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

CSG COMMITTEE ON
SUGGESTED STATE LEGISLATION

2010 CYCLE
DOCKET BOOK B
FINAL

This docket and referenced legislation can be downloaded from www.csg.org.
State officials face unprecedented, turbulent times in which to govern. Recent megatrends and trends that are beginning to affect the states, such as an aging population, generate issues that will profoundly impact states in the future.

A **megatrend** is a large, social, economic, political, environmental or technological change that is slow to form. Once in place, megatrends influence a wide range of activities, processes and perceptions, both in government and in society, possibly for decades. These are the underlying forces that drive trends. (*e.g.*, *aging population*).

A **trend** is an emerging pattern of change likely to impact state government and require a response. (*e.g.*, *adult children taking care of parents*). Discerning trends and state responses to trends affecting states involves these questions:

- Does the megatrend/trend impact the states?
- Is it significant? Is it broad-based? Is it national or regional in scope?
- Is it short-term or long-term?
- Is it measurable/trackable/observable?
- Is it actionable? Is there an innovative response to address new circumstances?

An **issue** is a controversial, debatable or “hot” topic or an innovative state action. (*e.g.*, *changes to Medicare*).
CSG's national trends mission helps state officials address the near- and long-term by providing the critical foresight capabilities they need to make proactive policy decisions about issues that arise from trends. Accordingly, CSG’s Suggested State Legislation Program (SSL) seeks to identify recent, innovative state bills which address issues arising from:

1. **Demographic Shifts** - Demographic shifts refer to changes in various aspects of population statistics, such as size, racial and ethnic makeup, birth and mortality rates, geographic distribution, age and income.
   - **Megatrend**: Aging population
     - **Trends**: buying habits, elder care, health care, workforce gaps when baby boomers retire
   - **Megatrend**: Immigration/diversity
     - **Trends**: government service provision, capacity to fill gaps in workforce
   - **Megatrend**: Population growth
     - **Trends**: demands and effects on land, climate, water, government resources, schools
   - **Megatrend**: Suburbanization/sprawl
     - **Trends**: demands and effects on land, climate, water supply, small business, entrepreneurship, government resources

2. **Changes in Political Conditions** - Changes in political conditions refer to dynamics related to the process of electing officials as well as process of formulating and implementing public policy and programs.
   - **Megatrend**: Election issues
     - **Trends**: campaign finance reform, redistricting, term limits
   - **Megatrend**: Federalism
     - **Trends**: distribution of authority from one presidency and Congress to another, impact of federal policies on state governments (including international trade agreements)
   - **Megatrend**: Participatory democracy
     - **Trends**: voting systems (including e-voting), lobbying, initiatives, referendums
   - **Megatrend**: Privatization/outsourcing
     - **Trends**: private companies providing public services, sending jobs overseas

3. **Science and Technology Developments** - Science and technology developments are advancements in both scientific research and applications of that research.
   - **Megatrend**: Bioengineering
     - **Trends**: DNA, stem cell research, cloning, genetic engineering
   - **Megatrend**: Energy sources
     - **Trends**: development of alternative energy sources
   - **Megatrend**: Privacy and security issues
     - **Trends**: wireless tracking, identity theft, cyber terrorism
• **Megatrend**: Electronic delivery of goods/services
  - **Trends**: e-commerce, e-government

4. **Economic Dynamics** - Economic dynamics are changes in the production and exchange of goods and services both within and between nations as well as movements in the overall economy such as prices, output, unemployment, banking, capital and wealth.

  • **Megatrend**: Globalization of trade
    - **Trends**: outsourcing, offshoring, free trade agreements, prescription drug reimportation
  • **Megatrend**: Energy supply
    - **Trends**: price increases, availability
  • **Megatrend**: Intellectual property
    - **Trends**: standardization of local, state, national and international regulations
  • **Megatrend**: Retirement issues
    - **Trends**: move away from defined benefit plans, pension shortfall, Social Security

5. **Social and Cultural Shifts** - Social and cultural shifts are changes in core values, beliefs, ethics and moral standards that direct peoples’ behavior and can influence their participation in the formulation of public policy.

  • **Megatrend**: Government involvement in social policy
    - **Trends**: gay marriage, abortion, separation of church and state issues
  • **Megatrend**: Redefinition of family and role of family
    - **Trends**: single-headed households, unmarried couples, home schooling
  • **Megatrend**: Redefinition of morality
    - **Trends**: re-evaluating definition of indecency, censorship issues
  • **Megatrend**: Spirituality
    - **Trends**: homeopathic medicine, spiritual beliefs may be different than religious beliefs
  • **Megatrend**: Assimilation
    - **Trends**: shift from acculturation to maintaining ethnic identities
MEGATRENDS AND CHANGE DRIVERS

Megatrends are caused by or a reflection of slow-forming, large social, economic, political, environmental or technological driving forces. Once in place, these “change drivers” influence a wide range of activities, processes and perceptions, both in government and in society, possibly for decades. Knowledge of what they are, how they interact, and what potential impacts they may produce, is one of the most important tools policy-makers have to recognize. The understanding of these change drivers allows for identifying trends and issues that are cutting across traditional policy areas, and therefore determining all potential impacts and implications for public policy. As such, the Committee on Suggested State Legislation seeks innovative legislation that addresses the following important and far-reaching changes that will affect states and shape state policies for years to come.

1. Aging of the Population

The U.S. population is rapidly getting older. While the population age 65 and older is projected to more than double to nearly 82 million by 2050, the 85 and older population is projected to quadruple within the same timeframe.

An aging population and increasing number of retirees will be hard on all economic sectors, especially those that are already having trouble attracting younger workers, such as agriculture, education and government. The nursing shortage will be particularly hard to deal with as the demand for health care will also increase as the population gets older.

As the population ages, state tax collections will be affected. The older population tends to spend money in non-taxed areas such as health care services. In addition, while many elderly will continue to work, the majority of their income will likely come from sources, such as pensions and Social Security that are not taxed as heavily as salaries and wages. And state government pensions will be hit hard by the wave of retiring baby boomers.

There may also be intergenerational conflicts among different groups. Older and younger voters may want different things from government. Younger voters, for instance, may be willing to pay higher taxes to finance public schools while older citizens may vote against any tax increase.

The aging of the population will also encourage smart growth. As baby boomers get older, there will be an increased demand for communities that are more pedestrian-friendly with residential and commercial areas in closer proximity to one another in order to decrease the need for driving.

With a growing number of seniors on the horizon, state policy-makers will undoubtedly focus more attention on work force shortages and health care. More specifically, planning for replacing retiring workers, training and retaining an existing work force, as well as helping the elderly pay for prescription drugs and dealing with long-term care will be the issues on most policy-makers’ radar screens.

2. Immigration

During the last decade, the foreign-born population grew by almost 60 percent as compared with a 9.3 percent increase in the native population. This growth can primarily be attributed to
migration from Latin America and Asia. By 2030 one-quarter of all Americans will be either Hispanic or Asian. And the Hispanic and Asian populations are expected to triple by 2050.

Immigrants provide skilled and unskilled labor needed to keep the U.S. economy going. Immigrants account for 14 percent of the total work force and 20 percent of the low-wage work force. Immigrants are especially important in certain sectors, such as health care. Because of immigration restrictions since Sept. 11, some areas of the United States are experiencing doctor shortages, especially many rural areas that rely heavily on foreign-born care workers.

Immigration is the driving force behind increases in elementary and high school enrollment. There are gaps, however, in educational achievement between natives and immigrants at the elementary and secondary levels that need to be addressed. Children with limited English skills are more expensive to educate.

The nation’s health care system must adapt to a number of changing conditions because of the impact of immigration. Racial and ethnic health disparities may influence health care research and costs. Cultural competency and health literacy can affect the quality of health care. Many immigrants are uninsured.

Immigration will also impact public safety and justice. U.S. laws and the American legal system, and language barriers can intensify the problems. States are grappling with issue of drivers’ licenses and identification cards for illegal immigrants. And state facilities house inmates awaiting deportation with little or no reimbursement from the federal government.

States are already experiencing a need for bilingual teachers, law enforcement officers and public health workers. The need for bilingual government employees will only grow in the coming years. Finding the best way to educate immigrants and their children will also grow in importance, especially as immigrants move to states that are not traditional immigrant magnets, and therefore less equipped to respond to the demands and needs of the growing immigrant population.

3. Population Growth Patterns

The population of the South and West are growing. A major factor in the accelerated growth in these two regions is domestic migration, but they are also hot spots for immigration as well. In addition to these regional shifts, the United States is becoming more and more a suburban nation. The percentage of the population living in metropolitan areas is expected to increase over the next two decades, leaving fewer than 18 percent of the population in non-metropolitan areas by 2020.

Regional shifts in population will accentuate water shortage problems in these areas. Growing regions will also have to address the increasing demand for infrastructure and government services. Because of population increases, the South and West will gain in political power at the national level. The influx of people into these areas may also change the political makeup of these areas, depending on the demographics of the new arrivals.

Bedroom communities are thriving, but more remote rural areas and urban centers are losing population. This will lead to shifts in political power to the suburbs, so the needs of the rest of the
population may not be addressed. This growing suburbanization leads to urban sprawl, with its related loss of farmland, environmental concerns, infrastructure demands and quality of life issues.

Regional population shifts and suburbanization will increase the attention to urban sprawl issues. As development occurs farther and farther away from city cores, state and local governments may need to address the efficiency of land use patterns and make sure that people are receiving the government services they need and demand.

4. Globalization

While capitalism is the driving force behind globalization, the end result is that people, businesses and governments around the world are more interrelated than ever before. It’s difficult to talk about economics without talking about politics, technology and culture. What happens in China may be as important as what happens in Washington, D.C. in a few years. All these factors have a profound impact on the states.

International trade agreements are an important element of globalization. These agreements, which are decided at the federal level, may limit states’ ability to exercise regulatory and legislative powers. States may be inadvertently violating trade agreements that were passed without their input.

State officials also have to deal with the impacts of offshoring jobs to other countries. Potential job losses can affect state economies profoundly. When jobs are lost states may need to pay for retraining workers, especially an issue now that higher-skilled jobs are being offshored. There is a potential downward pressure on U.S. wages to compete with workers in other countries, on the one hand, but offshoring also opens new markets for U.S. products by increasing wages and standards of living for people in other parts of the world.

Education about our global society is an unmet need that policy-makers should be aware of. Our current and future work forces may not have the knowledge of globalization that is needed to understand what is happening both economically and politically. In addition, policy-makers will need to realize what their state’s strengths are so their work forces can more effectively compete in the global economy.

5. New Economy

At the same time that globalization has occurred, the U.S. economy has evolved from a manufacturing-based economy centered on natural resources and standardized products to a service-based economy focused on knowledge and ideas. The skills needed to succeed in the New Economy are vastly different than those needed in the Old Economy. Today, people need to have critical thinking skills, be able to convert information into knowledge, and use and understand emerging technologies.

Because states’ sales taxes are mostly levied on durable goods rather than services, the sales tax base is eroding over time. As evidence of this, sales taxes currently account for a smaller portion
of state revenues than they did in the 1970s. Services account for more than half of personal consumption, so it is a substantial potential revenue source.

E-commerce has been growing rapidly in the last few years. States and local communities are losing $16.4 billion a year in sales and use tax revenue because of online and catalog sales. According to some economists, this number could rise to $45 billion in 2006 and $66 billion in 2011. Because of a federal moratorium, however, states currently cannot collect taxes on electronic transactions.

Entrepreneurship is extremely important in the New Economy. Rapidly growing new firms are a major source of job creation, so entrepreneurs are one of the driving forces for the economy. Because of its economic importance, policy-makers need to do what they can to foster an entrepreneurial culture in their states. At the same time, the focus of many state officials’ activities will be on modernizing the tax structure, to better reflect a new nature of economy.

6. Information Dissemination

Information now flows at a dizzying pace. You can have instant access to almost any type of information you need or want. Today, businesses rely on this instant information to compete in the global economy, but there are some less positive impacts of almost unlimited access to information as well.

With cell phones and Blackberries, people are rarely unreachable. Somewhat ironically, however, the technological advances that make us constantly available can also be very isolating. Some people are choosing this technological interaction over face-to-face communications, which can affect social skills. A constant pressure of being reachable and available can also be very stressful. It may potentially disrupt daily routines and affect family life of technologically advanced workers.

Another interesting concept in information dissemination is the ability for people to only hear what they want to hear. Because there are some many sources of information available today, people do not have to rely on their local newspapers or the evening news. They can go to Web sites, participate in blogs and chat rooms, and only get information that they want to get. They do not have to listen to the other side of the story.

With all these changes in information dissemination, politicians and other state officials will have to change the way they communicate with their constituents if they want to get their messages across. In addition, this ability to filter information that you don’t want to hear increases the importance of good education. The education system should emphasize critical thinking skills, so that students will have the ability to process information responsibly and intelligently.

7. Privacy and Security

As the amount of readily available information increases so do concerns about individual and governmental privacy and security. The more information that is available, the more potential there is for misuse of this information.
One growing concern is identity theft. Criminals can use a variety of methods, ranging from rummaging through your trash to find pre-approved credit offers to hacking into your company’s computer system to find Social Security numbers, to obtain personal information to commit fraud or theft. Identity theft is on the rise and will continue to be a major issue because of the relatively easy access to information.

Nanotechnology is an emerging tool to change the molecular structure of products that are cleaner, stronger, lighter, and more precise. While this technology has many potential positive uses, it does bring up privacy issues as well. With the ability to make common devices such as cameras smaller and smaller, there is also the ability to invade people’s privacy.

Security issues have come to the forefront since Sept. 11 and continue to be in the minds of citizens and state officials alike. State and federal officials will continue to look at ways to regulate access to certain places in order to protect public security. Biometrics is an emerging technology that can be used to increase security but raises privacy concerns as well. Biometrics refers to the automated methods of recognizing a person based on physiological or behavioral characteristics. Biometric technologies are becoming the foundation of an extensive array of highly secure identification and personal verification solutions. A person’s face, fingerprints, hand geometry, handwriting, iris and voice can all be measured. The convergence of information technologies, scientific know-how, financial benefit and identified security need make the development and mainstream use of biometrics and biometric identifiers a potential reality.

State officials, while supporting the development of these very promising technologies and implementation of rules and regulations, will also have to carefully evaluate their impact on privacy and security, and therefore public perception and reaction.

8. Natural Resource Use and Protection

The growing population in this country and around the world will increase the demands on the environment. The responsible use of natural resources and the protection of environmental quality will continue to drive many social, political and economic decisions.

The growing trend of urban sprawl can put stress on our natural resources. Urban sprawl increases driving time and the use of petroleum fuels. In some cases, ecologically valuable wetlands are being developed, and prime farmland is being converted to residential and commercial use.

Experts project that the world could reach its peak oil production capacity within the next 10 to 40 years. After that, the supply of oil may not keep up with demand. With this in mind, some states are leading the way in promoting energy efficiency and conservation. California, for instance, has built a “green” government building, and New York renovated one of its government office buildings to be more environmentally friendly. And many states have incentive programs aimed at encouraging the purchase of alternative fuel vehicles, the conversion of vehicles to run on biofuels and the installation and operation of fueling facilities to serve these vehicles.
Policy-makers will have to focus on longer-term policies, programs and commitments in order to ensure balanced approaches to the use of natural resources and development of “greener” and “cleaner” technologies. Air quality as well as water quality and availability will remain on the agendas of many state officials.

9. Polarization of Society

The United States is starting to realize a growing polarization of society. Some experts argue that the driving forces behind this phenomenon are increasingly polarized elected officials. This political polarization is, according to some experts, the result of gerrymandering to create “safe” districts. Because these districts are safely Republican or safely Democratic, there is an opportunity for Democrats who are more liberal than the average American and Republicans more conservative than the average to win office. This leads to increased difficulty in finding political compromises among elected officials.

Some experts, however, argue that it’s not just politicians who are becoming polarized. It is the American public. These experts believe that issues such as gay marriage and abortion have created rifts among the general public that make compromise on these and other issues difficult if not impossible. This polarization is reinforced by trends in information dissemination that allow people to only hear the viewpoints they want to hear.

There is growing economic polarization as well. According to the U.S. Census Bureau, the country has experience a long-term trend of a widening income gap. In other words, there is increasing income inequality between the “haves” and the “have nots.” This trend many create more pressures on government services on one hand, and impact taxation policies on the other.

The growing economic, cultural and political differences in this country are leading to a call for more civility among citizens and among their elected officials. There is an increased need for statesmanship and respect for differences in opinion, beliefs and economic status so that state leaders can do their jobs effectively.

10. Role of Government

The role of government in American society has shifted many times during our country’s history. The pendulum swings between strongly centralized and decentralized relationships between the federal government and states. Government’s assertiveness has ranged from reacting to certain events to implementing proactive policies to influence other events. The level of government involved in certain areas has changed over time. The social contract between government and citizens has shifted as well. Trust in government has declined over the years, and the public’s willingness to pay for government services has decreased as evidenced by a growing anti-tax sentiment.

The changing level of government involvement is illustrated by changes in state economic development policy over the years. A few decades ago, states were almost totally reliant on industrial recruitment as an economic strategy. Some states then developed services for entrepreneurs and small businesses. This evolved into states serving as a broker between entrepreneurs and the private and nonprofit sources of business assistance they need.
Several states have experienced the conflict between what the public wants and what they’re willing to pay. Citizen ballot initiatives have, in certain instances, created costly programs without providing revenue sources for them. When combined with a growing anti-tax sentiment, states will be hard pressed to adequately fund programs, which may lead them to carefully examine what they want to focus on.

Federalism issues have been and will always be a major impact on state government. As state policy-makers and administrators know, state budgets are greatly affected by federal mandates, as well as state and federal court decisions. Because of the relative inflexibility of federal programs and policies, states have to reorganize their priorities to adhere to mandates. The same is true for court decisions. This reprioritization adds uncertainty to budget forecasting, making it more difficult to predict future expenditures.

The voice of state government must be heard in this dynamic political environment. State leaders should be active in state membership organizations. This is one avenue for leaders to express their concerns and to learn from other states that may have dealt with those same concerns. State leaders must also build good relationships with their congressional delegations to make sure that federal decision-makers understand the needs of the states and how federal policy can affect the performance of state government.

ONGOING FORCES OF CHANGE – 2007 AND BEYOND

Demographics

The United States population, now at 300 million, is experiencing profound demographic shifts due to increased longevity, smaller family size, and the influx of immigrants with higher fertility rates than native-born residents. These changes, along with dramatic variations in regional growth, will have major impacts on state economies, the demand for public services, the use and management of natural resources, and voting patterns.

Chasing the American Dream

The income gap between the rich and the poor in the United States is now greater than in any other advanced nation, with the middle class confronting increased financial pressures. Widening social and economic disparities will affect states’ ability to finance and facilitate access to public services, employment opportunities, technology, health care and affordable housing. State officials also will be challenged to address the differing needs and perspectives of culturally diverse populations and demographic differences in levels of civic participation and awareness.

Environmental Gluttony

A growing population, increased pollution, and global climate change are threatening our natural environment, economy, and way of living. As water supplies dwindle, states will face tough management, stewardship, and water rights decisions. The Energy Information Administration expects an upward price trend for energy to continue indefinitely. Thus, states will have to find creative ways to promote renewable energy and conserve energy resources. The environmental consequences of energy choices also will need to be addressed.
Health Care: Paying More, Getting Less

U.S. health care costs are skyrocketing, with the cost of health insurance projected to rise 6.4% per year over the next decade. Although U.S. health spending is significantly higher than the average rate of other industrialized countries, we have higher rates of infant mortality, shorter “healthy life” expectancies, and more premature and preventable deaths. Growing numbers of elderly citizens and uninsured individuals will create tremendous pressures on public health insurance programs, fragmented health care delivery systems, and health workforces.

Tech Revolution

Technology is upgrading so rapidly that, for every computer put on the market, one existing computer will become obsolete. Although increasing numbers of states are providing fully executable services online, the digital divide continues to widen along economic, racial, and generational lines. With the volume of e-waste increasing by 3% - 5% each year, states will be challenged to find hazard-free recycling and disposal options.

Economic Transformation

Now that the shift from a manufacturing-based economy to a service-based, global economy is well underway, many economic transformation issues are emerging. At their current pace, India and China are set to economically surpass Japan and the United States in the next 30 years. The emergence of new economic powers, along with increasing economic, social and political interdependence among countries, will have significant impacts on state economies, labor migration patterns, knowledge and product development, and the ownership and distribution of natural resources. A fundamental challenge for state policymakers will be to balance public issues and private sector concerns with the need to remain globally competitive.

Educating for Outcomes

The need to maintain a competitive edge in a global economy has accentuated concerns about the lower academic performance of U.S. students relative to other industrialized nations and persisting racial/ethnic and income-based disparities in academic achievement. Issues of access, instructional quality, learning outcomes, and preparedness for the “new economy” workforce will have important implications for states’ economic and social wellbeing.

Critical Infrastructure: Cracks in the Foundation

Critical infrastructure is becoming increasingly outmoded, as evidenced by the nation’s crumbling water distribution systems, transportation systems, and an overextended power grid. The need to address these problems and to keep pace with rapid changes in telecommunications and other infrastructure technology will have significant financial and regulatory implications for states.
Balance of Power

New technologies and globalization are intensifying pressures to centralize rather than share federal power with state and local governments. Over the past three years, Congress has shifted an estimated $75 billion in costs to the states. Unfunded mandates, along with federal preemption of state and local laws and restrictions on state taxation, will have a major impact on future federal-state-local relationships.

America the Safe and Secure?

The United States faces myriad threats to public safety, domestic security, and immigration enforcement. After a two-decade drop, violent crimes are on the rise. National Guard troops are increasingly being used as quasi-active duty units – both within and outside the United States. States also are expected to play an increasing role in arresting and detaining illegal immigrants – duties that they historically have not performed. A major challenge will be to find ways of addressing diverse domestic and international threats while protecting personal privacy.

Disposable Society

A 2006 report published by the Center for Environment and Population characterizes the United States as a “super-size” nation, with lifestyles reflected in super-sized appetites for food, houses, land and resource consumption. The marketing and consumption of fast foods and disposable products, coupled with a growing population, will strain states’ waste management capacity and place citizens at increased risk for poor physical and financial health.

