Submissions to the Shared State Legislation Committee should be sent to CSG staff at least eight weeks in advance of the next scheduled SSL committee meeting in order to be considered for that meeting’s docket. Submissions received after this deadline will be held for a later meeting. The status of any item on this docket is listed as reported by the submitting state’s legislative website 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
SHARED STATE LEGISLATION

2019 CYCLE
DOCKET BOOK B
Sept.14, 2018
Snowbird, Utah

This docket and referenced legislation may be downloaded from www.csg.org/ssl.

SSL PROCESS

With the goal of sharing innovations in state policy, CSG's Shared State Legislation (SSL) Committee identifies, curates and disseminates state legislation on topics of major interest to state leaders. Committee members include two state legislators and one state legislative staff person appointed from each member jurisdiction. No private sector entities are permitted to serve on CSG's SSL Committee.

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 are then compiled into an annual Shared State Legislation volume. The volumes are usually published in conjunction with the start of each year's state legislative sessions.

The consideration or dissemination of such legislation by the SSL Committee does not constitute an endorsement nor will CSG advocate for the enactment of any such legislation in any member jurisdictions.

SSL Committee members, other state officials and their staff, CSG Associates and CSG staff may submit legislation directly to the SSL Committee. 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 a 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 date 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 "model" legislation or an interstate compact. In this case, the committee strongly prefers to examine state legislation that enacts the uniform or model law, or interstate compact. **The SSL Committee does not draft or create "model" legislation.**

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 may be submitted to the Shared State Legislation Program, The Council of State Governments, 1776 Avenue of the States, Lexington, Kentucky 40511, (859) 244-8000, fax (859) 244-8001, or ssl@csg.org.

SSL CRITERIA

(1) Does this bill:

a) Address a current state issue of national or regional significance;

b) Provide a benefit to bill drafters; and

c) Provide a clear, innovative and practical structure and approach?

(2) Did this legislation become law?

The word “Act” as used herein refers to both proposed and enacted legislation. Attempts are made to ensure that items presented to the SSL Committee are the most recent versions. However, interested parties should contact the originating state for the ultimate disposition of any docket entry in question, including substitute bills and amendments. Furthermore, the SSL Committee does not guarantee that entries presented on its dockets or in a Shared State Legislation volume represent the exact versions of those items as enacted into law, if applicable.

PRESENTATION OF DOCKET ENTRIES

Docket ID#
Title
State/source
Bill/Act

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: Year A or B
- ( ) Include in Volume
- ( ) Include as a Note
- ( ) Defer consideration:
  - ( ) next SSL meeting
  - ( ) next SSL cycle
- ( ) Reject

Comments/Note to staff

*Item was deferred from the previous SSL cycle

SSL DOCKET CATEGORIES - 2017A and later

1. Agriculture
2. Commerce & Labor
3. Education
4. Energy
5. Environment
6. Government
7. Health
8. Justice
9. Technology
10. Transportation

2019 SSL CYCLE

Docket 39B

Item No.	Title of Item Under Consideration	Source
(*) Indicates item is carried over from previous SSL cycle		
Commerce & Labor		
02-39B-01	Salary History Ban	DE
02-39B-02	Equal Pay Act	NJ
02-39B-03*	An Act Revising Provisions Governing Financial Planners	NV
02-39B-04*	An Act Protecting the Interests of Consumers Doing Business	CT
02-39B-05	An Act Relating to Domestic Violence	NV
02-39B-06	An Act to Provide for Leave Associated with Adoption of a Child	LA
02-39B-07	Rural Jobs Tax Credit	GA
02-39B-08	Uniform Protected Series Act	NE
Education		
03-39B-01*	Productivity-Based Funding Model for State-Supported Institutions of Higher Learning	AR
03-39B-02	An Act Concerning Higher Education Cybersecurity Public	MD
03-39B-03	Strategic Plan to Address Teacher Shortages	CO
03-39B-04	Unstructured Recreational Time	VA
03-39B-05	Tuition Transparency and Accountability Act	TN
03-39B-06	Free Range Parenting	UT
	Energy	
04-39B-01	New Home Sales	MD
04-39B-02	Ratepayer Protection Act	HI
Environment		
05-39A-01*	Healthy Soils Program	MD
05-39B-02	The Public Lands Protection Act	CA
05-39B-03	Pesticide Reporting and Regulation Program	HI
05-39B-04	Single-Use Carryout Bags	CA
Government		
06-39B-01	An Act to Amend Issuance of Vital Records	IL
06-39B-02	An act reforming New Hampshire's Medicaid and Premium Assistance Program, establishing the granite workforce pilot program, and relative to certain liquor funds.	NH
06-39B-03	Fiscal Year 2019 Appropriations Bill	NJ
06-39B-04	General Appropriations Act	FL
06-39B-05	Elections: voter registration	CA
06-39B-06	Medicaid and Human Services Transparency and Fraud Prevention Act	MS

Health

07-39B-01	Prescription Drugs: Prohibition on Price Discount	CA
07-39B-02	Individual Insurance Mandate	NJ
07-39B-03	Opioid Tax	NY
07-39B-04	Maternal Mortality Review Committee	IN
07-39B-05	Reinsurance Program for Health Insurance Sold on Exchange	MD
07-39B-06	Drug Take-Back Program	WA
07-39B-07	Coverage for Infertility	RI
07-39B-08	An Act Concerning Community Health Workers	CT
07-39B-09	Public Health – Community Health Workers – Advisory Committee and Certification	MD
07-39B-10	An Act Relating to Health Insurance	HI
07-39B-11	An Act Relating to Health Insurance	CA
07-39B-12	Prescription Drug Price Transparency Act	OR
07-39B-13	An act to amend Tennessee Code Annotated, Title 3; Title 8; Title 56 and Title 71, relative to health insurance mandates.	TN
07-39B-14	Out-Of-State health Care Provider Access	NM

Justice

08-39B-01	An act relating to criminal justice; requiring the Department of Corrections to include information in its annual report on inmate admission based on offense type and recidivism rate	FL
08-39B-02	Uniform Directed Trust Act	NM
08-39B-03	An Act Relating to Jail Canteens	KY

Technology

09-39B-01*	Criminal Penalties for Drone Operators Who Commit Trespass, Voyeurism or Other Privacy Violations	UT
09-39B-02	Open Internet	WA
09-39B-03	Small Wireless Facilities Deployment Act	UT
09-39B-04	Nursing Home Virtual Visitation Act	LA
09-39B-05	California Consumer Privacy Act of 2018	CA

Transportation

10-39B-01	Lane Splitting	CA
10-39B-02	Coordinated Transit Planning and Funding	GA
10-39B-03	Public Transportation Trust Fund	AL
10-39B-04	Transportation Governance Amendments	UT
10-39B-05	Use of Autonomous Vehicles for Public Transportation	ME
10-39B-05	The Automobile Renting Occupation and Use Tax Act	MD

02-39B-01 Salary History Ban Delaware
Bill/Act HB 1

Summary:
Prohibits employers from inquiring into an applicant's compensation history. An applicant may voluntarily disclose the information if he or she wishes to do so, and the bill explicitly permits discussion and negation of compensation expectations between an employer and applicants, so long as the employer does not affirmatively seek compensation history in the course of discussion and negotiation. An employer is permitted to seek and confirm such information after an offer, including compensation, has been negotiated, made, and accepted.

Status: Signed by governor June 14, 2017

Comments: From Society for Human Resource Management (June 28, 2017)

Delaware's passage of H.B. 1 adds to a growing wave of laws banning salary history inquiries. Similar restrictions have been enacted recently in Massachusetts, New York City, Philadelphia, and, most recently, Oregon. [California, signed by governor, Oct. 12, 2017]

On June 14, Delaware Gov. John Carney signed into law H.B. 1, banning employers from asking job applicants about their salary history. The law is set to take effect in December 2017, six months from its passage.

Delaware is not the first state to pass a salary history ban law, but it is set to become the first state to enact such changes into law.

Prohibited Activities

H.B. 1 makes it unlawful for a Delaware employer to seek the pay history of applicants before making employment offers. The employer is prohibited from asking for this information from both the job applicant and his or her current or former employer.

In addition, employers are no longer permitted to engage in salary-based screening of job applicants, where prior compensation must satisfy certain minimum or maximum criteria.

Notably, employers are not prohibited from discussing and negotiating salary expectations, so long as the employer avoids asking for the applicant's compensation history.

After an employment offer has been made and accepted and compensation terms have been spelled out, H.B. 1 allows for the confirmation of salary history information.

Part of a Growing Trend

Delaware's passage of H.B. 1 adds to a growing wave of laws banning salary history inquiries.

Massachusetts was the first state to pass such a measure in August 2016. However, the law does not go into effect until 2018. Similarly, Oregon's Equal Pay Act, which restricts questions on salary history, was signed into law on June 1, 2017, but employers cannot be sued for violating the pay history provisions until Jan. 1, 2019.

Philadelphia was the first major U.S. city to pass such an ordinance. Philadelphia's pay history ban was slated to take effect on May 23, but due to a legal challenge by the Chamber of Commerce for Greater Philadelphia, the city delayed enforcement in light of the litigation. On June 13, the Chamber filed an amended request for an injunction that would block the ordinance.

Besides in Philadelphia, New York City Mayor Bill de Blasio signed into law a ban on salary history questions on May 4, which is set to take effect on Oct. 31.

On March 8, Puerto Rico passed the Puerto Rico Equal Pay Act, which includes provisions that prohibit employers from asking about an applicant's salary history. The penalty provisions of the act will not be effective until March 8, 2018.

Staff Note:

California, Massachusetts and Oregon have passed similar laws. The intent of the laws is to narrow the gender wage gap. The Delaware bill lays out the law's purpose: "This Act builds on previous legislation that addressed the wage gap between men and women. When employers ask prospective employees for their wage or salary history, it perpetuates disparities in pay based on gender from one job into another."

Disposition of Entry:

SSL Committee Meeting: 2019 B
- ( ) Include in Volume
- ( ) Include as a Note
- ( ) Defer consideration:
  - ( ) next SSL meeting
  - ( ) next SSL cycle
- ( ) Reject

Comments/Note to staff

02-39B-02 Equal Pay Act New Jersey
Bill/Act S. 104

Summary:
The law amends the New Jersey Law Against Discrimination ("NJLAD") to provide enhanced equal pay protections for New Jersey employees. The Act, which becomes effective on July 1, 2018, prohibits pay disparities based upon characteristics protected by the NJLAD, such as race, creed, color, national origin, nationality, ancestry, age, sex, etc. Specifically, the Act makes it an unlawful employment practice "[f]or an employer to pay any of its employees who is a member of a protected class at a rate of compensation, including benefits, which is less than the rate paid by the employer to employees who are not members of the protected class for substantially similar work, when viewed as a composite of skill, effort and responsibility." The Act further provides that, other than instances where a seniority or merit based system is utilized, employers may only pay employees a different rate of compensation for substantially similar work if the employer can meet certain criteria. The Act also extends NJLAD's anti-retaliation provisions to equal pay claims. The Act also increases recoverable damages, and extends the statute of limitations for pay equity violations to six years.

Status: Signed by governor June 14, 2017

Comments: From NJ.com (April 24, 2018)

New Jersey cemented a place in history books Tuesday after Gov. Phil Murphy signed the most sweeping equal pay legislation in the nation.

The new law protects women and minorities in the state from workplace discrimination by making it illegal to offer lower pay and benefits to them. Employers who pay one person more than another will now have to demonstrate how their experience and education sets them apart.

Women who seek damages in court would be allowed to recoup lost wages for up to six years -- three times longer than the federal law's two-year cap.

Employers are also prohibited from cutting the wages of higher-paid staff in order to make salaries comparable.

New Jersey now has the most rigorous protections against pay discrimination, according to the legislation's proponents.

The bill-signing ceremony in Trenton was a raucous event. About 200 supporters and advocates cheered the governor and hailed the day's special guest, Lilly Ledbetter. She was the driving force behind the nation's federal equal pay law …

Women working full-time in America in 2015 earned just 80 cents for every dollar that men earned, and at this rate, women won't reach pay equality until 2059, according to a report by the Institute for Women's Policy Research.

"There are so many people who worked such a long time to see this bill signed," Murphy said.

"Let there be no doubt: New Jersey is back and New Jersey is once again leading the way," he said. "Our wage gap will be closed and we are not going to wait around."

The new law is called the "Diane B. Allen Equal Pay Act," named after the longtime state senator who left her broadcasting job in 1994 after filing gender and age discrimination complaints with the Equal Opportunity Employment Commission. Allen retired from the Senate in January …

The legislation, (S104) was popular among lawmakers when it made its way through both chambers of the state's Legislature.

It passed in the Senate by a 35-0 vote and in the Assembly by a 74-2, with Assemblymen Michael Patrick Carroll and Assemblyman Jay Webber, both R-Morris, voting no.

Despite the popularity for it among legislators, similar legislation that was signed Tuesday was repeatedly vetoed by former Gov. Chris Christie. In 2016, Christie said it would go beyond federal standards and make New Jersey "very business unfriendly."

While emphasizing his support for equal pay protections, the Republican governor criticized where the legislation "departs significantly from well-established law," according to his veto message.
A veto override attempt failed before Christie left office.

Murphy has made a point to highlight the importance of equal pay for women since he took office in January.

His first official action after he was sworn in as governor was to sign an executive order that barred managers in state government roles from asking job applicants about their previous salary. The order stretched across all public jobs and was a step toward equal pay for women, Murphy said at the time.

"This is a proud day. This is a proud day for all of us," Weinberg said at the bill signing. "This is a fulfillment of a dream that New Jersey would have the strongest pay equity bill in the nation."

Disposition of Entry:

SSL Committee Meeting: 2019 B
- ( ) Include in Volume
- ( ) Include as a Note
- ( ) Defer consideration:
  - ( ) next SSL meeting
  - ( ) next SSL cycle
- ( ) Reject

*02-39B-03 An Act Revising Provisions Governing Financial Planners Nevada
Bill/Act: S.B. 383

Summary:

An act relating to financial planners; imposing a fiduciary duty on broker-dealers, sales representatives and investment advisers who for compensation advise other persons concerning the investment of money; authorizing the Administrator of the Securities Division of the Office of the Secretary of State to adopt regulations concerning such fiduciary duty; providing penalties; and providing other matters properly relating thereto.

Status: Became law on March 30, 2016.

Comments: From The Las Vegas Sun (May 29, 17)

Senate Majority Leader Aaron Ford recently presented Senate Bill 383, a measure aimed at ensuring financial planners, advisers and broker-dealers are required under law to put the interests of their clients first when investing their savings. This requirement is commonly known as the Fiduciary Rule.

This bill should clear the Legislature and be signed by Gov. Brian Sandoval with ease, but of course everything changes when money enters the picture. The bill made it out of the Senate, but without the support of a single Republican. This perplexes me.

I have spent the last 37 years as a professional insurance agent specializing in, but not limited to, coverage for seniors. Most people have no idea what the word fiduciary means and may not understand that SB 383 is a bill to protect their hard-earned retirement from less-than-ethical broker/dealers and people who give investment advice. I have personally met many seniors who have been taken advantage of by unethical broker-dealers, either losing their retirement funds or being steered into investments that benefited the broker-dealer more than the client.

In its simplest form, fiduciary means “a level of trust.” An accountant operates as a fiduciary. A title company operates as a fiduciary. Your bank operates as a fiduciary. In most states an insurance agent operates as a fiduciary. You trust that they will do right where your finances are concerned. Fiduciaries are held to a higher standard because you trust they will not do you any harm when dealing with your money.

At the federal level, a new fiduciary standard was supposed to go into effect this month that would have made SB 383 unnecessary. Unfortunately, the Trump administration halted the scheduled implementation of this new standard. Now it is up to the state of Nevada to protect our seniors from irresponsible investment advisers and broker-dealers.

Is SB 383 really necessary? You be the judge. Not too many years ago, I met with a prospective client, age 77, who had gone to a financial adviser/broker when she retired at age 62. He advised her to put 100 percent of her liquid assets into the stock market. She started with $106,000 at age 62, and now had $142,00 in her account at age 77. Her return on investment in 15 years amounted to just over 2 percent per year. Her financial adviser/broker however, had made well over 5 percent per year in fees from her money. He made $85,000 from her investments by churning her account, and she made $36,000. Nice work if you can get it. Was he acting in her best interest?

This example is not an isolated incident; I could provide many more. This type of abuse is happening every day to elderly people all over the country who are not protected against those who would take advantage of their lack of financial acumen. Sen. Ford's bill will change that by putting financial advisers and broker-dealers under the same fiduciary rules as financial planners. Isn't it time that financial planners, advisers and broker-dealers be required to put their client's needs before their own? I believe it is, along with countless Nevadans who deserve to have their hard-earned savings protected.

Staff Note:

The Department of Labor (DOL) under President Obama introduced the rule, but the Fifth Circuit Court of Appeals ruled in June 2018 that the rule exceed the Department's mandate. The SEC is currently considering a rule that would have a similar effect as the DOL's rule. Connecticut, Nevada, and Maryland have passed legislation that considers or implements the rule, and a similar bill has been introduced in New Jersey. Both New York and Massachusetts have taken executive regulatory action. In addition, several states' attorneys general jointly filed for a reconsideration of the original DOL rule.

Disposition of Entry:

SSL Committee Meeting: 2019 B
- ( ) Include in Volume
- ( ) Include as a Note
- ( ) Defer consideration:
  - ( ) next SSL meeting
  - ( ) next SSL cycle
- ( ) Reject

Comments/Note to staff

*02-39A-04 An Act Protecting the Interests of Consumers Doing Business with Financial Planners Connecticut
Bill/Act: H.B. 6992

Summary:

To provide protections for consumers who receive investment advice from financial planners. Status: Signed by Governor July 5, 2017.

Comments: From MultiState Insider (June 29, 2017)

States are reacting to uncertainty surrounding recent federal regulations on the standard of care financial planners use for their clients' accounts by passing state based rules. A fiduciary duty imparts the highest degree of legal responsibility on financial planners by requiring them to set aside personal or company interests in favor of their clients' interests. While many investment firms require their investment advisers to operate under fiduciary duties rules, many broker-dealers who also manage accounts like retirement savings accounts are exempt. Instead, these broker-dealers operate based on a suitability standard. In contrast to a fiduciary standard, a suitability standard only requires broker-dealers to make "suitable" recommendations to their clients, allowing them to avoid having to place their interests below their clients' interests.

State Action

Nevada has taken the most significant steps toward addressing the fiduciary issue. A new law (NV SB 383), which Governor Brian Sandoval (R) signed earlier this month, not only extends the fiduciary standard to all financial planners, including broker-dealers, but it also requires financial planners to disclose any profits or commissions they might receive from a client's investments. The law also requires financial planners to periodically assess a client's financial goals to ensure the adviser is aware of them and reasonably trying to meet them. Some industry experts have speculated that the provision of the law requiring brokers to act as fiduciaries could be subject to a legal challenge.

"There could be a federal pre-emption issue." George Michael Gerstein, counsel at Stradley Ronon Stevens & Young, told the MultiState Insider. "There's a little bit of a question as to whether a state could force broker-dealers to register [as a fiduciary] when they don't have to do so at the federal level."

Connecticut, New York, and New Jersey are also considering legislation to address concerns over fiduciary duties, though their proposed reforms are far less sweeping than Nevada's. In these three states, bills focus on expanding disclosure requirements. Under bills in New York and New Jersey, "non-fiduciary investment advisors," meaning "any individual or institution that advertises or uses in self identification any term that is suggestive of investment," would be required to obtain a written acknowledgment from clients that the adviser is not a fiduciary (NJ AB 2729).

Connecticut bill (CT HB 6992) operates under a similar principle, but with slightly different language. There is no written statement requirement and the disclosure only has to be made upon request. The bill defines financial planners in the state as "a person offering individualized financial planning or investment advice to a consumer for compensation." The bill recently passed the state legislature, and Governor Dan Malloy (D) has five business days to sign or veto the bill.

The bipartisan action in Nevada demonstrates that state lawmakers are willing to address issues concerning conflicts of interest and fiduciary standards in retirement savings. In addition to passing their own laws, groups like the National Association of Insurance Commissioners are examining the possibility of state regulators using key provisions of the DOL fiduciary rule to establish "uniformity and consistency" for the sale of annuities. If Congress repeals the DOL fiduciary regulations in the upcoming debates over the Dodd–Frank Wall Street Reform and Consumer Protection Act, states may attempt to further fill the void. If this is the case, bills like those in Nevada and New Jersey could become models for legislators in other states.
Disposition of Entry:

From MarketWatch (June 25, 2018)

The controversial rule requiring advisers to act in their clients' best interests when it comes to managing retirement accounts is officially dead.

The Fifth Circuit Court, which covers Texas, Louisiana and Mississippi, confirmed this month that its split decision in March to end the Department of Labor's fiduciary rule has been finalized. It also ruled the DOL must pay for the costs of the appeal.

