic; an explanation of the amount of coverage for out-of-network providers or non-covered services; the process for a patient to appeal a health plan decision; and contact information for the qualified health plan.
Phil Reale, presenting the National Health Council, said pharmaceutical manufacturers support the bill. “All of the information is available already, but it’s difficult to access,” he explained. “The trade association supports this so the consumer understands that they will receive the treatment they are accustomed to receiving, including prescriptions. This is a complaint that has flowed up, from the grassroots.”

Highmark Blue Cross Blue Shield currently is the only insurer providing plans under West Virginia’s health benefit exchange. Reale said Blue Cross offers multiple plans, and consumers sometimes base their decisions strictly on cost, without fully exploring other aspects of the plans. More than 30,000 people have insurance through West Virginia’s state-federal exchange.

Delegate Patrick Lane said he believes the bill is consumer friendly, and blasted an earlier fiscal note attached to the bill “that someone thinks is going to influence public policy.” Lane questioned any purported costs associated with maintaining a database to meet the bill’s mandate, saying that any child can upload PDF documents to a website.

Read more:
http://www.wvsma.com/Portals/0/HCH%202015%20Issue%208%20FINAL%20PDF.pdf

Disposition of Entry:

SSL Committee Meeting: 2016 B
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Comments/Note to staff
21-36B-05 Save Medicaid Access and Resources Together Act       Illinois
Bill/Act:  SB 2840

Summary:
The SMART Act scales Medicaid to fit available funding sources through spending reductions, utilization controls and provider rate cuts. Section 11.5-3: New integrity measures will aggressively target client and provider fraud through enhanced eligibility verification of income and residency through use of private vendor’s access to national databases for annual redeterminations; and

Status:  Signed into law on June 14, 2012.

Comments:  Illinois Policy (November 8, 2013)
In January, the Illinois Department of Healthcare and Family Services, or HFS, began a new project verifying eligibility for Illinois’ 2.7 million Medicaid enrollees. For years, state workers had failed to take adequate steps to ensure the people receiving Medicaid benefits were actually eligible for the program. As an Auditor General report noted, state workers failed to verify basic eligibility criteria, such as income, residency and citizenship status. Worse yet, some of the annual eligibility checks had been delayed for more than five years.

So state lawmakers pushed HFS to hire an independent vendor who specializes in this kind of work to review Medicaid eligibility. Since January, the independent vendor has reviewed nearly 419,000 case files of individuals currently enrolled in Medicaid. Of those, the vendor identified more than 210,000 that were ineligible for benefits, which amounts to more than 50 percent of all cases reviewed so far. Another 47,000 cases reviewed so far this year were eligible for some benefits, but enrolled in the wrong program. For example, some individuals enrolled in Medicaid may only qualify for programs with greater cost-sharing. Overall, the review has yielded an eligibility error rate of more than 61 percent.

When HFS receives a recommendation from the independent vendor to cancel benefits for a particular case, the state gives the enrollee an additional 20 days to submit documentation showing they are still eligible for benefits. The state then removes individuals from the program after verifying that they are no longer eligible.

Read more:  https://www.illinoispolicy.org/audit-half-of-illinois-medicaid-enrollees-reviewed-to-date-found-ineligible/

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SSL Committee Meeting: 2016 B
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Comments/Note to staff
Summary:
The bill requires hospitals to give each patient or patient’s legal guardian an opportunity to designate a caregiver who will provide after-care assistance to the patient following discharge from the hospital. The bill also requires the hospital to record the name and contact information of the caregiver in the patient’s medical record and to notify the caregiver upon the patient’s discharge or transfer to another facility.

Status: Signed into law on May 9, 2014.

Comment: From AARP Oklahoma (November 7, 2014)
As of November 1st, Oklahoma is the first state in the nation to adopt a new law that will provide new rights and better supports for caregivers. The CARE Act, which was championed by AARP, would not have happened without the hard work and leadership of Senator Brian Crain, R-Tulsa, Rep. Harold Wright, R-Weatherford and Governor Mary Fallin.