Changing Global Climate

What was once scientific conjecture is now scientific certainty: human activity—especially the combustion of fossil fuels—directly contributes to global climate change. Major shifts in climate patterns are likely to have significant agricultural, economic, health and environmental impacts on states.
SSL PROCESS

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

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

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

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

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

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

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

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

CSG policy task force recommendations to The Committee on Suggested State Legislation:
(A)(B)
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action (The task force did not make a recommendation about this item.)

Comments/Note to staff:

SSL Committee Meeting: (A)(B)(C)
( ) Include in Volume
( ) Defer consideration:
   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject

Comments/Note to staff:

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

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

(01) Conservation and the Environment
(02) Hazardous Materials/Waste
(03) Energy
(04) Science and Technology
(05) Public, Occupational and Consumer Health and Safety
(06) Property, Land and Housing/Infrastructure, Development/Protection
(07) Growth Management
(08) Economic Development/Global Dynamics/Development
(09) Business Regulation and Commercial Law
(10) Public Finance and Taxation
(11) Labor/Workforce Recruitment, Relations and Development
(12) Public Utilities and Public Works
(13) State and Local Government/Interstate Cooperation and Legal Development
(14) Transportation
(15) Communications/Telecommunications
(16) Elections/Political Conditions
(17) Criminal Justice, the Courts and Corrections/Public Safety and Justice
(18) Public Assistance/Human Services
(19) Domestic Relations/Demographic Shifts/Social and Cultural Shifts
(20) Education
(21) Health Care
(22) Culture, the Arts and Recreation
(23) Privacy
(24) Agriculture
(25) Consumer Protection
(26) Miscellaneous
<table>
<thead>
<tr>
<th>ITEM NO.</th>
<th>TITLE OF ITEM UNDER CONSIDERATION</th>
<th>SOURCE</th>
<th>ACTION</th>
</tr>
</thead>
<tbody>
<tr>
<td>(01)</td>
<td>CONSERVATION AND THE ENVIRONMENT</td>
<td></td>
<td></td>
</tr>
<tr>
<td>01-30B-01</td>
<td>Environmental Justice Communities and the Storage of Asbestos-Containing Material</td>
<td>CT</td>
<td></td>
</tr>
<tr>
<td>01-30B-02A</td>
<td>Carbon Sequestration</td>
<td>WY</td>
<td></td>
</tr>
<tr>
<td>01-30B-02B</td>
<td>Ownership of Subsurface Pore Space</td>
<td>WY</td>
<td></td>
</tr>
<tr>
<td>01-30B-03</td>
<td>Environment Management Systems</td>
<td>IA</td>
<td></td>
</tr>
<tr>
<td>01-30B-04</td>
<td>Official Gatherings--Sports Facilities--Recycling</td>
<td>WA</td>
<td></td>
</tr>
<tr>
<td>(02)</td>
<td>HAZARDOUS MATERIALS/WASTE</td>
<td></td>
<td></td>
</tr>
<tr>
<td>02-30B-01</td>
<td>Toxics Information Clearinghouse</td>
<td>CA</td>
<td></td>
</tr>
<tr>
<td>02-30B-02</td>
<td>Antifreeze Bittering Agent</td>
<td>VA</td>
<td></td>
</tr>
<tr>
<td>(03)</td>
<td>ENERGY</td>
<td></td>
<td></td>
</tr>
<tr>
<td>*03-30A-02B</td>
<td>Waste Heat and Carbon Emissions Reduction</td>
<td>CA</td>
<td></td>
</tr>
<tr>
<td>03-30B-01</td>
<td>Clean Energy Tax Credits</td>
<td>GA</td>
<td></td>
</tr>
<tr>
<td>03-30B-02</td>
<td>Advanced Clean Energy Project Grant and Loan Program</td>
<td>TX</td>
<td></td>
</tr>
<tr>
<td>03-30B-03</td>
<td>Energy Efficiency and Affordability Statement</td>
<td>VT</td>
<td></td>
</tr>
<tr>
<td>03-30B-04</td>
<td>Energy Conservation Statement</td>
<td>PA</td>
<td></td>
</tr>
<tr>
<td>03-30B-05</td>
<td>Gasoline Zone Pricing</td>
<td>NY</td>
<td></td>
</tr>
<tr>
<td>03-30B-06</td>
<td>Energy Efficiency and Conservation Requirements for State Funded Major Facility Projects</td>
<td>LA</td>
<td></td>
</tr>
<tr>
<td>(04)</td>
<td>SCIENCE AND TECHNOLOGY</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(05)</td>
<td>PUBLIC, OCCUPATIONAL AND CONSUMER HEALTH AND SAFETY</td>
<td></td>
<td></td>
</tr>
<tr>
<td>*05-30A-06</td>
<td>Disaster Preparedness</td>
<td>FL</td>
<td></td>
</tr>
<tr>
<td>(30A-b) Staff get data about any states affected.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>05-30B-01</td>
<td>Registering Facilities that Store or Transport Human Bodies or Human Body Parts Which are Intended for Research or Educational Purposes</td>
<td>ID</td>
<td></td>
</tr>
<tr>
<td>05-30B-02</td>
<td>Pharmacy Audit Integrity</td>
<td>OK</td>
<td></td>
</tr>
<tr>
<td>05-30B-03</td>
<td>Food Allergy Awareness</td>
<td>MA</td>
<td></td>
</tr>
<tr>
<td>05-30B-04A</td>
<td>Novelty Lighters</td>
<td>ME</td>
<td></td>
</tr>
<tr>
<td>05-30B-04B</td>
<td>Novelty Lighters</td>
<td>OR</td>
<td></td>
</tr>
<tr>
<td>05-30B-05C</td>
<td>Novelty Lighters</td>
<td>TN</td>
<td></td>
</tr>
<tr>
<td>(06)</td>
<td>PROPERTY, LAND AND HOUSING/INFRASTRUCTURE, DEVELOPMENT/PROTECTION</td>
<td></td>
<td></td>
</tr>
<tr>
<td>06-30B-01</td>
<td>Housing-Related Parks</td>
<td>CA</td>
<td></td>
</tr>
<tr>
<td>06-30B-02</td>
<td>Responsible Lending and Economic Security Statement</td>
<td>CT</td>
<td></td>
</tr>
<tr>
<td>06-30B-03</td>
<td>Emergency Foreclosure Reduction</td>
<td>NC</td>
<td></td>
</tr>
<tr>
<td>06-30B-04</td>
<td>Certified Retirement Housing Community</td>
<td>NC</td>
<td></td>
</tr>
</tbody>
</table>
06-30B-05 Abandoned and Blighted Property Conservatorship PA
06-30B-06 Demolishing, Seizing or Selling Abandoned Buildings Used for Selling Illegal Drugs MS
06-30B-07 Derelict Buildings VA
06-30B-08 Landlord Immunity for Mold Claims VA
06-30B-09 Mortgage Lender and Broker Act VA
06-30B-10 Smart Homeownership Choices WA

(07) GROWTH MANAGEMENT
07-30B-01 Planning Enabling Act MI

(08) ECONOMIC DEVELOPMENT/GLOBAL DYNAMICS/DEVELOPMENT

(09) BUSINESS REGULATION AND COMMERCIAL LAW
09-30B-01 Market Conduct Surveillance RI
09-30B-02 Internet Ticket Sales and Using Software to Purchase Tickets NC
09-30B-03 Guaranteed Asset Protection Waiver TN

(10) PUBLIC FINANCE AND TAXATION

(11) LABOR/WORKFORCE RECRUITMENT, RELATIONS AND DEVELOPMENT
11-30B-01 Employers and Genetic Information IL
11-30B-02 Certified Aide Registry and Employment Search NY
11-30B-03 Public Safety Leaves of Absence; Retiree Reemployment IN
11-30B-04 Unemployment Compensation for Military Spouses VA

(12) PUBLIC UTILITIES AND PUBLIC WORKS
12-30B-01 Energy Efficiency and Load Management for Public Utility Customers NM

(13) STATE AND LOCAL GOVERNMENT/INTERSTATE COOPERATION AND LEGAL DEVELOPMENT
13-30B-01 Terrorism Country Divestments AZ
13-30B-02 State Tort Claims/Public Duty Doctrine NC
13-30B-03 Uniform Unsworn Foreign Declarations Act ULC/UT

(14) TRANSPORTATION
14-30B-01 Child Passenger Safety Technician Liability NC
14-30B-02 Cancellation, Suspension or Revocation of Licenses - Reports by Health Care Providers WV
14-30B-03 Public-Private Transportation Facilities Act WV
14-30B-04 Public Assistance Cost Reduction and Transportation Independence Pilot Program NJ
(15) COMMUNICATIONS/TELECOMMUNICATIONS
15-30B-01 Internet Caller Identification IL
15-30B-02 Telecommunications Authority VT
15-30B-03 High Speed Internet Services and Information Technology IL

(16) ELECTIONS/POLITICAL CONDITIONS
16-30B-01 Campaign Fundraising During Legislative Session AK

(17) CRIMINAL JUSTICE, THE COURTS AND CORRECTIONS/PUBLIC SAFETY AND JUSTICE
17-30B-01 Preserving Right to Keep and Bear Arms in Motor Vehicles FL
17-30B-02 Hate Crimes/Violence Against Homeless People MODEL
17-30B-03 Home Invasion LA
17-30B-04 Identity Theft: Judicial Determination of Factual Innocence AZ
17-30B-05 Grooming and Traveling Sex Offenses IL
17-30B-06 Medical Release for Ill and Disabled Inmates NC
17-30B-07 Adult Criminal Sex Offenders Group Homes ID
17-30B-08 Coercing or Attempting to Coerce a Woman to Obtain an Abortion ID

(18) PUBLIC ASSISTANCE/HUMAN SERVICES
18-30B-01 Disaster Assistance IA
18-30B-02 Homelessness, Foster Youth, and Education IN

(19) DOMESTIC RELATIONS/DEMOGRAPHIC SHIFTS/SOCIAL AND CULTURAL SHIFTS
19-30B-01 Uniform Parentage Act AL
19-30B-02 Fetal Deaths, Grieving Parents OH
19-30B-03 Unclaimed Veterans’ Cremains NJ
19-30B-04 Registering Consent to an Adopted Child's Request for Identifying Information NY

(20) EDUCATION
20-30B-01 School Safety Survey TN
20-30B-02 Rewarding Excellence in Achievement AR
20-30B-03 School Leadership Academy CO
20-30B-04 Financial Assistance for Capital Construction of Public Schools Statement CO
20-30B-05 Local School System Flexibility from General State Requirements GA
20-30B-06 Physical Education and Athletic Programs For Students With Disabilities MD
20-30B-07A Promise Zones MI
20-30B-07B Promise Zone Authority MI
20-30B-08 Collecting Student Biometric Information AZ
20-30B-09 Schools; Overexpenditure; Crisis Teams; Receivership AZ
20-30B-10 Student Loan Protection IA
20-30B-11 Internet Safety Education Curriculum IL
20-30B-12 Higher Education Energy and Water Savings Revolving Loan Fund WV
20-30B-13 Full Day Kindergarten WY
*20-30A-07 Virtual Charter Schools WI
(30A-e) Get enacted version for Idaho mtg.
20-30B-14 Virtual Public Charter Schools OR
20-30B-15 Calculating Distributions of State School Fund to Public Charter Schools that Offer Online Courses OR
20-30B-16 Teacher Retention FL
20-30B-17 School Safety Summit TN

(21) HEALTH CARE
21-30B-01 Hospital Uninsured Patient Discount IL
*21-30A-14 Health Care Cost Containment and Transparency MA
21-30B-02 Long-Term Care Patient Access to Pharmaceuticals PA
21-30B-03 Heart Attack and Stroke Centers MO
21-30B-04 Surrogate Decision-Making Committees NY
21-30B-05 Physician Orders for Life-Sustaining Treatment ID
21-30B-06 Advocating Donating Organs NJ
21-30B-07 Disclosure of Contractual Arrangements with Health Insurance Carriers VA
21-30B-08 Opioid Treatment IN
21-30B-09 Medication Therapy Management MODEL
*21-30A-10 Health Information Exchange RI
(30A-f) Get similar legislation from other states for Idaho Docket.
21-30B-10A Health Informatics Corporation IN
21-30B-10B Health Services Authority TX
21-30B-10C Health Information Technology VT
21-30B-11 Advancement in Stem Cell Cures and Therapies OK

(22) CULTURE, THE ARTS AND RECREATION

(23) PRIVACY
23-30B-01 Computer Security (Spyware) GA

(24) AGRICULTURE
24-30B-01 Oilseed Resources OK
24-30B-02 Seeds WY
24-30B-03 Farm-to-School VT
24-30B-04 Anthrax Control NE
24-30B-05 Open Burning of Crop Residue ID
(25) CONSUMER PROTECTION
25-30B-01 Chemicals of Concern in Consumer Products  CA
25-30B-02 Confidentiality of State Held Information  OH

(26) MISCELLANEOUS
This Act requires applicants seeking a new or expanded permit, certificate, or siting approval for certain facilities (an “affecting facility”) in an environmental justice community from the state Department of Environmental Protection (DEP) or the state Siting Council to file and receive approval of a meaningful public participation plan, including an informal public meeting, with DEP or the Siting Council and to consult with officials of the town or towns where the facility will be located or expanded to evaluate the need for a community environmental benefit agreement.

Under the Act, the DEP and the Siting Council must wait at least 60 days after the informal public meeting to act on the applicant's request. The Act specifies that any municipality, owner, or developer may enter into a community benefit agreement in connection with an affecting facility.

The Act also restricts where people or government agencies may place, store, dispose of, or deposit certain asbestos-containing materials.

Submitted as:
Connecticut
Public Act No. 08-94

Comment:

Disposition:

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2010B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action
Comments/Note to staff:

SSL Committee Meeting: 2010B
( ) Include in Volume
( ) Defer consideration
   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject
Comments/Note to staff:
This Act creates a regulatory scheme for geologic CO2 storage. It directs the state department of environmental quality (DEQ) to develop standards for regulating long-term, geologic storage of carbon dioxide (CO2) in the state. The Act provides a list of specific information that is required in permit applications for CO2 storage injection wells. It allows the DEQ to issue permits for pilot-scale CO2 sequestration and storage projects under current rules and regulations. It also requires the State Oil and Gas Supervisor, State Geologist and Director of DEQ to convene a working group to develop an appropriate bonding procedure and provides a $250,000 appropriation for the working group.

Submitted as:
Wyoming
Chapter 30 of 2008

This Act specifies that the owner of a surface estate owns the pore space in all strata below the surface. Pore space is the subsurface space which can be used to store carbon dioxide or other substances. The Act specifies that a conveyance of the surface ownership conveys the pore space unless that ownership interest is severed. Pore space ownership may be conveyed in the same manner as conveyances of mineral interests in real property. The Act also provides specific requirements for pore space ownership transfers.

Submitted as:
Wyoming
Chapter 29 of 2008

Comment:
Disposition: 01-30B-02A

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2010B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action
Comments/Note to staff:

SSL Committee Meeting: 2010B
( ) Include in Volume
( ) Defer consideration
   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject
Comments/Note to staff:

Disposition: 01-30B-02B

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2010B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action
Comments/Note to staff:

SSL Committee Meeting: 2010B
( ) Include in Volume
( ) Defer consideration
   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject
Comments/Note to staff:
This Act defines and provides incentives to create Environment Management Systems. The Act defines an environmental management system" or "system" as a solid waste planning area which is providing multiple environmental services in addition to solid waste disposal and that is planning for the continuous improvement of solid waste management by appropriately and aggressively mitigating the environmental impacts of solid waste disposal.

Submitted as:
Iowa
**HF 2570 (Enrolled version)**

Comment:

Disposition:

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2010B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action
Comments/Note to staff:

SSL Committee Meeting: 2010B
( ) Include in Volume
( ) Defer consideration
   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject
Comments/Note to staff:
This Act requires sports facilities to provide receptacles or reverse vending machines to recycle aluminum, glass, and plastic bottles and cans sold at the facilities during sporting events.

Submitted as:
Washington
Chapter 244, Laws of 2007
Status: Enacted into law in 2007.

Comment:

Disposition:

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2010B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action
Comments/Note to staff:

SSL Committee Meeting: 2010B
( ) Include in Volume
( ) Defer consideration
   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject
Comments/Note to staff:
This Act requires the state environmental protection agency to establish a Toxics Information Clearinghouse to collect, maintain, and distribute specific chemical hazard traits and environmental and toxicological end-point data.

Submitted as:
California
**Chapter 560 of 2008**

Comment:

Disposition:

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2010B
(   ) Include in Volume
(   ) Defer consideration to next task force meeting
(   ) Reject
(   ) No action
Comments/Note to staff:

SSL Committee Meeting: 2010B
(   ) Include in Volume
(   ) Defer consideration
   (   ) next task force mtg.
   (   ) next SSL mtg.
   (   ) next SSL cycle
(   ) Reject
Comments/Note to staff:
This Act requires that any engine coolant or antifreeze that is manufactured after January 1, 2011, or sold within the state that contains more than 10 percent ethylene glycol contain denatonium benzoate as a bittering agent in order to render the coolant or antifreeze unpalatable. The measure does not apply to sales of motor vehicles that contain engine coolant or antifreeze, certain wholesale containers, to engine coolant or antifreeze reformulated through on-site recycling, or to engine coolant or antifreeze that is purchased pursuant to military specifications. Violations are subject to a civil penalty of up to $100 per violation.

Submitted as:
Virginia
HB 2629 (Enrolled version)
Status: Awaiting governor’s action as of 03/09/09.

Comment:

Disposition:

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2010B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action
Comments/Note to staff:

SSL Committee Meeting: 2010B
( ) Include in Volume
( ) Defer consideration
   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject
Comments/Note to staff:
Under existing law, the Public Utilities Commission (PUC) has regulatory authority over public utilities, including electrical corporations, as defined. Existing law authorizes the PUC to fix the rates and charges for every public utility, and requires that those rates and charges be just and reasonable. The existing Waste Heat and Carbon Emissions Reduction Act authorizes the PUC to require an electrical corporation to purchase excess electricity from any customer of the electrical corporation that is delivered by a combined heat and power system that complies with the sizing, energy efficiency, and air pollution control requirements of that Act.

The Act requires every electrical corporation to file a standard tariff with the PUC for the purchase of excess electricity from an eligible customer-generator, as defined, requires the electrical corporation to make the tariff available to eligible customer-generators within the service territory of the electrical corporation upon request, and authorizes the electrical corporation to make the terms of the tariff available in the form of a standard contract. The existing definition of an eligible customer requires that the customer of an electrical corporation use a combined heat and power system with a generating capacity of not more than 20 megawatts that is in compliance with the act’s requirements and be a nonprofit organization that is exempt from taxation pursuant to a specified provision of federal law.

This Act defines an eligible customer to require that the customer of the electrical corporation use a combined heat and power system with a generating capacity of not more than 20 megawatts that is in compliance with the Act’s requirements and that the customer either be a nonprofit organization that is exempt from taxation or be a federal, state, or local government facility.

The bill provides that an approval made by the Department of Finance for a state agency to purchase, lease, or otherwise acquire a combined heat and power facility financed through the pay-as-you-save program may not be made sooner than after a specified time written notification is provided to certain members of the legislature.

Submitted as:
California
Chapter 253 of 2008
Comment:
Disposition: *03-30A-02B

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2010B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action
Comments/Note to staff:

SSL Committee Meeting: 2010B
( ) Include in Volume
( ) Defer consideration
   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject
Comments/Note to staff:
This Act provides income tax credits for wood residuals diverted or transported to renewable biomass qualified facilities and for the cost of installing “clean energy” equipment at qualified facilities.

Submitted as:
Georgia
HB 670 (As passed House and Senate)

Comment:

Disposition:
CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2010B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action
Comments/Note to staff:

SSL Committee Meeting: 2010B
( ) Include in Volume
( ) Defer consideration
   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject
Comments/Note to staff:
This Act defines certain advanced clean energy projects that involve the use or creation of specified fuels in connection with electricity generation or cogeneration; are capable of reducing mercury, sulfur dioxide, and nitrogen oxide emissions by specified amounts; render any resultant carbon dioxide (CO2) capable of capture, sequestration, or abatement; and are the subject of a permit application from the Texas Commission on Environmental Quality (TCEQ).

Specified fuels include coal, petroleum coke, biomass, solid waste, and derivative liquid fuels or hydrogen fuel cells. The bill contains related provisions governing TCEQ air-quality permitting procedures for such a project. A permit applicant need not prove beforehand, as part of a best available control technology (BACT) analysis or lowest achievable emission rate analysis, that that the proposed project technology is commercially feasible, but neither do the technology used or emission reductions achieved by an advanced clean energy project that receives an incentive set by themselves a BACT or emission benchmark for other Texas Clean Air Act permit applicants to have to match.

The Act establishes an advanced clean energy project grant and loan program administered by the comptroller's State Energy Conservation Office (SECO). Under the program, SECO may make or guarantee a loan to the managing entity of an eligible Texas project, or it may award a grant to that entity in an amount not to exceed 50 percent of the private industry investment in the project.

The bill requires the TCEQ and SECO twice jointly, not later than September 1, 2012, and September 1, 2016, to give the legislature a status update on the program and an assessment of whether the emissions criteria for advanced clean energy projects should be adjusted. Not later than September 1, 2015, the TCEQ must report to the legislature assessing whether the program should be extended because of a continuing need for project incentives.

The bill amends the state Tax Code to provide for the transfer to the program's account, each fiscal biennium through FY2020, of the first $30 million of gross receipts tax revenues collected from electric, gas, and water utilities and allocated to the general revenue fund. The total amount of advanced clean energy program grants and loans or loan guarantees from that source may not exceed $20 million and $10 million, respectively, per fiscal biennium. The bill exempts sales of electricity generated by an advanced clean energy project from the gross receipts tax. It amends the Texas Economic Development Act, in the Tax Code, to qualify an advanced clean energy project for the limitation on appraised value of property subject to school district maintenance and operation taxes.