Why kill the rule? The court had concluded that the Department of Labor, which oversees the fiduciary rule, "overreached" with its mission. The fiduciary rule, also known officially as the "Conflict of Interest" rule, states advisers have to give conflict-free advice on retirement accounts, putting their clients' needs ahead of their own potential compensation. That means shifting away from commissions on various investment products and becoming completely transparent on what they do and the advice they provide.

The Obama administration, which proposed the rule, claimed it would save Americans $17 billion a year from conflicted advice. The U.S. rule was weaker than what other countries have in place to protect investors, such as in the U.K., where commissions are banned and advisers must pass harder tests, said Betsey Stevenson, a former member of the President's Council of Economic Advisers who worked on the fiduciary rule, and currently a public policy and economics professor at the University of Michigan. "With the court undoing that, it means you have to ask really hard questions if you're going to a financial adviser," she said.

Financial advisers saw this coming, especially after the Trump administration delayed the rule's implementation, and though some say they are disappointed by the turn of events, they seem hopeful that enough word has gotten out that not all financial advice is good advice. "The fact that it was so deeply fought on both sides has brought it to the forefront," said Jeffrey Levine, the chief executive and director of financial planning at BluePrint Wealth Alliance. Years ago, prospective clients never asked him if he was a fiduciary but today, the topic comes up with regularity. Though no one knows for sure what will become of the rule, it appears the concept of conflict-free advice is here to stay, he said.

In its March decision, the Fifth Circuit Court said the rule defined financial advice and who gives it too broadly, and that it was "unreasonable." Opponents argue it will be too expensive to manage the accounts of small investors, and that it's possible for advisers to charge commissions without conflict. (Some proponents of the rule agree that not all commissions are bad, like Levine, but they say transparency of fees is key when charging for advice.) The Securities Industry and Financial Markets Association (SIFMA), along with the U.S. Chamber of Commerce and the Financial Services Institute, said in a statement earlier this year the court ruled on the side of America's retirement savers, and said the Securities and Exchange Commission should work on a rule that will not "limit choice for investors." Meanwhile, critics of the overturning of the fiduciary rule, like Carolyn McClanahan, director of financial planning at Life Planning Partners, say they worry the SEC will release a watered-down version, now that there is no pressure from the Department of Labor's rule.

Treasurers from 11 states have written to the SEC asking for a more stringent fiduciary rule, saying in a March 8 letter that "any standard less robust than [the DOL's rule] does not provide adequate protection for investors." Those states are Pennsylvania, Oregon, Iowa, Maryland, Rhode Island, Illinois, Washington, South Carolina, Vermont, Utah and Wyoming. "This implementation delay, and the accompanying non-enforcement agreement, represent a step back in terms of protecting the interests of retirement savers and investors," they wrote.

Small investors are at risk of being most affected by the overturning of the rule, as they may not be able to afford a financial planner or have enough saved to qualify for some advisers' services, and therefore go to anyone who could end up selling them unnecessary products, said McClanahan. She is warning investors to tread lightly when looking for a financial professional, and to urge legislators to find a common ground that would protect consumers and protect the consumer from "unscrupulous people who will take advantage of them."

Disposition of entry:

SSL Committee Meeting: 2019 B

- ( ) Include in Volume
- ( ) Include as a Note
- ( ) Defer consideration:
  - ( ) next SSL meeting
  - ( ) next SSL cycle
- ( ) Reject

Comments/Note to staff

02-39B-05 An Act Relating to Domestic Violence Nevada
Bill/Act: SB 361

Summary:

Requires an employer to provide certain hours of leave to an employee who has been employed by the employer for at least 90 days and who is a victim of an act which constitutes domestic violence, or such an employee whose family or household member is a victim of an act.

Requires that such an employee is entitled to 160 hours of leave during a 12-month period. Such leave:

(1) may be paid or unpaid;

(2) must be used within the 12 months immediately following the date on which the act which constitutes domestic violence occurred;

(3) may be used consecutively or intermittently; and

(4) under certain circumstances, must be deducted from leave permitted by the Family and Medical Leave Act of 1993.

Requires an employer to maintain a record of the use of the hours of leave for each employee for a 2-year period and to make those records available for inspection by the Labor Commissioner. Requires the Labor Commissioner to prepare a bulletin setting forth the right to these benefits and requires employers to post the bulletin in the workplace.

Prohibits the Administrator of the Employment Security Division of the Department of Employment, Training and Rehabilitation from disqualifying a person from receiving unemployment compensation benefits if:

(1) the person left employment to protect himself or herself, or his or her family or household member, from an act which constitutes domestic violence; and

(2) the person actively engaged in an effort to preserve employment.

Requires an employer to provide reasonable accommodations which will not create an undue hardship for an employee who is a victim of an act which constitutes domestic violence or whose family or household member is a victim of an act which constitutes domestic violence.

Section 7 of this bill prohibits an employer from conditioning the employment of an employee or prospective employee or taking certain employment actions because:

(1) the employee is a victim of an act which constitutes domestic violence;

(2) the employee's family or household member is a victim of an act which constitutes domestic violence; or

(3) of other circumstances related to being a victim of an act which constitutes domestic violence.

Status: Enacted.

Comments: From the Las Vegas Review-Journal (January 1, 2018)

Domestic violence protections

The new year also brings new workplace protections for victims of domestic violence. Senate Bill 361 requires an employer to provide 160 hours of leave during a 12-month period to an employee who has been a victim of domestic violence. Additionally, the state cannot deny unemployment benefits to a person who left their job to protect themselves from domestic violence

Disposition of Entry:

SSL Committee Meeting: 2019 B

- ( ) Include in Volume
- ( ) Include as a Note
- ( ) Defer consideration:
  - ( ) next SSL meeting
  - ( ) next SSL cycle
- ( ) Reject

Comments/Note to staff

02-39B-06 An Act to Provide for Leave Associated with Adoption of a Child — Louisiana

Bill/Act: HB 625

Summary:

Extends paid maternity leave to include teachers and other school professionals who adopt children for 30 days.

Status: Enacted

Comments: From the New Orleans Times-Picayune (May 7, 2018)

Louisiana's teachers are one step closer to having paid leaves of absence after adopting a child after lawmakers last week advanced a bill to the Louisiana Senate.

Members of the state's Senate Education committee unanimously voted May 3 to pass House Bill 625, written by State Rep. Rick Edmonds, R-Baton Rouge. House lawmakers unanimously supported his bill April 11, and now it must pass through the Senate before it can go to Gov. John Bel Edwards' desk to be signed into law.

Louisiana currently lets school districts grant paid leave to public school teachers and school personnel for a "reasonable time before and after childbirth." The state also gives extended leave to those granted leaves of absence for the illness of an infant, or for medical visits related to infant or maternal health that are certified by a physician.

Edmonds' bill would let teachers receive 30 days of paid leave after they adopt a child. The proposed law would also apply to certain social workers and school psychologists employed by local school boards.

Teachers employed by Louisiana's Special School District, certain teachers at the New Orleans Center for Creative Arts and teachers of students in the custody of the state Department of Public Safety and Corrections will also be granted adoption leave under the proposed law.

The Legislative Fiscal Office stated the bill will cause "an indeterminable increase" to local school districts and state special schools, according to a fiscal note attached to the bill. The actual impact is expected to vary among school districts based on a number of factors, including the number of teachers and staff involved in leave, the frequency of leave taken, the salaries and accrued leave of the individual taking leave, the cost of a substitute teacher, and the length of time a substitute teacher will be required in the classroom.

Regardless, Edmonds told lawmakers last Thursday his bill is "a good thing for our families." He stressed it would help school employees maintain their sick days as opposed to them using sick days to bond with their new adopted child.

Staff Note: Many states are exploring a paid maternity leave for teachers. Louisiana extended their paid maternity leave to include teachers who adopt a child.

Disposition of Entry:

SSL Committee Meeting: 2019 B

( ) Include in Volume

( ) Include as a Note

( ) Defer consideration:

( ) next SSL meeting

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( ) Reject

Comments/Note to staff

02-39B-07 Rural Jobs Tax Credit Georgia
Bill/Act: SB 133

Summary:

In 2017, Georgia enacted Senate Bill 133, the Georgia Agribusiness and Rural Jobs Act (GARJA), to encourage the investment of $100 million of private capital into small businesses located in Georgia's rural counties.

The program leverages a tax credit awarded to small business investors to provide growth capital to small businesses in rural areas. Significant safeguards exist within GARJA: 1) no tax credits can be claimed until a fund fully invests its private capital; 2) tax credits can be clawed back if investors fail to adhere to program rules; and 3) investors are penalized for failure to create or retain projected job numbers.

This legislation – which has passed in similar forms in Ohio, Utah, and Pennsylvania – balances private sector funding and decision making with clear public policy goals and can be adapted to meet the specific needs of individual states. Most importantly, this model contains effective safeguards and holds participants to specific job metrics.

1(A). Addressing a Current State Issue of National or Regional Significance:

State governments have created well-publicized programs to recruit and retain large companies and major industries through incentive packages. While these efforts can result in "big wins" and demonstrate the power of economic development programs, small businesses, which are the economic lifeblood of our communities, and their growth needs are often overlooked.

Small businesses, particularly those in smaller communities and rural areas, face a number of growth obstacles, including access to capital. Since the Great Recession, small businesses face tighter lending restrictions at their local banks, which are increasingly consolidating with larger banks or disappearing altogether. Across America, rural areas are losing population and suffering from "brain drain" as younger generations leave for better economic opportunities.

This model legislation provides an effective tool aimed at helping rural areas develop and retain the types of small businesses that will create jobs and re-energize the surrounding economy and community. The rural jobs model legislation incentivizes experienced investors to deploy private capital into small businesses in the geographic areas that need it most and where the capital otherwise will not go.

1(B). Providing a Benefit to the Bill Drafter:

In just about every state there is a divide between major metropolitan areas and the rest of the state, especially rural areas. The metro areas generally see the most economic development and are usually the prime beneficiaries of state-created incentive programs.

The rural jobs model legislation provides non-metro lawmakers a vehicle for supporting small businesses in areas that are often overlooked. Because the bill targets small business investing, it presents an opportunity for equal benefits to all rural communities.

The bill is structured to incentivize an upfront investment of significant private capital – no state appropriation is necessary – leveraged with a delayed tax credit. The state reaps the benefits of two to three years of private capital invested into its small businesses before any significant programmatic costs are realized by the state. This gives a lawmaker the chance to infuse millions of dollars in investment without an appropriation or immediate fiscal impact to the state general fund.

For lawmakers looking for an opportunity to harness the power of the private sector to achieve a targeted public policy goal, this legislation provides a solid framework that can be tweaked to address specific state concerns.

1(C). Providing a Clear, Innovative, and Practical Structure and Approach:

The bill concept is straightforward: the state provides an allocation of future tax credits to attract private capital investors to invest in funds that will ultimately invest in small businesses in rural areas within the state.

The tax credit allows the funds to raise approximately half of the capital from tax credit investors – i.e., those investors who simply want a tax credit at a future date to offset state tax liability. The remainder of the fund is raised from traditional investors, including the fund managers, who do not receive a tax credit. This innovative provision provides a true public-private partnership where the private fund managers and investors have "skin in the game."

There are a number of safeguards designed to ensure that funds comply with program rules and achieve projected results.

Prospective fund managers apply to the state for the right to raise a targeted fund. In the application, fund managers must provide a business plan, scored by an economist using a widely accepted methodology that outlines the anticipated investments into small businesses and the number of jobs that will be created or retained as a result of those investments. At the end of the program and before funds can distribute their returns to investors, the state compares the number of jobs created and retained over the fund's life to the projected job numbers in the business plan. If the job numbers fall short of the projections, the funds face financial penalties to the state.

Furthermore, if funds fail to meet program requirements, tax credits can be recaptured. Generally, funds are required to deploy all of their capital within approximately three years and keep all of the capital fully invested through at least six years, or face recapture risk. Additional requirements prohibit concentration of capital into one small business or investment into affiliate companies.

Finally, no tax credits can be claimed until the funds fully invest 100% of their capital, incentivizing funds to quickly deploy their capital and generate economic activity. If capital investment goals are not met, credits are canceled before they are ever claimed.

Status: Enacted

Comments: From Stateline (May 10, 2017)

Georgia is the second state this year to adopt a highly debated tax credit program meant to bring jobs to rural areas.

The law, signed Tuesday by Republican Gov. Nathan Deal, will award up to $60 million in state tax credits to companies that agree to invest in or loan money to funds that invest in rural businesses. Utah created a similar $24 million program this year, and nine other states are considering similar bills.

The programs are the latest iteration of a multilayered subsidized lending program that at least 20 states have tried in the last three decades.

Disposition of Entry:

SSL Committee Meeting: 2019 B
- ( ) Include in Volume
- ( ) Include as a Note
- ( ) Defer consideration:
  - ( ) next SSL meeting
  - ( ) next SSL cycle
- ( ) Reject

Comments/Note to staff

02-39B-08 Uniform Protected Series Act Nebraska
Bill/Act: LB1121

Summary:

The Uniform Protected Series Act provides a comprehensive framework for the formation and operation of a protected series limited liability company. A protected series LLC has both "horizontal" liability shields, as well as the standard "vertical" liability shield. All modern business entities provide the traditional, "vertical" shield – protecting the entity's owners (and their respective assets) from automatic, vicarious liability for the entity's debts. A series limited liability company provides "horizontal" shields – protecting each protected series (and its assets) from automatic, vicarious liability for the debts of the company and for the debts of any other protected series of the company. A horizontal shield likewise protects the series limited liability company (and its assets) from creditors of any protected series of the company. The Act integrates into any existing LLC Act, whether it is the Uniform Limited Liability Company Act or not.

Status: Enacted

Comments: From the Uniform Law Commission

In response to the growing popularity of series limited liability companies in the United States, the Uniform Law Commission promulgated the Uniform Protected Series Act (UPSA). The UPSA is drafted as a "module" to be inserted into the enacting state's existing LLC act and may be adopted whether or not the state's LLC statute is based on the Uniform Limited Liability Company Act.

Article 1 contains general provisions, such as: definitions, a description of the nature of a protected series, as well as its power, purpose, and duration; how the protected series is governed by the operating agreement of the LLC; and rules for applying certain provisions of the state's existing LLC act to protected series. The act uses the term "protected series" to highlight the internal liability shields which are a defining characteristic of the act, and to avoid confusion with the term "series," which is often used to refer to classes of interests in business entities that do not affect liabilities to third parties. If the requirements of the UPSA are satisfied, then assets (referred to as "associated assets") of one protected series are not available to satisfy claims of creditors of the LLC or of other protected series of the LLC.

Article 2 explains how to establish a protected series. As a default matter, all of the members must consent to establish a protected series. Further, the LLC must deliver a protected series designation to the Secretary of State, signed by the company. Article 2 also provides name, registered agent, and service of process provisions, as well as methods to obtain a certificate of good standing and reporting requirements.

Article 3 includes the record-keeping requirements that must be satisfied for an asset to qualify as an "associated asset" under the act. Unless provided otherwise in the operating agreement, the owner of an asset is responsible for meeting the record-keeping requirements for the asset. These provisions are designed to provide transparency of protected series transactions. Article 3 also provides rules for associating members with the protected series and addresses protected series transferable interests, management, and non-associated members' rights to information.

Article 4 covers limitations on liability and enforcement of claims. The act provides two different types of liability shields: vertical and horizontal. The traditional vertical shield protects equity holders and managers from status-based liability for an organization's obligations. The horizontal shield protects a protected series of a series LLC and its associated assets from liability for the debts, obligations, or other liabilities of the company or another protected series of the company. This article contains provisions for claims seeking to disregard limitation of liability, protected series-level charging orders for judgment creditors, and enforcement of judgments against certain assets of the company. A creditor may enforce a judgment against another protected series of a series LLC by pursuing assets owned by the company or another protected series of the company if the act's requirements are not satisfied for these other assets (or "non-associated assets"). With respect to foreign LLCs, this act follows the common law approach and applies an enacting state's jurisprudence on piercing and affiliate liability companies and foreign protected series in carefully and narrowly delineated circumstances.

Article 5 addresses grounds for dissolution and provisions for winding up. Under the act, dissolution of a series LLC immediately dissolves every protected series of the company. Reinstatement of an administratively dissolved protected series or the rescinding of a voluntarily dissolved company has the same retroactive effect at the protected series level.

Article 6 includes restrictions on mergers and other entity transactions involving LLCs and protected series. The article provides additional definitions, and provides that a protected series may not be a party to an entity transaction. A series LLC may be a party to a merger if each other party to the merger is an LLC, and the surviving company is not created in a merger. Furthermore, Article 6 includes provisions dealing with plans, statements that must be filed with appropriate authorities, and effects of mergers. It also provides that a creditor's right that existed immediately before a merger may be enforced after the merger.

Article 7 addresses foreign protected series. The law of the jurisdiction of formation of a foreign series LLC governs certain aspects of a foreign protected series. Article 7 also provides guidelines for determining whether a foreign series LLC or foreign protected series of the company is doing business in the state. The article also provides registration requirements for foreign protected series and disclosure requirements in cases where a foreign LLC or foreign protected series is a party to a proceeding in the state.

Article 8 contains miscellaneous provisions as well as transition rules for pre-existing series limited liability companies and protected series.

Disposition of Entry:

SSL Committee Meeting: 2019 B
( ) Include in Volume
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( ) Defer consideration:
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Comments/Note to staff

*03-39B-01 Productivity-Based Funding Model for State-Supported Institutions of Higher Learning — Arkansas
Bill/Act: HVB 1209

Summary:

An act to adopt a productivity-based funding model for state-supported institutions of higher education; and for other purposes.

Status: Became law on February 8, 2017.

Comments: This bill commissions the Arkansas Higher Education Coordinating Board to adopt policies necessary to implement a productivity-based funding model for state-supported institutions of higher education, with separate policies for two-year institutions and four-year institutions.

This bill moves Arkansas from enrollment-based funding to performance-based funding, which provides incentives for institutions of higher education to help students successfully complete degree programs. This allows states to align funding models with workforce needs and goals. Supporters of this funding model claim that it emphasizes student success and incentivizes institutions to place a priority on providing student support.

Staff Note:

The productivity-based funding model originated from policymakers' desire to link funding levels to performance standards such as retention, graduation rates, and research productivity. The underlying logic for the change was that an incentive-based funding model would reward schools performing well on select metrics and ensure that administers of institutions of higher learning were accountable to the goals set by lawmakers.

Three different approaches have been used to accomplish this objective: performance funding, performance budgeting, and performance reporting. Performance funding uses an explicit formula tying funding to performance on select metrics. Performance budgeting allows the school performance to be considered when annual budgeting decisions are made. Performance reporting requires institutions to publicly publish their performance on select metrics. According to the National Conference of State Legislatures (NCSL), 32 states have a funding formula or policy in place to allocate a portion of funding based on performance indicators such as course completion, time to degree, transfer rates, the number of degrees awarded, or the number of low-income and minority graduates.[1] Five states are currently transitioning to some

[1] National Conference of State Legislatures. "Performance Based-Funding for Higher Education." July 7, 2015. States include: Arizona, Arkansas, Colorado, Florida, Illinois, Indiana, Kansas, Louisiana, Maine, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, New Mexico, New York, Nevada, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, South Dakota, Tennessee, Texas, Utah, Virginia, Washington, Wisconsin, and Wyoming.

type of performance funding, meaning the legislature or governing board has approved a performance funding program and the details are currently being worked out.[2]

Impact Assessment

A total of twelve quantitative evaluations of state productivity-based funding models have been conducted, and each has provided scant evidence that the intervention improves the performance of institutions of higher education.[3] Table 1 summarizes these evaluations.

Table 1: Summary of Quantitative Research on Effects of Performance-Based Funding

Authors	**Outcome Examined**	**Duration**	**Effect**
Shin & Mitlon (2004)	Graduation rates	1997-01	Null
Volkwein & Tandberg (2008)	Accountability score	2000-06	Null
Shin (2010)	Graduation rates & research funds	1997-07	Null
Sanford & Hunter (2011)	Graduation & retention rates	1995-09	Null
Rabovsky (2012)	Revenues & expenditures	1998-09	Mix, mostly null
Radford & Rabovsky (2014)	Graduation rates & degrees	1993-10	Null, sometimes negative
Hillman, Tandberg, & Gross (2014)	Bachelor's degrees	1990-10	Null
Tandberg & Hillman (2014)	Bachelor's degrees	1990-10	Null, some positive over time
Tandberg, Hillman & Barakat (2015)	Associate's degrees	1990-10	Mix, mostly negative
Hillman, Tandberg, & Fryar (2015)	Associate's degrees & certificates	2002-12	More short-term certificates
Umbricht, Fernandez & Ortagus (2015)	Degrees, diversity, & admissions	2003-12	Null, more selective, less diverse
Kelchen & Stedrak (2016)	Revenues, expenditures, & financial aid	2003-12	More merit aid, less Pell aid

Source: Hillman, Nicholas. "Why Performance-Based College Funding Doesn't Work." The Century Foundation, May 25, 2016.

Looking across studies, it is unlikely that that performance-based funding models will have the positive effects proponents anticipated.