Working together, we helped enact the new caregiving law based on three important concepts: designation, notification and consultation.

Under the CARE Act, patients can now formally designate a caregiver when they are admitted to the hospital – this can be a family member, a friend or even a neighbor. The hospital must notify the designated caregiver before the patient is discharged or transferred to another facility and provide consultation to caregivers on how to care for the patient when they return home. This could include explaining how to dispense medicine, give shots or dress wounds.

Oklahoma caregivers have told us about the challenges they face trying to provide care for a patient with little or no instruction after they are discharged from the hospital. One caregiver said her husband was sent home from the hospital with more than 20 medications and no explanation on how they should be administered. I met another Oklahoma caregiver that performs complex medical tasks, like changing feeding tubes and flushing PICC lines, without ever being instructed on how to perform these tasks. Still another caregiver from eastern Oklahoma shared the desperation she felt after accidentally breaking her husband’s leg by improperly transferring him from a vehicle to a wheelchair.

These are the real struggles more than 600,000 Oklahoma caregivers face every day. The CARE Act is an important step forward in supporting family caregivers, improving post-discharge health outcomes, reducing costly and preventable hospital readmissions and enabling Oklahomans to live independently in their own homes.


From The Oklahoman (August 28, 2014)
Q: The CARE (Caregiver Advise, Record and Enable Act) was passed by the Oklahoma Legislature earlier this year and takes effect Nov. 1. What does it do?
A: The law allows a patient at a hospital, or similar facility, or the guardian of a patient to name a lay caregiver 18 or older to work with hospital personnel and provide aftercare for the patient after his/her release. The act shouldn’t interfere with the rights of those legally chosen to make health care decisions, such as a health care proxy in an advance directive or an attorney in fact in a durable power of attorney.

Q: What is aftercare?
A: Aftercare means any care after the patient’s discharge, related to the patient’s condition that caused hospitalization, and not requiring a licensed caregiver. For instance, picking up prescriptions would be a task a lay caregiver could do.

Q: Can a lay caregiver be paid by the government?
A: The act prohibits the use of state and federal funds to pay a lay caregiver for aftercare at the patient’s home.


Disposition of Entry:

SSL Committee Meeting: 2016 B
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Comments/Note to staff
Summary:
This bill imposes dollar limits on the health plan practice of prescription drug cost-sharing known as specialty tiers, in order to protect patients from unaffordable co-insurance or co-payment amounts. Patients’ co-insurance or co-payment fees for specialty tier drugs will be limited to $150 per month for up to a 30-day supply of any single specialty tier drug. Patients will also be able to request an exception to obtain a specialty drug that would not otherwise be available on a health plan formulary.

- Limits co-payment or co-insurance for specialty tier drugs to $150 for a 30-day supply of any single specialty tier drug.
- Requires issuers with a specialty drug formulary to implement a process for enrollees to seek exceptions.
- Prohibits issuers from placing all drugs of a particular class on the specialty tier.

Status: Signed into law on July 23, 2013.

Comment: From the Washington Post (March 13, 2013)
The biggest battle in health care these days — besides the ongoing fight over Obamacare — is over the price of expensive life-saving medications.

Specialty drug spending fueled a 13 percent increase in prescription drug spending last year, the largest annual increase in the past decade, according to a report this week from pharmacy benefits manager Express Scripts. These drugs represent just 1 percent of all U.S. prescriptions, yet they made up nearly 32 percent of all drug spending in 2014, up from 28 percent in 2013. Specialty drugs treat complex conditions from hepatitis C to cancer, multiple sclerosis and HIV, with monthly treatments sometimes costing tens of thousands of dollars. Even with insurance, patients sometimes dish out thousands of dollars each year.

These trends are only set to accelerate with millions more Americans getting health insurance through the Affordable Care Act. And there's a growing debate over who's to blame for the costs. Insurers complain that drugmakers' prices go virtually unchecked in the United States.