The bill requires the TCEQ to prepare a nonexclusive list of facilities, devices, or methods for pollution control that may qualify for an exemption from property taxes, sets out numerous items to be included in that list, and makes related changes to provisions relating to the determination of rollback tax rates. It provides for an additional oil severance tax rate reduction--in addition to the baseline reduction for which new and enhanced oil recovery (EOR) projects are eligible--if an EOR project eligible for the baseline reduction uses CO2 that: (1) is captured from anthropogenic sources; (2) would otherwise be released into the atmosphere as industrial emissions; (3) is measurable at the source of capture; and (4) is sequestered geologically. The additional tax rate reduction applies until the seventh anniversary of the date that the comptroller first approves an application for such a reduction or until the effective date of a U.S. Environmental Protection Agency final rule regulating CO2 as a pollutant, whichever comes
later. The reduction is adjusted proportionately for EOR projects, the CO2 for which comes partly from anthropocentric sources and partly from other sources. To qualify for the additional tax rate reduction, the operator must be certified by the Railroad Commission of Texas, TCEQ, or both, and the bill sets a related standard for certification requiring a finding that at least 99 percent of the CO2 will remain sequestered for at least 1,000 years.

Submitted as:
Texas
HB 3732 (Enrolled version)
Status: Enacted into law in 2007.

Comment:

Disposition:

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2010B

( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action
Comments/Note to staff:

SSL Committee Meeting: 2010B

( ) Include in Volume
( ) Defer consideration
    ( ) next task force mtg.
    ( ) next SSL mtg.
    ( ) next SSL cycle
( ) Reject
Comments/Note to staff:
According to a Vermont legislative analysis, Vermont Act 92 of 2008 makes it a state goal to produce 25 percent of energy consumed in VT from renewable sources, particularly from farms and forests, by 2025. It requires the secretary of agriculture, food and markets, by 1/15/09, to present legislative committees with a plan to achieve this goal. This plan is to be updated triennially, and is to be the subject of an annual progress report every January 15. By 1/15/09, the department of public service is required to present legislative committees with an updated comprehensive energy plan which incorporates this plan.

The Act establishes building efficiency goals, which are: (1) to improve 20 percent of housing by 2017 (more than 60,000 units), and to improve 25 percent of housing by 2020 (about 80,000 units); (2) to reduce fuel needs by 25 percent in units served; (3) to reduce fossil fuel consumption across all buildings by one-half percent per year, leading to reductions of six percent annually by 2017, and 10 percent annually by 2025; (4) to save $1.5 billion on fuel bills through improvements installed between 2008 and 2017.

The Act requires the commissioner of the department of public service to revise the state Residential Building Energy Standards (RBES) and the state commercial Building Energy Standards (CBES) promptly after pertinent parts of the international energy conservation code (IECC) are updated. It adds architects and civil, mechanical, and electrical engineers to the CBES advisory committee while retaining “building designers.” It enables the commissioner of public service to grant variances or exemptions from CBES if compliance entails practical difficulty, unnecessary hardship, or is otherwise unwarranted, provided criteria in the section are met. Copies of variances and exemptions are required to be filed with the local land records and a record of each variance or exemption is to be maintained by the commissioner of public service. It substantially revises certification requirements for commercial buildings, so as to apply to both design and construction, and revises the provisions regarding who is qualified to certify. First, it requires design certification, possibly on a standard certificate developed by the public service department, accompanied by an affidavit affirming that the designer acted in accordance with the designer’s professional duty of care, and that the design is in substantial compliance with CBES. It enables the certifier to rely on affidavits of other persons for those parts that the others contributed. It also requires that certification be accompanied by an affidavit that construction was in accordance with the ordinary standard of care applicable to the building trades, and that construction was in substantial compliance with construction documents certified by the primary designer. Copies of the certificate and the affidavit shall be permanently affixed in a specified visible location in the building and shall be provided to the department of public service. A certificate must be obtained before a final occupancy permit for a commercial building may be obtained from the commissioner of public safety or a municipal official, in case of a delegated program. The Act establishes a private right of action in superior court against a certifier by a person aggrieved by breach of representations in certification, within 10 years of earlier of complete construction or occupancy. The Act narrows the scope of recoverable damages to exclude costs of labor and material, and the expenses required to correct noncompliance. It provides that a person knowingly making false certification or failing to certify faces a civil penalty of up to $250/day and $10,000/year. It provides that failure to provide a copy of a variance or exemption for land records, or failure to certify, display certification or give copy of certification to the department of public service will not create a defect in marketable title.
The Act requires the public service board to continue its investigation of opportunities for electric utilities to install smart metering so as to allow users to respond cost-effectively to price signals, and requires the board, by 12/31/08, to issue a final report and implementation plan. The Act provides that the plumber’s examining board rules may not require the installation or maintenance of a water heater at a minimum temperature.

The Act establishes the fuel efficiency fund, from ratepayer funds, to be administered by a fund administrator appointed by the public service board, to contain appropriations, and revenues from the sale of Regional Greenhouse Gas Initiative (RGGI) credits. It provides that the fund may be used to support delivery of energy efficiency services to heating and process consumers by providers selected by the public service department under section 235 of Title 30. It requires the department to report on expenditures by 1/15/10, and annually thereafter, and allows it to use up to five percent of allocations for certain administrative costs.

This law establishes a heating and process fuel efficiency program. It requires the department of public service to consult with stakeholders, develop an efficiency program, and select service providers to implement the program by means of performance-based contracts, which are limited to three years in duration if the contract is made within one year of the effective date of the Act. The programs are to produce whole building efficiency, facilitate appropriate fuel switching, and promote coordination with electric efficiency programs and other programs. The board is to review the programs, prior to the department entering these contracts, and may revise them. Oversight criteria are similar to those applying to the electric efficiency entity. Funding for the program is to come from an energy efficiency fund established. Any contracts or grants that are nonadministrative and are made during the 2009 fiscal year shall be subject to appropriation by the general assembly. The department shall present the joint fiscal committee at its November 2008 meeting with a preliminary report on the program to be presented to the board. The Act requires the department to implement this section with all deliberate speed, and makes it a goal for the department to issue RFPs by no later than the end of October 2008. Initial service providers shall be selected no later than 4/1/2009.

The Act provides that appointment of an efficiency utility to provide services in the territory of a regulated utility that does not satisfy the efficiency obligations of transmission companies. It provides that the appointment of the efficiency utility may be by contract or order of appointment, and gives the board powers over the entity. It requires the deposit into the electrical efficiency fund of net revenues above costs from the New England Independent System Operator (ISO-NE) for capacity savings from the activities of the existing energy efficiency entity. It requires the board to expand the efficiency program to consumers, regardless of heating fuel or process fuel provider; and to use compensation mechanisms based on verified savings in energy usage, the review of which is to be at least every three years. It explains additional advantages of stable budgets, as providing enhanced access to capital and personnel, and improving the integration of program design with utility programs. It requires that the board consider the impact of efficiency programs on fuel prices and bills, and ensure the efficiency programs make proportional progress toward the state building efficiency goals by promoting all forms of end-user energy efficiency and sustainable building design.

The Act requires the public service board to continue its investigations of residential inclining block rate designs, alternative rate designs to encourage efficient use of energy; and appropriate exemptions for special needs or extraordinary situations. The board is required, by 12/31/08, to issue a report and plan for implementation, based upon the results of the investigation. The Act allows the board to issue an order that provides reduced rates for low
income electric utility consumers, with a low income electric utility consumer being defined as a customer with a household income of 150 percent or less of the current federal poverty level. The board must take into account the potential impact on and cost-shifting to other utility customers when considering approval of such an order.

The Act revises the net metering law, raising the existing cap on non-farm net metering systems to 150 kw capacity; allowing qualified micro-combined heat and power systems of 20 kw or less that meet air quality standards; increasing the maximum size of “farm system” from 150 to 250 kw; allowing use of “group net metering systems” subject to various provisions controlling use of farm systems; limiting net metering systems to customers within the service area of the same electric company; allowing multiple buildings of a municipality to qualify; providing that a union or district school facility shall be considered in the same group system as its member municipalities that are located within the same utility service area; and granting the public service board the authority to allow noncontiguous groups, if to do so promotes the general good. It also increases a company’s system cap regarding how much net metered power it must accept, from one percent up to two percent of a company’s peak demand in 1996. It repeals the provision that allows an electric company to receive from farm systems any tradable renewable credits for which the farm system is eligible. It repeals provisions allowing up to 10 larger systems and allowing an electric company to contract to receive output from group systems, as well as farm systems, in excess of 250 kw. It requires the board to adopt rules regarding the application of the section 248 aesthetics criteria to an application for a certificate for a single net-metered wind turbine that is less than 150 feet in height.

The Act also requires the public service board to create a rule or order governing application, issuance, and revocation of a certificate of public good (CPG) for temporary meteorological stations. These stations are exempt from being reviewed for being in the company’s electric plan. The Act allows the board to waive section 248 requirements that are not applicable to meteorological stations, but does not allow it to waive review of construction effects on aesthetics, historic sites, air and water purity, natural environment, and public health and safety. It requires these applications be processed so as to assure that a proposal for decision shall be issued within five months of receipt of a complete application. It requires the removal of temporary towers upon expiration of the certificate of public good.

The Act expands the scope of the law relating to the regional greenhouse gas initiative (RGGI) to incorporate policy emphasizing the value of minimizing emissions from the use of fossil fuels for space and processing heat, and the value of building envelope investments. It provides that proceeds from the sale of RGGI credits shall be deposited into the energy efficiency fund established by 30 V.S.A. § 203a. The Act amends the definition of “new renewable energy,” as it appears in the sustainably priced energy enterprise development (SPEED) program, which refers to renewable energy source coming into service after 12/31/04. The amendment includes within the definition additional energy derived from changes in operation (for example, at the MacNeil plant) to the extent that those changes increase kwh output beyond the average output for the 10 years ending as of 12/31/04.

It requires each electric company, by July 1, 2009, to implement a renewable energy pricing program for its customers, or offer customers the option of making a voluntary contribution to the Vermont clean energy development fund. It repeals the provision that a renewable energy pricing option would only be provided to customer classes determined by the board. It provides that when a company selects the option of paying into a fund in order to avoid
purchasing credits to meet portfolio standards, payment shall be made into the Vermont clean energy development fund.

It requires the public service board to create a standard contract price or a set of maximum and minimum provisions, or both, for qualifying SPEED resources over 1 MW of capacity. In setting a standard contract price, the board shall consider the goal of developing qualified SPEED resources, least cost analysis, and the impact on electric rates. It adjusts the statutory mechanism for determining whether portfolio standards will be imposed. In particular, it provides that if the board determines, by 1/1/13, that resources that are brought into service between 1/1/05 and 1/1/12 or that are the subject of a certificate of public good issued during that time, when combined, exceed the growth in statewide retail electric sales during that period of time, and that SPEED resources then produce at least five percent of 2005 retail sales, or if SPEED resources provides 10 percent or more of 2005 retail sales, then the portfolio standards shall not be in force. The Act makes it a state goal to assure that 20 percent of total statewide electric retail sales before 7/1/17 shall be generated by SPEED resources. The board is to report to legislative committees on progress in meeting the goal by 12/31/11 and again by 12/31/13, in the latter case, if necessary, with appropriate recommendations to make attaining the goal more likely.

The Act makes it clear that when local government provides tax breaks for alternate energy sources, renewable net metering systems are eligible. It imposes a wind-powered electric generating facilities tax as an alternative education property tax on buildings and fixtures used in the generation of electric energy from wind. All of the revenues raised from the tax will be deposited in the education fund. Municipal property taxes on wind-powered generating facilities would not be affected. The rate of the tax shall be $0.003 per kwh produced, as determined by the public service board, but may not be less than if the facility were operating at 15 percent of the facility’s average capacity factor.

It also allows the pass-through to individuals and corporations of 100 percent of the Vermont property portion of the business solar energy investment component of the federal investment tax credit. This pass-through would be effective for taxable year 2008 and after. The Act transfers $20,000 annually from the clean energy development fund to the general fund to support solar energy income tax credits.

The Act provides that the home weatherization assistance trust fund may be used only to support programs authorized under the weatherization assistance program chapter. It increases to $6,000 the average that may be spent per unit under the weatherization program. It requires the state program be developed to include: (A) facilitating the use of a common energy-audit tool that will work on all Vermont housing; (B) requiring that in the case of multifamily dwellings, at least 25 percent of the tenants be eligible for weatherization or that at least 50 percent of the units are affordable, as defined in that section; (C) establishing eligibility levels at 60 percent of the area median income or 60 percent of the state median income, whichever is less; (D) eliminating the lien requirement in certain instances; (E) allowing greater program flexibility to increase energy savings or alleviate health and safety problems; and (F) increasing the number of units weatherized or the scope of service to reflect increased revenues in the trust fund. The Act extends to June 30, 2011 the sunset date on the gross receipts tax on heating fuels, and requires a joint energy committee report by January 15, 2011, regarding continuing or increasing the tax, as determined by the success in meeting the building efficiency goals of the state.

The Act requires specified state agencies to report jointly by 1/15/09 with recommendations for increasing the use of state government use of biodiesel blends in state office buildings, state garages, and in the state transportation fleet. The department of buildings and
general services is to report on: current use of blends; recommendations for increasing use of blends in office buildings to five percent by the end of 2008 and 10 percent by 2012; obstacles; and a work plan to increase use. The department of public service is to report on current production, storage, and distribution capacity and recommendations for increasing all three; current performance of biodiesel blends as heating fuel and for vehicles; a summary of quality assurance and control measures for blending; and a work plan to increase use. The agency of transportation is to report on current use of biofuels in the state fleet and in state garages; how to increase use to five percent by the end of 2008 and 10 percent by 2012; obstacles; and a work plan to increase use. The state entities involved are to conduct at least one public hearing to review the draft report and solicit comments.

The Act provides that by 1/15/09, the department of public service shall report on the benefits and disadvantages of creating a public power authority. It also provides that by 12/1/08, the department of taxes shall present to the house and senate committees on natural resources a report on how net metered systems are valued and taxed at the town and municipal levels and how customer-sited renewable energy generation should be valued for property tax purposes.

The Act requires the natural resources board to evaluate the need to amend by rule the conservation flow standards for the water quality review of proposed hydroelectric facilities. In conducting this evaluation, the board is to convene a public stakeholder process, by 6/1/2008, to review existing and proposed standards and to issue recommendations, and is to consider specific alternative flow standards specified in the Act. After the recommendations are issued, the board may adopt rules amending the conservation flow standards used by the agency of natural resources to conduct water quality review of proposed hydroelectric facilities.

Finally, the Act requires the agency of natural resources to report on the cost of producing a fish study methodology for the state of Vermont, other than the U.S. Geological Survey’s instream flow incremental methodology protocols.

Submitted as:
Vermont
Act 92 of 2008 (S209)

Comment:
Disposition: 03-30B-03

CSG policy task force recommendations to The Committee on Suggested State Legislation: 2010B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action
Comments/Note to staff:

SSL Committee Meeting: 2010B
( ) Include in Volume
( ) Defer consideration
   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject
Comments/Note to staff:
According to a Pennsylvania legislative staff analysis, HB2200, which became law in 2008, generally:

- provides for the creation and implementation of a statewide energy efficiency and demand-side response program;
- requires electric distribution companies to procure energy through a competitive procurement plan that is designed to ensure adequate and reliable service and the least cost to customers over time;
- provides for the implementation of “smart meters” and real-time and time-of-use rates;
- sets forth new provisions for market misconduct; and
- requires a carbon sequestration network study.

The Act requires the state Public Utilities Commission (PUC) to adopt a program to require state Electric Distribution Companies (EDCs) to adopt and implement cost-effective energy efficiency and conservation plans to reduce energy demand and consumption within the EDC territory. The PUC will have all of the following responsibilities:

- develop procedures for approving EDC plans;
- develop a plan evaluation process including a process to monitor and verify data collection, quality assurance and results submitted;
- analyze the cost and benefit of each plan in accordance with the total resource cost test, which is a standard test that is met if, over the effective life of each plan not to exceed 15 years, the net present value basis of supplying electricity is greater than the net present value basis of energy efficiency measures and conservation of consumption;
- conduct an analysis of how the program and plans will enable each EDC to achieve the load and peak demand reduction goals;
- create standards to ensure that each plan includes a variety of energy efficiency and conservation measures to be provided equitably to all classes of consumers;
- enact procedures to make recommendations as to additional measures that will enable an EDC to improve its plan and exceed the required reductions;
- enact procedures to require that EDCs competitively bid all contracts with third party entities;
- develop procedures to review all proposed contracts prior to the execution of the contract with third-party entities;
- enact requirements for the participation of conservation service providers in the implementation of all or part of a plan. A conservation service provider is an entity that provides information and technical assistance on measures to enable a person to increase energy efficiency or reduce energy consumption and that has no direct or indirect ownership, partnership or other affiliated interest with an EDC.
- set forth procedures for the levy of assessments to fund plans, subject to limitations;
- direct an EDC to modify or terminate any part of an approved plan if, after an adequate period for implementation, it is determined that an energy efficiency or conservation measure included in the plan is not effective;
• approve or disapprove a plan within 120 days of submission. Where disapproval is
given, describe in detail the reasons for disapproval; and
• by November 30, 2013, evaluate the costs and benefits of energy efficiency and
conservation plans consistent with the total resource cost test or a cost versus benefit
measurement, and if it determines that the benefits of the program exceed the costs, it shall adopt
additional incremental required reductions in load and peak demand for the periods ending May
31, 2018 and May 31, 2017, respectively.

The Act directs each EDC by July 1, 2009 to develop and file an energy efficiency and
conservation plan with the PUC. The energy efficiency and demand-side response programs
within each EDC territory must:
• include specific proposals to implement energy efficiency and conservation
measures to achieve or exceed the required reductions in load and peak demand;
• include provisions that a minimum of 10% of the required reductions be obtained
from units of federal, state and local government, including municipalities, school districts,
institutions of higher education and nonprofit entities;
• set forth the manner in which quality assurance and performance will be measured,
verified and evaluated;
• provide for how the plan will achieve or exceed the reductions in load and peak
demand;
• include a proposed cost-recovery tariff mechanism to fund the energy efficiency
and conservation measures and to ensure recovery of prudent and reasonable costs of the plan; and
• demonstrate that the plan is cost-effective using the total resource cost test or other
cost-benefit analysis approved by the PUC that provides a diverse cross section of alternatives for
all consumer classes.

EDCs must submit a new plan to the PUC every five years or as otherwise required by the
PUC.

EDCs must reduce the total annual deliveries to retail consumers (load reduction) as
follows:
• by May 31, 2011, reduce the total annual weather-normalized consumption of the
retail consumers (load reduction) by a minimum of 1% (this will be measured against the
expected load forecasted by the PUC for June 1, 2009 through May 31, 2010, with provision
made for weather adjustments and extraordinary loads that the EDC must serve).
• by May 31, 2013, reduce the total annual weather-normalized consumption of the
retail consumers (load reduction) by a minimum of 3% (this will be measured against the
expected load forecasted by the PUC for June 1, 2009, through May 31, 2010, with provision
made for weather adjustments and extraordinary loads that the EDC must serve).

By May 31, 2013, EDCs must reduce peak demand by a minimum of 4.5% in the 100
hours of highest demand with provision made for weather adjustments and extraordinary load that
the EDC must serve. This will be measured against the EDC’s peak demand in the 100 hours of
greatest demand for June 1, 2007, through May 31, 2008. Failure of an EDC to meet the required
reductions will result in a civil penalty of not less than $1 million but not more than $20 million,
which will not be a recoverable cost from rate payers. A similar penalty will attach for each 5
year period the required reductions were in place. If an EDC fails to achieve the required
reductions by 2013, the responsibility to achieve the reductions will be transferred to the PUC,
which will implement a plan to achieve the required reductions by contract with a conservation service provider.

The total cost of the plan cannot exceed 2% of the EDC’s total annual revenue as of December 31, 2006. No more than 1% of the 2% of the EDC’s revenue may be used for administrative costs.

Each EDC must submit an annual report to the PUC detailing the results of the energy efficiency and conservation plan. The report must include documentation of program expenditures, measurement and verification of energy savings, evaluation of the cost-effectiveness of expenditures, and any other information required by the PUC.

The Act requires EDCs to provide a list of all eligible Federal and State funding programs available to ratepayers for energy efficiency and conservation. Such information must be made available upon request and posted on the EDC’s Internet website.

Under the Act, decreased revenues of an EDC due to reduced energy consumption or changes in energy demand are not considered a recoverable cost, except that such information may be reflected in revenue and sales data used to calculate rates in a distribution base rate proceeding.

The Act directs the PUC to establish a registry of approved people qualified to provide conservation services to all classes of consumers. The PUC will determine the experience and qualifications necessary in order to be included on the registry.

The Act requires EDCs to procure electricity pursuant to a PUC-approved competitive procurement plan that is designed to ensure adequate and reliable service and the least cost to customers overtime. EDCs must file a procurement plan with the PUC, which has 9 months to approve or disapprove the plan. Once approved, all plans are deemed to be reflecting the least cost over time. In evaluating the plan, the PUC must:

- consider the EDC’s obligation to provide adequate and reliable service;
- consider whether the EDC obtained a prudent mix of contracts to obtain least cost on long-term, short-term and spot market basis;
- determine if the EDC plan includes prudent steps necessary to negotiate favorable generation supply contracts and to obtain the least cost generation supply contracts on a long-term, short-term and spot market basis; and
- determine whether neither the EDC nor its affiliated interest has withheld or asked to withhold from the market any generation supply which should have been utilized as part of the least cost procurement policy.

The electricity procured must include a prudent mix of spot market purchases; short-term contracts; and long-term contracts. The PUC is not authorized to modify contracts or disallow costs associated with the EDC procurement plan when it has reviewed and approved the results of the procurements; however the PUC is authorized to modify contracts or disallow costs when the contract has not been implemented as approved or does not comply with an approved plan or there has been fraud, collusion or market manipulation with regard to a contract. EDCs are authorized to recover on a full and current basis all costs incurred relating to the filing and implementation of a competitive procurement plan.

The Act requires EDCs, within 9 months after the effective date of the Act to file a smart meter technology procurement and installation plan with the PUC. Smart meter technology is metering technology and network communications technology capable of bidirectional communication and that records electricity usage on at least an hourly basis, directly provides consumers with information on their hourly consumption, enables time-of use and real-time price
programs; and supports the automatic control of the consumer’s electricity consumption by the consumer, the consumer’s utility, or a third party.