[2] Ibid. States include: Connecticut, Georgia, Iowa, South Dakota, and Vermont.
[3] Hillman, Nicholas. "Why Performance-Based College Funding Doesn't Work." The Century Foundation, May 25, 2016.

Disposition of Entry:

SSL Committee Meeting: 2019 B
- ( ) Include in Volume
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Comments/Note to staff

03-39B-02 An Act Concerning Higher Education Cybersecurity Public Service Scholarship Program — Maryland
Bill/Act: MD S 204

Summary:

Establishes the Cybersecurity Public Service Scholarship Program, specifies the purpose of the Program, requires the Office of Student Financial Assistance in the Maryland Higher Education Commission to administer the Program, specifies certain eligibility requirements for an applicant to the Program, authorizes a certain scholarship award to be used at any eligible institution to pay for certain education expenses, requires a scholarship recipient to maintain a certain grade point average.

Status: Enacted

Comments: From Maryland Department of Legislative Services (May 3, 2018)

This bill establishes the Cybersecurity Public Service Scholarship Program for eligible students pursuing an education directly relevant to cybersecurity. Recipients must complete a one-year service obligation that meets specified conditions for each year a scholarship is received, or repay the State for the scholarship. Funds for the program are as provided in the annual budget of the Maryland Higher Education Commission (MHEC).

Disposition of Entry:

SSL Committee Meeting: 2019 B
- ( ) Include in Volume
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- ( ) Reject

Comments/Note to staff

03-39B-03 Strategic Plan to Address Teacher Shortages Colorado
Bill/Act: H 17-1003

Summary:

The bill requires the department of higher education in partnership with the department of education to examine recruitment, preparation, and retention of teachers and to prepare a strategic plan to address teacher shortages in school districts and public schools within the state. The departments must collaborate with institutions of higher education, school districts, and other education interest groups in preparing the plan. The department of higher education must submit the plan to the Colorado commission on higher education, the state board of education, and the education committees of the general assembly by December 1, 2017.

Status: Enacted.

Comments: From The Denver Post (Mar 27, 2017)

A bipartisan bill aimed at studying and fixing the causes of Colorado's growing teacher shortage passed the state House on Monday and now heads to the Senate for approval.

House Bill 1003 requires the Department of Higher Education to work with the Colorado Department of Education, school districts and other education associations to identify root causes of the teacher shortage and recommend strategies to recruit and retain more teachers.

Because each area of the state has different needs, the plan will generate unique solutions for rural, urban and suburban school districts, said the bill's sponsor, Rep. Barbara McLachlan.

"We know the teacher shortage in Colorado has reached crisis mode, so this bill creates the framework to do something about it and bring more teachers to our classroom," McLachlan said.

In Colorado, there has been a 24.4 percent decline in the number of educators finishing an educator preparation program at colleges and universities between the years 2010-16, McLachlan said.

The shortage is especially felt in high-need areas such as math, science and world languages, officials say, and in rural and remote regions in Colorado.

HB 1003 was one of three bills introduced this legislative session to tackle teacher shortages in Colorado. A bill that would have allowed understaffed rural Colorado school districts to hire unlicensed teachers was killed by its sponsor last week.

House Bill 1176, meanwhile, would allow rural school districts to hire an unlimited number of retired teachers who would be able to collect their entire pension for the year. That bill is still in play.

Disposition of Entry:

SSL Committee Meeting: 2019 B

( ) Include in Volume

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Comments/Note to staff

03-39B-04 Unstructured Recreational Time Virginia
Bill/Act: SB 273

Summary:

Requires local school boards to provide (i) a minimum of 680 hours of instructional time to students in elementary school, except for students in half-day kindergarten, in the four academic disciplines of English, mathematics, science, and history and social science and (ii) a minimum of 375 hours of instructional time to students in half-day kindergarten in the four academic disciplines of English, mathematics, science, and history and social science. The bill authorizes local school boards to include and requires the Board of Education to accept, for elementary school, unstructured recreational time that is intended to develop teamwork, social skills, and overall physical fitness in any calculation of total instructional time or teaching hours.

Status: Approved by the Governor

Comments: From NBC29 (July 1, 2018)

… School boards in Virginia now have the ability to increase the amount of time elementary school kids spend in recess.

Catie Piper said, "I think schools should be nourishing the whole person, not just how much math they can do or how well they can do. So I think it nourishes the soul."

House bill 14-19 now requires the Board of Education to accept unstructured recreational time that is intended to develop teamwork, social skills, and overall physical fitness as part of total teaching hours.

Disposition of Entry:

SSL Committee Meeting: 2019 B
- ( ) Include in Volume
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- ( ) Defer consideration:
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- ( ) Reject

Comments/Note to staff

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03-39B-05 Tuition Transparency and Accountability Act — Tennessee
Bill/Act: SB 1665

Summary:

Requires that, at least 15 days prior to holding a meeting to adopt an increase in tuition and mandatory fees, the trustees of the University of Tennessee or a state university board, as applicable, (the "board") must give public notice of the proposed tuition and mandatory fee increase as an action item on the board's meeting agenda. Individuals shall be permitted to provide comments during the fifteen-day period. The public notice of the proposed tuition and mandatory fee increase must include:

(1) An explanation for the proposed tuition and mandatory fee increase;

(2) A statement specifying the purposes for which revenue derived from the tuition and mandatory fee increase will be used; and

(3) A description of the efforts to mitigate the effect of the tuition and mandatory fee increase on students.

By January 1, 2019, this amendment requires each board to develop a list of factors that will be considered when developing recommendations to increase tuition and mandatory fees. The factors must include, the level of state support; total cost of attendance; and efforts to mitigate the financial effect on students. Each state university and each campus in the University of Tennessee system will be required to post on its website a summary of the recommendations.

This amendment requires each board to annually provide a report to the office of legislative budget analysis, for distribution to the general assembly, with information regarding expenditures of revenues derived from any tuition and fees increase in the previous full academic year.

Beginning August 1, 2019, this amendment requires each state university and each campus in the University of Tennessee system to provide, with a student's letter of acceptance, a predictive cost estimate for students applying for undergraduate degree programs for the 2020-2021 academic year and for academic years thereafter.

Status: Signed by the Governor

Comments: From ClarksvilleNow (March 16, 2018):

Legislation providing more transparency and accountability when it comes to tuition and fee hikes at the state's colleges and universities will be considered by the full House next week.

House Bill 1684 seeks to slow down tuition increases, which have risen by 125 percent over the past decade, by putting constant pressure on the process.

Approximately 50 percent of graduates from colleges in Tennessee have debt that averages around $25,000.

Under the bill, governing boards must give public notice 15 days prior to a meeting to adopt an increase in tuition and mandatory fees in order to allow for public comment and awareness. Any tuition increase must be substantiated by stating the amount of increase, the reason for the increase, and any steps that may have been taken to control it.

The legislation also requires each university to provide in a student's acceptance letter a "predictive cost estimate," projecting how much tuition and fees will costs for a four-year period.

Finally, the proposal calls for the governing boards of each university to submit a report to be distributed to the General Assembly with information on how the tuition increases were spent during the previous year.

Disposition of Entry:

SSL Committee Meeting: 2019 B

- ( ) Include in Volume
- ( ) Include as a Note
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- ( ) Reject

Comments/Note to staff

03-39B-06 Free Range Parenting Utah
Bill/Act S.B. 65

Summary:

The law amends the definition of child neglect to specifically allow parents to allow a child of “sufficient age and maturity to avoid harm or unreasonable risk of harm” to engage in independent activities and to remain at home unattended. Activities listed include traveling to and from school and commercial or recreational activities and engaging in outdoor play.

Status: Signed by governor March 15, 2018

Comments: From Good4Utah.com (March 27, 2018)
Utah is making national headlines as the first state to legalize "free range parenting".
On March 15, Governor Gary Herbert signed the bill that gives the freedom for parents to let their kids do unsupervised activities-- including walk to school, play outside and stay home alone -- without being penalized for child neglect.

The law goes into effect in May. In a statement, Utah Gov. Gary Herbert said: "Parents know their kids better than anyone else. This law gives them the ability to teach them responsibility however they see fit."

Some parents said the controversial method is designed to let kids be kids, just with a little less parental supervision.

"We want kids to be able to learn how to navigate the world so when they're adults they're fully prepared to handle things on their own," said state Sen. Lincoln Fillmore, R-Utah.

The measure, which passed unanimously, permits "a child, whose basic needs are met and who is of sufficient age and maturity to avoid harm" to engage in certain independent activities.

"The way you get brave and self-sufficient and problem solving is by doing some things on your own," said Lenore Skenazy, president of Let Grow and founder of Free-Range Kids.

Skenazy first coined the phrase "free-range parenting" in 2008 after she wrote an article about why she let her then 9-year-old son ride the subway alone.

"We have to let parents be rational and loving and trust their kids and give them the independence we all cherish," she said.

Aside from the fear for their child's safety, some parents worry they might face legal ramifications if they give their children some independence.

In 2015, the Meitiv family, of Silver Spring, Maryland, made headlines when authorities accused them of child neglect after they allowed their two children -- ages 6 and 10 -- to play and walk home from a local park unsupervised.

"Our rights were violated, the constitution very clearly protects parents' rights to raise their kids the way they see it," said Danielle Meitiv, a free-range parent.

Those charges were ultimately dropped and the Meitivs said they still consider themselves free-range parents.

Staff Note: State Assemblyman Phillip Steck is considering introducing similar legislation in New York, according to the NY Times. Legislation in Arkansas failed in 2017.

SSL Committee Meeting: 2019 B
- ( ) Include in Volume
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- ( ) Reject

Comments/Note to staff

04-39B-01 New Home Sales Maryland
Bill/Act: MD S 648

Summary:

Requires, for a development with 11 or more homes to be built by the same builder, a home builder to provide a purchaser with written information on energy-efficient options, including a statement that tax credits may be available related to the energy-efficient options, available for installation in a new home, requires a contract for the initial sale of a new home to contain a certain acknowledgment that the purchaser was provided with certain information about energy-efficient options for the home.

Status: Enacted

Comments: From Maryland Department of Legislative Services (February 13, 2018)

A home builder must provide written information to the purchaser of a new home about energy-efficient options, including a statement that tax credits may be available related to the energy-efficient options that are available for installation in the home before construction of the home is completed. A contract for the initial sale of a new home must contain an acknowledgment that the home builder provided the purchaser with written information about any energy-efficient options, including a statement that tax credits may be available related to the energy-efficient options, available for installation in the home before construction of the home is completed.

Disposition of Entry:

SSL Committee Meeting: 2019 B
- ( ) Include in Volume
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- ( ) Reject

Comments/Note to staff

04-39B-02 Ratepayer Protection Act Hawaii
Bill/Act: HI S 2939

Summary:

Requires the Public Utilities Commission to establish performance incentive and penalty mechanisms that directly tie electric utility revenues to the utility's achievement on performance metrics, exempts member owned cooperative electric utilities, allows the Public Utilities Commission to delay implementation until a certain date.

Status: Enacted

Comments: From Hawaii Public Radio (April 24, 2018)

The Hawai'i Ratepayer Protection Act will require the Public Utilities Commission, the PUC, to develop incentives for local electric companies to modernize and manage costs. Governor David Ige signed the measure into law, and said, performance-based rates will allow utilities to earn profits when they provide cheaper, cleaner energy.

"New data shows that the faster we move from out oil-based dependence, the more money we save and the more jobs we create."

Governor Ige said Hawai'i leads the way with its goal of 100 percent renewable energy by 2045 and there are no other state models to follow. Representative Chris Lee, chair of the House Energy and Environmental Protection Committee, said the collective progress made so far in Hawai'i has benefitted consumers.

"That acceleration away from fossil fuels and toward cheaper renewables, clearly has already saved over a third of a billion dollars for local consumers and avoided fossil fuel costs and continues to decrease the cost of power over time, the quicker we get over our reliance on imported oil."

Senator Stanley Chang introduced the measure and said no other state or state legislature is doing what Hawai'i is doing.

"Frankly, it's a 'moonshot bill.' For the first time in the United States, an electric utility is not going to be charging raters either based on what the market can bear or based on what they can build, but, on affordability, reliability, customer satisfaction, public access to data, renewable energy and timely execution of business processes."

The law takes effect July 1st. The PUC will then be required to create an incentive framework by January 1, 2020. Blue Plant executive director, Jeff Mikulina, says the PUC's framework should be flexible.

"If we laid out a plan for how to get there today, we're gonna be wrong in 5 years. Technology is evolving so quickly, we really don't know what the landscape will look like. But, what we do know, is we need more renewable energy, we need more energy efficiency, we want to reduce customer bills, we want more reliability and now all of these things, the utility will be directly rewarded for, so it will align them with where we're heading."

Disposition of Entry:

SSL Committee Meeting: 2019 B
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Comments/Note to staff

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*05-39A-01 Healthy Soils Program Maryland
Bill/Act: HB 1063

Summary:

Directs the Maryland Department of Agriculture to provide farmers with research, education, technical assistance, and — subject to available funding — financial assistance to improve soil health on Maryland farms. Studies show that healthy soil practices capture carbon and reduce greenhouse gas emissions, while also providing numerous benefits to farmers, such as generating crops with greater yields and that are more drought resistant.

Status: Became law on May 4, 2017.

Comments: From Fair Farms Maryland

Gov. Larry Hogan signed legislation establishing the new Maryland Healthy Soils Program. House Bill 1063, sponsored by Del. Dana Stein (D-Baltimore County), directs the Maryland Department of Agriculture to provide farmers with research, education, technical assistance, and — subject to available funding — financial assistance to improve soil health on Maryland farms. Studies show that healthy soil practices capture carbon and reduce greenhouse gas emissions, while also providing numerous benefits to farmers, such as generating crops with greater yields and that are more drought resistant.

The Senate passed the bill passed unanimously, and it received a 137-1 vote in the House of Delegates. It is one of the first such state-sponsored programs in the United States. One of the program's purposes is to increase biological activity and carbon sequestration by promoting practices based on emerging soil science that include planting mixed cover crops, adopting no till or low till farming and carefully managed rotational grazing.

"This new law — which is literally ground-breaking — will help the state reduce greenhouse gases 40 percent by 2030, a goal set by the state legislature and signed by Gov. Larry Hogan last year," said Del. Stein. "Healthy soil can better absorb rainfall, lessen drought damage, reduce flooding and erosion, limit nutrient runoff and greatly reduce the impacts of climate change."

A diverse group of stakeholders worked on legislation, including environmental and climate change advocates, the Maryland Department of Agriculture and the Maryland Farm Bureau.

"Healthy soils are important for growing crops and increasing yields and profitability for farmers," said Colby Ferguson of the Maryland Farm Bureau. "The Maryland Healthy Soil Program will give more support to farmers to explore and adapt to lucrative new techniques, while also helping farmers to manage nutrient loads on their fields."

"This legislation represents the shared values of both farmers and environmentalists, and shows what can happen when we work together toward a common goal," said Betsy Nicholas, executive director of Waterkeepers Chesapeake and founder of the Fair Farms campaign.

"We all want to restore our waterways, and encouraging these types of soil practices will improve the health of the Chesapeake Bay and our rivers and streams in many ways."

Groups advocating for the new law included: Alice Ferguson Foundation, Biodiversity for a Livable Climate, Center for Food Safety, Chesapeake Bay Foundation, Fair Farms, Future Harvest CASA, Maryland Farm Bureau, Maryland Department of Agriculture, Maryland Grain Producers, Maryland Pesticide Education Network, Organic Consumers Association, and Regeneration International.

The bill went into effect on October 1, 2017.

Staff Note:

Four states have similar programs that provide training or funding for the restoration of soil health.

Massachusetts: An Act to Promote Healthy Soils establishes a fund for education and training for those engaged in agriculture that regenerates soil health. Indicators of healthy soil include levels of carbon, rates of water infiltration and biological activity

New York: Carbon Farming Act used a tax credit model for farmers who maximize carbon sequestration potential on their land. The bill did not pass, but the Carbon Farming Act was incorporated into the state budget, providing $50,000 to study incentives for carbon farming tax credits, grants, and other programs.

California: The Department of Food and Agriculture appropriated $7.5 million from the Greenhouse Gas Reduction Fund to develop and administer incentive and demonstration programs as part of the state's Healthy Soils Program.

Vermont: S.43 would require the Secretary of Natural Resources to establish a regenerative soils program. Its purposes include increasing the carbon sequestration capability of Vermont soils, reducing the amount of sediment and waste entering the waters of the state, and promoting cost-effective and healthy soil management practices. The bill did not pass in the 2017 session.

Disposition of Entry:

SSL Committee Meeting: 2019 B
- ( ) Include in Volume
- ( ) Include as a Note
- ( ) Defer consideration:
  - ( ) next SSL meeting
  - ( ) next SSL cycle
- ( ) Reject

Comments/Note to staff

05-39B-02 The Public Lands Protection Act California
Bill/Act: CA S 50

Summary:

Establishes a new state policy to discourage conveyances of federal lands to private developers for resource extraction and directs the State Lands Commission, which oversees much of the federal lands in the state, to establish a right of first refusal by the state of any federal lands proposed for sale or conveyance to other parties. Ensures (a) that the state reviews any transactions involving federal lands in California to ensure those lands are protected, and (b) where feasible, important lands are protected via state action.

Status: Enacted.

Comments: From Senator Ben Allen (September 15, 2017)

Sacramento, CA – The California State Senate gave final approval today to legislation, Senate Bill 50, that will be the first law in the country that could effectively block the sale or lease of federal public lands in the state. Authored by Senator Ben Allen (D – Santa Monica), the Public Lands Protection Act passed on a vote of 28 - 12.

SB 50 grants a first right of refusal to the State Lands Commission prior to the sale or lease of federal public land located in California. It prohibits a county recorder from transferring the title of the property to a new owner or lease if this first right of refusal is not offered.

“Imagine a world in which parts of Yosemite National Park would be sold off and developed, the giant redwoods in Redwood National Park could be logged, or parts of Lassen, Kings Canyon, Death Valley, or Joshua Tree could simply be put on the auction block. This idea was unthinkable until recently when it became an all too real possibility,” Senator Allen said.

“This legislation gives the state a viable method to help prevent the unthinkable sell-off of these national treasures,” Allen added.

California is home to 45 million acres of federal lands, such as national parks and national monuments, managed by a variety of agencies including the National Park Service, U.S. Fish and Wildlife Service, Bureau of Land Management, the US Forest Service and the Department of Agriculture.

“With unprecedented attacks coming from the Trump Administration there has never been a more important time to defend our open spaces,” said Sarah Rose, CEO of the California League of Conservation Voters. “The passage of SB 50 sends a clear message: public lands belong in public hands.”

SB 50 is part of the Senate’s “Preserve California” series of legislation that includes measures to insulate the state from rollbacks in federal environmental regulations and public health protections. The measures include SB 49, which makes existing federal laws like the Clean Air and Clean Water Acts enforceable under California law, and SB 51, which will protect whistleblowers who stand up for the public's interest from having their professional credentials stripped away if they are licensed to practice in California.

SB 50 now goes to the governor who has until October 15, 2017 to sign it into law.

Disposition of Entry:

SSL Committee Meeting: 2019 B

- ( ) Include in Volume
- ( ) Include as a Note
- ( ) Defer consideration:
  - ( ) next SSL meeting
  - ( ) next SSL cycle
- ( ) Reject

Comments/Note to staff

05-39B-03 Pesticide Reporting and Regulation Program Hawaii
Bill/Act: SB 3095

Summary:

Beginning 1/1/2019, requires all users of restricted use pesticides to be subject to a requirement to report on their use of restricted use pesticides to the Department of Agriculture (DOA). Prohibits the use of a restricted use pesticide on or within 100 feet of a school during normal school hours beginning on 1/1/2019. Prohibits the use of pesticides containing chlorpyrifos as an active ingredient beginning 1/1/2019; provided that the DOA shall grant any person, upon request, a temporary permit allowing the use of pesticides containing chlorpyrifos through 12/31/2022. Provides for the deposit into the pesticide use revolving fund of all penalties and fines collected under the Hawaii Pesticides Law. Revises the ceiling and use of the pesticide use revolving fund. Requires the DOA to develop a pesticide drift monitoring study no later 7/1/2019. Appropriates general funds for the pesticide drift monitoring study, establishment of two full-time equivalent positions, and outreach and education.

Status: Enacted.

Comments: From Hawaii Tribune-Herald (April 11, 2018)

A bill that would establish regulations on users of restricted pesticides is on the cusp of being passed into law after the state House unanimously voted to pass it last week.

Senate Bill 3095 would, if passed, establish a series of requirements imposed upon agricultural businesses that use more than 35 pounds or 35 gallons of restricted-use pesticides in a year.

The bill makes several proposals that would require greater transparency from users of restricted-use pesticides, substances to which access is limited because of their adverse effects on the environment or negative health effects.

One such proposal would require users of restricted-use pesticides to report on their use of the pesticides at the end of each year. These reports would include which substance is used, how much of it is used and where it is used.