Drugmakers complain that insurers are selling plans that increasingly making it harder for patients to access and afford their drugs. And in the middle are patients, whose lives could depend on these advances in medicine.

The fight centers on how drug benefits are designed in health plans, particularly the use of benefit tiers. Health plans usually put lower-cost and preferred drugs at lower tiers that come with smaller out-of-pocket costs. But in the last few years, tiers have become more complex.

The tiers have grown from two to three, four and five. Plans now often distinguish between preferred generics and non-preferred generics, as well as preferred and non-preferred brand name drugs. Specialty medications, which according to one estimate cost 50 times more than a
traditional brand-name drug, are found in the highest tiers. Patients usually pay a percentage of the cost of these expensive drugs, or co-insurance, in contrast to the set co-pays charged for medicines in lower tiers.

Specialty drug tiers are sweeping the insurance world. As of 2014, virtually all seniors in Medicare's prescription drug program or Medicare Advantage were enrolled in plans that had a specialty tier for drugs that cost the insurers at least $600 per month, according to a Kaiser Family Foundation study.

A handful of states have in the past few years passed laws or proposed legislation further limiting how much patients pay out of pocket for specialty medications. Louisiana and Maryland, for example, last year enacted laws preventing patients from spending more than $150 per month on a single specialty drug. Louisiana's law also requires that insurers using specialty drug tiers allow their patients to appeal for an exception.

But insurers argue that such measures would mean higher premiums for everyone else.

From the *New York Times* (April 12, 2012)
The hemophilia drug that saves 7-year-old William Addison from uncontrolled bleeding costs $100,000 a year. His family’s insurance pays virtually all of it. But his mother, Victoria Kuhn, says she is terrified that the insurance company may start requiring patients to pay as much as a third of the cost of the drug. “I don’t know where we’d find $30,000,” said Ms. Kuhn.

Spurred by patients and patient advocates like Ms. Kuhn, lawmakers in at least 20 states, from Maine to Hawaii, have introduced bills that would limit out-of-pocket payments by consumers for expensive drugs used to treat diseases like cancer, rheumatoid arthritis, multiple sclerosis and inherited disorders.

Pharmaceutical companies would also benefit from such legislation because high co-payments discourage patients from taking their medicines

The state bills — which would not apply to employers that insure themselves since their plans are not regulated by states — take various approaches.

New York’s law basically prohibits a fourth tier. At the time the legislation was enacted, no insurer in the state had a fourth tier, and it is not clear whether any would have started one had the law not been enacted.

Maine’s bill initially prohibited specialty tiers. The law as enacted allows them, but sets a limit of $3,500 a year for patient co-insurance payments for drugs,

Louisiana and Texas both enacted laws last year that do not limit out-of-pocket drug costs, but prohibit insurers from raising them in the middle of a contract year.

Some state bills, like one introduced recently in California, and one that died in Washington, take the same approach as the federal law, but would have it apply earlier. The federal law requires
insurers, starting in 2014, to cap total yearly out-of-pocket costs, including for drugs, at about $6,000 for an individual and $12,000 for a family.


From the State Health Reform Assistance Network (August 2014)
Several states have introduced legislation that limits cost-sharing for specialty drugs. The most common legislative initiatives include a cap of $150 for a 30-day supply of a single specialty tier drug. Delaware, Louisiana, and Maryland have enacted laws that include that provision. Delaware and Louisiana laws also include a requirement that issuers who utilize a specialty drug formulary establish an appeals process for enrollees whose health care providers attest that a nonformulary drug would be the most effective treatment for their disease or condition. Additionally, Delaware’s law prohibits issuers from placing all drugs of a particular class on a specialty tier. Maryland’s new law requires the $150 cap to be revisited each year and adjusted based on the medical care Consumer Price Index.