EDCs are required to furnish smart meters to consumers upon the request of a consumer who agrees to pay for the cost of the smart meter; install smart meters in new building construction; replace existing meters with smart meters in accordance with a schedule of replacement of full depreciation of the existing meters not to exceed 15 years; and make available, with the consumer’s consent, electronic access to consumer meter data to third parties, including electric generation suppliers and providers of conservation and load management services.

By January 1, 2010, or at the end of the applicable generation rate cap period, EDCs are required to submit to the PUC one or more time-of-use rate and real-time price rate plans. A time-of-use rate is a rate that reflects the costs of serving consumers during different time periods, including off-peak and on-peak periods, but not as frequently as each hour. A real-time price rate reflects the different costs of energy during each hour. Once approved, EDCs are required to make each of these plans available to all residential and commercial consumers that have been provided with smart meters. Consumer participation in a time-of-use or real-time price rate plan is voluntary. EDCs are required to submit an annual report to the PUC detailing the participation of consumers in the rates schemes.

Lost or decreased revenues as a result of reduced electricity consumption due to smart meter technology cannot be considered recoverable cost for an EDC. Except that such information may be reflected in the revenue and sales data used to calculate rates in a distribution base rate proceeding. An EDC can recover reasonable and prudent costs of providing smart meter technology.

The Act directs that, in addition to any other rates that may be offered by the EDC, it must offer all residential and small business consumers a rate that cannot change more frequently than on a quarterly basis. Additionally, the PUC is required to make sure that there is no cross-class subsidization.

Submitted as:
Pennsylvania
HB 2200

Comment:

10-15-2008
FOR IMMEDIATE RELEASE: CONTACT:
Oct. 15, 2008 Chuck Ardo
717-783-1116

GOVERNOR RENDELL SIGNS ENERGY CONSERVATION BILL TO SAVE CONSUMERS MILLIONS ON ELECTRICITY; URGES LEGISLATURE TO PASS RATE MITIGATION BILL H.B. 2200 WILL HELP CONSUMERS SAVE $500 MILLION BY 2013, POSITION PA AMONG LEADING STATES TO CONSERVE ELECTRICITY

HANOVER TOWNSHIP, Lehigh Co.–
Pennsylvania families and businesses facing double-digit increases in electricity rates are poised to save more than $500 million over the next five years now that Governor Edward G. Rendell has signed into law a measure that equips consumers with the tools they need to conserve electricity and to make more informed decisions about their energy use.

The Governor signed House Bill 2200 today during a visit to the B. Braun Medical Products headquarters near Bethlehem. The company is a major regional employer that will face at least $1 million in higher annual electricity costs once the rate caps for PPL expire in December 2009.

The Governor said that while the bill will help consumers save money through conservation, more must be done to mitigate future rate increases.

“This bill marks a great step forward in our efforts to help electricity consumers save on their energy bills by reducing consumption and it establishes Pennsylvania as a leader among states working to encourage conservation,” said Governor Rendell, noting that the commonwealth’s energy conservation mandates are now stronger than 44 other states. “While this measure will help save the average household more than 20 percent on their electricity bill—savings that will add up to $500 million by 2013 for all consumers—work remains to avoid the punishing blow our families and businesses are facing once rate caps expire. “I am deeply disappointed that we were unable to provide relief to consumers by enacting a rate mitigation proposal,” said the Governor. “Electricity consumers are facing rate increases of between 20 and 60 percent once caps come off and that is unacceptable. I will not stand by while the utilities pursue record-breaking profits on the backs of our families and businesses.

“I urge the legislature to make rate mitigation a top priority when it returns, so we can avoid this crushing blow to our economy and our citizens, and ensure that employers like B. Braun Medical Products can better anticipate what their electricity rates will be.”

Under House Bill 2200, utilities will be required to work with customers to cut electricity use 1 percent by 2011 and 3 percent by 2013. By 2013, utilities must also cut energy use 4.5 percent during peak demand periods when prices are highest—typically the hottest days of summer and the coldest days of winter. Electric utilities that fail to meet the law’s requirements will face steep penalties.

The electric utilities will be directed to offer customers new pricing plans that reward customers who shift heavy use to off-peak hours. Consumers can choose to continue using traditional rate plans where they pay the same cost regardless of when energy is used or they can take advantage of two new plans that offer savings for making smart energy choices.

One plan will charge the customer two prices – either a peak rate or an off-peak rate depending on what time of day they use energy—while the second option would offer bills based on real-time pricing, or the actual cost of energy every hour. Consumers using the real-time pricing option could benefit by consuming in the hours when costs are lowest.

To help consumers take maximum advantage of these new choices, H.B. 2200 will require that every home and business in the state to be equipped with “smart meters” within 15 years. A smart meter gives consumers the information they need to better control their energy consumption, such as the current cost of power or whether they are in a peak rate period. Armed with this information, consumers can choose to use energy when it is cheapest and cut back at times when it is most expensive.

The new Act also will provide Pennsylvania’s utilities with the tools they need to purchase sources of energy at the lowest possible cost. This required “least cost” purchasing by utilities ensures that the commonwealth’s utility customers don’t foot the bill for bad energy
purchasing decisions by utilities. Utilities will now be required use a “prudent mix” of energy purchases conducted via auctions, limited long-term contracts, spot market purchases, and short-term contracts.

For larger businesses, this bill permits them to enter into long-term contracts with utilities and give the state’s largest energy users, who are also some of Pennsylvania’s largest employers, predictability in their energy purchases. For more information, visit www.depweb.state.pa.us and click on the “Fueling Energy Savings” icon.

Disposition: 03-30B-04

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2010B
(   ) Include in Volume
(   ) Defer consideration to next task force meeting
(   ) Reject
(   ) No action
Comments/Note to staff:

SSL Committee Meeting: 2010B
(   ) Include in Volume
(   ) Defer consideration
   (   ) next task force mtg.
   (   ) next SSL mtg.
   (   ) next SSL cycle
(   ) Reject
Comments/Note to staff:
This Act prohibits zone pricing of motor fuel by wholesalers under certain conditions. Zone pricing is setting different wholesale prices for retail motor fuel in different parts of the same geographic area such as low-income and high income neighborhoods within a city.

Submitted as:
New York
Chapter 579 of 2008

Comment:

Disposition:

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2010B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action
Comments/Note to staff:

SSL Committee Meeting: 2010B
( ) Include in Volume
( ) Defer consideration
    ( ) next task force mtg.
    ( ) next SSL mtg.
    ( ) next SSL cycle
( ) Reject
Comments/Note to staff:
This Act adopts rules and regulations requiring certain state-funded “major facility projects” to meet energy efficient requirements. The bill defines a major facility project as the either of the following:

- a state-funded new construction building project which exceeds 20,000 gross square feet until 1/1/09; 15,000 gross square feet until 1/1/10; 10,000 gross square feet until 1/1/11; 5,000 gross square feet thereafter; or
- a state-funded renovation project which involves more than 50% of the replacement value of the facility or a change in occupancy.

The Act requires that each major facility projects be designed, constructed, and certified to exceed the requirements of the state energy code by at least 30%. Certification must be performed by a professional engineer using IRS/DOE approved software methodology where it is determined by the office of facility planning and control that such 30% efficiency is cost effective based on a life cycle cost analysis with a payback of no more than 30 years. In order to achieve sustainable building standards, construction projects may use a nationally recognized high performance environmental building rating system, provided, however, that any such rating system that uses a material or product based credit system which is disadvantageous to materials or products manufactured or produced in the state may not be used.

New law further requires that a professional engineer must certify that the major facility project's systems for heating, ventilation, air conditioning, energy conservation and water conservation are installed and working properly to ensure that each major facility project performs according to the major facility project's overall environmental design intent and operational objectives.

Submitted as:
Louisiana Act 270, 2007
Status: Enacted into law in 2007.

Comment: The American Chemistry Council reports two states have similar laws; Mississippi (SB3007 of 2008) and Georgia (SB130 of 2008).

American Chemistry Council
State Energy Efficiency Model Bill Summary-Issue Brief

There is a consensus that the long term viability of industries in the US will rely on increasing the available supply of energy as well as lowering the cost of energy. Even with opening up new exploration areas and the growth of electricity generation from clean coal or nuclear fuel, the cheapest means to increase the supply of energy is to conserve energy. This bill reflects policies that will have lower demand of energy, especially natural gas.

Goals:
• To encourage construction of energy efficient, high performance commercial buildings and residential homes
• To encourage the utilization of innovative state products to provide energy efficiency

Guiding principles:
• Promote public policies and legislation that:
  • Establish performance based standards rather than prescriptive building programs
  • Reflect open, consensus based derived principles

Public Policy Objectives:
• Seek the adoption of the latest version of ASHRAE 90.1 for commercial buildings and IECC for residential homes by states
  • Encourage incentives for commercial projects to exceed ASHRAE 2007 by 30 percent and residential homes to exceed IECC 2009 by 30 percent
  • Promote the adoption of model bill for new government buildings and the EPA Energy Star program for commercial and residential buildings*
  • Oppose the adoption of policies that are based on non-profit, eco-label rating systems unless a high energy efficiency standard is reflected in the policy also

Energy Efficiency Equivalents
• ASHRAE 90.1 is essentially equivalent to IECC, but ASHRAE is normally used for commercial references; whereas, IECC is normally used for residential construction.
  • ASHRAE 90.1.2007 and IECC 2009 are the most updated codes. ASHRAE 2010 should be adopted in this fall. IECC will be updated in 2012.
  • Exceeding ASHRAE 90.1.2004 by thirty percent is roughly equivalent to the 2010 version that is in the comment period. ASHRAE 2007 is only 5 percent more efficient than 2007, but does require a lot of additional insulation. So 2007 plus 30 percent is a little more stringent than the standard expected later this year, but is still achievable.

* Model energy efficiency bills have passed in NC, GA, MS, and LA.
Disposition: 03-30B-06

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2010B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action
Comments/Note to staff:
SSL Committee Meeting: 2010B
( ) Include in Volume
( ) Defer consideration
  ( ) next task force mtg.
  ( ) next SSL mtg.
  ( ) next SSL cycle
( ) Reject
Comments/Note to staff:
According to Florida legislative staff, this Act directs the Department of Community Affairs (DCA) to conduct a feasibility study on incorporating into the state’s emergency management plan the logistical supply and distribution of essential commodities by nongovernment agencies and private entities.

The bill requires each motor fuel dispensing facility that sells motor fuel to be capable of operating its distribution racks using an alternate generated power source for a minimum of 72 hours, no later than 36 hours after a major disaster. Certain motor fuel retail outlets in close proximity of interstate highways or evacuation routes must be pre-wired with an appropriate transfer switch capable of operating all required equipment using an alternate power source. Each entity owning 10 or more motor fuel retail outlets located within a single county must maintain an appropriate number of generators to service those outlets. The bill establishes a layered criterion of requirements for ownership of additional outlets.

The Act creates the Florida Disaster Motor Fuel Supplier Program within the DCA. The voluntary program allows motor fuel retail outlets doing business in the state to participate in a network of emergency responders to provide fuel supplies and services to government agencies, medical institutions and critical responders, as well as the general public within 24 hours following the disaster. Each county governing body that chooses to participate is authorized to administer the program within certain guidelines, including charging fees to cover actual program costs.

The bill limits the prohibition against price gouging during a Governor’s declared state of emergency to 60 days and requires a specific renewal statement for this prohibition.

The bill requires all multi-family dwellings that are at least 75 feet high and contain a public elevator, to have at least one public elevator that is capable of operating on an alternate power source available to residents for a number of hours each day over a 5-day period following a disaster. Any entity that operates a residential dwelling is required to provide a local building inspection agency proof of a current contract for an alternate power source. The bill specifies a statewide public disaster awareness campaign. The bill appropriates $67.5 million for improvements to emergency operation centers, increase storage capacity, improve technologies, maintain supplies, and fund a public awareness campaign.

Submitted as:
Florida
Chapter 2006-71
Status: Enacted into law in 2006.

Comment: (30A-b) Staff get data about any states affected.

Per 30A-b, a February 2009 report to The Texas House Select Committee on Hurricane Ike Devastation to The Texas Gulf Coast recommends:

- legislation to require back-up generators in counties prone to severe weather incidents at businesses, facilities and entities providing critical services, including:
- all water supply utilities in order to provide an acceptable minimum standard of water delivery
• all facilities that provide live-in care to the ill, the elderly and all special needs populations
• gas stations in storm prone areas and along evacuation routes for citizens escaping from severe weather, i.e. gas stations with six or more pumps
• the legislature should give consideration of drug stores and grocery stores needing to have back-up power to compliment the policy of sheltering in place, i.e., retail and chain stores.”

Accordingly, the following bills had been introduced in the Texas legislature as of March 23, 2009. None had been enacted as of March 23, 2009, and that is why these are on not on the SSL docket.

81(R) HB 2960 - Introduced version - Bill Text
Author: Coleman
Caption: Relating to alternative electrical generators for certain service stations.
Excerpt: ALTERNATIVE ELECTRICAL POWER REQUIREMENTS FOR CERTAIN SERVICE STATIONS Sec. 106.001. DEFINITIONS. In this chapter: (1) "Alternative electrical generator" means an electrical generator that provides electric power when electric power from a utility service is interrupted. ALTERNATIVE ELECTRICAL GENERATOR REQUIRED. A service station shall be equipped with at least one alternative electrical generator for use at the station.

81(R) HB 1015 - Introduced version - Bill Text
Caption: Relating to requiring certain service stations to be capable of operating with alternative electrical power and to have an alternative electrical generator; providing a criminal penalty.
Excerpt: ALTERNATIVE ELECTRICAL POWER REQUIREMENTS FOR CERTAIN SERVICE STATIONS Sec. 106.001. DEFINITIONS. In this chapter: (1) "Alternative electrical generator" means an electrical generator that provides electric power when electric power from a utility service is interrupted. ALTERNATIVE ELECTRICAL POWER CAPACITY FOR SERVICE STATIONS. (a) A service station shall be prewired with an appropriate transfer switch and be capable of operating all fuel pumps, dispensing equipment, and life-safety systems...

81(R) SB 441 - Introduced version - Bill Text
Author: Ellis
Caption: Relating to requiring certain service stations to be capable of operating with alternative electrical power and to have an alternative electrical generator.
Excerpt: ALTERNATIVE ELECTRICAL POWER REQUIREMENTS FOR CERTAIN SERVICE STATIONS Sec. 106.001. DEFINITIONS. In this chapter: (1) "Alternative electrical generator" means an electrical generator that provides electric power when electric power from a utility service is interrupted. ALTERNATIVE ELECTRICAL GENERATOR REQUIRED. A service station shall be equipped with at least one alternative electrical generator for use at the station.
81(R) HB 457 - Introduced version - Bill Text
Author: Alvarado
Caption: Relating to requiring certain service stations to be capable of operating with alternative electrical power and to have an alternative electrical generator.
Excerpt: ALTERNATIVE ELECTRICAL POWER REQUIREMENTS FOR CERTAIN SERVICE STATIONS Sec. 106.001. DEFINITIONS. In this chapter: (1) "Alternative electrical generator" means an electrical generator that provides electric power when electric power from a utility service is interrupted. ALTERNATIVE ELECTRICAL GENERATOR REQUIRED. A service station shall be equipped with at least one alternative electrical generator for use at the station.

CSG staff did not find similar legislation in any other states or additional data from Florida state agencies about implementing this law.

Friday, September 05, 2008
Gustav Draws Attention To Fla. Generator Law
By John Gramlich, Stateline.org Staff Writer

In Texas, residents return to their homes after Hurricane Gustav made landfall in Louisiana. Nearly two million people left Louisiana ahead of the storm, and their return has been complicated by fuel shortages caused in part by power outages.

Power outages caused by Hurricane Gustav have shut down gas stations throughout Louisiana this week, but Florida officials are hoping a little-known state law can help them avoid the same complication the next time a major storm reaches their shores — which could be this weekend.

The Sunshine State in 2006 approved a law — believed to be the only one of its kind — that requires nearly 1,000 gas stations along interstate highways and other major evacuation routes in the state to install wiring allowing them to use backup power sources to pump gas during emergencies.

The law, which also requires the stations to have generators on hand or available within 24 hours of an emergency, is meant to ensure that gas stations can stay open if hurricanes or other disasters knock out electricity, allowing residents to evacuate the state and return home more smoothly.

In Louisiana this week, Gov. Bobby Jindal (R) identified a lack of power at gas stations across much of the state as one of the fundamental problems awaiting an estimated 1.9 million residents who fled ahead of Gustav’s landfall. The evacuation is being called the largest in state history.

On Thursday (Sept. 4), Jindal announced that the state would spend about $20 million to purchase 400 generators to restore power at gas stations, grocery stores and pharmacies, as hundreds of thousands of evacuees return, including many from neighboring states.

Florida’s law, signed by then-Gov. Jeb Bush (R) in the wake of a series of major hurricanes in 2004 and 2005, could face its first major test as early as Saturday (Sept. 6), when Tropical Storm Hanna could make landfall there. Forecasters have cautioned that Hanna could gain strength and turn into a hurricane before reaching land, and they note that two more named storms — Ike and Josephine — also are stirring over the Atlantic Ocean and threaten Florida in the coming days.
Of the 970 gas stations that Florida officials have identified as falling under the generator law, almost all have complied with its demands, said Terence McElroy, a spokesman with the Florida Department of Agriculture and Consumer Services, which inspected the stations. Gas stations that fail to comply could be shut down, and owners could face fines or even criminal charges.

“We found their compliance and cooperation very encouraging,” McElroy said of gas station owners and managers, noting that many in the business community agree that the law serves an important public-safety purpose.

But the law also carries significant costs for business owners, who have had to install “transfer switches” that are necessary for generators to power their gas stations — in addition to buying the generators themselves. More importantly, many owners complain, the law’s success largely depends on other factors during emergencies.

David Whitaker, general manager of the Flying J Travel Plaza off Interstate 95 in Fort Pierce, Fla., said his company paid about $400,000 for a generator and $33,000 for the installation of a transfer switch to comply with the law. Even with those expenses, Whitaker said, there is no guarantee he will be able to open the travel plaza the next time a hurricane or other disaster hits the region.

“This is a giant truck stop, which means that it requires a minimum of 15 to 20 employees to run it,” Whitaker said in an interview with Stateline.org. The generator, he said, will be useless if he cannot find workers willing to stay behind during a storm, noting that the state cannot force him to keep his gas station open.

“It’s a wonderful idea as long as I have enough brave souls to operate the plaza,” he said.

Others have cautioned that fuel shortages during disasters are not caused simply by a lack of electricity at gas stations, but by an inability of suppliers to reach the stations to deliver the gas. Many gas stations in Louisiana this week have reported supply problems in addition to a lack of generators.

The law is not perfect, acknowledged Florida state Rep. Sandy Adams (R), chair of the House Domestic Security Committee, where the generator legislation originated two years ago. But she said lawmakers have learned from each storm that has hit Florida and continue to refine their approaches to make the state more prepared for the next emergency.

“It’s a lessons-learned approach,” she said.

McElroy, of the state Department of Agriculture and Consumer Services, predicted that the law will prove useful. He said that residents who returned to Florida after the hurricanes in 2004 and 2005 “found areas, days later, that were without power and they couldn’t fill their cars. I don’t think they’ll find that again.”

Contact John Gramlich at jgramlich@stateline.org.
Disposition: *05-30A-06

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2010B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action
Comments/Note to staff:

SSL Committee Meeting: 2010B
( ) Include in Volume
( ) Defer consideration
   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject
Comments/Note to staff:
This Act requires the state department of health and welfare to register facilities that store and/or transport of human bodies or human body parts which are intended for research or for educational purposes. The department director must require such facilities to certify that the human body, part or parts to be supplied did not come from a person who has tested positive for acquired immunodeficiency syndrome (AIDS), AIDS related complexes (ARC), or other manifestations of human immunodeficiency virus (HIV) infection, and that the test was negative for the presence of HIV antibodies or antigens, hepatitis or other communicable diseases.

Submitted as:
Idaho
HB 512

Comment:

Disposition:

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2010B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action
Comments/Note to staff:

SSL Committee Meeting: 2010B
( ) Include in Volume
( ) Defer consideration
   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject
Comments/Note to staff:
This Act establishes minimum and uniform standards and criteria for the audit of pharmacy records by a managed care company, nonprofit hospital, medical service organization, insurance company, third-party payer, pharmacy benefits manager, a health program administered by a department of the state, or any entity that represents these companies, groups, or departments.

Submitted as:
Oklahoma
Enrolled House Bill No. 2490

Comment:

Disposition:

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2010B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action
Comments/Note to staff:

SSL Committee Meeting: 2010B
( ) Include in Volume
( ) Defer consideration
   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject
Comments/Note to staff:
This Act requires restaurants to display a sign about the risk of an allergic reaction to food; include on all menus a notice to customers of the customer’s obligation to inform the server about any food allergies; and requires certain restaurant staff view a video course about food allergies as part of their training to get certain state certification to serve food.

Submitted as:
Massachusetts
Chapter 527 of the Acts of 2008
Status: Enacted into law in 2009.

Comment:

Disposition:

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2010B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action
Comments/Note to staff:

SSL Committee Meeting: 2010B
( ) Include in Volume
( ) Defer consideration
   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject
Comments/Note to staff:
05-30B-04A Novelty Lighters

This Act makes it a civil violation to sell at retail, offer for retail sale or distribute for retail sale or promotion a novelty lighter. The Act defines "novelty lighter" as a mechanical or electrical device typically used for lighting cigarettes, cigars or pipes that is designed to appear to be a toy, features a flashing light or makes musical sounds.

Submitted as:
Maine
Chapter 510, H.P. 1467 - L.D. 2081

Comment: Maine, Oregon and Tennessee are reported to be the first states to enact laws banning novelty lighters. The National Association of State Fire Marshals based its model Act about novelty lighters on the language in the Maine Act.

05-30B-04B Novelty Lighters

This Act directs that a person may not sell, offer for sale or distribute a novelty lighter in the state. A person may not manufacture a novelty lighter in this state, or import a novelty lighter into this state, for the purpose of selling or distributing the novelty lighter within this state. A person may not possess a novelty lighter in inventory for the purpose of selling or distributing the novelty lighter within this state.