Another regulation would establish buffer zones within 100 feet of school properties. Within such zones, the use of restricted-use pesticides would be expressly prohibited.

Finally, the bill proposes a ban on the use of all pesticides containing the chemical chlorpyrifos — prolonged exposure to which has been linked with a higher risk of lung cancer, as well as autoimmune disease and developmental delays in children — that would take effect at the beginning of next year.

The ban would have one exception: Upon request, the Department of Agriculture would be able to authorize people to use pesticides containing chlorpyrifos until the end of 2021. However, the department would publicly disclose the names of all people applying for and awarded such a permit.

Sen. Russell Ruderman, D-Puna, one of the introducers of the bill, said such public disclosure might serve as a deterrent for those seeking exemption to the ban — “and that’s not necessarily a bad thing,” he added.

Nearly 2,000 pages of testimony regarding the bill were submitted during three different hearings since the bill was introduced. Public testimony was overwhelmingly in support of the proposal.

“The proposed amendments will protect Hawaii’s keiki from the impacts of large-scale agricultural pesticide use,” wrote Brent Norris, executive director of Hilo nonprofit Green Collar Technologies. “A ban on chlorpyrifos would protect keiki from a dangerous neurotoxin that is known to create neurodevelopment disorders in fetuses and children’s brains.”

Hundreds of residents throughout the state wrote to voice their support.

“We need mandatory disclosure and notification, along with pilot programs for buffer zones and drift studies around schools,” wrote hundreds of residents in a copied form letter. “Additional studies on pesticide drift are meaningless without knowledge of what pesticides were and are being applied. Chlorpyrifos is a known neurotoxin that has no place in Hawaii.”

The majority of the few voices in opposition to the bill were from agricultural organizations. The Hawaii Farm Bureau criticized the bill, writing, “If we truly want to protect children from exposure to pesticides, we should start with a program that identifies risk to students. This bill only targets Hawaii farmers’ use, which has not been identified as a source of health problems in the community.”

Meanwhile, multinational agricultural corporation Monsanto also opposed the bill. Dan Clegg, Monsanto Hawaii business operations lead, wrote: “Monsanto and other farmers in Hawaii need to be able to control pests in their crops. Insects, weeds and diseases can have a devastating effect on crop yield and quality, and farmers need to have a variety of tools available to help control them.”

Clegg also emphasized that Monsanto’s use of pesticides is as safe as possible and is in accordance to the pesticide’s label, which itself is the product of an extensive risk evaluation by the Environmental Protection Agency.

However, Ruderman said that, although the issue of pesticide regulation has been bitterly contested through the years, many large-scale users of restricted-use pesticides have quieted on the issue. This, he said, was exemplified by the unanimous support for the bill in the House, with both parties backing the Democrat-authored bill.

The Senate has until Thursday to voice objections to amendments to the bill made by the House.

Staff Note:

Environmental Protections Agency's stance on chlorpyrifos

Hawaii is the first state to pass a ban on the use of the chlorpyrifos. This is the most significant piece of the legislation as chlorpyrifos have been linked to many human development issues. Many common pesticides contain the chemical as it is an effective method of pest control.

Disposition of Entry:

SSL Committee Meeting: 2019 B

- ( ) Include in Volume
- ( ) Include as a Note
- ( ) Defer consideration:
  - ( ) next SSL meeting
  - ( ) next SSL cycle
- ( ) Reject

Comments/Note to staff

05-39B-04 Single-Use Carryout Bags California
Bill/Act SB-270

Summary:
This bill prohibits store that have a specified amount of sales in dollars or retail floor space from providing a single-use carryout bag to a customer, with specified exceptions. The bill also prohibits those stores from selling or distributing a recycled paper bag at the point of sale unless the store makes that bag available for purchase for not less than $0.10. On and after July 1, 2016, the bill imposes these prohibitions and requirements on convenience food stores, foodmarts, and entities engaged in the sale of a limited line of goods, or goods intended to be consumed off premises, and that hold a specified license with regard to alcoholic beverages. The bill would appropriate $2,000,000 from the Recycling Market Development Revolving Loan Subaccount in the Integrated Waste Management Account to the department for the purposes of providing loans for the creation and retention of jobs and economic activity in California for the manufacture and recycling of plastic reusable grocery bags that use recycled content.

Status: Became law on September 30, 2014

Comments: From National Conference of State Legislatures (May 17, 2018)

In August 2014, California became the first state to enact legislation imposing a statewide ban on single-use plastic bags at large retail stores. The bill also required a 10-cent minimum charge for recycled paper bags, reusable plastic bags, and compostable bags at certain locations. The ban was set to take effect on July 1, 2015, but a referendum forced the issue onto the ballot in the November 2016 election. Proposition 67 passed with 52 percent of the vote, meaning the plastic bag ban approved by the Legislature remains the law. A detailed summary of the law can be found below. Voters also rejected a second measure, Proposition 65, which proposed to create an environmental fund with proceeds from a 10-cent charge for alternative bags.

Hawaii has a de facto statewide ban as all of its most populous counties prohibit non-biodegradable plastic bags at checkout, as well as paper bags containing less than 40 percent recycled material. Bans in Kauai, Maui and Hawaii counties took effect between 2011 and 2013, with Honolulu becoming the last major county to approve the ban in 2015.

In 2009, the District of Columbia enacted legislation requiring all businesses that sell food or alcohol to charge 5 cents for each carryout paper or plastic bag.

Staff Note: There have been 12 states to enact legislation regarding the use of plastic bags, although not all imposed a tax or fee on bag usage. Ten states have preempted localities from imposing a fee or requiring a recycling container outside stores that offer plastic or paper bags. Several localities, including Washington, D.C., and New York City, have imposed a fee. Other cities, including Chicago and Boston, have banned plastic bags outright.

SSL Committee Meeting: 2019 B
- ( ) Include in Volume
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( ) Reject

Comments/Note to staff

06-39B-01 An Act to Amend Issuance of Vital Records Illinois
Bill/Act: IL H 1785

Summary:

Amends the Vital Records Act. Defines intersex condition, licensed health care professional, and licensed mental health professional. Changes provisions concerning the issuance of new birth certificates for individuals that have undergone gender transition treatment. Provides that in order to change an individual's sex designation on the individual's birth certificate, a licensed healthcare professional or licensed mental health professional must make a declaration, but proof of surgery is no longer required.

Status: Enacted.

Comments: From U.S. News and World Report (August 25, 2017)

Gov. Bruce Rauner has signed a plan making it easier for transgender people to change the gender listed on their birth certificates.

The Republican signed the measure into law Friday without offering comment.

The new law allows transgender individuals to change their gender designation with authorization from a medical professional confirming they have undergone medically appropriate treatment. Current law requires proof of a surgical operation.

Proponents say it'll treat transgender people with dignity by implementing the same standards used for driver's licenses, passports and in several other states. Advocates have also argued the updated standards help protect transgender people who don't want or cannot afford surgery from discrimination.

However, some Republicans argued that the current law permitting a change following surgery goes far enough.

Disposition of Entry:

SSL Committee Meeting: 2019 B
- ( ) Include in Volume
- ( ) Include as a Note
- ( ) Defer consideration:
  - ( ) next SSL meeting
  - ( ) next SSL cycle
- ( ) Reject

Comments/Note to staff

06-39B-02	An act reforming New Hampshire's Medicaid and Premium Assistance Program, establishing the granite workforce pilot program, and relative to certain liquor funds. Bill/Act: NH SB 313	New Hampshire

Summary:

Only section IV, subsection (c) on page 8, which requires the commissioner to submit a plan for the implementation of a fully automated verification utilizing public and commercially available to verify work and community engagement activities.

Status: Enacted.

Disposition of Entry:

SSL Committee Meeting: 2019 B
- ( ) Include in Volume
- ( ) Include as a Note
- ( ) Defer consideration:
  - ( ) next SSL meeting
  - ( ) next SSL cycle
- ( ) Reject

Comments/Note to staff

06-39B-03 Fiscal Year 2019 Appropriations Bill New Jersey
Bill/Act: NJ

Summary:

Only note 89 on page 267-68, which permits state agencies to obtain employment and income information from a third-party commercial reporting agency.

Status: Enacted.

Disposition of Entry:

SSL Committee Meeting: 2019 B
- ( ) Include in Volume
- ( ) Include as a Note
- ( ) Defer consideration:
  - ( ) next SSL meeting
  - ( ) next SSL cycle
- ( ) Reject

Comments/Note to staff

06-39B-04 General Appropriations Act Florida
Bill/Act: FL HB 5001

Summary:

Only Section 3, paragraph 364 on page 81, which grants funding for contracting with automated commercial wage verification services for the purpose of verifying eligibility and for public benefit programs.

Status: Enacted.

Disposition of Entry:

SSL Committee Meeting: 2019 B
- ( ) Include in Volume
- ( ) Include as a Note
- ( ) Defer consideration:
  - ( ) next SSL meeting
  - ( ) next SSL cycle
- ( ) Reject

Comments/Note to staff

06-39B-05 Elections: voter registration California
Bill/Act: CA AB 1020

Summary:

Only section 2227 (a), which permits county elected officials to contract with consumer credit reporting agencies to obtain change of address data.

Status: Enacted.

Disposition of Entry:

SSL Committee Meeting: 2019 B
- ( ) Include in Volume
- ( ) Include as a Note
- ( ) Defer consideration:
  - ( ) next SSL meeting
  - ( ) next SSL cycle
- ( ) Reject

Comments/Note to staff

06-39B-02 Medicaid and Human Services Transparency and Fraud Prevention Act — Mississippi

Bill/Act: MS HB 1090

Summary:

Only section 3, which establishes an enhanced eligibility verification service, including the use of third party vendors to verify eligibility.

Status: Enacted.

Disposition of Entry:

SSL Committee Meeting: 2019 B

- ( ) Include in Volume
- ( ) Include as a Note
- ( ) Defer consideration:
  - ( ) next SSL meeting
  - ( ) next SSL cycle
- ( ) Reject

Comments/Note to staff

07-39B-01 Prescription Drugs: Prohibition on Price Discount Bill/Act AB-265 California

Summary:

Existing law regulates the packaging, labeling, and advertising of drugs and devices.
This bill would generally prohibit a person who manufactures a prescription drug from offering in California any discount, repayment, product voucher, or other reduction in an individual's out-of-pocket expenses associated with his or her health insurance, health care service plan, or other health coverage, including, but not limited to, a copayment, coinsurance, or deductible, for any prescription drug if a lower cost generic drug is covered under the individual's health insurance, health care service plan, or other health coverage on a lower cost-sharing tier that is designated as therapeutically equivalent to the prescription drug manufactured by that person or if the active ingredients of the drug are contained in products regulated by the federal Food and Drug Administration, are available without prescription at a lower cost, and are not otherwise contraindicated for the condition for which the prescription drug is approved.

The bill would specify exceptions to these prohibitions, including, among other things, if the individual has completed any applicable step therapy or prior authorization for the prescription drug as mandated by the individual's health insurer, health care service plan, or other health coverage, or if a rebate is received by a state agency. The bill would also clarify that it does not prohibit an entity, including a manufacturer of prescription drugs, from offering a pharmaceutical product free of any cost, if the product is free of cost to both the patient and his or her health insurer, health care service plan, or other health coverage, that it does not affect a pharmacist's ability to substitute a prescription drug, and that it does not prohibit or limit assistance to a patient provided by an independent charity patient assistance program, as defined.

Status: Became law on October 9, 2017

Comments: From Policy & Medicine (October 3, 2017)

The legislation was initially offered by Assembly Members Wood and Chiu on January 31, 2017. The legislation passed the Assembly on May 31, 2017, followed by the California Senate on September 12, 2017.

Governor Jerry Brown has twelve days from the day the bills are presented to him to decide whether to sign or veto the bills before they automatically become law. AB265 was presented to the Governor on September 20, 2017, at 4:30 pm, meaning the twelve days are up and the bill automatically became law yesterday, October 2, 2017.

The bill prohibits prescription drug manufacturers from offering discounts or other reductions in an individual's out-of-pocket costs associated with his or her insurance coverage, if a lower cost generic equivalent is available.

The legislation also specifies exceptions where discounts will be permitted, even if a lower cost generic is available. Those exceptions include:

- Discounts for a prescription drug required under a United States Food and Drug Administration (FDA) Risk Evaluation and Mitigation Strategy (REMS) to monitor the use of that prescription drug in a manner consistent with the approved labeling;
- A single-tablet drug regimen for treatment or prevention of human immunodeficiency virus (HIV) or acquired immune deficiency syndrome (AIDS) that is as effective as a multi-tablet regimen;
- If the individual has completed step therapy or prior authorization requirements for the branded prescription drug as mandated by the individual's health insurer, health care service plan, or other health coverage; or
- Rebates received by a state agency.

The bill was introduced by the authors because "in recent years there has been a proliferation of coupons offered by drug manufacturers that sound great, but two recent studies show that most of these coupons are a classic bait and switch."

Disposition of Entry:

SSL Committee Meeting: 2019 B
( ) Include in Volume
( ) Include as a Note
( ) Defer consideration:
( ) next SSL meeting
( ) next SSL cycle
( ) Reject

Comments/Note to staff

07-39B-02 Individual Insurance Mandate New Jersey
Bill/Act A3380

Summary:

As amended, this bill, entitled the “New Jersey Health Insurance Market Preservation Act,” restores, at the State level, the recently repealed shared responsibility tax provided under the Affordable Care Act (ACA), which requires most individuals, other than those who qualify for certain exemptions, to obtain health insurance or pay a penalty. Specifically, the bill requires that every resident taxpayer of the State obtain health insurance coverage that qualifies as minimum essential coverage under the bill. If the taxpayer does not obtain coverage, the bill imposes a State shared responsibility tax equal to a taxpayer’s federal penalty under the ACA prior to the repeal of that provision. Mandate will be effective Jan. 1, 2019.

Status: Signed by governor May 30, 2018

Comments: From NJ.com (May 30, 2018)

Gov. Phil Murphy on Wednesday signed a law preserving a critical yet controversial part of the Affordable Care Act that President Donald Trump's administration repealed last year.
One of the laws creates a statewide individual mandate, which will require all New Jerseyans who don't have health coverage through a government program like Medicare or their jobs to buy a policy, or pay a fee at tax time.

The landmark federal health care law, better known as Obamacare, imposed the mandate to ensure younger and healthier people who might otherwise forgo insurance will buy-in and share costs.

But the tax package approved by the Republican-led Congress and signed into law by Trump will end the mandate in 2019. The requirement was one of the more distasteful parts of the law for lawmakers and the public who believe it allowed government to intrude into people's lives.

State Sen. Joseph Vitale, D-Middlesex, one of the prime sponsors of the law, said keeping the mandate "was needed to maintain a foundation for the insurance market and to allow the success of the ACA to continue."

Trump's actions "will usher in an era of higher health insurance costs for everyone and lower health coverage rates. We want to protect New Jersey from the negative impact," said state Sen. Troy Singleton, D-Burlington, also a sponsor.

About 800,000 people obtained insurance coverage under the law -- 500,000 through Medicaid and about 300,000 through a commercial plan.

The law (S1877) gives the state the authority to impose the individual mandate and collect a fee from people who do not buy insurance.

Experts predict ending the mandate would destabilize the health exchange -- the online marketplace at healthcare.gov -- because it would be dominated by sick or older policy holders whose costs would drive up premiums.

In 2015, 189,000 New Jerseyans collectively paid $93 million, or roughly $500 in fees, rather than comply with the individual mandate, according to IRS data collected by the research institute, New Jersey Policy Perspective.

The fees collected under the new state law would be deposited into the New Jersey Health Insurance Premium Security Fund, which is created by the second law Murphy signed, (S1878).

The fund would help pay the claims of people who are catastrophically ill, so rates would not rise dramatically. The state Department of Banking and Insurance must apply to the federal government to create the fund and a board that would control it.

Murphy, a Democrat who has often been critical of Trump, signed the bills on the same day the consumer advocacy group, the NJ for Healthcare Coalition sent him a letter asking him to act on the legislation without delay.

"We urge you to act to preserve the coverage gains we've made under the ACA and to make comprehensive health insurance affordable for more New Jerseyans by signing these bills," according to the letter.

Staff Note:

Vermont also passed an individual mandate in 2018 but it does not go into effect until Jan. 1, 2020. Both Vermont and Massachusetts acted after the 2017 federal tax reform bill ended the individual insurance mandate in an effort to discourage increases in exchange premiums. Massachusetts already has an individual mandate in place as part of the MassHealth reforms adopted in 2006.

SSL Committee Meeting: 2019 B
- ( ) Include in Volume
- ( ) Include as a Note
- ( ) Defer consideration:
  - ( ) next SSL meeting
  - ( ) next SSL cycle
- ( ) Reject

Comments/Note to staff

07-39B-03 Opioid Tax New York
Bill/Act S7507

Summary:

Establishes an excise tax on certain prescription opioids; and establishes an opiate addiction trust fund for the purpose of funding opiate addiction prevention and treatment programs.

This bill requires opioid manufacturers and distributors to pay a fee expected to raise some $100 million annually for efforts to combat addition. The specific fee for each company would be based on market share.

Status: Signed by governor April 12, 2018

Comments: From Albany Times Union (April 3, 2018)

New York made history this past week when it became the first state to work out a deal to hold the pharmaceutical industry responsible for at least some of the financial costs of the deadly and growing opioid drug epidemic.

Those costs have thus far been borne by taxpayers, as people addicted to powerful prescription painkillers, heroin, fentanyl and other opioids cycle in and out of ambulances, emergency rooms, jails, courts, rehabilitation centers and social service programs. In 2016, more than 3,000 New Yorkers overdosed on the drugs and died.

But the passage Saturday of the Opioid Stewardship Fund in the 2018-19 state budget will now require opioid manufacturers and distributors to pay into a $100 million annual fund designed to cover the costs of prevention, treatment and recovery programs. It was cheered by substance abuse providers and addiction recovery advocates, who say it's only right that the industry which helped create the crisis should help pay for it.

"When BP polluted our ocean they had to pay for the cleanup," said Stephanie Campbell, executive director of Friends of Recovery - New York. "I would suggest that the opioid industry has polluted our environment. They have contributed to the flooding of the market with opioids, which have proven addictive and deadly, and made incredible profits while doing it."

The deal to get manufacturers and wholesalers to pay up came out of a last-minute compromise between Gov. Andrew Cuomo and the Assembly, who had been pushing for a per-pill tax on opioids, and the Senate, which refused to impose new taxes that studies had shown could potentially be passed down to consumers. Specific language in the Stewardship Act prohibits pill makers and distributors from passing the so-called "assessment" on to purchasers and patients.

Bills are pending in at least a dozen other states to create a tax on the sale of opioids as a way of consistently funding drug abuse treatment and prevention programs, according to the National Conference of State Legislatures. Assessments paid into stewardship funds — a tax by another name, really — are another possible redress currently being eyed in places like Delaware and Minnesota.

"We've gotten calls from other states and they want to know, how did you guys do it? Because they've been trying to do it too," said Campbell. "This sets a precedent nationally that we can hold pharmaceutical companies accountable. So we view it as a major accomplishment."

So how will it work?

Any manufacturer or distributor licensed to sell or distribute opioids in New York will pay a collective $100 million a year into the fund, with payments divided based on each group's share of the market — or the total number of morphine milligram equivalents (MMEs), a potency measurement, sold statewide. Those who sell or distribute more MMEs, for example, would pay a larger share. Those who sell or distribute fewer would pay a smaller share.

Each licensed maker and seller must submit an annual report to the state Health Department detailing a list of opioids sold or distributed in the state, the date of sale, gross receipt and strength no later than June 30, and will learn what its share is no later than Oct. 15. The first payments will be due Jan. 1, and must be made quarterly.

All opioids sold in the state must be counted, except those used to treat opioid addiction, including buprenorphine, methadone and morphine.

The program expires in 2024, at which time lawmakers will assess its effectiveness and consider it for renewal.

Price Chopper Supermarkets, which operates a controlled substance warehouse in New York and distributes opioids to its in-store pharmacies, is one distributor that may be unexpectedly caught in the new law's crosshairs.

"There is some ambiguity around the new opioid surcharge law and it is unclear at this time if or how it may affect us," said company spokeswoman Mona Golub. "In the coming days, we'll be speaking with legislative experts and other chain pharmacies that operate in New York state to gain clarity around this law and its effects."

Criticisms, concerns

The program is not without its flaws, as opponents and even supporters point out.

The pharmaceutical industry itself is — perhaps unsurprisingly — not a fan, saying the "assessment" is really just another name for a tax, and will have the same unintended consequences as the opioid tax Gov. Andrew Cuomo first proposed in January.

A study of that plan, completed by a pair of Union College economics professors and commissioned by Pharmaceutical Research and Manufacturers of America (PhRMA), found that most of the cost of the tax would be passed on to state residents who do not consume opioids,

with higher insurance premiums being one result. It would also encourage people suffering from an opioid addiction to switch to cheaper illegal options, like heroin and fentanyl, which are associated with higher rates of accidental overdose, it concluded.
"We're disappointed that budget makers chose a misguided and flawed assessment scheme that won't solve the complex and multifaceted opioid abuse crisis," said Priscilla VanderVeer, a spokeswoman for PhRMA.