Disposition of Entry:

SSL Committee Meeting: 2016 B
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Comments/Note to staff
Summary:
New law requires a health insurance issuer of a health benefit plan that covers prescription drugs as defined in prior law and utilizes a formulary tier that is higher than a preferred or non-preferred brand drug tier, sometimes known as a specialty drug tier, to limit any required co-payment or coinsurance applicable to drugs on such tier to an amount not to exceed $150 per month for each drug up to a 30-day supply of any single drug. Requires such limit to be inclusive of any co-payment or coinsurance and be applicable after any deductible is reached and until the individual's maximum out-of-pocket limit has been reached.

New law requires a health care issuer of a health benefit plan that covers prescription drugs as defined in prior law and utilizes specialty tiers to implement an exceptions process allowing enrollees to request an exception to the formulary. Further provides that under such an exception, a non-formulary specialty drug could be deemed covered under the formulary if the prescribing physician determines that the formulary drug for treatment of the same condition either would not be as effective for the individual, would have adverse effects for the individual, or both.

New law provides that in the event an enrollee is denied an exception, such denial shall be considered an adverse event and shall be subject to the health plan internal review process and the state external review process.

- Limits co-payment or co-insurance for specialty tier drugs to $150 for a 30-day supply of any single specialty tier drug—after any deductible and until maximum out-of-pocket amount is reached.
- Requires issuers with a specialty drug formulary to implement a process for enrollees to seek exception.

Status: Signed into law on June 4, 2014.

Comment:
Read more:

Disposition of Entry:
SSL Committee Meeting: 2016 B
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Comments/Note to staff
Bill/Act: **SB 5000**

**Summary:**
Provides that no health care plan or health insurance policy which provides coverage for prescription drugs and for which cost-sharing, deductibles or co-insurance obligations are determined by category of prescription drugs including, but not limited to, generic drugs, preferred brand drugs and non-preferred brand drugs, shall impose cost-sharing, deductibles or co-insurance obligations for any prescription drug that exceeds the dollar amount of cost-sharing, deductibles or co-insurance obligations for any other prescription drug provided under such coverage in the category of non-preferred brand drugs or their equivalents.

- Limits co-payment and co-insurance for specialty tier drugs to $150 for a 30-day supply of any single specialty tier drug.
- Requires issuers with a specialty drug formulary to implement a process for enrollees to seek exceptions.
- Prohibits issuers from placing all drugs of a particular class on the specialty tier.

**Status:** Signed into law on October 8, 2010.

**Comment:** From [News Long Island](http://www.newslongisland.com) (April 23, 2008)
State Senate Democratic Leader Malcolm A. Smith (St-Albans) and members of the Senate Democratic Conference today announced they will introduce legislation preventing health insurers from implementing a prescription drug pricing system in New York that has dramatically increased consumer co-payments in other states.

“Health insurance companies are proposing new pricing methods for high-priced prescription drugs, asking patients to shell out hundreds and even thousands of dollars of their earnings for medications they need to survive,” said Smith, the St. Albans Democrat. “This new structure means the obligation of health care and prescription costs will be shifted from health insurers and thrown onto the backs of struggling low-and middle-income families that may need specialty medications in order to survive. The whole point of health insurance is to share the costs of paying to keep people healthy and well.”

In New York State, most Health Maintenance Organizations (HMOs) and Pharmacy Benefit Managers (PBMs) currently operate under a standard three-tier system ($5 generic, $10 or more for preferred-brand, and $25 or more for non-preferred brand) common to most people who use private insurance.

But, increasingly families and individuals in other states struggling with diagnoses of anemia, cancer, multiple sclerosis and hepatitis C, who depend on cutting-edge medications for functioning or daily survival have been hit hard by pricing increases that can amount to 33 percent of the total costs of each prescription. Instead of the standard co-pay, patients are seeing fees dramatically increase to hundreds or even thousands of dollars per prescription.