The Act permits the State Fire Marshal to adopt rules to identify lighters or classes or types of lighters that are novelty lighters and permits the State Fire Marshal or a representative of the State Fire Marshal, or a law enforcement agency, to seize and destroy novelty lighters under certain conditions.

Submitted as:
Oregon
Enrolled House Bill 2365
Status: Enacted into law in 2009.

05-30B-04C Novelty Lighters

This Act directs that no supplier of novelty cigarette lighters in the state, including a manufacturer, distributor, importer, retailer or anyone giving away lighters as prizes or promotions shall sell or give away an operable novelty lighter.

Submitted as:
Tennessee
Chapter 798 of 2008

Comment:
Disposition: 05-30B-04A

CSG policy task force recommendations to The Committee on Suggested State Legislation: 2010B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action
Comments/Note to staff:

SSL Committee Meeting: 2010B
( ) Include in Volume
( ) Defer consideration
   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject
Comments/Note to staff:

Disposition: 05-30B-04B

CSG policy task force recommendations to The Committee on Suggested State Legislation: 2010B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action
Comments/Note to staff:

SSL Committee Meeting: 2010B
( ) Include in Volume
( ) Defer consideration
   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject
Comments/Note to staff:
Disposition: 05-30B-04C

CSG policy task force recommendations to The Committee on Suggested State Legislation: 2010B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action
Comments/Note to staff:

SSL Committee Meeting: 2010B
( ) Include in Volume
( ) Defer consideration
  ( ) next task force mtg.
  ( ) next SSL mtg.
  ( ) next SSL cycle
( ) Reject
Comments/Note to staff:
This Act directs the state department of housing and community development to provide grants to cities and counties to develop or rehabilitate parks and recreation facilities in low-income neighborhoods.

Submitted as:
California
Chapter 641 of 2008

Comment:

Disposition:

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2010B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action
Comments/Note to staff:

SSL Committee Meeting: 2010B
( ) Include in Volume
( ) Defer consideration
   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject
Comments/Note to staff:
According to a legislative staff analysis, Connecticut PA 08-176, which became law in 2008, allows the state Housing Finance Authority (CHFA) to implement mortgage refinancing and emergency mortgage assistance programs. It allows CHFA to develop and implement a program for it to purchase foreclosed property and turn the property into supportive and affordable housing. The Act also requires regional workforce development boards and one-stop centers to establish a mortgage crisis job training program.

This Act requires the chief court administrator, by July 1, 2008, to establish a foreclosure mediation program in each judicial district. The program ends in 2010. The Act establishes a number of requirements for mortgage loans (mainly for nonprime loans) and for mortgage professionals making those loans. It defines “nonprime loans.” The Act makes a number of additional regulatory changes, including increasing bond requirements for lenders and brokers. It also combines first and second mortgage professionals and makes a number of changes to the National Mortgage Licensing requirements adopted under state law. The Act establishes a Commission on Nontraditional Loans and Home Equity Lines of Credit.

The Act specifically authorizes CHFA to continue to develop and implement its program for adjustable rate home mortgage refinancing for homeowners (the Connecticut Fair Alternative Mortgage Lending Initiative and Education Services or CT FAMILIES program). It does this by adding to CHFA’s statutory purposes. It specifies that the program must be undertaken, consistent with and subject to its contractual obligations to its bondholders, in an initial amount of $40 million under CHFA-determined terms and conditions.

The Act authorizes CHFA to develop and implement a Homeowner's Equity Recovery Opportunity or HERO loan program as one of its purposes under the statutes and consistent with its contractual obligations with its bondholders, in an initial amount of $30 million. The Act requires CHFA to implement the HERO program adopt and relevant procedures by July 1, 2008. Under the program, CHFA must, within available funds, purchase mortgages directly from lenders and place eligible borrowers on an affordable repayment plan.

For HERO program purposes, the Act defines a borrower as the owner-occupant of one-to-four family residential real property located in this state, including condominiums, who has a mortgage encumbering the real property. It defines a mortgage as an instrument which constitutes a first or second consensual lien on such property, securing a loan made primarily for personal, family, or household purposes. Finally, it defines a lender as the original lender under a mortgage or its agents, successors, or assigns.

Under the Act, borrowers are eligible for the program if the HERO loan is in the first lien position and borrowers have made an effort to meet their financial obligations to the best of their ability; sufficient and stable income to support timely repayment of a HERO loan; legal title to the mortgaged property and reside in these as a permanent residence; and the ability to account for cash flow if they have stopped making monthly payments by showing how the funds were escrowed, saved, or redirected.

Borrowers must apply for HERO loans on a CHFA approved form. Borrowers must give CHFA full disclosure of all assets and liabilities, whether singly or jointly held, and all household income regardless of source. The Act specifies what counts as assets.

The Act states that assets include the sum of the household's savings and checking accounts; market value of stocks; bonds, and other securities; other capital investments; pensions
and retirement funds; personal property; and equity in real property, including the subject mortgage property (the Act defines equity as the difference between the market value of the property and the total outstanding principal of any loans secured by the property and other liens).

Assets also include lump-sum additions to family assets such as inheritances; capital gains; and insurance payments included under health, accident, hazard, or worker's compensation policies and settlements, verdicts, or awards for personal or property losses or transfer of assets without consideration within one year of the time of application (pending claims for such items must be identified by the homeowner as contingent assets).

The borrower must complete and sign the application subject to the penalty for false statement. Any borrower who misrepresents any financial or other pertinent information in conjunction with the filing of an application for a HERO loan may be denied assistance. CHFA must make an eligibility determination within 30 days of receiving the borrower's application. All approved borrowers must attend in-person financial counseling at a CHFA-approved agency. HERO loans must be a mortgage of up 30 years, as determined by CHFA, and include property taxes and insurance in the borrower's monthly payment amount. CHFA determines the interest rate and services the loan.

The Act increases, from $1 billion to $1.5 billion, the aggregate amount of mortgage purchases and loans that CHFA can make that are not insured or guaranteed by a U. S. instrumentality or agency; a public U. S. - or congressionally-chartered corporation (e. g., Freddie Mac); a Connecticut state agency, department, or instrumentality; a Connecticut-licensed insurance company authorized to underwrite mortgage insurance; or CHFA.

The Act allows CHFA to develop and implement a program for it to purchase foreclosed Connecticut property and turn the property into supportive and affordable housing, by making this one of CHFA's powers under statute. It appears to allow them to report on the program and plans for implementing it to the Banks, Housing, and Planning and Development committees by January 1, 2009.

The Act makes participation in the Emergency Mortgage Assistance Program (EMAP) mandatory. It also expands its scope to cover one-to-four family rather than just one-to-two family owner-occupied homes and specifically include single-family units in a condominium, cooperative, or other common interest community and by expanding the “financial hardship due to circumstances beyond the mortgagor's control” eligibility requirement to include a 25% reduction in aggregate family income due to a significant increase in the periodic payments for a mortgage (including principal, interest, taxes, insurance, and, if applicable, condo fees.) By law, the homeowners also qualify if they have lost their job, had their hours reduced, or suffered a disability, illness, or death of another homeowner. They also qualify, by law, if a member of their household or dependent loses or has transfer payments cut or delayed, loses or has retirement or other private benefits cut or delayed, has been divorced or lost support payments, suffered uninsured damage to their home requiring costly repairs, or incurred medical or burial expenses.

Starting July 1, 2008, the Act requires a lender to comply with the EMAP statute if it wants to foreclose on a mortgage on a one-to-four family owner-occupied residence where the property is not Federal Housing Administration (FHA) insured and the borrower has not mortgaged the property for commercial or business purposes, has not previously received EMAP assistance (except if the person has reinstated the mortgage and has not been delinquent for six consecutive months since the reinstatement), and is not in default under the mortgage except for the monetary delinquency.
This means the lender must send a notice to the borrower stating that he or she has 60 days, rather than the 30 previously required, to have a conference with the lender or a face-to-face meeting with a credit counseling agency to attempt to resolve the default and contact CHFA about EMAP if they are unsuccessful in doing so. Under the Act, if the parties reach an agreement, but the borrower still cannot pay due to financial hardship, he or she can still apply for emergency assistance within 30 days of any default. If the borrower fails to comply with the deadlines or CHFA fails to approve the EMAP application within 30 days of its filing, the foreclosure proceeding can continue. However, the lender must file an affidavit to that effect. The Act provides that EMAP participants can still exercise their rights under the foreclosure mediation program the Act creates, but the concurrent exercise of those rights cannot delay the EMAP eligibility determination.

Additional changes to the EMAP statutes include:

- increasing the repayment period from 36 to 60 months (and similarly limiting participation to people who have a reasonable prospect of being able to repay within that time period);
- requiring borrowers to have, except for the current delinquency, a favorable mortgage credit history for the lesser of the period of ownership or the previous two, rather than five, years; and
- increasing the limit on the number of times a person can be more than 30 days in arrears to four or more times in the previous year from two or more times in the previous two years, before the person is ineligible for the program.

The Act appropriates $14 million from the State Banking Fund to CHFA for EMAP for FY 09. It specifies that repayments will be revolving instead of going into the General Fund. It requires the Office of Policy and Management secretary and the state treasurer to make an agreement (“contract”) by July 1, 2008 with CHFA obligating the state to pay debt service (principal, interest, and other bond-related expenses) on up to $50 million of CHFA bonds issued for EMAP. It allows CHFA to use the state's promise to pay the debt service as security when it sells the original bonds or any refunding bonds the authority issues to refinance them. The Act pledges the state's full faith and credit to pay the agreed-upon debt service but specifies that the underlying bonds are not state general obligations. It appropriates $2.5 million to the state treasurer from the State Banking Fund for FY 09 for these purposes.

This Act requires The WorkPlace, Inc., in conjunction with the other regional workforce development boards and one-stop centers, to establish a mortgage crisis job training program. For purposes of the program, at least three mortgage crisis job training teams must be established for different areas of the state. The WorkPlace, Inc. and Capital Workforce Partners must manage the teams, which, in cooperation with the regional workforce development boards and one-stop centers, must ensure the provision of rapid, customized employment services, job training, repair training, and job placement assistance to borrowers who are unemployed, underemployed, or in need of a second job. The WorkPlace, Inc. must arrange with CHFA for financial literacy and credit counseling for program participants.

Borrowers are eligible for the program if they are at least 60 days delinquent on their mortgages and are referred by their CHFA lender or demonstrate an imminent need to increase earnings in order to avoid delinquency or foreclosure. Borrowers can also access the program through the one-stop centers.

The Act requires The WorkPlace, Inc. and CHFA to submit a joint report on the implementation of the mortgage crisis job training program to the Banks, Housing, and Planning
and Development committees by January 1, 2009. The Act appropriates $2.5 million to the Labor Department from the State Banking Fund for the program for FY 09.

The Act requires the chief court administrator, by July 1, 2008, to establish a foreclosure mediation program in each judicial district and appropriates $2 million to the Judicial Branch for the program from the State Banking Fund for FY 09. The program is available to owner-occupants of one-to-four family residential real property in Connecticut who are also borrowers under a mortgage encumbering the property and who use the property as their primary residence. The program must address all issues of foreclosure and be conducted by foreclosure mediators who:

- are employed by the judicial branch;
- are trained in mediation and all relevant aspects of the law, as determined by the chief court administrator;
- have knowledge of the community-based resources that are available in the judicial district in which they serve; and
- have knowledge of the mortgage assistance programs.

The mediators can refer participating borrowers to community-based resources and to the mortgage assistance programs the Act establishes.

Under the Act, until July 1, 2010, if a lender starts a foreclosure action on a one-to-four family dwelling occupied as a residence by a borrower with a return date on or after July 1, 2008, it must give notice of the foreclosure mediation program to the borrower by attaching to the front of the foreclosure complaint, in a chief court administrator-approved form, a notice of the availability of the foreclosure mediation program and a foreclosure mediation request form. This applies to a lender, including the original lender or servicer under a mortgage or its successors or assigns.

Borrowers can request mediation by submitting the form to the court and filing an appearance within 15 days of the return date. The court can extend this period by up to 10 additional days for good cause shown. The court must notify all appearing parties in the action of the request. If the court determines that the notice requirement has not been met, it can, on the borrower's or its own written motion, issue an order delaying judgment for 15 days, during which time the borrower can submit a request for mediation. The borrower's submission of a request does not waive either the borrower's or lender's rights in the foreclosure action. No requests can be accepted on or after July 1, 2010, and the program ends when mediation for applications submitted prior to that date have concluded.

The mediation period starts when the court sends notice of the borrower's request to the appearing parties. This notice must be sent within three business days of the court's receipt of the completed request form. The mediation period ends 60 days after the return date for the foreclosure action. However, the court can extend this period for up to 10 days or shorten it for good cause shown on the court's own motion or the motion of any party. The first mediation session must be held within 10 business days of the court sending the notice. The borrower and lender must appear in person at each session and can agree to a proposed settlement. The lender's attorney can appear instead if he or she has the authority to agree to a proposed settlement and if the lender is available by telephone or electronically.

Within two days of the end of the first mediation session, the mediator must determine if further mediation is useful in a report that must be filed with the court and mailed to the parties. The mediation terminates automatically if the mediator does not think it will be beneficial to continue. If mediation continues, the mediator must file a second report within two days after
mediation ends, but no later than 60 days after the return date in the foreclosure action. The report must describe the proceedings and the issues resolved and not resolved. This filing automatically terminates the mediation period. If certain issues have not been resolved, the mediator can refer the borrower to community-based services in the judicial district, but this cannot delay the mediation process. It is not clear how the referral would delay the process, as submission of the report terminates the mediation. The mediator can also refer the borrower to the HERO program or EMAP at any time during the mediation, but this does not stop the lender from going to judgment if it has satisfied mediation requirements. A court cannot enter a judgment of strict foreclosure or foreclosure by sale if a borrower has submitted a timely request for mediation and the mediation period has not expired.

The chief court administrator must establish policies and procedures for the mediation program. The program's policies and procedures must at least include provisions requiring the mediator to advise the borrower at the first mediation session that the mediation does not suspend the borrower's obligation to respond to the foreclosure action in accordance with the court's rules and a judgment of strict foreclosure or foreclosure by sale can cause the borrower to lose the residential real property to foreclosure. The Act specifies that it does not require the lender to modify the mortgage or changes the terms of payment without its consent. Additionally, determinations issued by mediators cannot form the basis of an appeal of any foreclosure judgment.

The Act establishes requirements for mortgage loans (mainly for nonprime loans) and for mortgage professionals making those loans. These requirements apply to nonprime home loans and mortgages for which applications are received on or after August 1, 2008. The requirements apply to lenders. The Act defines a lender as any person engaged in the business of making mortgage loans who is required to be licensed by the banking department, or its successors or assigns, and also any bank; out-of-state bank; Connecticut, federal, or out-of-state credit union; or an operating subsidiary of a federal bank or a federally chartered out-of-state bank where the subsidiary makes mortgage loans, and their successors and assigns. The term specifically excludes mortgage brokers and originators.

The requirements also apply to brokers. The Act defines a mortgage broker as any person, other than a lender, who for a fee, commission, or other valuable consideration negotiates, solicits, arranges, places, or finds a mortgage and is required to be licensed by the banking department under the licensing statutes, or its successors or assigns.

The Act defines a “nonprime loan” as any loan or extension of credit when:

- the borrower is an individual;
- the proceeds are primarily for personal, family, or household purposes;
- it is secured by a mortgage on a one-to-four family residential property located in this state which is, or when the loan is made intended to be, used or occupied by the borrower as a principal residence;
- the principal does not exceed $417,000 for loans originated between July 1, 2008 and June 30, 2010 and the then current conforming loan limit, as established from time to time by the Federal National Mortgage Association (Fannie Mae) for loans originated after July 1, 2010; and
- the interest rate exceeds specified thresholds.

Nonprime loans do not include CHFA loans, open-end lines of credit, and reverse mortgage transactions. With regard to interest, nonprime loans are those where the difference between the Annual Percentage Rate (APR) for the loan or extension of credit and the yield on
United States Treasury securities having comparable periods of maturity is either 3% or more on first mortgage loans or 5% or more on second mortgage loans. The Act requires the difference between the APR and the yield to be determined using the same procedures and calculation methods applicable to loans that are subject to the federal Home Mortgage Disclosure Act's reporting requirement. The yield on United States Treasury securities must be determined as of the 15th day of the month before the loan application.

Additionally, nonprime loans are those where the difference between the APR for the loan and the conventional mortgage rate is either equal to or greater than 1.75% if the loan is a first mortgage or 3.75% if it is a second mortgage. The Act specifies that the conventional mortgage rate is the most recent daily contract interest rate on commitments for fixed-rate mortgages published by the Board of Governors of the Federal Reserve System in its statistical release H.15, or any publication that may supersede it, during the week in which the interest rate for the loan is set.

Although the Act sets interest rate parameters for identifying nonprime loans, it allows the banking commissioner to increase them after considering relevant factors. The commissioner's authority and any increases or decreases he makes under this authority, expires on August 31, 2009. (The Act does not specifically authorize him to make decreases). The Act specifies that the conventional mortgage rate is the most recent daily contract interest rate on commitments for fixed-rate mortgages published by the Board of Governors of the Federal Reserve System in its statistical release H.15, or any publication that may supersede it, during the week in which the interest rate for the loan is set.

When considering the factors, the commissioner must focus on those increases that are related to the deterioration in the housing market and credit conditions. The commissioner can choose not to increase the percentage if it appears that lenders are increasing interest rates or fees in bad faith or if increasing the percentages would be contrary to the purposes of the Act's nonprime provisions. No increase can be made unless the increase is noticed in the Banking Department Bulletin and the Connecticut Law Journal and a 20-day public comment period is provided. Any increase must be reduced proportionately when the need for the increase diminishes or no longer exists. The commissioner may authorize a percentage increase with respect to all loans or to a certain class or classes of loans.

The Act prohibits lenders from engaging in any misleading, deceptive, or untruthful conduct in any transaction, practice, or course of business in connection with making a nonprime loan.

It imposes a duty of good faith on mortgage brokers and lenders concerning a nonprime home loan contract with a borrower. The Act specifies that the duty is the same as the one imposed for contracts under the Uniform Commercial Code, includes the observance of reasonable common standards of fair dealing, and cannot be waived.

For nonprime first mortgage home loans, the Act requires lenders to give borrowers a notice or letter that generally describes the transaction's terms within three business days of the closing and within a reasonable time period, notification of any subsequent material changes to the terms of the transaction. The requirement does not apply if the borrower expressly requests an expedited closing and the lender, in good faith, has not provided the letter or notice. This requirement cannot be waived.
The Act prohibits lenders from making nonprime home loans, excluding FHA loans, unless they reasonably believe, when the loan is consummated, that one or more of the people who are incurring the debt will be able, individually or collectively to make the scheduled payments and pay the related taxes and insurance. This must be based on consideration of:

- current and expected income;
- current and expected obligations as disclosed by the borrower or otherwise known to the lender, including contemporaneously made subordinate mortgages;
- homeowner's fees;
- condo fees;
- employment status; and
- other financial resources, excluding the equity in the mortgaged dwelling.

In the case of a bridge loan, the Act specifies that the lender can consider the equity in the dwelling as a source of repayment for the loan. The Act does not define the term “bridge loan,” but it is generally considered to be a short-term loan made in anticipation of intermediate or long-term financing.

The Act allows lenders to use commercially recognized underwriting standards and methods to determine an obligor's ability to repay, including automated underwriting systems. The lender must take reasonable steps to verify the accuracy and completeness of information provided by or on behalf of the borrower using tax returns, consumer reports, payroll receipts, bank records, reasonable alternative methods, or reasonable third-party verification. When the lender is determining the ability to repay a nonprime loan with an adjustable rate feature, the lender must underwrite the repayment schedule assuming that the interest rate is a fixed rate equal to the fully indexed interest rate when the loan is made, or within 15 days afterwards, without considering any initial discounted rate.

The Act defines “fully indexed rate” as the interest rate that would have been applied had the initial interest rate been determined by applying the same interest rate formula that applies under the terms of the loan documents to subsequent interest rate adjustments, disregarding any limitations on the amount by which the interest rate may change at any one time. In determining a borrower's ability to repay a nonprime home loan that is not fully amortizing by its terms, the lender must underwrite the loan based on a fully amortizing repayment schedule based on the maturity set out in the note.

The Act prohibits lenders from making nonprime home loans where any of the proceeds are used to fully or partially pay off a special mortgage on the same property unless the lender receives written certification that the borrower has received counseling from an independent U. S. Department of Housing and Urban Development (HUD)-approved non-profit organization. The Act defines a special mortgage as a loan originated, subsidized, or guaranteed by or through a state, federal, tribal, or local government or nonprofit organization. However, this requirement does not apply when the borrower gives the lender a statement from the organization on its letterhead stating that the counseling is not available for at least 30 days from the date of the request for counseling.

The lender must make a good faith effort to determine whether the loan is a special mortgage, but does not have to get the certification if it does not get an affirmative response to a good faith inquiry to the borrower and the loan's holder or servicer as to whether the loan is a special mortgage.

For first-mortgage nonprime loans originated on or after January 1, 2010, the Act requires lenders to collect a monthly escrow for payment of property taxes and homeowner's insurance.
The provision does not apply to FHA loans and home equity loans and a nonprime home loan product which, in good faith, is generally designed and marketed to the public as a subordinate lien home equity loan product secured by a first mortgage loan.

The Act also requires lenders to mail or deliver to applicants, within three business days of receiving a completed application for a nonprime home loan, a notice containing a toll-free number that can be used to obtain a list of HUD-approved nonprofit housing counselors. The Act provides that borrowers do not have a private right of action for the lender's failure to deliver notice on a timely basis.

The Act prohibits lenders from offering nonprime loans that contain a:

- prepayment penalty (except in FHA loans);
- provision increasing the interest rate after default, except when it results from failing to maintain an automatic electronic payment feature that resulted in a rate reduction and the increase is not more than the reduction; or
- provision requiring the borrower to assert a claim or defense in a nonjudicial forum that uses principles inconsistent with common or statutory law, limits a borrower's claims or defenses, or is less convenient, more costly or more dilatory than going to court.