Assemblyman John McDonald III, a pharmacist and owner of Marra's Pharmacy in Cohoes, doesn't dispute that some of the cost may be passed down to consumers, despite language in the bill prohibiting as much.

"The fact is that they have ways, indirectly, to reclaim some of the increased cost — either through price increases at the manufacturer level or by changing the terms of discounts to customers, which are the pharmacies," he said. "So the pharmacies may pay a little bit of it, and the consumer may to a lesser level pick up some of the cost."

Nevertheless, the Stewardship Fund was a financial and political necessity, McDonald said. Revenue was needed to expand treatment and recovery options, and making the industry pay up was the only real palatable option.

"The reality is young men and women are dying because of addiction, and society is mad," he said. "They're mad and they need someone to be mad at, so they're going to go after the two obvious sources — Pharma and wholesalers — who, coincidentally, are the farthest removed from the patient."

Staff Note:

New York is the first state to tax opioids. At least 15 states are considering similar measures according to the Chicago Tribune.

SSL Committee Meeting: 2019 B
- ( ) Include in Volume
- ( ) Include as a Note
- ( ) Defer consideration:
    - ( ) next SSL meeting
    - ( ) next SSL cycle
- ( ) Reject

Comments/Note to staff

07-39B-04 Maternal Mortality Review Committee Indiana
Bill/Act SB 142

Summary:

Maternal mortality review committee. Requires the state department of health (state department) to establish a statewide maternal mortality review committee (committee) until June 30, 2023, and sets forth membership and duties of the committee. Specifies confidentiality of records reviewed by the committee. Requires a health care provider or health care facility that has a patient who dies of a maternal mortality to report the death to the committee and sets forth immunity provisions for the provider or facility. Allows the committee to review maternal morbidity cases. Specifies records to which the committee may have access. Requires the committee to submit a report to the state department before July 1 of each year concerning the committee's reviews and requires the state department to post the report on the state department's Internet web site and make the report available for public inspection. Provides civil and criminal immunity to committee members in discussing confidential matters before the committee.

Status: Signed by governor March 13, 2018

Comments: From WFYI (Feb. 15, 2018)

A bill to create a maternal mortality review committee passed a House committee this week. It seeks to determine the reason for Indiana's high maternal mortality rate – when a mother dies during pregnancy or in childbirth. These rates are on the rise in many states, including Indiana. Sen. Jean Leising (R-Oldenburg) proposed a bill this session to investigate the cause.

"Our death rate for moms having babies in our state is twice that of the national average," says Leising.

The bill would create a review committee made up of health officials, hospitals and providers to review cases to determine and document the cause of death.

OB-GYN Mary Abernathy says many doctors say bleeding and stroke are leading causes, but other states found cardiovascular complications are more prevalent.

"We suspect this may be the case in Indiana," says Abernathy. "Our goal is to use this data to form a strategy and provide recommendations to improve the care and prevent maternal mortality in Indiana."
Indiana Minority Health Coalition's Paul Hannom says rates are even higher for African American women, with a number of contributing factors.

"Gestational diabetes, unintended pregnancies, unmarried mothers and four or fewer prenatal visits," says Hannom.

The proposal would require reporting of cases and also provide immunity to providers involved in the cases.

Some estimates find, nationally, more than 600 women die in childbirth each year. The CDC estimates more than half of these deaths are preventable.

Staff Note:

While maternal mortality review panels aren't a new trend, they can be an important public health fact-finding tool to address a growing issue in the U.S. About 35 states and four cities either have or are developing committees to examine maternal deaths. U.S. maternal mortality rates are increasing (up from 7.2 per 100,000 live births in 1987 to 24.5 in 2014 according to CDC data), while other countries are posting declines. Between 700 and 900 women die from pregnancy or childbirth-related causes each year, and about 65, 000 come close to dying. Maternal death rates for black women are twice that for white women. Oregon and Pennsylvania passed similar bills in 2018.

SSL Committee Meeting: 2019 B
- ( ) Include in Volume
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- ( ) Reject

Comments/Note to staff

07-39B-05	Reinsurance Program for Health Insurance Sold on Exchange Bill/Act SB 1267	Maryland

Summary:

Requiring the Maryland Health Benefit Exchange to establish a State Reinsurance Program to provide reinsurance to carriers that offer individual health benefit plans in the State, and that is consistent with certain laws; requiring that the Program be designed to mitigate the impact of high-risk individuals on certain rates; providing that, beginning January 1, 2019, funding for reinsurance in the individual health insurance market through the Program may be made using certain funds; etc.

Status: Signed by governor April 5, 2018

Comments: From Baltimore Sun (April 5, 2018)

Gov. Larry Hogan signed legislation Thursday that is expected to stave off another year of huge increases in health insurance premiums and prevent the collapse of the state's individual health insurance markets.

The legislation, which received final General Assembly approval this week, seeks to stabilize Maryland's insurance market for individuals and hold down expected rate increases after Congress and President Donald J. Trump took actions last year that chipped away at the Affordable Care Act.

The legislation creates a reinsurance program that will be run by the state's Health Benefits Exchange to protect insurers against catastrophically expensive claims.

To do so, health insurers will pay $380 million in taxes over the next year to help contain surging premiums for 150,000 Maryland residents. Many insurers saw it as a reasonable price to pay to prevent a market collapse.

The Maryland legislation is the product of negotiations between Democratic legislative leaders and the Republican governor.

"This is an example of what can be accomplished when we work together, and I'm proud to be signing these protections into law," Hogan said.

Staff Note:

Minnesota approved a reinsurance program in 2017 when premium rates went up as much as 67 percent. The legislature offered $271 million to help health insurance companies pay the most expensive medical claims, thereby lowering overall insurance premiums. The 2018 premiums fell by 15 percent in 2018 according to an Urban Institute analysis.

Alaska, which created a reinsurance pool in 2016, also saw a year-to-year decrease in premiums. A third state, Oregon, authorized the creation of a reinsurance program last fall, but that action came after the premiums had already been set for 2018, according to the Christian Science Monitor.

Oregon passed House Bill 2391 in 2017 and the federal government announced in Feb. 2018 it would provide approximately $54 million to stabilize health insurance markets and contain premium increases. Combined with state funding $90 million will be available toward plans purchased for the 2019 calendar year.

Disposition of Entry:

SSL Committee Meeting: 2019 B
- ( ) Include in Volume
- ( ) Include as a Note
- ( ) Defer consideration:
  - ( ) next SSL meeting
  - ( ) next SSL cycle
- ( ) Reject

Comments/Note to staff

07-39B-06 Drug Take-Back Program Washington
Bill/Act HB 1047

Summary:
Manufacturers that sell drugs into Washington must establish and implement a drug take-back program to collect covered drugs. A "covered drug" is a drug from a state resident (not a business source) that the resident no longer wants, including prescription and over-the-counter drugs, brand name and generic drugs, drugs for veterinary use, and drugs in medical devices and combination products. A covered manufacturer may implement a program independently, as part of a group of manufacturers, or through a drug take-back organization. By October 1, 2018, a drug take-back program operator must submit a proposal for the establishment and implementation of a drug take-back program to the Department of Health. To be approved, a proposal must satisfy certain requirements, such as ensuring the security of patient information and demonstrating adequate funding, with costs apportioned according to Washington sales revenues.

Status: Signed by governor March 22, 2018

Comments: From The Daily World (March 26, 2018)

Legislation signed by Gov. Jay Inslee Thursday created the nation's first statewide, comprehensive drug take-back program to be financed and provided by pharmaceutical manufacturers that sell drugs in Washington state.

Hoquiam Police Chief Jeff Myers has been pushing for this type of legislation for several years and was at the bill signing. "The Hoquiam Police Department has the only full time drop box (where unused medication can be dropped and disposed of properly) in all of Grays Harbor County, which is around 2,000 square miles and 74,000 citizens," said Myers. "This bill will support the disposal of the drugs we collect and will continue to collect in our drop box in the lobby, but also hopefully expand locations and opportunities for citizens all across our state."

The Secure Drug Take-Back Act focuses on prevention, seeking to shut down the "drug dealer" in the home medicine cabinet that is a common starting place for medicine misuse and addiction. A majority of people who abuse prescription drugs obtain them from family and friends. In Washington state, overdose deaths have surpassed car accidents as the most common cause of accidental death. According to the Washington State Department of Health, of the almost 700 opioid overdose deaths in 2016, over 400 were attributed to prescription opioids.

Prescription drugs are not only related to overdose and abuse, they also contribute to accidental poisonings and suicides. In Washington, over 150 suicides were attributed to medications in 2015. Prescription drug accumulation in homes can also increase the possibility of accidental poisonings, often due to expired medication or ingestion by a child.

To reduce risks of drug abuse, overdoses, poisonings, and suicides, the Secure Drug Take Back Act requires drug manufacturers to implement a statewide program for the safe and secure collection of unused, expired, and leftover medications.

The system must operate on a year-round basis and offer convenient drop-off sites in cities and towns across the state. Any pharmacy, hospital, or police agency that volunteers to host a secure drug drop box must be included in the collection system financed by drug manufacturers. Prepaid return mailers will also be available to residents. Additionally, each program must develop a system of promotion, education, and public outreach about the safe storage and collection of pharmaceuticals.

Finding sustainable and adequate financing has been a key barrier to providing drug take-back services in every community in Washington state. Sheriff and police departments often provide drug drop boxes but have no dedicated funding to pay to dispose of the large amounts of medicines collected from community members.

Under the new law, pharmaceutical manufacturers will directly finance the drug take-back program. The annual cost of the drug take-back program is estimated to be about 0.1 percent of the $5.7 billion in sales that pharmaceutical companies make per year in Washington.

“So far, the Hoquiam Police Department has collected and safely destroyed over 3,300 pounds of unwanted medications. Up until the creation of this new program, (the department) has been covering the costs of the drug take back box and destruction of the medications,” said Myers. “I have had the honor of testifying and supporting this legislation for many years. It was an absolute pleasure to see it pass both the House and the Senate this session with such support.”

Gov. Inslee commented at the bill signing he had supported the creation of drug take back programs back when he was in Congress by getting the DEA to change rules to allow them.

Under the Secure Drug Take-Back Act, drug manufacturers whose medicines are sold in or into Washington State must submit a program proposal by July 1, 2019 explaining how they will provide a drug take-back program meeting the law’s requirements. The bill also defines earlier deadlines for when manufacturers must contact pharmacies, hospitals, law enforcement, and other potential medicine collectors of the opportunity to participate in their program by hosting a secure drug drop box. The Washington State Department of Health will review and approve the manufacturers’ proposals.

Staff Note: Washington is the first state in the nation to have a statewide drug take-back program and to require that pharmaceutical manufacturers finance and implement the system. The bill sponsor estimated that the annual cost ($5.7 million) is about 0.1 percent of the $5.7 billion in pharmaceutical sales in Washington each year.

Disposition of Entry:

SSL Committee Meeting: 2019 B

- ( ) Include in Volume
- ( ) Include as a Note
- ( ) Defer consideration:
  - ( ) next SSL meeting
  - ( ) next SSL cycle
- ( ) Reject

Comments/Note to staff

*07-39B-07 Coverage for Infertility Rhode Island
Bill/Act S 821

Summary: This bill would mandate insurance coverage for medically necessary expenses for standard fertility preservation services when a medical treatment may directly or indirectly cause iatrogenic infertility. “Iatrogenic infertility” means an impairment of fertility as a result of surgery, radiation, chemotherapy, or other medical treatment affecting the reproductive organs or processes.

Status: Signed by the governor on July 05, 2017

Comments: From EurekAlert! (July 31, 2017)

Rhode Island has become the first state to pass a law explicitly requiring coverage for fertility preservation prior to gonadotoxic medical therapy, treatment that could directly or indirectly cause infertility.

Clinicians from the Fertility Center and Program in Women's Oncology/Breast Health Center at Women & Infants Hospital of Rhode Island, a Care New England hospital, initiated the legislative process, co-wrote the bill, and along with patients testified on behalf of its passage at hearings at both the Rhode Island House of Representatives and Senate. This law explicitly mandates fertility preservation coverage prior to medical treatment that could render a patient infertile, setting a new precedent nationwide. On July 5, Governor Gina Raimondo signed into law legislation 2017-S 0821A, 2017-H 6170A that was sponsored by Senate Majority Whip Maryellen Goodwin (D-Dist. 1, Providence) and Representative Patricia A. Serpa (D-Dist. 27, West Warwick, Coventry, Warwick).

Legislation aimed at providing fertility preservation coverage was passed in Connecticut in June, which revises the definition of infertility to include "medically necessary" treatments. The Rhode Island law provides a separate definition, which explicitly mandates fertility preservation coverage prior to gonadotoxic therapies.

Richard J. Paulson, MD, president of the American Society for Reproductive Medicine (ASRM), shared, "ASRM applauds its colleagues in Rhode Island and lawmakers in the state for working together toward the enactment of a new precedent-setting law explicitly requiring insurance coverage for fertility preservation for patients needing medical treatments which are likely to cause infertility. It is our goal that other states will follow the direction of Rhode Island and Connecticut in recognizing the need for insurance to cover these treatments for oncology patients and others who should not have to choose between their own health and their ability to have children."

"If infertility is a risk of the treatment a patient needs, fertility preservation is a medical need that should also be covered by insurance. It's not acceptable that a person who is already coping with cancer and its treatment, for example, should also be dealt the blow of being potentially robbed of the ability to have children when there is a way to protect them. Insurers should be covering fertility preservation in this situation because it is necessary to protect patients from losing a very precious biological ability," said Senator Goodwin (D-Dist. 1, Providence).

Said Representative Serpa (D-Dist. 27, West Warwick, Coventry, Warwick), "This will affect only a handful of patients in Rhode Island each year, but for those that it does, the stakes are high. On one hand, better cancer detection means that more people are getting the treatment they need in earlier stages, including young people whose cancer might have previously gone undetected for a long time. On the other hand, when someone young undergoes treatment, they shouldn't have to sacrifice their ability to have children someday in the future, nor should they be faced with a choice of either accepting that loss or trying to pay for fertility preservation themselves. Fertility is part of health, and it should be covered as part of their treatment."

SSL Committee Meeting: 2019 B

- ( ) Include in Volume
- ( ) Include as a Note
- ( ) Defer consideration:
  - ( ) next SSL meeting
  - ( ) next SSL cycle
- ( ) Reject

Comments/Note to staff

07-39B-08 An Act Concerning Community Health Workers Connecticut
Bill/Act: CT S 126

Summary:

Establishes a pathway to increase the use of CHWs in Connecticut's health care system. Creates a baseline description of CHWs and the value they provide. Develops next steps on certification and sustainable funding for their work. Lays the foundation for Connecticut to further develop its CHW program and expand the use of CHWs to vulnerable populations.

Status: Enacted.

Comments: From Hartfordbusiness.com (September 24, 2017)

There are not many certainties in health care during these tumultuous times, but here are a few:

• No matter what happens in Washington, there will be growing pressure on healthcare providers and insurers to control costs.

• Providers will increasingly be held accountable for patients' outcomes.

• Perhaps most importantly, there's a lot of room for improvement in the health of, and the care delivered to, Connecticut residents — particularly people of color.

These dynamics present challenges that are daunting, but not insurmountable. One of the key steps that healthcare providers, insurers and employers can take now is to embrace the use of community health workers as a critical and cost-effective way to improve health.

Community health workers (CHWs) are public health workers who help to bridge the gaps between the doctor's office and patients' lives outside the clinic.

CHWs can identify and help overcome barriers people face to taking care of their health. They make sure patients show up for appointments, access the right care at the right time, have the tools to manage chronic conditions, and can access and afford their medications.

There are many CHWs in Connecticut, often known by other terms, such as health coaches, patient navigators or peer educators.

They can often be found working for hospitals, community health centers, behavioral health clinics and community-based organizations.

CHWs can play a key role in reducing preventable hospitalizations and readmissions – something healthcare organizations will be under increasing pressure to do as payers shift their focus to care quality.

While the Connecticut Health Foundation has provided more than $1 million in grants for CHW programs over the past 17 years, what's been missing is a way to ensure that this critical role can be funded in a sustainable way. We are eager to partner with healthcare organizations interested in pilot projects to test sustainable models.

It could mean hiring CHWs to help diabetic patients get their blood sugar under control – reducing preventable hospitalizations, amputations and premature deaths – as the Mercy health system in Texas has done.

It could mean using CHWs to help frequent emergency department users better address their needs, as the insurer Molina Healthcare did in New Mexico.

In a recent report commissioned by the Foundation, researchers at the University of Massachusetts Medical School's Center for Health Law and Economics identified the above programs as having potential for Connecticut. They are projected to produce savings in direct medical costs that exceed the cost of the program within three years.

For example, the diabetes program, if implemented in Hartford to serve 316 people, would cost $388,000 and save an estimated $435,000.

A new law, Public Act 17-74, puts Connecticut on a path toward certifying CHWs, a key step in ensuring they meet established standards. This can provide confidence to hospitals, physician practices, community organizations and insurers about the workforce.

It's understandable that some healthcare organizations would be wary of spending money on an additional service when cost pressures are forcing cutbacks. However, we at the Foundation view CHWs as a worthwhile investment that will save money and improve health outcomes.

Disposition of Entry:

SSL Committee Meeting: 2019 B

- ( ) Include in Volume
- ( ) Include as a Note
- ( ) Defer consideration:
  - ( ) next SSL meeting
  - ( ) next SSL cycle
- ( ) Reject

Comments/Note to staff:

07-39B-09 Public Health – Community Health Workers – Advisory Committee and Certification Maryland
Bill/Act: [MD SB 163]

Summary:

Establishing the State Community Health Worker Advisory Committee to advise the Maryland Department of Health on matters relating to the certification and training of community health workers; requiring the Department to adopt regulations for accrediting certain training programs; requiring that certain written materials be in the preferred language of Advisory Committee members, as necessary; providing that, subject to an exception, a certified community health worker training program must be approved before operating in the State; etc.

Status: Enacted.

Comments: From Modern Healthcare (October 22, 2016)

Maryland has the only all-payer hospital-rate regulation system in the country under a decades-old Medicare waiver. Since 1977, the state's Health Services Cost Review Commission has set the prices hospitals charge patients, regardless of their insurance coverage.

The state has also been an outlier for another reason: its readmission rates. Historically, they were high compared to the rest of the country. In 2010, when 18.6% of Medicare patients in the U.S. were hospitalized again within 30 days of discharge, Maryland's rate was 2.7 percentage points higher. In 2014, the Maryland commission and the CMS Innovation Center required Maryland hospitals to close that gap by 2018.

At the University of Maryland St. Joseph Medical Center, a 232-bed hospital in Towson, a quarter of high-risk patients were hospitalized again within 30 days. So the hospital began deploying community health workers tasked with helping these patients address pressing nonclinical issues after they leave the hospital.

“You cannot underestimate the importance of addressing the psycho-social needs of patients upon discharge,” said Dr. Gail Cunningham, St. Joseph's chief medical officer. “The best medical plan in the world is going to fail if some of the patient's basic needs aren't met.”

In its first 16 months, readmission rates for patients enrolled in the program dropped by 60%. In May, about 10% of St Joseph's high-risk patients were readmitted within 30 days, compared with 25% when the hospital launched the program in February 2015 in partnership with medical staffing company Maxim Healthcare. To identify patients who are highly likely to be readmitted, a nurse practitioner interviews patients before discharge and verifies their risk level. Then, the nurse practitioner sets up a care plan with a registered nurse outside the hospital as well as a community health worker to figure out how to address the patient's needs.

Within two days of discharge, the registered nurse goes to the home to ensure that the patient doesn't have other unmet needs. They perform clinical assessments too.

But it is the community health worker who is especially critical. Patients experience a wide range of challenges after they leave the hospital. Some need help getting prescriptions or filling out job applications. Many lack family support at home and are prone to falling. Some suffer from dementia or addiction. Or they live in food deserts with limited access to nutritious food. In one case, a patient simply needed help getting a mattress. The community health workers can help meet those needs themselves or connect patients with other resources.

Over the course of 30 days, the community health worker visits a patient at home five to 10 times. The regularity of the visits means that the worker builds trust and a relationship with the patient.

The nurse practitioners, registered nurses and community health workers are all employed by Maxim. It was Maxim that approached St. Joseph, Cunningham said, to explore the idea of examining nonmedical factors that contribute to readmissions and using community health workers to reduce unnecessary returns.

Since the program's launch, nurse practitioners have carried out some 1,600 assessments of high-risk patients; roughly 1,200 have opted into the program—about 5% of the patients the hospital discharges each year. From February 2015 to July 2016, St. Joseph used a total of 15 community health workers to look after about 1,200 patients. Six to 10 community health workers were employed at any given time.

Initially, Maxim focused on hiring certified nursing assistants as community health workers. But the company has begun to broaden the qualifications to include emergency medical technicians, home health aides and others with relevant backgrounds.