One New York City woman suffering from multiple sclerosis said that the proposed Tier 4...
pricing system would make her medication completely unaffordable by dramatically increasing her $25 monthly co-payment to as high as $735. Another MS sufferer in Orange County said that if Tier 4 were implemented his $35 monthly co-payments could reach $805.

“Tier 4 drug pricing is a terrible concept,” said Senator Neil D. Breslin (D-Albany), ranking Democrat on the Standing Committee on Insurance. “Insurance is designed to spread risk among a group of people. Singling out our sickest and most vulnerable to pay more money for their health care is unforgivable in any context, let alone in a climate where HMOs are recording excessive profits and a HMO like HIP is allowed to double the compensation of its top ten executives.”

According to the New York State Insurance Department (DOI), premiums and rate changes are reviewed by the Superintendent of Insurance. Health insurance companies are required to submit a formal application which DOI may modify, approve, or reject. DOI has not approved any Tier 4 proposals for New York residents, and no Tier 4 plans are currently in effect here.

Some health insurers have argued that the new pricing structure is necessary to reduce employer medical insurance premiums. But Senate Democrats maintain that the proposed implementation of the Tier 4 pricing would unfairly shift the burden to consumers.


Disposition of Entry:

SSL Committee Meeting: 2016 B
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Comments/Note to staff
Summary:
Statement of Purpose: All states have statutes which allow individuals to delegate substitute decision-making authority. In Idaho, the main examples are financial powers of attorney and medical powers of attorney and mental health powers of attorney. If the person executes the document in Idaho and stays in Idaho, the documents will be recognized.

However, in our mobile society, individuals move, travel, and may end up needing the document to be recognized in another jurisdiction. This bill is creating that ability. For financial powers of attorney, Idaho has adopted some of these provisions already in the Statutory Power of Attorney Act, and therefore this bill defers to those existing provisions. In the medical power of attorney, on the other hand, there are very limited provisions for recognition of documents from other jurisdictions. This creates great problems for individuals and medical providers when treatment is needed but the authorizing document is from another jurisdiction. This bill defers to the limited existing provisions in Idaho law, but adds major provisions. This bill protects good faith acceptance or rejection of the document. It also provides limits on what the entity or person to whom the document is presented can request, using the same limits as the existing Idaho Statutory Power of Attorney Act. This bill will allow individuals to have control over their financial and medical decisions and their choices of who can act when the individual cannot act.

Status: Signed into law on March 25, 2015.

Comment: From the Uniform Law Commission:
Substitute decision-making documents are widely used in every U.S. State and Canadian Province for both financial transactions and health care decisions. These documents are commonly called powers of attorney, proxies, or representation agreements, depending on the jurisdiction, and the law governing their use also varies from place to place. Consequently, a person’s authority under a decision-making document may not be recognized if the document is presented in a place outside the state of its origin. In our modern mobile society, this can create serious problems for the people who rely on their agents to make decisions when they cannot do so for themselves.

However, a person asked to accept a decision-making document from out of state faces problems as well. Because the law varies by jurisdiction, significant legal research may be required to determine whether a foreign document actually complies with the law where it was executed.

The Uniform Recognition of Substitute Decision-making Documents Act (URSDDA) is the result of a joint project between the Uniform Law Commission and the Uniform Law Conference of Canada to resolve these problems. The act employs a three-part approach to portability modeled after the Uniform Power of Attorney Act:

1. First, the act recognizes the validity of a substitute decision-making document for use in the enacting state if the document is valid as determined by the law under which it was created.
2. Second, the act preserves the meaning and effect of a substitute decision-making document as defined by the law under which it was created regardless of where the document is actually used.

3. Third, the act protects the persons asked to accept a foreign document from liability for either acceptance or rejection, if they comply with the law in good faith.

URSDDA’s effect is best illustrated with an example.