A loan that violates these provisions is void and unenforceable.

The Act prohibits lenders and brokers from acting in bad faith to divide a loan into separate parts or structure a residential mortgage loan, in bad faith, as an open-end loan to avoid the Act's protections. This prohibition applies to situations where the loan would have been a nonprime home loan if it had been structured as a closed-end loan. The Act defines an open-end line of credit as a mortgage extended by a lender under a plan where:

- the lender reasonably contemplates repeated transactions;
- the lender may periodically impose a finance charge on an outstanding unpaid balance;
- the amount of credit that may be extended to the consumer during the term of the plan, up to any limit set by the lender, is generally made available to the extent that any outstanding balance is repaid; and
- none of the proceeds are used at closing to purchase the borrower's primary residence or refinance a mortgage loan that had been used by the borrower to purchase the borrower's primary residence.

The Act prohibits lenders from making, and brokers from offering, a nonprime home loan that refinances a mortgage unless the loan provides the borrower a tangible net benefit. (The Act does not define this term.) The Act prohibits lenders and mortgage brokers from taking any action that recommends or encourages a default on an existing mortgage or other debt prior to, and in connection with, the closing or planned closing of a new nonprime home loan that refinances all or any portion of the existing loan or debt. It also prohibits lenders from financing, in connection with a mortgage, any life or health insurance or any payments for any debt cancellation or suspension agreement or contract (except for those calculated and paid on a monthly basis or using periodic payments).

The Act imposes the following unwaivable duties on mortgage brokers, in addition to any other duties imposed by federal, state, or common law:

- to use reasonable care, skill, and diligence and act in good faith and fair dealing with the borrower;
• to make reasonable good faith efforts to secure a mortgage that is in the borrower's reasonable best interests considering all the circumstances reasonably available to the broker, including the rates, points, fees, charges, costs, and product type;
• to ensure that the cost of credit is reasonably appropriate considering the borrower's level of credit worthiness and other bona fide underwriting concerns; and
• if more than one mortgage is to be made by different lenders, to notify the other lenders of the payment obligations before closing.

For these sections, the Act defines the term “mortgage” as a mortgage deed or other instrument that constitutes a first or secondary consensual lien on any interest in one-to-four family residential real property located in this state, that is, or when the loan is made, intended to be occupied by the borrower as a principal residence. It includes nonprime loans.

The Act requires lenders to terminate foreclosure proceedings or other actions if all defaults in connection with a nonprime loan are cured before a judgment is entered. The lender can require the borrower to pay any of its reasonable actual costs associated with the default and protecting its rights in the property. Cure of default reinstates the borrower to the same position as if the default had not occurred and nullifies any acceleration of any obligation under the security instrument or note arising from the default as of the date of the cure. The borrower can only use this right twice over the course of 24 consecutive months.

The Act establishes a private right of action for violations of the Act's provisions on loan requirements and mortgage professional duties (sections 22 through 29 only). The borrower must sue in court within three years of the mortgage closing for the greater of actual damages or $1,000 and attorney's fees, unless within 90 days of the closing and before any action against the lender, it notifies the borrower of the noncompliance, provides appropriate restitution (the Act does not specify what is appropriate), and makes the loan comply with the nonprime provisions or changes the loan terms so that it is no longer a nonprime loan; or the lender shows by a preponderance of the evidence that the noncompliance was unintentional and resulted from a bona fide error despite the fact that it maintained procedures to avoid the errors; or the lender and borrower reach a mutual agreement on an appropriate remedy or curative action.

The Act specifies that a bona fide error includes a clerical, calculation, printing, computer malfunction, or programming error, but does not include an error of legal judgment with respect to a lender's obligations under the Act's nonprime provisions. In actions where the compliance failure has caused material injury to the borrower, the lender must also be able to show that it cured the compliance failure or otherwise undertook reasonable remedial steps to address or compensate for the injury.

The Act allows the court to grant an injured borrower equitable relief and allows the borrower or mortgagor to assert fraud and any violation of these provisions causing material injury as a counterclaim or defense in a foreclosure action within six years of the mortgage closing date. However, the Act specifies that it does not create a cause of action or defense or counterclaim against an assignee of a nonprime loan or other mortgage for the original lender's or broker's violations.

The Act prohibits mortgage brokers, real estate brokers, and real estate salespeople from influencing residential real estate appraisals. For brokers, the Act specifies that this includes refusal or intentional failure to (1) pay an appraiser for an appraisal that reflects a fair market value estimate that is less than the sale contract price or (2) utilize, or encouraging other mortgage brokers not to utilize, an appraiser based solely on the fact that the appraiser provided an appraisal reflecting a fair market value estimate that was less than the sale contract price.
For real estate brokers and salespeople, this includes refusal or intentional failure to refer a homebuyer, or encouraging other real estate brokers or salespeople not to refer a homebuyer, to a mortgage broker or lender, as defined in the Act's loan provisions, based solely on the fact that the mortgage broker or lender uses an appraiser who has provided an appraisal reflecting a fair market value estimate that was less than the sale contract price.

The Act subjects first and second mortgage professionals to the same provisions and repeals separate provisions governing secondary mortgage professionals. It eliminates references to first and second mortgage professionals by combining definitions (i.e., mortgage lenders, mortgage broker, and mortgage originators). However, the Act retains the definitions of first and secondary mortgage loans. The Act excludes the term “correspondent lender” from the definition of “mortgage lender” and defines it separately.

Specifically, the Act defines a “mortgage broker” as a person who, for a fee, commission, or other valuable consideration, directly or indirectly, negotiates, solicits, arranges, places, or finds a mortgage loan that is to be made by a mortgage lender or mortgage correspondent lender, whether or not that lender is required to be licensed in Connecticut.

It defines a “mortgage lender” as a person engaged in the business of making mortgage loans in such person's own name using such person's own funds or by funding loans through a warehouse agreement, table funding agreement, or similar agreement. Finally, it defines a “mortgage correspondent lender” as a person engaged in the business of making mortgage loans in the person's own name where the loans are not held by such person for more than ninety days and are funded by another person through a warehouse agreement, table funding agreement, or similar agreement.

The Act moves up the effective date of the National Mortgage Licensing System provisions of PA 07-156 and changes the name of the system to the Nationwide Mortgage Licensing System. The Act converts existing “first” and “second” mortgage professional licenses to the combined license on July 1, 2008. The Act requires those licensed on that date to transition to the system before October 1, 2008. All filings must be submitted exclusively through the system starting on July 1, 2008. (Initial applications submitted on the system between October 1 and December 31, 2008 cannot be approved before January 1, 2009.)

The Act allows, rather than requires, the commissioner to suspend a license for failure to pay the cost of any examination of the licensee within 60 days, rather than 30 days, of the demand.

The law requires those engaged in the business of making loans to be licensed (with exceptions). The Act provides that a person, other than a licensed originator acting on behalf of a lender or broker, that employs or retains the mortgage loan originator is deemed to be engaged in the business of making mortgage loans if the person advertises, causes to be advertised, solicits, offers to make, or makes mortgage loans, either directly or indirectly. The Act specifically expands the definition of advertisement to include any announcement, statement, assertion, or representation that is placed before the public in a newspaper, magazine, or other publication; or in the form of a notice, circular, pamphlet, letter, or poster; over any radio or television station; by means of the Internet or by other electronic means of distributing information; by personal contact; or in any other way. Under prior law, it included the use of media, mail, computer, telephone, personal contact, or any other means.

The Act allows an originator or lender licensee to file a notification of the termination of an originator with the nationwide system. Prior law requires both the originator and the broker or lender licensee to do so with the commissioner.
The Act specifies that licenses must be obtained for each main office (the address filed with the nationwide system) and branch office (any other location).

The Act exempts operating subsidiaries of federal banks and federally chartered out-of-state banks from license requirements. In a conforming change, it removes the exemption for secondary mortgage licensees who made less than 12 first mortgage loans in 12 months and instead limits the exemption to people owning real property who take a secondary mortgage back from the buyer. Finally, it moves the existing secondary mortgage exemption for relatives to this section.

The Act increases the tangible net worth requirement for brokers and correspondent lenders from $25,000 to $50,000 starting on March 1, 2009.

The Act also requires lenders and brokers to have a qualified individual at a main office and a branch manager at a branch office, with supervisory authority over the lending or brokerage activities, who has at least three years of experience in the mortgage business in the previous five years to be present at each office. (Prior law required lenders and brokers to have a person with supervisory authority at each location with those experience requirements.) The Act defines this experience to include paid experience in the origination, processing; or underwriting of mortgage loans; the marketing of such loans in the secondary market or in the supervision of such activities; or any other relevant experience as determined by the commissioner. The term was not defined in prior law.

Starting on July 1, 2008, the Act requires an application that was previously filed with the commissioner to be filed instead with the nationwide system. However, it requires applicants to submit supplementary information directly to the commissioner, some of which had to be included on the application under prior law. First, as required under prior law, applicants must submit a financial statement with the banking department. However, under the Act, the statement must be as of a date not more than 12 months prior to the filing, rather than the six months required by prior law. The Act also requires the submission of the required bond and, as under prior law, evidence that the experience requirements are met. The Act specifies that such evidence includes a statement specifying the duties and responsibilities of the person's employment; the term of employment, including month and year; and the name, address, and telephone number of a supervisor, employer, or, if self-employed, a business reference; and if required by the commissioner, copies of W-2 forms, 1099 tax forms, or, if self-employed, 1120 corporate tax returns; signed letters from the employer on the employer's letterhead verifying the person's duties, responsibilities and term of employment including month and year; and if the person is unable to provide the letters, other proof satisfactory to the commissioner that the person meets the experience requirement.

The Act requires the submission of any other information about the applicant, its activities, and the background of the applicant and its principals, employees, and, although not required under prior law, originators.

The Act changes the way licensees update their name and address to reflect use of the nationwide licensing system. It extends the notice required before a change from 21 to 30 days. It also eliminates provisions specifying what must be stated on the license and requiring the license to be maintained at the location and available for public inspection. The Act also specifies that licensees must use the legal or fictitious name approved by the commissioner.

It requires licensees who will cease doing business for any reason to file a surrender of the license on the nationwide system within 15 days of cessation. However, this requirement does not apply when licenses have been suspended. Finally, the Act requires licensees to file with the
system or notify the commissioner if certain things occur. For lenders and brokers, these things include:

- filing for bankruptcy, or the consummation of a corporate restructuring, of the licensee;
- filing of a criminal indictment against the licensee in any way related to the licensee's lending or brokerage activities, or receiving notification of the filing of any criminal felony indictment or felony conviction of any of the licensee's officers, directors, members, partners, or shareholders owning 10% or more of the outstanding stock;
- receiving notification of license denial, cease and desist, suspension, or revocation procedures or other formal or informal regulatory action by any government agency against the licensee and the reasons for it;
- receiving notification of the initiation of any action by the attorney general of this or any other state and the reasons for it;
- receiving notification of a material adverse action with respect to any existing line of credit or warehouse credit agreement;
- suspension or termination of the licensee's status as an approved seller or servicer by Fannie Mae, Freddie Mac, or the government National Mortgage Association;
- exercise of recourse rights by investors or subsequent assignees of mortgage loans if such loans for which the recourse rights are being exercised, in the aggregate, exceed the licensee's net worth exclusive of real property and fixed assets;
- receiving notification of filing for bankruptcy of any of the licensee's officers, directors, members, partners, or shareholders owning 10% or more of the licensee's outstanding stock; or
- any proposed change in control in the ownership licensee's or among the licensee's officers, directors, members, or partners on a form provided by the commissioner. (The Act provides that the commissioner can investigate the change as if it were a new license and it defines “change in control.”)

For originators, notification is required upon:

- filing for bankruptcy of the mortgage loan originator licensee;
- filing of a criminal indictment against the mortgage loan originator licensee;
- receiving notification of the institution of license or registration denial, cease and desist, suspension, or revocation procedures or other formal or informal regulatory action by any government agency against the mortgage loan originator licensee and the reasons for it; or
- receiving notification of the initiation of any action against the mortgage loan originator licensee by the attorney general of this or any other state and the reasons for it.

The Act also allows a licensee to use its legal or fictitious name if allowed by the commissioner. Prior law required a licensee to use the name stated on its license.

The Act changes the expiration date for licenses and designates licensing fees. Under PA 07-156, starting October 1, 2008, all licenses must expire on December 31st of the year following issuance and all licensees must pay the required licensing and processing fee to the national system. For lender and broker licenses that expire on September 30, 2008, the Act extends the expiration date to December 31, 2008. Starting on July 1, 2008, lender and broker licenses must expire at the close of business on December 31 of the year in which they are approved, unless the license is renewed. However, licenses approved after November 1 expire on December 31 of the following year. The Act requires a renewal application to be filed between November 1 and December 31 of the year in which the license expires, provided a licensee may file a renewal
application by March 1 of the following year together with a late fee of $100. Any filing by that date with the fee is deemed timely and sufficient.

The Act specifies that the licensing fee is $800 for lender licenses and $400 for broker licenses. However, lenders licensed on September 30, 2008 must submit a renewal fee of $900 and brokers licensed on June 30, 2008 must submit a renewal fee of $450. Each mortgage loan originator license expires when the associated lender or broker license expires. The Act requires the lenders or brokers to pay $100 for each originator. However, for those lenders and brokers licensed on September 30, 2008 who submit a renewal application for a mortgage loan originator, the fee is $125. Starting on January 1, 2010, the fee is $100.

The Act specifies that fees paid in connection with a withdrawn or denied application are nonrefundable, but provides that fees paid for an originator license where the originator is not sponsored by a lender or broker can be refunded.

The Act increases the bond amount for lenders and brokers from $40,000 to $80,000 starting on August 1, 2009 and allows borrowers or prospective borrowers who are damaged by a licensee's failure to satisfy a judgment against a licensee from the making of a nonprime loan to collect from the bond. The Act also allows the commissioner to proceed on the bond for unpaid examination costs, as well as for civil penalties as is permitted under prior law.

The Act eliminates language requiring the commissioner to automatically suspend a license on the date a surety bond is cancelled and the associated due process requirements.

By law, lenders and brokers must maintain adequate records of each loan transaction. The Act requires lenders and brokers to send loan transaction records to the commissioner within five business days of his request by certified mail, return receipt requested, or by an express delivery carrier that provides a dated delivery receipt. On request, the commissioner can grant additional time to comply with this requirement. The law already required licensees to make the records available to the commissioner within that time frame. The Act requires the record to include a copy of the initial and final loan application and a copy of all information used in evaluating the application. The Act also requires lenders and brokers to retain copies of the note and settlement statement or other records that can verify compliance with the licensing statutes.

The Act adds to the circumstances under which the commissioner can suspend, revoke, or refuse to renew an originator license to include situations where a licensee has concealed, suppressed, intentionally omitted, or otherwise intentionally failed to disclose any of the material particulars of any loan transaction.

The Act specifies that mortgage lending licensees cannot accept applications or referrals from, or pay fees to, any broker or originator who was not licensed at the time he or she “originated” or “brokered” a loan, as opposed to at the point of the application acceptance, referral, or fee payment.

The law prohibits first and second mortgage lenders and brokers from engaging in any unfair or deceptive Act or practice when soliciting a mortgage secured by residential property in Connecticut if the solicitation is based in any way on a mortgage trigger lead. The Act extends this prohibition to originators. A “mortgage trigger lead” is a consumer report that is (1) obtained in accordance with the provisions of the federal Fair Credit Reporting Act (FCRA) governing the issuance of consumer reports when the transaction is not initiated by the consumer and (2) issued as a result of an inquiry to a consumer reporting agency (CRA) in connection with a consumer's credit application. It excludes from the definition a consumer report obtained by a lender that holds or services the applicant's existing debt.
The Act prohibits in a secondary loan prepaid finance charges in excess of 8% of the principal amount of the loan and in a loan agreement where prepaid finance charges have been assessed, any provision that allows the lender to demand payment of the entire loan balance before the scheduled maturity (unless there is a default of more than 60 days or if any other condition of default in the mortgage note exists).

The Act makes any lender or broker who fails to comply with this liable to the borrower in an amount equal to the sum of:

- the amount by which the total of all prepaid finance charges exceeds 8% of the principal amount of the loan;
- the lesser of 8% of the principal amount of the loan or $2,500; and
- the costs incurred by the borrower in bringing an action, including reasonable attorney's fees, as determined by the court.

However, no broker or lender can be liable for more than these amounts in a secondary mortgage loan transaction involving more than one borrower.

The Act requires that any mortgage deed securing a secondary mortgage loan recorded in any town's land records contain the word “Mortgage” in the heading, either in capital letters or underscored, and the principal amount of the loan.

The Act requires licensed lenders and brokers to deliver a release of a secondary mortgage to the borrower upon receiving the outstanding balance of the obligation secured by the mortgage in cash or a certified check or in a check that is payable to the licensee or its assignee from the payer bank. Licensees must advise any person designated by the borrower of the outstanding balance of the obligation secured by the secondary mortgage granted to the licensee by the second business day after receiving a request for the information.

The Act requires lenders to annually adopt a mortgage loan policy for subprime and nontraditional loans they make. The Act does not define the term subprime loan. The policy must be based on and consistent with the most current version of the Conference of State Bank Supervisors, American Association of Residential Mortgage Regulators and National Association of Consumer Credit Administrators’ statement on subprime mortgage lending and Conference of State Bank Supervisors and American Association of Residential Mortgage Regulators’ guidance on nontraditional mortgage product risks. Licensed lenders must comply with the policy and develop and implement internal controls that are reasonably designed to ensure compliance. The mortgage loan policy and any mortgage loan made under the policy are subject to examination concerning prudent lending practices by the banking commissioner.

The Act requires lenders making secondary mortgage loans of up to $15,000 with an interest rate, charge, or other consideration higher than 12% to be licensed as small loan lenders. Such lenders were exempt from this requirement under prior law.

The Act bans, in a high cost loan, prepayment penalties and a provision requiring the borrower to assert a claim or defense in a nonjudicial forum that uses principles inconsistent with common or statutory law; limits claims or defenses; or is less convenient, more costly, or more dilatory. It removes the provision banning mandatory arbitration clauses and exceptions that allowed certain prepayment penalties.

The Act establishes, from the date of its passage, a 13-member Commission on Nontraditional Loans and Home Equity Lines of Credit. The commission must determine:

- the number of Connecticut homeowners who have nontraditional loans and home equity lines of credit;
• the number of Connecticut residents who have nontraditional loans or home equity lines of credit which are in default or who have been affected by foreclosure action or are likely to face such action over the next four years;

• the types of nontraditional loans and home equity lines of credit that pose a high risk of loan default or foreclosure and the characteristics or features of such loans that are possible factors in defaults or foreclosure; and

• the circumstances under which nontraditional loans and home equity lines of credit are appropriate for borrowers.

The Act defines a nontraditional mortgage in the same way it is defined in the “Interagency Guidance on Nontraditional Mortgage Product Risks,” 71 Federal Register 58609 (Oct. 4, 2006), as amended from time to time. It specifies that a “home equity line of credit” is a mortgage extended by a lender under a plan in which: (1) the lender reasonably contemplates repeated transactions; (2) the lender may impose a finance charge from time to time on an outstanding unpaid balance; (3) the amount of credit that may be extended to the consumer during the term of the plan, up to any limit set by the lender, is generally made available to the extent that any outstanding balance is repaid; and (4) none of the proceeds of the open-end line of credit are used at closing to purchase the borrower's primary residence or refinance a mortgage loan that had been used by the borrower to purchase the borrower's primary residence.

The commission must consist of the banking commissioner and the Banks Committee chairpersons and ranking members, or their designees. Additionally, it must include:

• two people appointed by the governor, one who must represent state chartered banks and one who is a housing advocate who represents low-income residents;

• one person appointed by the house speaker who represents mortgage bankers;

• one person appointed by the senate president pro tempore who is an attorney who represents homeowners who are defendants in foreclosure actions;

• one person appointed by the senate majority leader who is a consumer who has been a defendant in a foreclosure action related to a nontraditional mortgage or home equity line of credit;

• one person appointed by the house majority leader who is an attorney who represents the banking industry;

• one person appointed by the senate minority leader who represents a nonprofit organization that advocates for people affected by predatory lending; and

• one person appointed by the house minority leader who represents federally chartered banks.

The appointing authorities must make their appointments by August 1, 2008 and fill any vacancy. The banking commissioner must serve as the committee chairperson. The Banks Committee staff must serve as the commission's administrative staff.

The commission must report its findings and recommendations to the Banks Committee by January 1, 2009. It must include recommendations on measures that address nontraditional loans and home equity lines of credit that have a high incidence of defaults and foreclosures and possible restrictions on such loans or certain features of such loans that increase the likelihood of foreclosure or default. When making the recommendations, the commission must give consideration to the impact that such measures and restrictions might have on responsible lending activities that can help to serve the credit needs of Connecticut residents, including the impact on the secondary market and credit costs and availability. The commission must terminate on the date it submits the report or January 1, 2009, whichever is later.
The Act allows the commissioner to enter cooperative, coordinating, and information-sharing agreements with other state and federal supervisory agencies for examinations, exam fees, and other supervision of not just banking department licensees, as is allowed under existing law, but also for any mortgage and certain other banking activity it regulates under statute. As under prior law, the Act provides that any such agreement may include provisions concerning the assessment or sharing of fees for such examination or supervision.

Submitted as:
Connecticut
Public Act 08-176

Comment:

Disposition: 06-30B-02

CSG policy task force recommendations to The Committee on Suggested State Legislation: 2010B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action

Comments/Note to staff:

SSL Committee Meeting: 2010B
( ) Include in Volume
( ) Defer consideration
( ) next task force mtg.
( ) next SSL mtg.
( ) next SSL cycle
( ) Reject

Comments/Note to staff:
This Act establishes a system by which mortgage servicers are required to identify certain subprime loans that are in jeopardy of foreclosure. The servicer then must submit information on those loans to a database designed by the Commissioner of Banks and maintained by the Administrative Office of the Courts. The Commissioner of Banks would use the information to attempt to assist the parties to avoid foreclosure. The Commissioner also would be authorized to extend the foreclosure process for up to 30 days once in an appropriate case.