Maxim trains these workers in elements of both clinical and community health work, said Andy Friedell, a vice president at Maxim. For instance, they learn motivational interviewing, a technique for behavior change that involves engagement and empathy. They put in roughly 10,000 hours of work between February 2015 and May 2016, Friedell said.

St. Joseph plans to expand community health worker services to the behavioral health population, and Cunningham said she hoped the program ultimately will benefit all high-risk patients as more payers see the benefits for their budgets, and for patients.

Disposition of Entry:

SSL Committee Meeting: 2019 B

- ( ) Include in Volume
- ( ) Include as a Note
- ( ) Defer consideration:
  - ( ) next SSL meeting
  - ( ) next SSL cycle
- ( ) Reject

Comments/Note to staff:

07-39B-10 An Act Relating to Health Insurance Hawaii
Bill/Act: HI S 387

Summary:

Requires a health carrier with a network plan to maintain a network that includes sufficient numbers of appropriate types of providers to ensure that covered persons have access to covered services. Specifies contract, disclosure, continuity of care, and directory publication requirements. Implements provider directory standards and requires the insurance commissioner to develop quantitative, measurable network adequacy standards, based on the NAIC Network Adequacy Model Act.

Status: Enacted.

Comments: From nfp.com (August 8, 2017)

On July 12, 2017, Gov. Ige signed SB 387 into law. The new law requires insurers that offer network plans to maintain a network that is sufficient in numbers and appropriate in types of providers, including those that serve predominantly low-income, medically underserved individuals. This is to ensure that all covered benefits will be accessible without unreasonable travel or delay. Covered participants must have access to emergency services 24 hours per day, seven days per week.

If the network doesn't include a type of participating provider or has an insufficient number or type of providers to provide a specific covered benefit to a participant without unreasonable travel or delay, the benefit must be paid at in-network levels.

Insurers must electronically post a current and accurate provider directory, which must be updated at least monthly. The general public must be able to view the directory without creating or accessing an account or entering a policy number.

The law is generally effective for policy years beginning on or after Jan. 1, 2019.

Disposition of Entry:

SSL Committee Meeting: 2019 B
- ( ) Include in Volume
- ( ) Include as a Note
- ( ) Defer consideration:
  - ( ) next SSL meeting
  - ( ) next SSL cycle
- ( ) Reject

Comments/Note to staff

07-39B-11 An Act Relating to Health Insurance California
Bill/Act: CA AB 72

Summary:

This bill protects patients from surprise medical bills when they follow the rules of their health plan by going to an in-network hospital, lab, imaging center, or other health care facility. Patients would only be responsible for their in-network cost sharing and would be prohibited from getting outrageous out-of-network bills from doctors they did not choose.

Status: Enacted.

Comments: From Huffington Post (June 30, 2017)

Even if you are careful and only go to a hospital that is in your insurance network, you may be treated — and billed — by doctors who aren't in your insurance network hoping to get more money directly from you, the patient.

That practice, known as "balance billing" the patient — or "surprise billing" as it is known more colloquially — will no longer be allowed in California starting July 1. All health care providers in California will have to accept what your insurance company pays them for care delivered in an in-network setting, whether they have agreed to an in-network contract with your insurer or not. California has joined the 20 other states where "balance billing" the patient is no longer permitted.

The situation frequently arises in emergency rooms where multiple doctors treat you and in surgeries, when anesthesiologists and surgical assistants don't contract with your insurance plan and you unknowingly submit to receive their care.

The problem, of course, is that when someone winds up in the emergency room or schedules a surgery at a hospital that is in-network, the patient likely assumes that everyone who treats them will also accept their insurance. But many do not. And if the doctor treating you didn't contract with your insurer, he is free to charge you whatever he thinks his services are worth. And yes, you must pay those charges.

But no more — at least in the Golden State. As of July 1 in California, residents will be able to go to hospitals that are in their insurance networks and not encounter an out-of-network provider who bills them directly for more money. Last year, Gov. Jerry Brown (D) signed bill AB-72 into law, eliminating the practice.

All out-of-network providers who deliver services within an in-network facility will have to accept as payment either the amount the insurer normally pays a doctor on contract for such services or an amount 125 percent of the Medicare rate, whichever is greater.

The new law covers Californians with private health insurance plans that are regulated by the state's Department of Managed Health Care and the Department of Insurance — roughly 70 percent of the state's private insurance market, according to the California Health Care Foundation.

California is the 21st state to enact this kind of legislation — and at that, just 5 (including California's) is considered comprehensive by consumer advocates.

On its surface, a measure like this — akin to telling doctors what they can charge — would have struck a loud chord of protest with the medical lobby. Somewhat surprisingly, medical lobbyists didn't fight this change in California with as much muscle as one would expect. The powerful California Medical Association shifted its position on AB-72 from opposed to neutral, which likely enabled its passage. Medical lobbyists worked with the state Legislature to add in some safeguards so that insurance companies behave honorably.

The medical lobby argued that by forcing uncontracted doctors to accept whatever insurers have negotiated with other doctors, there was no incentive for insurers to negotiate with them for higher rates.

Insurance networks are required to have an adequate number of in-network practitioners for each specialty. To that end, the measure created stricter oversight and tougher regulations on insurers if the state finds their provider networks to be inadequate.

In addition, the measure allows out-of-network doctors to appeal payment disputes with insurers through an independent third party, and the decision would be binding.

There is one exception to the law: If you really want to see a particular doctor who wants you to pay more money, you can. The law allows out-of-network providers to bill you at out-of-network rates, but only if you voluntarily sign a form at least 24 hours before you receive care. The form must include an estimate of your cost and inform you that can receive care from an in-network provider instead.

Advocates warn that the shake-out period of the new law may be a bit rocky. Should you inadvertently pay an out-of-network provider more than he or she is owed, the doctor must refund the overpayment within 30 days or pay you interest.

Try not to smile over that one.

Disposition of Entry:

SSL Committee Meeting: 2019 B
- ( ) Include in Volume
- ( ) Include as a Note
- ( ) Defer consideration:
  - ( ) next SSL meeting
  - ( ) next SSL cycle
- ( ) Reject

Comments/Note to staff

07-39B-12 Prescription Drug Price Transparency Act Oregon
Bill/Act: OR HB 4005

Summary:

Requires prescription drug manufacturer to report annually information to Department of Consumer and Business Services regarding prices of prescription drugs and costs associated with developing and marketing prescription drugs. Authorizes department to impose civil penalties on manufacturer for failing to comply with reporting requirements. Requires health insurers that offer prescription drug benefit to report to department specified information about prescription drug prices and impact of prescription drug prices on premium rates. Authorizes department to adopt by rule fees on manufacturers. Requires department to conduct annual public hearing on prescription drug prices and related information reported by manufacturers. Establishes Task Force on the Fair Pricing of Prescription Drugs. Specifies membership and duties. Requires task force to submit report to Legislative Assembly by November 1, 2018. Declares emergency, effective on passage.

Status: Enacted.

Comments: From The Statesman Journal (February 28, 2018)

The information companies would be required to release includes: factors contributing to the price increase, the names of any generic alternatives, total sales revenue for the previous year, research and development costs that used public funds, the introductory price of the drug and marketing, manufacturing and distribution costs.

"This bill is not going to solve every problem with prescription drug costs that we're facing all on its own," said bill sponsor Rep. Rob Nosse, D-Portland. "But it is a good start, and what's wrong with a good start."

For companies that fail to release this information by the stipulated deadlines, Oregon could impose a $10,000 per day per violation fine. This was one of Stark's concerns.

Another issue raised during floor debate was whether drug manufacturers could simply not sell qualifying drugs in Oregon to avoid the transparency requirement.

The simple answer, according to Nosse, Rep. Ron Noble, R-McMinnville, and others, is yes.

But they suggested that if companies were to attempt this, the backlash would be a public relations disaster and could accelerate transparency legislation in other states where those legislatures might wonder what the companies are trying to hide.

This concept falls in line with the underlying principle of the plan — creating an artificial drug price increase ceiling enforced by public accountability. Basically, if drug companies go above the 10 percent line, they have to tell the public why. If they stay below, there's an effective slowing of price increases.

That wasn't sufficient for some lawmakers.

"I fail to find any definite cost savings in this bill," said Rep. Cedric Hayden, R-Roseburg.

Even while explaining his support for the legislation, Rep. Knute Buehler, R-Bend, said that the additional transparency requirements are unlikely to reduce prices, but he finds them important all the same.

The part of the bill he wasn't as fond of, he said, is the requirement of companies to release the costs of manufacturing, research and development — information typically considered trade secrets.

Those legislative directives could tie up the entire bill in court, undermining the good intentions of the rest of the bill, Buehler said.

"There's a big problem here, but (this bill) is just not very fulfilling," Buehler said. "I'm not confident that this is going to solve the problem."

He added that he wished the bill increased the state's enforcement power, allowing the attorney general to go after companies that engage in price gouging. He introduced an amendment to that effect earlier in the session, and said he hopes lawmakers will consider it in 2019.

In the interest of continuing that conversation, the bill would also create a task force on prescription drug pricing. The 18-member group would develop a strategy to create transparency in pricing along the entire supply chain, including insurers, distributors, wholesalers and pharmacies.

"I like the work group. I like the discussion," Hayden said. "I want it to move forward."

Disposition of Entry:

SSL Committee Meeting: 2019 B

- ( ) Include in Volume
- ( ) Include as a Note
- ( ) Defer consideration:
    - ( ) next SSL meeting
    - ( ) next SSL cycle
- ( ) Reject

Comments/Note to staff

07-39B-13	An act to amend Tennessee Code Annotated, Title 3; Title 8; Title 56 and Title 71, relative to health insurance mandates. Bill/Act: TN HB 1955	Tennessee

Summary:
As enacted, requires that any state mandated health benefit that takes effect on or after the effective date of this act apply not only to private health insurance issuers but also any managed care organization contracting with the state to provide insurance through the TennCare program and state or local insurance program.

Status: Enacted.

Disposition of Entry:

SSL Committee Meeting: 2019 B
- ( ) Include in Volume
- ( ) Include as a Note
- ( ) Defer consideration:
  - ( ) next SSL meeting
  - ( ) next SSL cycle
- ( ) Reject

Comments/Note to staff

*07-39B-14 Out-Of-State health Care Provider Access New Mexico
Bill/Act: HB 270

Summary:

Relating to Health Care Professional Liability; Ensuring Access to Out –of-State health care providers; barring actions arising out of services rendered by a health care provider that is licensed, registered, certified or otherwise authorized to provide services in another jurisdiction for care provided out of state.

Status: Became law on March 3, 2016

Comments: From New Mexico Medical Society (March 3, 2016)

New Mexico always has and probably always will depend on patients receiving care across state lines. This legislation is critical to serving the health care needs of those living in the frontier and rural areas of our state. House Bill 270 assures that New Mexicans will have greater access to safe, timely and affordable medical care.

HB-270 was sponsored by Representative Terry McMillan, MD (R-37) the only physician serving in the New Mexico Legislature. Senator Stuart Ingle (R-27) carried a similar bill in the Senate (SB-121). HB-270 was a compromise measure with which New Mexico Medical Society, New Mexico Hospital Association, Texas Medical Association, Texas Alliance for Patient Access and many other organizations agreed.

Lawmakers deemed the bill necessary to protect access to medical care for the residents of Eastern and Southern New Mexico. Thirty-two of New Mexico's counties are, entirely or in part, designated as health care provider shortage areas. The shortage is especially acute in 13 counties on or near the Texas border. Residents of these New Mexico border counties have long-relied on Texas doctors and hospitals for a full range of sophisticated medical care.

Texas doctors will continue to receive a full range of liability protections even when treating New Mexico patients. That issue was in doubt until the New Mexico Legislature took decisive action February 17. In recent months, Texas doctors and hospitals have expressed a reluctance to treat visiting New Mexico patients. That followed a New Mexico court ruling that questioned where and under whose state laws a suit can be filed if an alleged medical mishap occurs. That case, Montano v. Frezza, is pending before the New Mexico Supreme Court.

Clearly the New Mexico legislature recognized that access to health care is a public policy priority.

“This legislation makes clear that New Mexico public policy favors enforcing contractual agreements. It also recognizes the validity of Texas doctors and hospitals to enter into contractual agreements with their visiting patients from New Mexico,” said Randy Marshall, Executive Director of the New Mexico Medical Society. “HB-270 addresses the coverage concerns of Texas physicians. Plus, it enables New Mexico patients to continue to receive specialized care that may be more accessible in a neighboring state," he said.

Staff Note:

Further research indicates that this legislation was passed in response to several medical malpractice claims (*Montano v. Frezza*) filed in New Mexico for treatment received in Texas. While some plaintiffs may engage in forum and venue shopping for medical malpractice claims, it appears this particular legislation arises from the unusual circumstances present in the aforementioned malpractice suits and such conditions may not necessarily arise in other states.

Disposition of Entry:

SSL Committee Meeting: 2019 B
- ( ) Include in Volume
- ( ) Include as a Note
- ( ) Defer consideration:
  - ( ) next SSL meeting
  - ( ) next SSL cycle
- ( ) Reject

Comments/Note to staff

08-39B-01	An act relating to criminal justice; requiring the Department of Corrections to include information in its annual report on inmate admission based on offense type and recidivism rate Bill/Act: SB 1392	Florida

Summary:

Requires Florida's Department of Corrections to include information in its annual report on inmate admission based on offense type and recidivism rate; encouraging local communities and public or private educational institutions to implement pre-arrest diversion programs for certain offenders; requiring each pretrial release program to include in its annual report the types of criminal charges of defendants accepted into a pretrial release program, the number of defendants accepted into a pretrial release program who paid a bail or bond, the number of defendants accepted into a pretrial release program with no prior criminal conviction, and the number of defendants for whom a pretrial risk assessment tool was used or was not, etc.

Status: Enacted.

Comments: From the Sarasota Herald-Tribune (March 30, 2018)

TALLAHASSEE – Gov. Rick Scott signed into law Friday legislation requiring sweeping, new courthouse data collection, which supporters say will home in on rampant racial disparities in sentencing exposed by reporting in the Sarasota Herald-Tribune.

The legislation (CS/SB 1392) cleared the Legislature in the closing minutes of the 2018 session. Scott signed the measure without comment, but Senate President Joe Negron earlier said the legislation was a critical step toward equalizing justice in Florida.

"It's important at all times to be evaluating our criminal justice system to make sure that there aren't biases and prejudices and other things that we don't want to happen," Negron said. "And the best way to determine that is to get actual information and data and research to make sure that we're treating everyone fairly regardless of their racial background, their education, income."

The new law will create a uniform databank containing information on arrest and bail proceedings and criminal sentencing, and will be searchable by the public through the Florida Department of Law Enforcement website.

It follows two years of reporting by the Herald-Tribune on racial bias in criminal sentencing that resulted in two series: "Bias on the Bench," published in December 2016, and "One War. Two Races," published last year.

Those series found Florida's criminal justice system is stacked against blacks. With bias especially evident in drug crimes, the paper's analysis found that black offenders averaged far more time in prison than white offenders with comparable histories under state sentencing guidelines.

To read the Herald-Tribune's "Bias on the Bench" series, go to heraldtribune.com/bias. To reach "One War. Two Races," go to heraltribune.com/drugs

The data collected will include such basic information on offenders as age and race. A goal of the databank, available next January, will be to let the public track a defendant's experience in the system from start to finish, and compare it with others.

Building the database will require court clerks, state attorneys, public defenders, jail administrators and the Florida Department of Corrections to collect about 150 different data elements and transmit that information weekly to the FDLE.

House Speaker Richard Corcoran, R-Land O'Lakes, had labeled the legislation a priority of the House.

Corcoran said that once the database is publicly available, it will "throw back the curtain" and undo "all the institutional biases in the judicial system," giving Florida the most transparent sentencing system in the nation.

A similar bill to reform data collection was first proposed last year by Sen. Audrey Gibson, D-Jacksonville. But the bill died in the Senate Judiciary Committee last year.

In a statement after the bill passed this month, Rep. Chris Sprowls, R-Palm Harbor, a former prosecutor who championed the bill, said in a statement, "The ability to look at qualitative information about our criminal justice system will not only bring transparency, it will guide our future decision making."

Staff Note:

The bill is of significance as it allows public data access to in-depth data on many aspects of arrests, bail proceedings and sentences. The bill establishes a central data bank for the public to access. No state has attempted this before and largely has been done at the county or municipality level. Florida did face criticism following the way the bill was passed at the end of the legislative session.

Disposition of Entry:

SSL Committee Meeting: 2019 B

- ( ) Include in Volume
- ( ) Include as a Note
- ( ) Defer consideration:
  - ( ) next SSL meeting
  - ( ) next SSL cycle
- ( ) Reject

Comments/Note to staff

08-39B-02 Uniform Directed Trust Act New Mexico
Bill/Act: SB 101

Summary:

Senate Bill 101 enacts the Uniform Directed Trust Act (UDTA), which governs trusts in which a person other than a trustee has a power over some aspect of the trust's administration (known as a directed trust). That person may be called a "trust protector", "trust adviser", or, as used in the UDTA, "trust director". The UDTA provides that a person is a trust director whether or not the terms of the trust use that terminology, and regardless of the person's status as a beneficiary or settlor of the trust. The UDTA permits a trust director to exercise a power of direction by the terms of a trust to the extent the power is exercisable when a person is not serving as a trustee. Unless the terms of the trust provide otherwise: (1) a trust director may exercise any further power appropriate to the exercise or nonexercise of a power of direction granted to the director by the terms of the trust; and (2) trust directors with joint powers shall act by majority decision. Section 6. A trust director is subject to the same rules as a trustee in a like position and under similar circumstances in the exercise or nonexercise of a power of direction or further power under Section 6(B)(1) regarding a payback provision and a charitable interest in the trust, including giving notice regarding the interest to the attorney general (Section 7).

Other provisions of the UDTA:

- Set forth the duty and liability of the trust director, including any duty or liability imposed by the trust on a trust director in addition to those imposed in the UDTA (Section 8);
- Set forth the duty and liability of a directed trustee, providing that a directed trustee shall not comply with a trust director's exercise or nonexercise of a power of direction or other Section 6(B)(1) power if compliance would constitute willful misconduct (Section 9);
- Provide that a directed trustee that has reasonable doubt about its duty under Section 9 may petition a court for instructions (Section 9);
- Provide that the terms of the trust may impose a duty or liability on a directed trustee in addition to those imposed by the UDTA (Section 9); and
- Provide that unless the terms of the trust provide otherwise, neither a trustee or trust director has a duty to monitor the other, or as to a trust director monitor another trust director, nor inform or give advice to a settlor, beneficiary, trustee or trust director concerning an instance in which the trustee or trust director might have acted differently from the other (Section 11).

Additional sections of the UDTA govern the duty to provide information to a trust director of a trustee (Section 10); the limitation of actions period against a trust director for breach of trust (Section 13); defenses available in an action in such an action (Section 14); and jurisdiction over a trust director (Section 15). The UDTA is applicable to trusts whose principal place of administration in New Mexico. (Section 3). Its application is limited to: 1) decisions or actions occurring on or after its January 1, 2019 effective date for trusts created before that date; and (2) trusts that change the principal place of administration to New Mexico after that date. Jurisdiction in New Mexico is established when the trust director or trustee's principal place of business is located in New Mexico, the trust director or trustee is a resident of New Mexico, or all or part of the administration of the trust occurs in New Mexico.

The UDTA does not apply to a power of appointment that enables a person acting in a non-fiduciary capacity to designate a recipient

Status: Enacted.

Comments: From the Uniform Law Commission (ULC)

The Uniform Directed Trust Act (UDTA) addresses the modern trend toward directed trusts. In a directed trust, a person other than a trustee has a power over some aspect of the trust's administration. Such a person may be called a "trust protector," "trust adviser," or in the terminology of the UDTA, a "trust director." The division of authority between a trust director and a trustee raises difficult questions about how to divide fiduciary power and duty. Most states have not addressed the issue with statutory law, and those statutes that exist contain significant gaps. The Uniform Directed Trust Act provides clear, functional rules that allow a settlor to freely structure a directed trust while preserving key fiduciary safeguards for beneficiaries. The UDTA also provides sensible default rules for a variety of matters that might be overlooked in the drafting of a directed trust, including information sharing among trustees and trust directors, the procedures for accepting appointment as a trust director, the distinction between a power of direction and a nonfiduciary power of appointment, and many other matters.

Disposition of Entry:

SSL Committee Meeting: 2019 B

- ( ) Include in Volume
- ( ) Include as a Note
- ( ) Defer consideration:
    - ( ) next SSL meeting
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- ( ) Reject

Comments/Note to staff

08-39B-03 An Act Relating to Jail Canteens Kentucky
Bill/Act: HB 92

Summary:

Allows jail canteen profits to be used for the enhancement of jail safety.

Status: Enacted

Comments: From the Journal-Times (January 24, 2018)

This week, the Kentucky House of Representatives unanimously passed a measure that would allow certain revenue streams from jails to be used for improvements to jail safety and security.