John and Jane are longtime friends living in Ottawa, Canada. John is unmarried, and owns a hardware store that he manages with the help of his adult son Robert. With the assistance of his attorney, John executes a substitute decision making document giving Jane the power to make health care decisions on his behalf if he ever becomes incapacitated and cannot make decisions for himself. John also executes a separate document giving Robert the power to make financial transactions on his behalf, effective immediately.

John and Robert are meeting with a hardware supplier in Minneapolis, Minnesota when they are involved in a traffic accident and John is seriously injured. He is transported to the closest hospital where doctors perform emergency surgery. When Jane is informed, she immediately flies to Minneapolis to be at his side.

After surgery, John’s doctors keep him under heavy sedation while he heals. His surgeon recommends a second procedure that might restore more of John’s ability to use his damaged arm, but John is unable to evaluate the risks of the procedure for himself. Jane presents a copy of John’s health care decision-making document to the hospital administrator, who must determine whether she has the authority to authorize John’s additional procedure.

Assume the state of Minnesota has enacted URSDDA. The hospital administrator, being unfamiliar with Ottawa’s law, asks Jane to (i) provide an opinion of counsel that the document is valid under Ottawa law, and (ii) verify that she is the person to whom John granted the authority to make health care decisions, and that John never revoked her authority. (The administrator could also ask for an English translation of the document if applicable.) Jane verifies her identity and her authority, and asks John’s attorney to send an opinion of counsel to the administrator via email. Once received, the administrator can allow Jane to direct John’s health care and the hospital will incur no liability for recognizing her authority.

Meanwhile, using his authority to make financial transactions for John, Robert wants to complete the planned order with their hardware supplier. When presented with John’s substitute decision-making document, the supplier may ask for the same assurances as the hospital administrator, and receive the same protections from liability for good faith compliance with John’s grant of authority to Robert.

If there was any question as to the extent of Jane’s or Robert’s authority because the documents were vague or contradictory, the meaning and effect of the documents would be determined under Ottawa’s law. In other words, the meaning and effect of any particular document does not change simply because the document is used in another state or province.
Finally, if either the supplier or the hospital administrator had reason to believe the substitute-decision making document presented was invalid, or that Jane or Robert were exceeding their authority under the document, the supplier or the hospital administrator could reject the document, again without fear of incurring liability.

The preceding example uses Canadian residents, but the effect is exactly the same for residents of the United States who present substitute decision-making documents in another state or Canadian province.

Powers of Attorney are widely used in every state for both financial purposes and for health care decisions. As their use has become more common in recent years, situations arise where an agent under a power of attorney must present the document in a state other than the state where the power of attorney was executed. Because state laws vary widely, a person asked to accept a power of attorney executed in another state may not be comfortable accepting the agent’s authority.

Complicating the matter further, powers of attorney are sometime called by different names. They may be called “proxies” in the northeastern states, or “representation agreements” in Canadian provinces. The Uniform Recognition of Substitute Decision-Making Documents Act (URSDDA) was drafted by the ULC in conjunction with the Uniform Law Conference of Canada to encourage cross-border acceptance of these documents, by whatever name they may be called.

States should enact URSDDA because:

- **URSDDA provides a simple system for accepting foreign powers of attorney.** The person asked to accept a foreign POA may rely in good faith on the agent’s authority unless the person has actual knowledge of invalidity. The person can also request an English translation, an agent’s affidavit to affirm relevant facts, or an opinion of counsel from someone licensed to practice law in the state of the POA’s execution. If any of these documents are requested they must be provided at the agent’s expense.

- **URSDDA ensures the scope of an agent’s authority remains constant in any jurisdiction.** Although POA laws vary, the scope of an agent’s authority should not change when the agent crosses a state border. URSDDA protects the principal’s original intent by making clear that the meaning and effect of a power of attorney is governed by the law of the state or province where it was executed.