Submitted as:
North Carolina
Session Law 2008-226

Comment:

Disposition:

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2010B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action
Comments/Note to staff:

SSL Committee Meeting: 2010B
( ) Include in Volume
( ) Defer consideration
   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject
Comments/Note to staff:
This Act creates a program run by the state department of commerce to promote the state as a retirement destination. The program will use a scoring system to designate certain communities as certified retirement communities. Communities must seek re-certification every five years by reapplying for the program and submitting data demonstrating the program's effectiveness.

Submitted as:
North Carolina
Session Law 2008-188

Comment:

Disposition:

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2010B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action
Comments/Note to staff:

SSL Committee Meeting: 2010B
( ) Include in Volume
( ) Defer consideration
   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject
Comments/Note to staff:
This Act provides for court-appointed conservators to bring residential, commercial and industrial buildings into municipal code compliance when owners fail to comply.

Submitted as:
Pennsylvania
HB 2188

Comment:

Disposition:

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2010B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action
Comments/Note to staff:

SSL Committee Meeting: 2010B
( ) Include in Volume
( ) Defer consideration
   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject
Comments/Note to staff:
06-30B-06 Demolishing, Seizing or Selling Abandoned Buildings Used for Selling Illegal Drugs

This Act authorizes the governing authorities of municipalities to seize abandoned houses or buildings that are used for the sale or use of drugs and sell, transfer, convey or use such seized houses or buildings for suitable municipal purposes.

Submitted as:
Mississippi
HB 342 (Enrolled version)

Comment:

Disposition:

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2010B
(  ) Include in Volume
(  ) Defer consideration to next task force meeting
(  ) Reject
(  ) No action
Comments/Note to staff:

SSL Committee Meeting: 2010B
(  ) Include in Volume
(  ) Defer consideration
(    ) next task force mtg.
(    ) next SSL mtg.
(    ) next SSL cycle
(  ) Reject
Comments/Note to staff:
This Act defines derelict buildings as a building, whether or not construction has been completed, that might endanger the public’s health, safety, or welfare and has been vacant, boarded up in accordance with the building code, and not lawfully connected to electric service from a utility service provider or not lawfully connected to any required water or sewer service from a utility service provider for a continuous period in excess of six months. It authorizes local governments to incentivize owners' timely submission of a plan for demolition or renovation, by providing real estate tax abatements and fee refunds. The bill simplifies tax lien enforcement and blight provisions and encourages action on derelict buildings by adjusting time frames.

Submitted as:
Virginia
SB1094 (Enrolled version)
Status: Awaiting governor’s action as of 03/13/09.

Comment:

Disposition:

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2010B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action
Comments/Note to staff:

SSL Committee Meeting: 2010B
( ) Include in Volume
( ) Defer consideration
( ) next task force mtg.
( ) next SSL mtg.
( ) next SSL cycle
( ) Reject
Comments/Note to staff:
This Act provides that landlords and managing agents are not liable for civil damages in an action for exposure to mold arising from the condition within the interior of a dwelling unit brought by a tenant, authorized occupant, or guest or invitee if the mold condition is caused solely by the negligence of the tenant. The Act provides that managing agents with no maintenance responsibilities are not liable for damages unless the agents have actual knowledge of the mold condition and fail to disclose the existence of the condition to the landlord and any prospective or actual tenants. The legislation provides further that if a written move-in inspection report reflects that there is no visible evidence of mold in a dwelling unit, and the tenant does not object in writing to such report within five days of his receipt of the report, there shall be a rebuttable presumption that no mold existed at the time of the move-in inspection. The bill also requires landlords and managing agents with maintenance responsibilities to perform mold remediation if visible evidence of mold occurs within a dwelling unit.

Submitted as:
Virginia
Chapter 162 of 2008

Comment:

Disposition:

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2010B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action
Comments/Note to staff:

SSL Committee Meeting: 2010B
( ) Include in Volume
( ) Defer consideration
      ( ) next task force mtg.
      ( ) next SSL mtg.
      ( ) next SSL cycle
( ) Reject
Comments/Note to staff:
This Act prohibits a mortgage broker from failing to use reasonable skill, care, and diligence in exercising the broker's duty, which is created hereby, to make reasonable efforts to secure a mortgage loan that is in the best interests of the applicant, considering the applicant's circumstances and loan characteristics. A borrower who suffers a loss as a result of a breach of such duty may bring an action to recover actual damages.

Submitted as:
Virginia
H1776 (Enrolled version)
Status: Awaiting governor’s action as of 03/10/09.

Comment:

Disposition:

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2010B
(  ) Include in Volume
(  ) Defer consideration to next task force meeting
(  ) Reject
(  ) No action
Comments/Note to staff:

SSL Committee Meeting: 2010B
(  ) Include in Volume
(  ) Defer consideration
    (  ) next task force mtg.
    (  ) next SSL mtg.
    (  ) next SSL cycle
(  ) Reject
Comments/Note to staff:
This Act establishes a program and a fund to provide grants or loans to assist low- and moderate-income homeowners who are delinquent on their mortgage payments to help refinance into a different loan product.

Submitted as:
Washington
Chapter 322, 2008 Laws

Comment:

Disposition:

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2010B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action
Comments/Note to staff:

SSL Committee Meeting: 2010B
( ) Include in Volume
( ) Defer consideration
   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject
Comments/Note to staff:
This Act replaces previous statutes that govern municipal, county, and township planning, beginning September 1, 2008. Specifically, this bill:

- allows a local unit of government to adopt, amend, and implement a master plan;
- prescribes the general purpose of a master plan;
- allows a local unit to adopt an ordinance creating a planning commission;
- requires a planning commission to make and approve a master plan as a guide for development within the planning jurisdiction;
- allows a planning commission to adopt a sub-plan for a geographic area less than the planning jurisdiction if that area needed more intensive planning;
- allows a county planning commission to be designated as the metropolitan county planning commission to perform metropolitan and regional planning;
- prescribes procedures for adopting and amending a master plan;
- requires a planning commission to review the master plan at least every five years;
- requires a planning commission's approval for the construction of particular structures and facilities, and allow the legislative body of the local unit to overrule a planning commission's disapproval under certain circumstances;
- requires a planning commission annually to prepare a capital improvements program;
- allows a planning commission to recommend to the local unit's legislative body provisions of an ordinance or rules governing the subdivision of land;
- requires a planning commission to review and make recommendations on plats, under certain circumstances; and
- provides that an existing master plan or charter provision or ordinance creating a planning commission would continue in effect under the proposed act, unless rescinded or repealed, subject to certain conditions.

Submitted as:
Michigan Act 33 of 2008
Disposition: 07-30B-01

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2010B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action
Comments/Note to staff:

SSL Committee Meeting: 2010B
( ) Include in Volume
( ) Defer consideration
  ( ) next task force mtg.
  ( ) next SSL mtg.
  ( ) next SSL cycle
( ) Reject
Comments/Note to staff:
This Act establishes a framework for insurance market conduct actions, including:

- processes and systems for identifying, assessing and prioritizing market conduct problems that have an adverse impact on consumers, policyholders and claimants;
- market conduct actions by a commissioner to substantiate such market conduct problems and a means to remedy market conduct problems; and
- procedures to communicate and coordinate market conduct actions among states to foster the most efficient and effective use of resources.

The state insurance commissioner is authorized to conduct market conduct examinations by comprehensive or targeted examinations of domestic insurers and targeted examinations of foreign insurers.

Submitted as:
Rhode Island
Chapter 72 of 2008

Comment:

Disposition:

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2010B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action
Comments/Note to staff:

SSL Committee Meeting: 2010B
( ) Include in Volume
( ) Defer consideration
( ) next task force mtg.
( ) next SSL mtg.
( ) next SSL cycle
( ) Reject
Comments/Note to staff:
This Act allows admission tickets to be resold on the Internet at a price greater than the price printed on the face of the ticket. However, the Act provides several protections to the purchaser and to the venue. It requires a person who resells admission tickets online to provide a ticket guarantee that must be conspicuously displayed on the person's Website. A prospective purchaser must be directed to the ticket guarantee before completion of a resale transaction. The ticket guarantee must provide a purchaser with a full refund of the amount paid for the ticket if the event is cancelled, the purchaser is denied admission through no fault of the purchaser, or the ticket is not delivered to the purchaser and the failure to receive the ticket results in the purchaser's inability to attend the event. For a cancelled event, the seller may withhold handling and delivery fees from a refunded amount, if the Website informs the purchaser of this policy.

A venue may prohibit a person from reselling tickets at a price greater than the price on the face of the ticket to an event it sponsors if it posts notice of the prohibition on its Website, on the Website of the primary ticket seller, and files a notice of the prohibition with the Secretary of State. A prohibition may not become valid until 30 days after the notice is posted on the venue's Website. The prohibition expires on December 31 of each year unless the venue renews its prohibition.

The Act does not apply to student tickets issued by institutions of higher education in the State for sporting events.

People who resell tickets must report to the state department of revenue on a monthly basis. The report must cover the gross receipts received from reselling tickets and include information, such as the events and venues for the tickets, from whom the tickets were bought, and the name and address of the purchaser, if the purchaser is a reseller.

The Act also makes it an unfair and deceptive trade practice for a person to knowingly sell, give, transfer, use, distribute, or possess software that is primarily designed or produced for The purpose of interfering with the operation of a ticket seller who, pursuant to a written agreement with the venue, sells admission tickets over the Internet. A ticket seller, as well as the venue, has standing to bring a private right of action under the state Unfair and Deceptive Trade Practice law.

Submitted as:
North Carolina
Session Law 2008-158

Comment: The 2009 SSL draft “Reselling Tickets” does not specifically address Internet ticket sales or using software to buy tickets.
Disposition: 09-30B-02

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2010B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action
Comments/Note to staff:

SSL Committee Meeting: 2010B
( ) Include in Volume
( ) Defer consideration
   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject
Comments/Note to staff:
This Act defines "Guaranteed Asset Protection Waiver" or "GAP waiver" as a contractual agreement wherein a creditor agrees for a separate charge to cancel or waive all or part of amounts due on a borrower's finance agreement in the event of a total physical damage loss or unrecovered theft of a motor vehicle, which agreement must be part of, or a separate addendum to, the finance agreement. This Act provides a framework within which Guaranteed Asset Protection Waivers are defined and may be offered within the state. Guaranteed Asset Protection Waivers governed under this Act are not insurance and are exempt from the insurance laws of the state.

Submitted as:
Tennessee

Comment:

Disposition:

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2010B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action

Comments/Note to staff:

SSL Committee Meeting: 2010B
( ) Include in Volume
( ) Defer consideration
   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject
Comments/Note to staff:
This Act states that an employer, employment agency, labor organization, and licensing agency shall not directly or indirectly do any of the following:

- solicit, request, require or purchase genetic testing or genetic information of a person or a family member of the person, or administer a genetic test to a person or a family member of the person as a condition of employment, preemployment application, labor organization membership, or licensure;
- affect the terms, conditions, or privileges of employment, preemployment application, labor organization membership, or licensure, or terminate the employment, labor organization membership, or licensure of any person because of genetic testing or genetic information with respect to the employee or family member, or information about a request for or the receipt of genetic testing by such employee or family member of such employee;
- limit, segregate, or classify employees in any way that would deprive or tend to deprive any employee of employment opportunities or otherwise adversely affect the status of the employee as an employee because of genetic testing or genetic information with respect to the employee or a family member, or information about a request for or the receipt of genetic testing or genetic information by such employee or family member of such employee; or
- retaliate through discharge or in any other manner against any person alleging a violation of this Act or participating in any manner in a proceeding under the Act.

The Act prohibits an agreement between a person and an employer, prospective employer, employment agency, labor organization, or licensing agency, or its employees, agents, or members offering the person employment, labor organization membership, licensure, or any pay or benefit in return for taking a genetic test.

The Act prohibits an employer from using genetic information or genetic testing in furtherance of a workplace wellness program benefiting employees unless health or genetic services are offered by the employer, the employee provides written and informed consent.

Submitted as:
Illinois
Public Act 095-0927

Comment:
Disposition: 11-30B-01

CSG policy task force recommendations to The Committee on Suggested State Legislation: 2010B
(   ) Include in Volume
(   ) Defer consideration to next task force meeting
(   ) Reject
(   ) No action
Comments/Note to staff:

SSL Committee Meeting: 2010B
(   ) Include in Volume
(   ) Defer consideration
   (   ) next task force mtg.
   (   ) next SSL mtg.
   (   ) next SSL cycle
(   ) Reject
Comments/Note to staff:
This Act establishes a central registry of people who have successfully completed state approved education or training programs for home health aides and personal care aides. This legislation requires the registry to include information regarding an aide’s employment history in home care, any care-related governmental findings of physical abuse, mistreatment, neglect, or misappropriation of property perpetrated by the aide, as well as the name of each state approved training program completed by the aide.

Submitted as:
New York
Chapter 594 of 2008
Comment:

Senator Kemp Hannon:
This chapter establishes the "New York Certified Aide Registry and Employment Search Act."

A recent two-year investigation by the Office of the New York State Attorney General revealed rampant fraud and abuse, including the distribution of fraudulent training certificates to home care aides, within the home health aide industry. The establishment of a central registry will help eliminate such abuse and will require information on the aide’s training and background to be made available, thereby promoting transparency within the industry. This legislation, which specifically requires the registry to include information regarding an aide’s employment history in home care, any care-related governmental findings of physical abuse, mistreatment, neglect, or misappropriation of property perpetrated by the aide, as well as the name of each state approved training program completed by the aide, has garnered broad industry support.

While recognizing that qualified home health care aides provide valuable care for dependent New Yorkers across the state, this legislation seeks to minimize the likelihood that untrained aides are placed in the homes of these vulnerable individuals. Such fraudulent practices undermine the good work the home care industry provides to New Yorkers every day. The home care services worker registry will greatly enhance oversight and accountability in the home care industry by ensuring that workers are officially registered and that providers have access to reliable information regarding the workers they employ.

Signed by Governor Paterson on September 25, 2008, the provisions of this chapter become effective September 25, 2009.
Disposition: 11-30B-02

CSG policy task force recommendations to The Committee on Suggested State Legislation: 2010B
(  ) Include in Volume
(  ) Defer consideration to next task force meeting
(  ) Reject
(  ) No action
Comments/Note to staff:

SSL Committee Meeting: 2010B
(  ) Include in Volume
(  ) Defer consideration
   (  ) next task force mtg.
   (  ) next SSL mtg.
   (  ) next SSL cycle
(  ) Reject
Comments/Note to staff:
This Act:
- allows an appointing authority to grant a leave of absence to a police officer or firefighter for service in an elected office;
- establishes certain rights concerning retirement or pension funds, salaries, promotions, and seniority for a police officer or firefighter who is on a leave of absence;
- requires a police officer or firefighter who is an officeholder to pay the assessment or contribution to the officeholder's pension fund for the period of the leave in order to receive service credit for the leave;
- authorizes the officeholder's employer to pay all or a part of the assessment or contribution for the officeholder; and
- allows a retired member of certain police and firefighter pension funds to be rehired, not less than 30 days after retirement, by the same unit that employed the member as a police officer or firefighter for a position other than that of a full-time, fully paid police officer or firefighter; and continue to receive a retirement benefit from those funds.

Submitted as:
Indiana
House Enrolled Act 1119

Comment:

Disposition:

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2010B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action
Comments/Note to staff:

SSL Committee Meeting: 2010B
( ) Include in Volume
( ) Defer consideration
    ( ) next task force mtg.
    ( ) next SSL mtg.
    ( ) next SSL cycle
( ) Reject
Comments/Note to staff:
This Act provides that good cause for leaving employment exists if an employee voluntarily leaves a job to accompany the employee's spouse, who is on active duty in the military or naval services of the United States, to a new military-related assignment established pursuant to a permanent change of duty order from which the employee's place of employment is not reasonably accessible. The measure applies only if the state to which the spouse is transferred has a similar provision, unless the transfer involves members of the National Guard relocated within the state. Benefits paid to qualifying claimants shall be charged against the pool rather than against the claimant's employer. The measure shall become effective if the federal government appropriates funds for this purpose.

Submitted as:
Virginia
SB1495 (Enrolled version)
Status: Awaiting governor’s action as of 03/13/09.

Comment:

Disposition:

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2010B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action
Comments/Note to staff:

SSL Committee Meeting: 2010B
( ) Include in Volume
( ) Defer consideration
    ( ) next task force mtg.
    ( ) next SSL mtg.
    ( ) next SSL cycle
( ) Reject
Comments/Note to staff:
This purpose of this Act is to reduce the need for new energy plants by reducing the demand for energy through efficiency and load management programs for public utility customers. The Act directs electric and gas utilities to acquire all cost-effective and achievable energy efficiency resources. Electric utilities must achieve a five percent energy efficiency savings from 2005 electricity sales by 2014, and 10 percent by 2020. The Public Regulation Commission (PRC) can set alternative energy efficiency requirements if the electric utility demonstrates it cannot meet the minimum requirements. The Act directs the PRC to develop incentives that allow utilities “…the opportunity to earn a profit on cost-effective energy efficiency…that…is financially more attractive than developing supply-side resources,” such as new electric power plants.

This law authorizes the PRC to approve “energy efficiency programs designed to reduce the burden of energy costs on low-income customers.” The bill also declares that it is necessary to provide financial incentives to energy efficiency and load management resources; maintains and clarifies that PRC-approved energy efficiency programs must be cost effective, that is, less expensive than pursuing new sources of supply; allows the PRC to require utilities to solicit competitive bids from third party contractors for energy efficiency services; maintains the existing total per customer cost impact cap of $75,000/year; strengthens the energy efficiency measurement and verification requirement; and requires a detailed assessment of the utility’s energy efficiency programs every three years by an independent program evaluator.

This Act requires utilities to conduct an energy efficiency potentials study to determine all the energy efficiency measures that are less expensive than building new supply, then fund and implement all those measures.

Submitted as:
New Mexico
HB 305

Comment:
Disposition: 12-30B-01

CSG policy task force recommendations to The Committee on Suggested State Legislation: 2010B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action
Comments/Note to staff:

SSL Committee Meeting: 2010B
( ) Include in Volume
( ) Defer consideration
    ( ) next task force mtg.
    ( ) next SSL mtg.
    ( ) next SSL cycle
( ) Reject
Comments/Note to staff:
This Act requires the state public employee retirement system to identify, report, and then divest any holdings in companies which conduct business in countries which are identified by the federal government as sponsoring terrorism. The Act also prohibits state agencies from purchasing products or services from such companies.

Submitted as:
Arizona
Chapter 201 of 2008

Comment:

Disposition:

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2010B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action
Comments/Note to staff:

SSL Committee Meeting: 2010B
( ) Include in Volume
( ) Defer consideration
   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject
Comments/Note to staff:
This Act defines when the state may assert the Public Duty Doctrine as an affirmative defense to a tort claim action. The Public Duty Doctrine provides that the state cannot be held liable for an individual plaintiff's injury resulting from a state employee's breach of a duty owed to the general public rather than to the individual plaintiff.

The Act permits the state to assert the affirmative Public Duty Doctrine defense only against a claim of action arising from either a law enforcement officer's negligent failure to protect the claimant from the actions of another or an act of God, or where a state employee negligently failed to perform a health or safety inspection required by law that resulted in the injury to the claimant. Excepted from the permissible use of the affirmative defense of the Public Duty Doctrine by the state are incidences where a special relationship exists between the claimant and the state employee, when the state has a special duty to the claimant and the claimant's reliance on that duty is causally related to the injury suffered, and the failure to perform a health or safety inspection required by law was the results of gross negligence.

The Act does not limit the assertion of the Public Duty Doctrine defense by a local government, or its officers, employees, or agents.

The definition of "law enforcement officer" includes state employees who are actively serving in a position primarily related to prevention and detection of crime or the general enforcement of the criminal laws, possess the power of arrest by virtue of being a sworn law enforcement officer, are a juvenile justice officer, chief court counselor, or juvenile court counselor, a correctional officer performing corrections duties, a firefighter, or a probation officer.

Submitted as:
North Carolina
Session Law 2008-170

Comment:
Disposition: 13-30B-02

CSG policy task force recommendations to The Committee on Suggested State Legislation:
2010B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action
Comments/Note to staff:

SSL Committee Meeting: 2010B
( ) Include in Volume
( ) Defer consideration
   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject
Comments/Note to staff:
According to the Uniform Law Commissioners, prior to the September 11, 2001 terrorist attacks, access to U.S. consular offices was far less restricted and difficult than it is today. Foreign affiants with information relevant to U.S. proceedings or transactions and willing to provide assistance could visit the U.S. consular office to finalize their affidavit or statement, in very similar fashion to a person within the U.S. visiting a notary public at a local bank. Due to increased security measures, this relatively routine process became more burdensome and time consuming. Even greater hurdles exist for persons seeking statements from individuals who do not reside near a U.S. consular office. The American Bar Association (ABA) raised these issues and referred them to the Uniform Law Commission in an official report, adopted by the ABA House of Delegates in 2006. The Uniform Unsworn Foreign Declarations Act (UUFDA) was promulgated by the Uniform Law Commission at its Annual Meeting in 2008 to address this situation and to harmonize state and federal law.

UUFDA affirms the use in state law proceedings of unsworn declarations made by declarants who are physically outside the boundaries of the United States when making the declaration. Under the UUFDA, if an unsworn declaration is made subject to penalties for perjury and contains the information in the model form provided in the act, then the statement may be used as an equivalent of a sworn declaration. The UUFDA excludes use of unsworn declarations for depositions, oaths of office, oaths related to self-proved wills, declarations recorded under certain real estate statutes, and oaths required to be given before specified officials other than a notary.

The UUFDA will extend to state proceedings the same flexibility that federal courts have employed for over 30 years. Since 1976, federal law (28 U.S.C. § 1746) has allowed an unsworn declaration executed outside the U.S. to be recognized and valid as the equivalent of a sworn affidavit if it substantially includes the language: 

declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on (date). (Signature)

Several states have procedures for allowing unsworn declarations, but the state procedures are not uniform. Further, courts have ruled that 28 U.S.C. § 1746 is inapplicable to state court proceedings.