House Bill 92 adds language to the existing statute on jail canteens - which can be maintained for the benefit of prisoners – that would allow for profits to be used for safety and security measures.

As the law currently exists, canteen profits can only be used to enhance the well-being of the inmates, including for medical, vocational, and educational purposes.

“It was an honor for me to carry this piece of legislation, which will allow for increased use of body scanners, cameras, and other security instruments that will improve jail security,” said Rep. York, the representative from Grayson. “The unanimous vote in the House is a testament to the commonsense, bipartisan nature of this legislation.”

Carter County Jailer RW Boggs commended York for her role in pushing the legislation through the House, as well as for her openness and accessibility.

“I am very excited that the bill passed the House overwhelmingly with bipartisan support, and I look forward to seeing its passage in the Senate,” said Boggs. “It’s always nice to have a State Representative who will pick up the phone and be responsive to our needs, and we saw the benefits of that with the passage of House Bill 92.”

Representative York also collaborated with the office of State Auditor Mike Harmon in developing the legislation. “House Bill 92 will not only benefit inmates and jailers by allowing the use of these funds for enhanced safety, but it will also provide clearer guidance as to how these funds may be used,” said Auditor Harmon.

New language in the bill serves to address a gray area that currently exists in KRS 441.135, making it clear that canteen profits can be spent to “enhance safety and security within the jail.”

“The Kentucky Jailers Association continues to work alongside the General Assembly to establish best practices and meet our evolving challenges. We are pleased to see the success of House Bill 92, sponsored by Rep. Jill York, which further clarifies the usage of jail canteen funds,” said Kentucky Jailers Association President and Christian County Jailer Brad Boyd. “We thank Rep. York for her continued leadership in addressing the growing needs of county jails.”

After clearing the House, HB 92 will now await action in the Senate.

Staff Note:

Texas appears to be the only other state to allow this. However, it is not explicitly stated in Texas law that profits are to be used for enhancements of jail safety and clarifies it is to the county sheriff's discretion how profits are appropriated.

Disposition of Entry:

SSL Committee Meeting: 2019 B
- ( ) Include in Volume
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- ( ) Reject

Comments/Note to staff

*09-39B-01 Criminal Penalties for Drone Operators who Commit Trespass, Voyeurism or Other Privacy Violations — Utah
Bill/Act: S.B 111

Summary:

This bill modifies and establishes provisions related to unmanned aircraft.

Status: Became law on April 26, 2017

Comments: From The Daily Universe (July 28, 2017)

A bill passed recently in the Utah Legislature is striving to address privacy concerns about the recreational use of drones.

S.B. 111 prohibits drone operators from committing trespass, voyeurism or other privacy violations and establishes criminal penalties for doing so. It also deals with the safe operation of drones.

Harper said after hearing these stories, he was careful in crafting the bill to generalize the meanings of and penalties for voyeurism, trespassing and other privacy violations to accommodate evolving technology.

“Regardless of how you do it, voyeurism is voyeurism, harassment is harassment,” he said. “In the future as technology changes, law enforcement will still have the same tool and rules and law by which they go to investigate these acts.”

BYU news media professor and licensed drone pilot Quint Randle said there is paranoia surrounding drones, and some of it is warranted — but some of it is simply paranoia.

“There is a debate over privacy, and I acknowledge that debate. People do have a right of privacy to some degree,” he said. “But it seems like I should have the right to fly my aircraft from point ‘A’ to point ‘B’ at 300 feet without having to worry about whether someone’s going to get worked up because I crossed their property line.”

Neal Munson, a BYU junior majoring in physics-astronomy, said a drone in the wrong hands could become a problem.

Munson also said while he’s cautious about drones, he isn’t necessarily against them.

“I’ve flown a drone before. I thought it was a cool way to be on the ground and have your head up in the sky,” he said.

Elizabeth Melby, a BYU junior and human development major, said she recently had an experience that caused her to question her privacy and safety in a world of drones.

Melby said she thinks in some cases it is appropriate for law enforcement to enlist the help of drones, but having strangers watching is a different matter.

"I mean you don't want someone flying their camera over your house," she said. "That's a real recipe for some real weirdos."

She also said it's creepy to think people can watch anyone from above with a drone.

Randle said as a drone user, he tries to be considerate when flying over private property. He also avoids flying his drone around his neighborhood and creeping out his neighbors.

Randle said recently the law was changed so individuals who use drones as hobbyists no longer have to register with the Federal Aviation Administration. Individuals who use drones for commercial purposes are still required to register for a Federal Aviation Administration Part 107 license.

He said another side of this complex issue is the federal government's control of the airspace and the state's lack of control.

"What the states have done is they are taking a privacy angle to say, 'Well, we may not control the airspace but we can try to control the airspace by saying you're invading privacy by being above someone's house,'" Randle said.

There are even some authority issues within the state as well. Harper said drone users often can't tell when they've crossed a city line, so it is difficult for every city or county in the state to have different rules.

"It was agreed to by the cities and counties and state that there would be one rule statewide for consistency, clarity and ease of compliance for the recreational users," Harper said.

Randle said the current laws in Utah are reasonable for drone users. He sees the drone controversy around privacy, state and federal laws, and other issues — such as the extent of property lines — going to the Supreme Court one day.

Harper said S.B. 111 is still in the process of being implemented as word gets out about the changes to the law and as law enforcement adopt new rules and procedures. He is currently supporting the passage of the U.S. S.B. 1272, the Drone Federalism Act of 2017, which would allow states and local municipalities to decide on drone rules for their specific regions, shifting the responsibility and control from the Federal Aviation Administration to the local government.

"That will really give the states and the (Federal Aviation Administration) great parameters and guidelines as to what they should be doing and who should be doing what," Harper said.

Staff note:

Several states have passed or are considering laws similar in nature and wording. The following is an overview of state progress in addressing similar issues. While not each bill or law is exactly the same, their overall effect is nearly identical. For more information on each state's approach, follow the hyperlink to their respective legislature's website.

Several states have passed, are currently considering, or have previously considered, legislation placing limits on **law enforcement use of drones**:

- Passed- Alaska (HB255); Florida (F.S. 330.41); Idaho (SB1134); Illinois (Pub. A. 098-0569); Indiana (HB1013); Iowa (Chapter 808.15); Maine (Statute 24 4501); Montana (SB196); Nevada (AB239); North Dakota (HB1328); Ohio (SB60); Oregon (HB2710); Utah (HB296); Vermont(20V.S.A4622); Virginia (HB1482); Wisconsin (Act 213);
- Considering- Alabama (HB498); California (SB 21); Colorado (HB15-059); Connecticut (HB6195); Georgia (HB481); Hawaii (HB314); Kentucky (HB22); Maryland (HB351); Massachusetts (S1349); Minnesota (HF1200); Missouri (HB1204); New Hampshire (HB1759); New Jersey (S1463); New Mexico (SB167); New York (A3396); North Carolina (SB622); Ohio (SB251); Oklahoma (HB2337), Oregon (HB4066); Pennsylvania (SB971); Rhode Island (H5521); South Carolina (H3265); Tennessee (HB1191); Washington (HB1102); West Virginia (SB291); Wyoming (HB18)

Several states have passed, are currently considering, or have previously considered, legislation prohibiting the use of drones in relation to **public safety operations**:

- Passed- Arizona (SB 1449); Louisiana (SB73); Minnesota (Chapter 274); Utah (HB420); Virginia (SB873);
- Considering- Colorado (HB18-1314); Kentucky (HB22); Michigan (HB5497); Minnesota (HF3517); Montana (HB586); New Mexico (SB348); Wisconsin (SB701);

Several states have passed, are currently considering, or have previously considered, legislation prohibiting the use of drones over **correctional facilities**:

- Passed- Louisiana (Act 539); North Carolina (HB128); South Dakota (SB80); Utah (HB59); Wisconsin (Act 318)
- Considering- California (SB 1355); Colorado (HB16-1020); Florida (F.S. 330.41); Illinois (HB5129); Iowa (HSB518); Maryland (SB1105); Mississippi (SB2485/HB1282); New Hampshire (HB1654); New Jersey (A1765); New Mexico (SB166); Pennsylvania (HB1346); South Carolina (S176);

Several states have passed, are currently considering, or have previously considered, legislation limiting the use of drones over various "**critical infrastructure**" or "**critical facilities:**"

- Passed- Arkansas (Act 1019); Arizona (SB 1449); Connecticut (SB 975); Delaware (HB195); Florida (F.S. 330.41); Nevada (AB11); Oklahoma (HB2599); Oregon (HB4066); Tennessee (SB2106); Texas (Chapter 423);
- Considering- Hawaii (HB314); Illinois (HB3838), Indiana (HB1165); Kentucky (SB281); Louisiana (SB356); Massachusetts (S1348); Michigan (HB5498); New Hampshire; New Jersey (A1765); New Mexico (SB348); Pennsylvania (SB1323); West Virginia (SB560);

Several states have passed, are currently considering, or have previously considered, legislation **extending current laws to apply to those involving drones**:

- Passed- Kansas (SB319); Louisiana (Act 529); Michigan (Act 436); Oregon (HB4066); Utah (SB111);
- Considering- Connecticut (HB6195); Georgia (HB5); Hawaii (HB637); Illinois (HB3906, HB 3996); Kentucky (HB22); Maine (LD535); Mississippi (HB1260); Montana (SB170); Nevada (SB116); New York (S4710/A4674); Ohio (HB228); Rhode Island (H7334); South Carolina (S498); Tennessee (HB486); Texas (HB378); Virginia (SB584,HB878,HB1141,HB269,HB561); West Virginia (HB3005); Wisconsin (SB701);

Several States have passed, are currently considering, or have previously considered, legislation **prohibiting localities from enacting their own drone-related laws**:

- Passed- Arizona (SB1449); Connecticut (Pub. A 17-52); Delaware (HB195); Florida (F.S. 330.41); Georgia (HB481); Louisiana (SB69); Maryland (SB370); Michigan (Act 436); Oregon (HB2710); Rhode Island (H7511/S3099); Texas (Chapter 423); Utah (SB111); Virginia (HB412);

Disposition of Entry:

SSL Committee Meeting: 2019 B
    ( ) Include in Volume
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    ( ) Defer consideration:
        ( ) next SSL meeting
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    ( ) Reject

Comments/Note to staff

09-39B-02 Open Internet Washington
Bill/Act: HB 2282

Summary:

Reinstates federal net neutrality legislation at the state level and protects open internet within the state. This bill came following the repeal of the FCC's 2015 Open Internet Order, also known as net neutrality.

Status: Enacted.

Comments: From The Verge (March 6, 2018)

Washington has become the first state to pass a law that protects net neutrality, preventing internet service providers (ISPs) from slowing down or blocking online content. Democrat Governor Jay Inslee signed the bill (House Bill 2282) this morning, which prohibits ISPs from blocking legal content, apps, and services. It will also prevent the slowing down of connection speeds, also known as throttling, as well as paid prioritization, where ISPs favor certain traffic that's beneficial to them.

"At the core of our action today is consumer protection," Inslee told The New York Times. "States need to act because under the Trump administration, we have seen citizens, including seven million in Washington, stripped of core protections like the open internet."

The Associated Press points out that this is not technically the first net neutrality law (Oregon has also passed legislation), but it's the first law where violations by all ISPs are enforceable, under Washington's Consumer Protection Act. The Federal Communications Commission approved a measure to remove net neutrality rules in a 3-2 vote back in December. The FCC prohibited state laws from contradicting the decision, so it's very likely ISPs will sue Washington state over this new law to find out if the FCC does have the power to preempt the move.

The FCC's order that killed net neutrality claimed that individual states implementing their own net neutrality laws would cause too much difficulty and confusion if rules were made on a state by state basis. It's worth noting, though, that the FCC has previously lost on a ruling to preempt state laws that ban municipal ISPs. "The states have a full right to protect their citizens," Inslee said, adding that he is confident of the legality of the state's law, according to the AP.

Since the FCC approved the removal of net neutrality rules, a host of lawsuits have cropped up. In January, 22 attorneys general filed a lawsuit to block the repeal, while New York Governor Andrew Cuomo has signed an executive order that would require ISPs to abide by net neutrality rules despite the rollback. Democrats are also fighting the repeal in the Senate.

As we’ve previously reported, the FCC’s new net neutrality rules are expected to kick in for the general public on April 23rd. Washington state’s net neutrality law will go into effect by June 6th.

Staff Note:

Massachusetts adopted a bill that establishes a special Senate Committee on Net Neutrality and Consumer Protection and has three other bills pending regarding the topic.

California, Illinois, New York, New Jersey, North Carolina, Pennsylvania, Rhode Island, South Carolina and Wisconsin all have pending legislation on the topic. Assuming other states follow, it would be a good idea for CSG to highlight what is seen as the best state net neutrality legislation.

Disposition of Entry:

SSL Committee Meeting: 2019 B

- ( ) Include in Volume
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  - ( ) next SSL meeting
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- ( ) Reject

Comments/Note to staff

09-39B-03 Small Wireless Facilities Deployment Act Utah
Bill/Act: SB 189

Summary:

The bill defines terms, permits a wireless provider to deploy a small wireless facility and any associated utility pole within a right-of-way under certain conditions; permits an authority to establish a permitting process for the deployment of a small wireless facility and any associated utility pole under certain conditions; describes a wireless provider's access to an authority pole within a right-of-way; sets rates and fees for the placement of a small wireless facility and an utility pole; describes the implementation of requirements in relation to agreements and ordinances; and permits an authority to adopt indemnification, insurance, or bonding requirements for a small wireless facility permit under certain conditions.

Status: Signed by the Governor

Comments: From RCR Wireless News (March 21, 2018):

Yesterday Utah Gov. Gary Herbert signed into law Senate Bill 189, the Small Wireless Facilities Deployment Act, which is designed to make it easier for operators to deploy small cell infrastructure. The bill accomplishes this by defining pole attach and right-of-way fee structures, and establishing a permitting process and timeline, among other measures.

In an interview with the Salt Lake City, Utah, Fox affiliate bill sponsor Sen. Curt Bramble said, "We don't want cities to prohibit the deployment of these small cells. Right now[,] we have big cell towers and there's a lot of controversy around where a cell tower could be sited. These are much smaller antennas that are placed on existing infrastructure. It could be poles, it could be roofs, it could be signs, it could be whatever."

…There are bills similar to the Utah legislation that have been adopted in Florida, Colorado, Arizona, Kansas, Virgina [sic], Minnesota and Indiana.

From UtahPolicy.com (June 25, 2018):

Utah is a state that's always looking forward. We have top-tier transportation that's built for the future, an education system consistently ranked among the best in the nation, and we've nurtured a business-friendly atmosphere that produces regions like Silicon Slopes.

We in the Legislature try and stay out of the way of innovation. In fact, when we do get involved, it's to make sure that entrepreneurs have open doors to walk through to do what they do best.

Senate Bill 189, the Small Wireless Facilities Deployment Act, which passed unanimously last legislative session, is a perfect example of the type of legislation that keeps Utah business at the cutting edge and cuts out the politics that would edge in.

The bill removes unnecessary red tape that will help businesses deploy next-generation wireless technology known as 5G.

To make that technology a reality, we must upgrade our communications infrastructure. This will be done through the robust deployment of small cells solutions, commonly known as "small cells", which are small wireless nodes usually attached to existing right-of-way infrastructure -- utility poles or streetlights. They work in concert with existing communications infrastructure to add the necessary coverage and capacity to support 5G.

These small cells allow for less intrusive and more robust networks that lay the foundation for networks that can substantially change the way we live our lives.

Over the next few years, wireless carriers will be upgrading their 4G/LTE systems to 5G, which promise speeds up to 100 times faster and the ability to handle 1000 times the capacity of existing networks. Such 5G networks will be what powers "Smart City" innovations like autonomous cars, smart energy grids, smart manufacturing solutions, and more.

As you can imagine, 5G is going to be a major economic engine in the US. According to Accenture, 5G will be responsible for 3 million new jobs, $275 billion in investment, and add a whopping $500 billion to the US GDP. It's a perfect match for Utah's technology-focused efforts and start-up culture. The wireless industry in Utah already generates 29,000 jobs and $2 billion in economic activity.

The Small Wireless Facilities Deployment Act is an important step to ensuring Utah stays at the forefront of innovation that is part of what makes our state such a great place to live and work.

Disposition of Entry:

SSL Committee Meeting: 2019 B

- ( ) Include in Volume
- ( ) Include as a Note
- ( ) Defer consideration:
  - ( ) next SSL meeting
  - ( ) next SSL cycle
- ( ) Reject

Comments/Note to staff

09-39B-04 Nursing Home Virtual Visitation Act Louisiana
Bill/Act: HB 281

Summary:

Authorizes nursing home residents or their qualified surrogates to have monitoring devices installed in those residents' rooms, subject to certain conditions and requirements.

Status: Enacted

Comments: From U.S. News and World Report (April 25, 2018)

Nursing home opposition hasn't slowed a proposal to let Louisiana families install video camera systems in their loved ones' nursing home rooms. Instead, some state senators seemed incredulous Wednesday at the objections raised by the Louisiana Nursing Home Association.

Supporters of the House-backed bill by Rep. Kirk Talbot, a River Ridge Republican, said it would give family members the ability to monitor their loved ones from afar.

But the nursing home organization raised concerns that live-streamed video could be hacked, facilities' private medical records could be targeted and privacy could be threatened.

"I mean, really?" said Sen. Norby Chabert, a Houma Republican who pushed back against the claims.

Chabert said the nursing homes' opposition seemed to suggest they don't want people to be able to see their family members in real time.

"That's kind of fishy to me," he said.

Mark Berger, executive director of the Louisiana Nursing Home Association, said several states have rejected laws that allow for electronic monitoring because of the concerns that live feeds were at risk of compromise.

"If the video is transmitted, it could fall and be shared in the wrong hands," Berger said.

Members of the Senate Health and Welfare Committee seemed largely unpersuaded by the arguments, at least not enough to stall the bill.

Sen. Jay Luneau, an Alexandria Democrat, sought to rewrite the proposal with nursing home association-supported amendments, but he faced resistance to the long list of changes.

The Senate committee advanced the measure without the rewrite. Senators said they'd try to work out language to address some of the nursing homes' concerns on the Senate floor.

Among those pushing the legislation is Lucie Titus, who said her mother, an Alzheimer's patient, was unable to explain injuries she suffered in a Slidell nursing home. Titus asked to install a video camera system in her mother's room and was rebuffed by home administrators. She believes if she could have seen what caused her mother's injuries, treatment could have been quicker and involved less pain.

Titus filed a lawsuit to set up the video monitoring, but her 92-year-old mother died in November 2017 before the issue was resolved.

Under the legislation, the cameras would be voluntary. The costs would have to be paid by the nursing home patient or family member. Any roommate — or a legal guardian — would have to agree to the camera installation. Nursing homes would be prohibited from ousting or retaliating against residents who choose to install the monitoring device.

The House unanimously supported the proposal. Sen. Dan Claitor suggested the nursing home association should work with senators to improve the measure, not try to sink it.

"It's something you can offer your people that they want," the Baton Rouge Republican said.

When the nursing homes raised objections to the live-feed, Claitor pointed out such video monitoring is allowed in kennels: "Can't you do that for your dog right now?"

Staff Note:

Eight states have “granny cam” laws, including Texas, New Mexico, Oklahoma, Illinois, Washington, Maryland, Virginia and Utah. Many states are exploring this as an option to combat malpractice and nursing home abuse.

Disposition of Entry:

SSL Committee Meeting: 2019 B

- ( ) Include in Volume
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- ( ) Reject

Comments/Note to staff

09-39B-05 California Consumer Privacy Act of 2018 California
Bill/Act: AB 375

Summary:

Effective January 1, 2020, this bill enacts the California Consumer Privacy Act of2 018 to ensure the privacy of Californians' personal information (PI) through various consumer rights including: the right to know what PI is being collected about them and whether their PI is being sold and to whom; the right to access their PI; the right to delete PI collected from them; the right to opt-out or opt-in to the sale of their PI, depending on age of the consumer; and the right to equal service and price, even if the consumer exercises the aforementioned rights..

Status: Enacted.

Comments: From Wired (June 28, 2018)

California lawmakers unanimously passed a new privacy bill on Thursday that would give residents of the state more control over the information businesses collect on them and impose new penalties on businesses that don't comply. It is the first law of its kind in the United States.

The so-called California Consumer Privacy Act of 2018 (AB 375) was introduced late last week by state assemblymember Ed Chau and state senator Robert Hertzberg, in a rush to defeat a stricter privacy-focused ballot initiative that had garnered more than 600,000 signatures from Californians. The group behind that initiative, Californians for Consumer Privacy, said it would withdraw it if the bill passed. The deadline to withdraw was Thursday, forcing the state legislature to fast-track the bill through the State Senate and Assembly and get it to Governor Jerry Brown's desk by the end of the day. The law takes effect in 2020, but in some ways, Thursday's vote is only the beginning, as business interest groups work to tinker with the legislation's details before then.