- **URSDDA gives third parties broad authority to reject powers of attorney in appropriate circumstances.** A person need not accept a foreign power of attorney if the person would not be obligated to act on the principal’s request, if the agent refuses to provide an affidavit, translation, or opinion of counsel, if elder abuse is suspected and a report made, or if the person has a good faith belief that the document is invalid or the agent is exceeding the authority granted.
Disposition of Entry:

SSL Committee Meeting: 2016 B
( ) Include in Volume
( ) Include as a Note
( ) Defer consideration:
     ( ) next SSL mtg. ( ) next SSL cycle
( ) Reject

Comments/Note to staff
Summary:
This bill prohibits a contract or proposed contract for the sale or lease of consumer goods or services from including a provision waiving the consumer’s right to make any statement regarding the seller or lessor or its employees or agents, or concerning the goods or services. The bill makes it unlawful to threaten or to seek to enforce, a provision made unlawful under the bill, or to otherwise penalize a consumer for making any statement protected under the bill.

The bill imposes civil penalties upon any person who violates the provisions of the bill, of $2,500 for the initial violation and $5,000 for each subsequent violation, as well as an additional penalty of $10,000 if the violation was willful, intentional, or reckless. The bill authorizes the consumer, the Attorney General, or a district attorney or city attorney to bring a civil action for a violation of the provisions of the bill. The bill provides that the penalty set forth in the bill is not an exclusive remedy, and does not affect any other relief or remedy provided by law. The bill does not prohibit or limit a person or business that hosts online consumer reviews or comments from removing a statement that is otherwise lawful to remove.

Status: Signed into law on September 9, 2014.

Comments: From the Wall Street Journal (September 12, 2014)
Companies could be slapped with thousands of dollars in fines for trying to punish a consumer for writing a negative online review under a new Yelper-friendly law enacted in California.

The so-called “Yelp Bill”, believed to be the first of its kind in the nation, makes it unlawful in California for a company to insert a provision into a consumer contract that waives the right to make “any statement” about the goods or services purchased. And the statute makes it illegal to try to enforce such a provision or otherwise penalize a consumer for a review. It wouldn’t, though, stop a company from bringing a defamation lawsuit accusing a consumer of lying about its product.

Companies that disobey the law could face fines up to $5,000. The maximum penalty is $10,000 for “willful, intentional, or reckless” violations.

The law also makes clear that a website that hosts online reviews may delete content posted by consumers.

Scott Michelman, an attorney with Public Citizen, a nonprofit consumer advocacy firm, said he believes California is the first state with such a law on the books. Gov. Jerry Brown signed it into law Tuesday.

Yelp, which is urging states to pass similar consumer protections, praised its passage. In a blog post, Yelp lobbyist Laurent Crenshaw said the company doubts that non-disparagement contracts are enforceable, but said the California measure would give consumers comfort.
“From time to time we hear about businesses that are so afraid of what their customers might say about them that they sneak clauses into consumer contracts designed to forbid their customers from saying anything bad about them on sites like Yelp,” Mr. Crenshaw wrote. “Some of these contracts even threaten fines or legal action.”

He said the contracts “not only seek to intimidate potential reviewers away from sharing their honest experiences online, but also threaten to deprive the public of useful consumer information.”

A recent article in MarketWatch explored the growing use of non-disparagement clauses:

Experts say that more companies from wedding photographers to dentists are slipping non-disparagement clauses (and other language that prevents consumers from writing negative reviews) into the fine print almost no one bothers to read. Consumers who violate these policies may be sued and fined — even if the complaints are 100% true …

Part of the impetus behind companies adding in these clauses is the fact that an increasing number of people both write online reviews of companies and turn to online reviews to figure out what companies to do business with. As of the fourth quarter of 2013, there were more than 53 million reviews on Yelp (the number of reviews on the site grew 47% from the year prior) and the site has more than 120 million monthly visitors.


Disposition of Entry:

SSL Committee Meeting: 2016 B
( ) Include in Volume
( ) Include as a Note
( ) Defer consideration:
    ( ) next SSL mtg.  ( ) next SSL cycle
( ) Reject

Comments/Note to staff