In a statement to WIRED following landslide votes in both state houses, Hertzberg said, "Today the California Legislature made history by passing the most comprehensive privacy law in the country. We in California are continuing to push the envelope on technology and privacy issues by enacting robust consumer protections—without stifling innovation."

The new legislation gives Californians the right to see what information businesses collect on them, request that it be deleted, get access to information on the types of companies their data has been sold to, and direct businesses to stop selling that information to third parties. It's similar to the General Data Protection Regulation that went into effect in the European Union last month, but adds to it in crucial ways. Under the GDPR, businesses are required to get users' permission before collecting and storing their data. But the way most companies have designed those opt-in pop-ups, "you really don't have a choice," says Ashkan Soltani, former chief technology officer of the Federal Trade Commission who helped author the ballot initiative.

The ballot initiative would have prevented businesses from denying service to consumers if they opt out of having their data tracked and stored. The law contains similar language, though it creates what Hertzberg calls the "Spotify exception," which allows companies to offer different services or rates to consumers based on the information they provide—for instance, a free product based on advertising. But, the bill states, the difference must be “reasonably related to the value provided to the consumer by the consumer’s data."

Had the bill failed, it would have been up to voters to decide whether to support the proposal on the ballot in November. Prior to Thursday's vote, Alastair Mactaggart, the real estate mogul behind the ballot initiative sounded optimistic about his options. "We’re heartened by the momentum behind these endeavors, and the protections that both efforts seek to provide for consumers and our children," he said in a statement.

But ballot initiatives are far more difficult to change once they're passed, because amendments require yet another two-thirds majority vote on the ballot. That may be one reason why opponents within the tech industry reluctantly supported the passage of the bill, says Soltani: It’s easier to change.

“The senate can vote on amendments and the special interests can lobby on these amendments,” he says. “The reason why we haven’t been able to do anything in privacy for 20 years is because the special interests are so powerful.”

The tech industry did throw the full weight of its lobbying might—and money—at the fight against the ballot initiative, spending millions of dollars to oppose it through a group called the Committee to Protect California Jobs. They argued that the measure would open them up to liability that would hurt their businesses and their ability to hire. Hertzberg envisioned the bill as a compromise, in part, because it leaves the task of enforcing the law to the attorney general and takes the right to private action by citizens off the table, except in the case of data breaches.

And yet, a report by The Intercept revealed that lobbyists affiliated with the group TechNet were working behind the scenes to change crucial parts of the bill, as well, including a stipulation that businesses must include a clear button on their websites giving people the ability to opt out of data collection.

Still, in a statement to WIRED just before Thursday’s vote, TechNet’s vice president of state policy and politics, Andrea Deveau, said, “We believe that the legislature, not the ballot box, is the correct venue to consider this important and complex area of policy.”

Robert Callahan, vice president of state government affairs at the Internet Association, which represents tech companies like Google and Facebook, struck much the same tone. In a statement to WIRED, he said that while the group opposes “many problematic provisions” within the bill, it at least “prevents the even worse ballot initiative from becoming law in California.”

Facebook initially supported the opposition initiative, but pulled out publicly in April, a month after news broke that a political consulting firm called Cambridge Analytica amassed data on tens of millions of American Facebook users for political purposes without their knowledge. “We took this step in order to focus our efforts on supporting common sense privacy measures in California," the company said at the time.

Now, in a statement to WIRED, Facebook's vice president of state and local public policy, Will Castleberry, said that while the bill is "not perfect," the company supports it and looks forward to "working with policymakers on an approach that protects consumers and promotes responsible innovation.”

The law goes into effect on January 1, 2020. The Internet Association has already hinted at efforts to modify the legislation before implementation. “It is critical going forward that policymakers and industry work to correct the inevitable, negative policy and compliance ramifications this last-minute deal will create,” Callahan said.

Since the bill was introduced last week, some of those changes have already been made. One key difference: The bill initially required businesses to share “accurate names and contact information” for third parties that bought user data over the prior year. That language has since changed, requiring businesses to merely disclose the “categories of third parties” that bought the data.

The industry’s argument, Soltani says, is that it would be too difficult for businesses to track which third parties have access to the data. “I argue the other side. If they’re sharing data with third parties, they might want to have a mechanism to keep track of who they’re sharing with,” he says.

Still, Soltani believes the law as it stands will have a tremendous impact and could set the standard for states across the country, whose citizens can press their own governments to adopt something similar. “Once people see this is possible and once companies start complying,” he says, “I think other states’ citizens will say, ‘Why can’t we have this too?’”

Staff Note: A significant number of states have considered restricting the use of personally identifiable information by internet service providers. Nevada and Minnesota require internet service providers to keep private certain information concerning their customers, unless the customer gives permission to disclose the information. Both states prohibit disclosure of personally identifying information, but Minnesota also requires ISPs to get permission from subscribers before disclosing information about the subscribers' online surfing habits and internet sites visited.

Disposition of Entry:

SSL Committee Meeting: 2019 B

- ( ) Include in Volume
- ( ) Include as a Note
- ( ) Defer consideration:
  - ( ) next SSL meeting
  - ( ) next SSL cycle
- ( ) Reject

Comments/Note to staff

10-39B-01 Lane Splitting California
Bill/Act AB-51

Summary: This bill would define "lane splitting" as driving a motorcycle, that has 2 wheels in contact with the ground, between rows of stopped or moving vehicles in the same lane, as specified. The bill would authorize the Department of the California Highway Patrol to develop educational guidelines relating to lane splitting in a manner that would ensure the safety of the motorcyclist, drivers, and passengers, as specified. The bill would require the department, in developing these guidelines, to consult with specified agencies and organizations with an interest in road safety and motorcyclist behavior.

Status: Became law on August 19, 2016

Comments: From The Orange County Register (August 23, 2016)

California will become the first state in the country to officially legalize motorcycle lane-splitting, although the practice has been allowed for decades.

Assembly Bill 51, signed into law by Gov. Jerry Brown late Friday, for the first time legally defines lane-splitting, the practice of motorcyclists riding between lanes to move quickly through traffic.

Also called lane-sharing, the practice often sparks tension between motorcyclists who say driving between vehicles keeps them out of danger and helps lessen congestion, and some motorists who say it is reckless and burdens them to be on guard.

Disposition of Entry:

SSL Committee Meeting: 2019 B
- ( ) Include in Volume
- ( ) Include as a Note
- ( ) Defer consideration:
  - ( ) next SSL meeting
  - ( ) next SSL cycle
- ( ) Reject

Comments/Note to staff

10-39B-02 Coordinated Transit Planning and Funding Georgia
Bill/Act HB 930

Summary: This bill creates an Atlanta-Region Transit Link (ATL) Authority to operate, plan, and provide transit services in the 13-county metro Atlanta region. The ATL Board would be comprised of 14 members, with ten chosen from districts by a caucus of legislators, county chairpersons in each district, and a mayor selected from a caucus of mayors in each district. The bill authorizes a county-level transit special purpose local option sales tax which could be levied for up to 30 years upon approval of the voters in the county. The rate would be 1% if a county and 75% of qualified municipalities within the county agree on the tax levy, and .75% without an agreement. Each county in metro Atlanta can chose to call for a Transit-SPLOST, but counties outside of metro Atlanta air-quality non-attainment areas would have to join with two or more neighboring counties to call for a Transit-SPLOST. The bill calls for taxes on for-hire ground transport (limos, taxis, ride share companies) in the metro Atlanta non-attainment area.

Status: Signed by governor on May 3, 2018.

Comments: From the Atlanta Business Chronicle (May 3, 2018):

"… House Bill 930 provides a true regional transit platform for all of our metro communities to work within, increasing opportunities for connectivity while preserving local government self-determination. Additionally, the legislation embodies the Council's recommended five tenets for successful regional transit:

- A comprehensive regional system.
- Representative governance structure.
- Local funding determination.
- Modal flexibility.
- Capitalization on existing transit assets.

HB 930 establishes a board of directors consisting of 16 appointed members, and creates the ATL Authority, administratively attached to GRTA, to serve as the sole entity for coordination and planning, and dispersing of federal and state funding for transit within the jurisdiction of the ATL Authority. The jurisdiction of the ATL Authority Board extends to the 13 counties currently covered by GRTA – Cherokee, Clayton, Cobb, Coweta, DeKalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Henry, Paulding, and Rockdale.

As the third fastest-growing metro area in the nation, according to the latest U.S. Census results, and with an anticipated 2.5 million more residents moving to the region in the next 22 years, HB 930 positions us to attract businesses like Amazon, NCR, State Farm, and Pulte – all of which cited access to transit lines as a key factor in their selection of new headquarters.

As the region embraces a new era of mobility, the future is bright for growth and development, and the Council for Quality Growth will continue its mission to advocate for that growth to be smart and sustainable.”

Disposition of Entry:

SSL Committee Meeting: 2019 B
- ( ) Include in Volume
- ( ) Include as a Note
- ( ) Defer consideration:
    - ( ) next SSL meeting
    - ( ) next SSL cycle
- ( ) Reject

Comments/Note to staff

10-39B-03 Public Transportation Trust Fund Alabama
Bill/Act SB85

Summary: This bill created the Alabama Public Transportation Trust Fund to fund activities that increase public transportation options across the state. The bill requires the Alabama Department of Economic and Community Affairs to maintain and administer the trust fund. The bill requires the Alabama Department of Economic and Community Affairs to adopt rules, make annual reports, conduct a public transportation needs assessment, enter into contracts, conduct audits, and award grants.

Status: Signed by the governor on February 27, 2018.

Comments: From Alabama Today (February 7, 2018):

"According to the proposed legislation, the fund would be maintained and administered by the Alabama Department of Economic and Community Affairs (ADECA). ADECA would make its decisions based off of recommendations made by a 13-member advisory committee.

The trust fund would be supported by state funds and would also allow the state to apply for federal public transportation grants.

"The state loses out on millions of dollars of transportation dollars every day. We are supporting legislation this year by Senator Rodger Smitherman and Rep. Jack Williams," added Alice Paris, chair of Alabama Arise's legislative committee.

The Senate voted 26-0 for Smitherman's bill in late January."

Disposition of Entry:

SSL Committee Meeting: 2019 B
- ( ) Include in Volume
- ( ) Include as a Note
- ( ) Defer consideration:
    - ( ) next SSL meeting
    - ( ) next SSL cycle
- ( ) Reject

Comments/Note to staff

10-39B-04 Transportation Governance Amendments Utah
Bill/Act SB 136

Summary: This bill amended and enacted provisions to allow local jurisdictions to share property tax revenue for transportation capital development projects and defines "large public transit district" and "small public transit district". The bill vests in the legislature the authority to name a large public transit district and to modify the makeup of the board of trustees of a large public transit district by: reducing membership from 16 to three; vesting nomination responsibilities in executives of local governments and appointment responsibilities in the governor; and defining responsibilities of the members of the board of trustees. The bill requires a large public transit district to have legal counsel from the Utah attorney general, and provides for a transition for an existing large public transit district. Finally, this bill created a local advisory board for a large public transit district and defines the membership and duties of a local advisory board.

Status: Signed by governor on March 22, 2018.

Comments: From Deseret News Utah (March 7, 2018)

"The bill, the product of the yearlong Transportation Governance and Funding Task Force, also makes major changes to the Utah Transit Authority, including changing its name to Transit District of Utah and creating a new management structure.

None of the changes the bill makes to UTA were affected by the early evening action taken by the conference committee, which also included House Speaker Greg Hughes, R-Draper.

Also unchanged were the controversial registration fees for electric and hybrid vehicles, phasing in additional costs of up to $120 a year by 2021. Opponents said the fees would discourage drivers from buying cars that contribute to cleaner air.

The conference committee was convened after the Senate refused to accept the removal of transit funding by the House.

Now, the bill's sponsor, Sen. Wayne Harper, R-Taylorsville, said the new 0.2 percent sales tax option, available after July 2019, could raise at least $30 million in Salt Lake County for transit projects that would go to UTA.

Before the new tax could be imposed, counties would have to be collecting all four of the quarter-cent increases for transportation already allowed. Voters in some counties, including Salt Lake, rejected a 2015 increase known as Proposition 1.

The price tag for UTA's name change had been estimated at $50 million by the transit agency, but Harper said he disagreed because the new name would start appearing as buses and other items are replaced, not all at once."

Disposition of Entry:

SSL Committee Meeting: 2019 B

- ( ) Include in Volume
- ( ) Include as a Note
- ( ) Defer consideration:
  - ( ) next SSL meeting
  - ( ) next SSL cycle
- ( ) Reject

Comments/Note to staff

10-39B-05 Use of Autonomous Vehicles for Public Transportation Maine
Bill/Act: ME H 1024

Summary:

This bill created the Commission on Autonomous Vehicles to coordinate efforts among state agencies and knowledgeable stakeholders to inform the development of a process to allow an autonomous vehicle tester to demonstrate and deploy for testing purposes an automated driving system on a public way. The commission will consist of at least 11 members. The commission shall A. Develop a recommendation for a process to evaluate and authorize an autonomous vehicle tester to demonstrate and deploy for testing purposes an automated driving system on a public way; B. Review existing state laws and, if necessary, recommend legislation for the purposes of governing autonomous vehicle testers and the testing, demonstration, deployment and operation of automated driving systems on public ways; C. Monitor state compliance with federal regulations as they relate to autonomous vehicles; D. Consult with public sector and private sector experts on autonomous vehicle technologies, as appropriate; and E. Invite the participation of knowledgeable stakeholders to provide written and oral comments on the commission's assigned duties. By January 15, 2020, the Commissioner of Transportation shall submit an initial written report on the progress of the commission and by January 15, 2022, the Commissioner of Transportation shall submit a final written report that includes findings and recommendations, including suggested legislation, for presentation to the joint standing committee of the Legislature having jurisdiction over transportation matters. Additionally, the Commissioner of Transportation shall adopt rules, in consultation with the Department of Public Safety and the Department of the Secretary of State, to establish a process to evaluate and authorize an autonomous vehicle tester to demonstrate and deploy for testing purposes an automated driving system on a public way. The Commissioner of Transportation may immediately prohibit an operator or autonomous vehicle tester from testing an automated driving system if the Commissioner of Transportation, in consultation with the Commissioner of Public Safety and the Secretary of State, determines that testing poses a risk to public safety or that the operator or autonomous vehicle tester fails to comply with the requirements as established by rule.

Status: Enacted.

Comments: From The Portland Press-Herald (December 19, 2017)

A bill before the Legislature would help set the stage for putting self-driving buses on the streets of Portland and other Maine communities within the next five years.

The proposal, sparked by the Portland city manager’s interest in autonomous transit, is the first piece of Maine legislation to deal specifically with self-driving vehicles, according to Rep. Andrew McLean, D-Gorham, House chairman of the Transportation Committee.

Rep. Heather Sanborn, D-Portland, this fall sponsored L.R. 2611, which would allow towns and cities to start pilot programs in partnership with state agencies.

“There is no law that expressly prohibits self-driving vehicles, but there are many regulations that assume a driver will be behind the steering wheel or assumes it will even have a steering wheel,” Sanborn said.

The bill would allow communities to develop, test and operate pilot programs using autonomous vehicles for public transportation. Pilot programs would require a written agreement between the municipality, secretary of state, Maine Department of Transportation and Bureau of Insurance. Cities and towns would have until March 2022 to enter into such an agreement. It will likely be debated in the Legislature’s Transportation Committee during the legislative session starting in January, Sanborn said.

While the bill was sparked by interest in Portland, it would benefit the state more broadly as autonomous vehicles become more numerous, she said.

“I think it is really important that we not ignore what is coming and we make sure our laws and regulations are keeping pace,” she said.

Portland City Manager Jon Jennings agrees. He requested the bill with an eye toward someday possibly operating a driverless shuttle connecting the Portland Transportation Center with downtown and the waterfront.

“I’m a bit of a tech nerd. I really think we need to start preparing ourselves for the future so we are not constantly behind the eight ball,” Jennings said. Inrix, a transportation information company, has already had discussions with officials about mapping out the city for driverless cars, he said.

There is no pending proposal for an autonomous shuttle in Portland, but Jennings’ own research makes him think a vehicle like the Olli – a low-speed, electric, autonomous multi-passenger bus built by Arizona-based Local Motors – shows promise. An eventual proposal could involve Local Motors or another company, Jennings said.

The idea would be to connect the Portland Transportation Center at Thompson’s Point to the waterfront along Commercial Street. A shuttle could benefit tourists arriving by bus or train, but also ease downtown traffic congestion by offering additional parking space, Jennings said.

“When you start thinking about remote parking and being able to shuttle people in, the possibilities become quite intriguing,” he added. “We have transportation issues downtown and we are going to have more moving forward.”

Don’t look for self-driving buses on Portland’s streets anytime soon, however. The Olli is still undergoing tests on private courses and Local Motors doesn’t expect to start a pilot program until spring 2018, said David Woessner, general manager of the company’s National Harbor, Maryland, location.

Other communities and organizations, especially colleges and universities, have shown interest in autonomous transit vehicles like the Olli, Woessner said. Communities and organizations will get a chance to apply to be part of a pilot program, Woessner said.

The company plans to test its vehicles in Maryland, Tennessee and Arizona, near its locations, but down the line it may test in rougher environments, he added. Easymile, a French company, plans a public test of its autonomous bus in Minneapolis in February.

“I think in the 2019 timeframe, the technology and the capability could be at the point when a cold-weather test in Maine could be interesting,” said Woessner.

Disposition of Entry:

SSL Committee Meeting: 2019 B

- ( ) Include in Volume
- ( ) Include as a Note
- ( ) Defer consideration:
    - ( ) next SSL meeting
    - ( ) next SSL cycle
- ( ) Reject

Comments/Note to staff

10-39B-06 An act concerning Peer–to–Peer Car Sharing Programs Maryland
Bill/Act: SB 743

Summary:

This bill establishes (1) a regulatory framework for peer-to-peer car sharing in the State, including insurance requirements; (2) a sales and use tax rate of 8% for sales and charges related to peer-to-peer car sharing for two years only; and (3) related study and/or reporting requirements for the Consumer Protection Division of the Office of the Attorney General (OAG), the Motor Vehicle Administration (MVA), and the Comptroller's Office. The Insurance Commissioner may adopt regulations to implement the bill, as specified

Status: Enacted.

Comments: From Auto Rental News (June 12, 2018)
Maryland will begin regulating the peer-to-peer (p2p) "private car rental" market with the passage of Senate Bill 743, the first comprehensive state law to require peer-to-peer car rental companies to comply with state tax, insurance, and safety laws and regulations. Enacted on May 26, the bill takes effect on July 1.

The bill was not endorsed by the American Car Rental Association (ACRA), which sought to have p2p carsharing defined similarly to traditional car rental, though the law applies almost all of the same regulatory and taxation requirements.

However, ACRA congratulated the Maryland House and Senate for taking the lead in applying state laws and regulations to p2p companies.

"ACRA has long sought parity between peer-to-peer carsharing companies … so that all entities that make motor vehicles available for rent to individuals for a profit are required to comply with the same federal and state insurance, safety, liability, and tax laws and regulations," the association said in a statement.

The legislation mandates a sales tax rate of 8% for p2p carsharing companies. This rate will rise to 11.5% — the same rate paid by traditional car rental companies — in two years. (In Maryland, car rental companies can recoup the 3.5% sales tax on the purchase of a new car in fees charged to the renter.)

The new regulation also stipulates that p2p carsharing companies operating at airports are subjected to airport contracts and thus airport fees; that these companies must hold a limited lines license under Maryland's laws to sell insurance regulated products; and that these companies comply with the national safety recall law that grounds vehicles under open recalls.

Turo, the nation's largest peer-to-peer carsharing company, actively lobbied against the legislation. Turo claims that the service is a technology platform, not a rental company, and that ACRA members are attempting to stifle new competition. (Turo could not be reached for comment for this story.)

Turo is using this argument as it fights a lawsuit brought by the city of San Francisco alleging permit violations at San Francisco International Airport.

"ACRA welcomes innovative car rental services that meet the diverse and shifting demands of our industry's millions of customers, but strongly supports the fundamental maxim that all companies who facilitate car rental services must comply with existing and future state and federal laws designed to ensure consumer safety, support state and local projects through lawful taxes and fees …" ACRA's statement continues.

A similar bill regulating p2p carsharing companies in Illinois may hit the governor's desk soon.

Staff Note: Colorado exempts car sharing from the daily car rental fee established under their state law. Hawaii enacted SB 2731 in 2014 which established a tax based on time used. Florida reduced the tax for P2P car rentals to $1 if it is rented less than 24 hours. Massachusetts revised their tax law in 2005 that stipulates members of a car sharing only pay the tax on their first rental of the year. New Jersey has considered but not enacted eliminating/prorating the P2P car rentals. Illinois passed similar legislation this year.

Disposition of Entry:

SSL Committee Meeting: 2019 B

- ( ) Include in Volume
- ( ) Include as a Note
- ( ) Defer consideration:
  - ( ) next SSL meeting
  - ( ) next SSL cycle
- ( ) Reject

Comments/Note to staff