Enactment of UUFDA harmonizes state and federal treatment of unsworn declarations. The Act alleviates foreign affiants' burden in providing important information for state proceedings, while at the same time helping to reduce congestion in U.S. consular offices and allowing U.S. consular officials to increase focus on core responsibilities. Further, UUFDA will reduce aspects of confusion abroad regarding differences in federal and state litigation practice and help prevent potential negative connotations about cumbersome and inconsistent legal procedure in U.S. court proceedings.

Submitted as:
Utah
SB122
Status: Enacted into law in 2009.

Comment:
Disposition: 13-30B-03

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2010B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action
Comments/Note to staff:

SSL Committee Meeting: 2010B
( ) Include in Volume
( ) Defer consideration
( ) next task force mtg.
( ) next SSL mtg.
( ) next SSL cycle
( ) Reject
Comments/Note to staff:
This Act limits liability for certified child passenger safety technicians and sponsoring organizations for acts or omissions in the inspection, installation, or adjustment of child safety seats or in providing education regarding the installation or adjustment of child safety seats. Current state law requires children less than 8 years of age and less than 80 pounds in weight to be properly secured in vehicles in a weight-appropriate child passenger restraint system.

This Act defines “Certified Child Passenger Safety Technician” as an individual who successfully completes and maintains certification through the National Child Passenger Safety Training Program. It defines “Sponsoring organization” as a person or organization other than a manufacturer of child safety seats that offers or arranges a nonprofit child safety seat educational program or event using certified technicians or that owns property on which a nonprofit child safety seat educational program or event is held.

The Act provides that a certified child passenger safety technician or sponsoring organization is not liable as a result of any act or omission occurring solely in the inspection, installation, or adjustment of a child safety seat, or in providing education regarding the installation or adjustment of a child safety seat if both of the following conditions are met:

• the certified technician or sponsoring organization acts in good faith and within the scope of the training for which the technician is currently certified; and
• the service is provided without fee or charge other than reimbursement for expenses.

The limitation of liability does not apply if the act or omission constitutes willful and wanton misconduct or gross negligence, or if the service or education was provided in conjunction with the for-profit sale of a child safety seat.

Submitted as:
North Carolina
Session Law 2008-178

Comment:
Disposition: 14-30B-01

CSG policy task force recommendations to The Committee on Suggested State Legislation: 2010B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action
Comments/Note to staff:

SSL Committee Meeting: 2010B
( ) Include in Volume
( ) Defer consideration
    ( ) next task force mtg.
    ( ) next SSL mtg.
    ( ) next SSL cycle
( ) Reject
Comments/Note to staff:
This Act enables doctors to report to the state department of motor vehicles patients who have physical or mental conditions which impair the patients’ driving skills.

Submitted as:
West Virginia

Enrolled Committee Substitute for HB4515

Comment:

Disposition:

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2010B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action
Comments/Note to staff:

SSL Committee Meeting: 2010B
( ) Include in Volume
( ) Defer consideration
   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject
Comments/Note to staff:
This Act allows private entities to enter into agreements with the state division of highways to develop and operate “transportation facilities” and assess user fees. The bill defines “transportation facilities” as “any public inland waterway port facility, road, bridge, tunnel, overpass or existing airport used for the transportation of persons or goods.” The bill sets forth requirements for potential developers and the division of highways. Additionally, the Act provides that a developer is not required to pay any taxes or assessments, other than the Consumers Sales and Service Tax, upon any qualifying transportation facility or any property acquired or used by the developer or upon the income therefrom.

Submitted as:
West Virginia
Enrolled Committee Substitute for HB4476

Comment:

Disposition:

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2010B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action
Comments/Note to staff:

SSL Committee Meeting: 2010B
( ) Include in Volume
( ) Defer consideration
   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject
Comments/Note to staff:
This Act authorizes the state treasurer to establish a program to transfer surplus state motor vehicles to nonprofit charitable organizations which provide vehicles to people eligible for transportation assistance under a state employment training program. The bill provides that the state will not be liable for any damages that may result from the use or operation of any motor vehicle transferred and that the state treasurer will report findings and recommendations to the governor and the legislature within two years of the establishment of a pilot program.

Submitted as:
New Jersey
Chapter 105 of 2008

Comment:

Disposition:

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2010B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action
Comments/Note to staff:

SSL Committee Meeting: 2010B
( ) Include in Volume
( ) Defer consideration
   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject
Comments/Note to staff:
This Act directs that no person, other than the recipient of a call, shall use any Internet caller identification equipment or Internet phone equipment in such a manner as to make a number or name, other than the residential or business phone number or legal or business name of the subscriber or registered user of the Internet phone service, appear on a caller identification system of the recipient of the call. The Act does not apply to service providers who transmit caller identification information created or supplied by others.

Submitted as:
Illinois
Public Act 095-0413
Status: Enacted into law in 2007.

Comment: This law is directed at eliminating or reducing Internet call “Spoofing.”

Disposition:

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2010B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action
Comments/Note to staff:

SSL Committee Meeting: 2010B
( ) Include in Volume
( ) Defer consideration
   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject
Comments/Note to staff:
According to legislative staff, this Act “Establishes legislative goals for the availability of broadband and mobile telecommunications services throughout the state.” It provides “that all residences and businesses in all regions of the state have access to affordable broadband services not later than the end of the year 2010;” and that mobile telecommunications services, including voice and high-speed data, be available throughout the state by the end of the year 2010.

To accomplish these goals, the Act establishes a “Telecommunications Authority” of 11 members, including state officials, public members appointed by the leaders of the General Assembly, and a chair and vice chair appointed by the legislative leaders and the governor.

The Act directs the Authority to:
- develop an inventory of where cellular (“mobile telecommunications”) and broadband services are not available and an inventory of an infrastructure necessary to serve these areas, identifying the types and locations of infrastructure necessary;
- coordinate state agencies to make public resources available to support the extension of these services;
- coordinate and establish public/private partnerships to extend the availability of service, and supporting local initiatives for that purpose;
- solicit and consider input from municipalities and regional planning commissions on specific projects the authority plans to undertake; and
- provide financial resources to public or private entities, through loans or grants, for these purposes.

The Authority is granted powers to:
- establish partnerships or contracts with providers of telecom services and related facilities to bring service to people in unserved areas;
- provide financial assistance to service providers and projects, either as loans, grants, or indirect financial assistance;
- construct, own, and provide communications facilities and infrastructure such as fiber optic cables, towers, and wireless radio spectrum for use by multiple service providers;
- issue revenue bonds to raise capital for these purposes;
- collaborate with the state economic development administration and the state municipal bond bank to finance projects or to seek financial resources;
- solicit and accept grants, gifts, loans or contributions from any source;
- form nonprofit, subsidiary corporations to undertake projects; and
- lead the management of state-owned properties to coordinate and expedite use by telecommunications service providers.

The Act also enables broadband service providers to place facilities on utility poles and in state highway and rail rights-of-way.

The Act revises state and local land use permitting processes applicable to structures and antennae necessary to provide both cellular phone service and wireless-based broadband service, with the objective of reducing the time and expense necessary for communications service providers to construct those facilities.

The Act facilitates provision of broadband services by municipalities or by nonmunicipal entities in partnership with municipalities.

The Act also:
- continues a broadband development grant program;
• authorizes and directs the state IT director to develop and coordinate a pilot project to evaluate the use of satellite- and terrestrial-based technologies to provide next generation wireless and broadband services to rural communities in a tri-state area (future applications may include a multi-jurisdictional, interoperable public safety communications system);

• authorizes the state public utilities bureau to accept from cable television companies, in lieu of mandated cable television line extensions, commitments to provide services or facilities in support of entities that will extend broadband services to unserved areas of the state;

• directs the public utilities bureau to revise its cable television line extension policies in consideration of passage of this act, availability of video programming from sources other than cable companies, and fair treatment of competing providers of services;

• extends by six months the sunset of a law that suspends public utilities bureau requirements for small telephone companies to file tariffs with the public utilities bureau, and the public utilities bureau authority to investigate proposed increases in rates; and

• requires the public utilities bureau to examine regulatory policy regarding the use or role of the state’s electric utilities to facilitate deployment of telecommunications infrastructure and services, whether wireless, broadband, or otherwise, throughout the state and take whatever action the board finds is consistent with the public good and within its existing authority.

Submitted as:
Vermont
Act 79

Comment:

Disposition:

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2010B

( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action

Comments/Note to staff:

SSL Committee Meeting: 2010B
( ) Include in Volume
( ) Defer consideration
( ) next task force mtg.
( ) next SSL mtg.
( ) next SSL cycle
( ) Reject

Comments/Note to staff:
This Act directs the state department of commerce and economic opportunity to enlist a nonprofit corporation to implement a comprehensive, statewide high speed Internet deployment strategy. The Act creates a High Speed Internet Services and Information Technology Fund as a special fund in the state treasury, to be used, subject to appropriation, by the department for purposes of providing grants to the nonprofit organization enlisted under the Act.

The Act specifies the duties of the nonprofit organization and department in administering the High Speed Internet Services and Information Technology Fund. It provides that nothing in the Act shall be construed as giving the state department of commerce and economic opportunity, the nonprofit organization, or other entities any additional authority, regulatory or otherwise, over providers of telecommunications, broadband, and information technology.

Submitted as:
Illinois
Public Act 095-0684
Status: Enacted into law in 2007.

Comment: Section 30 of Minnesota S.F. No. 3337, an omnibus energy bill that became law in 2008, “Directs the Commissioner of Commerce to contract with a nonprofit organization to develop geographical information system maps that display levels of broadband service by connection speed and technology and integrated maps with demographic information. The maps will be used to produce a comprehensive statewide inventory and map of existing broadband service and capability.” The Act specifies the information that must be included in the maps and defines "technology" or "technologies."

Comment:

Disposition:

CSG policy task force recommendations to The Committee on Suggested State Legislation: 2010B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action
Comments/Note to staff:

SSL Committee Meeting: 2010B
( ) Include in Volume
( ) Defer consideration
( ) next task force mtg.
( ) next SSL mtg.
( ) next SSL cycle
( ) Reject
Comments/Note to staff:
This Act restricts any candidate for legislative office from soliciting or accepting campaign contributions during a legislative session in any location in which the legislature is convened.

Submitted as:
Alaska
HB305 (Enrolled version)

Comment:

Disposition:

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2010B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action
Comments/Note to staff:

SSL Committee Meeting: 2010B
( ) Include in Volume
( ) Defer consideration
   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject
Comments/Note to staff:
This Act:

- prohibits a public or private employer from prohibiting a customer, employee, or invitee from possessing any legally owned firearm that is lawfully possessed and locked inside or locked to a private motor vehicle in a parking lot;
- prohibits a public or private employer from violating the privacy rights of a customer, employee, or invitee by verbal or written inquiry regarding the presence of a firearm inside or locked to a private motor vehicle in a parking lot or by the search of a private motor vehicle in a parking lot to ascertain the presence of a firearm within the vehicle;
- prohibits actions by a public or private employer against a customer, employee, or invitee based upon verbal or written statements concerning possession of a firearm stored inside a private motor vehicle in a parking lot for lawful purposes;
- provides conditions under which a search of a private motor vehicle in the parking lot of a public or private employer may be conducted;
- prohibits a public or private employer from conditioning employment upon specified licensure status or upon a specified agreement;
- prohibits a public or private employer from attempting to prevent or prohibiting any customer, employee, or invitee from entering the parking lot of the employer’s place of business because the customer’s, employee’s, or invitee’s private motor vehicle contains a legal firearm;
- prohibits public or private employers from terminating the employment of or otherwise discriminating against an employee, or expelling a customer or invitee, for exercising his or her constitutional right to keep and bear arms or for exercising the right of self defense;
- provides a condition to the prohibition;
- provides that such prohibitions apply to all public-sector employers;
- provides that, when subject to the prohibitions imposed by the Act, a public or private employer has no duty of care related to the actions prohibited thereunder;
- provides specified immunity from liability for public and private employers;
- provides nonapplicability of such immunity;
- provides for the award of reasonable personal costs and losses;
- provides for the award of court costs and attorney’s fees;
- provides exceptions to the prohibitions under the Act; and
- provides applicability.

Submitted as:
Florida
Chapter 2008-7

Comment:
Disposition: 17-30B-01

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2010B
(  ) Include in Volume
(  ) Defer consideration to next task force meeting
(  ) Reject
(  ) No action
Comments/Note to staff:

SSL Committee Meeting: 2010B
(  ) Include in Volume
(  ) Defer consideration
   (  ) next task force mtg.
   (  ) next SSL mtg.
   (  ) next SSL cycle
(  ) Reject
Comments/Note to staff:
This Act defines a homeless person and makes homeless people a protected class under state hate crime statutes.

Submitted as:
Model Legislation
Status: See Comment

Comment:

According to the National Law Center on Homelessness & Poverty (NLCHP) and National Coalition for the Homeless (NCH), only two states (California and Maine) have passed pieces of this proposed model legislation. No state has added homelessness to its hate crimes statute. Legislation is pending in Massachusetts.

contact:
Tulin Ozdeger, Civil Rights Attorney, NLCHP:
Ph: (202) 638-2535 x212;
Email: tozdeger@nlchp.org
or
Michael Stoops, Acting Executive Director, NCH,
Ph: (202) 462-4822 x19;
Email: mstoops@nationalhomeless.org

Disposition:
CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2010B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action
Comments/Note to staff:

SSL Committee Meeting: 2010B
( ) Include in Volume
( ) Defer consideration
   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject
Comments/Note to staff:
This Act declares that home invasion is the unauthorized entering of any inhabited
dwelling, or other structure belonging to another and used in whole or in part as a home or place
of abode by a person, where a person is present, with the intent to use force or violence upon the
person of another or to vandalize, deface, or damage the property of another.

The Act provides for a fine of not more than $5,000 or imprisonment at hard labor for not
less than five nor more than 25 years; at least five years of the sentence imposed shall be served
without benefit of parole, probation, or suspension of sentence. If at the time of the unauthorized
entering, there is present in the dwelling or structure any person who is under the age of 12 years,
is 65 years of age or older, or has a developmental disability, the offender shall be fined not more
than $10,000 and shall be imprisoned for not less than 10 nor more than 25 years; at least 10
years of the sentence imposed shall be served without benefit of parole, probation, or suspension
of sentence.

Submitted as:
Louisiana
HB 96 / Act 6 of the 2008 Regular Session

Comment:

Disposition:

CSG policy task force recommendations to The Committee on Suggested State Legislation:
2010B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action
Comments/Note to staff:

SSL Committee Meeting: 2010B
( ) Include in Volume
( ) Defer consideration
   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject
Comments/Note to staff:
This Act allows a person or prosecuting attorney to petition a superior court for a judicial determination of factual innocence if either of the following occurred as a result of the person’s personal identifying information being taken:

- the person’s name was used by another person who was arrested, cited or charged with a criminal offense; or
- the person’s name was entered in a judgment of guilt in a criminal case.

The Act stipulates that the petition for a judicial determination of factual innocence must be filed in the superior court in the county in which the arrest was made, the citation was issued, or the criminal charge was filed. It specifies that the petition must be served on the arresting or citing law enforcement agency if no charge was filed.

The Act specifies that the following must take place if a charge was filed:

- the petition must be served to the prosecuting agency and, if applicable, the defense attorney;
- the prosecuting agency must provide written notice of the following to all victims:
  - the date, time and location of the hearing for determining factual innocence, and
  - the victim’s right to be present and to be heard at the hearing.

The law stipulates that, if a charge was filed in a justice court or municipal court, then a Justice of the Peace or the presiding officer of the municipal court must transmit all papers, docket proceedings and orders entered into action to the clerk of the superior court in that county.

The bill allows the court to conduct a hearing to determine the person’s factual innocence. It prohibits the statute pertaining to factual innocence from delaying a proceeding or in any other manner affecting a criminal case.

The law requires the court to consider requests to expedite the judicial determination. It requires the court to issue a signed order finding the person factually innocent if the court finds by clear and convincing evidence that, as a result of the person’s personal identifying information being taken, the person’s name was either used by another person who was arrested, cited or charged with a criminal offense or entered in a judgment of guilt in a criminal case.

The Act requires the court to notify the following of the court’s determination, if applicable:

- the person;
- the prosecuting agency;
- the law enforcement agency; and
- the defense attorney.

The law requires the prosecuting agency, if the court enters a determination of factual innocence, to provide the victim with a copy of court order within 15 days of the order being entered.

The bill allows a person or party to the action to petition the superior court for a judicial determination of factual improper party status if the person’s name was entered on record in a civil action or judgment as a result of the person’s personal identifying information being taken. It stipulates that the petition for a judicial determination of factual improper party status must be filed in the superior court in the county in which the civil action was filed.

The Act requires the Justice of the Peace to transmit a copy of all docket entries, the record of the proceedings, a bill of costs and the original papers in the action to the clerk of the
superior court if the civil action was filed in a justice court. It requires the petitioner to serve the petition on all other parties.

The bill allows the court to conduct a hearing to determine the person’s factual improper party status. It requires the court to consider requests to expedite the judicial determination and requires the court to issue a signed order finding the person a factual improper party if the court finds by clear and convincing evidence that the person is not a proper party to the civil action or judgment. The law requires the court to notify the person and all parties of the court’s finding.

The Act specifies that proceedings to determine factual innocence or factual improper party status are in addition to other remedies available to identify theft victims. It prohibits a person or creditors from requiring identity theft victims to file petitions for judicial determinations of factual innocence or factual improper party status.

Submitted as:
Arizona
Chapter 237 of 2008

Comment:

Disposition: 17-30B-04

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2010B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action

Comments/Note to staff:

SSL Committee Meeting: 2010B
( ) Include in Volume
( ) Defer consideration
   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject

Comments/Note to staff:
This Act makes it a crime to use an electronic device to entice a child’s guardian to engage in unlawful sexual acts with the child and makes it a crime to travel within or to and from the state to engage in unlawful sexual acts with a child.

Submitted as:
Illinois
Public Act 095-0901

Comment:

Disposition:

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2010B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action
Comments/Note to staff:

SSL Committee Meeting: 2010B
( ) Include in Volume
( ) Defer consideration
    ( ) next task force mtg.
    ( ) next SSL mtg.
    ( ) next SSL cycle
( ) Reject
Comments/Note to staff:
This Act establishes a process to release inmates with certain medical conditions. The Act directs the state parole and probation commission to set reasonable conditions on medical release that will apply for any length of time determined by the commission through the date the inmate's sentence would have expired.

Inmates who are diagnosed as permanently and totally disabled, terminally ill, or geriatric or incapacitated to the extent they do not pose a public safety are eligible for medical release. Inmates convicted of certain felonies and registered sex offenders are not eligible for medical release.

The Act establishes the following conditions of medical release:

- care is to be consistent with the care specified in a medical care plan;
- the inmate must cooperate with and comply with the prescribed medical release plan and with reasonable requirements of medical providers to whom the released inmate is to be referred for continued treatment;
- the inmate must be subject to supervision by the division of community corrections and must permit officers from the division to visit the inmate at reasonable times at the inmate's home or elsewhere;
- the inmate must comply with any conditions of release set by the commission; and
- the state department of corrections must receive periodic assessments from the treating physician.

If the commission receives credible information that an inmate has failed to comply with any reasonable condition set for release, the inmate must be promptly ordered returned to the custody of the state department of corrections to await a revocation hearing. If the commission subsequently revokes an inmate's medical release for failure to comply, the inmate must resume serving the balance of the sentence with credit given only for the duration of the inmate's medical release served in compliance with the conditions.

If an inmate on medical release shows improvement and would no longer meet program eligibility requirements, the inmate can be returned to the department of corrections’ custody and will be given credit for the time on medical release.

Submitted as:
North Carolina
Session Law 2008-2

Comment:
Disposition: 17-30B-06

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2010B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action
Comments/Note to staff:

SSL Committee Meeting: 2010B
( ) Include in Volume
( ) Defer consideration
  ( ) next task force mtg.
  ( ) next SSL mtg.
  ( ) next SSL cycle
( ) Reject
Comments/Note to staff:
This Act attempts to balance the need for housing registered adult sex offenders with citizen concerns about housing such offenders in residential areas. The Act generally limits the number of registered sex offenders who can live together in residential housing at two. However, it grants exceptions to this rule and gives cities and counties the authority to exceed the limit if the cities and counties meet certain criteria when locating residential housing for registered sex offenders.

Submitted as:
Idaho
**HB 417**

Comment:

Disposition:

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2010B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action
Comments/Note to staff:

SSL Committee Meeting: 2010B
( ) Include in Volume
( ) Defer consideration
  ( ) next task force mtg.
  ( ) next SSL mtg.
  ( ) next SSL cycle
( ) Reject
Comments/Note to staff:
17-30B-08 Coercing or Attempting to Coerce a Woman to Obtain an Abortion

This Act makes it a crime to coerce or attempt to coerce a woman into obtaining an abortion. The Act defines coercion as:

- uses force or threats of force against the woman;
- commits, attempts to commit or conspires to commit physical harm to the woman;

or

- performs any other act which would not in itself materially benefit the actor but which is calculated to harm the pregnant woman materially with respect to her health, safety, business, calling, career, financial condition, reputation or personal relationships.

Submitted as:
Idaho
HB 654

Comment:

Disposition:

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2010B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action
Comments/Note to staff:

SSL Committee Meeting: 2010B
( ) Include in Volume
( ) Defer consideration
   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject
Comments/Note to staff:
This Act:

- appropriates $10.0 million to the state department of human services for disaster aid individual assistance grants;
- sets the maximum amount of grant to $2,500 per household and the eligibility criteria to 300.0% of the federal poverty level;
- permits residents in counties with presidential disaster declarations or governor state of disaster emergencies to be eligible for the grants;
- appropriates $22.0 million to the department of management for community disaster grants to cities and counties;
- specifies that the individual city and county awards are based upon the pro rata share of the total statewide damage between May 24, 2008, and August 14, 2008, as determined by the Federal Emergency Management Agency as of January 1, 2009;
- specifies the recipients and expenditures that are eligible for the funding;
- requires a report from grant recipients regarding the allocation and uses of funds by January 1, 2010;
- creates a Rebuild Iowa Office to coordinate efforts for natural disasters between May 24, 2008, and August 14, 2008.
- repeals the office on June 30, 2011;
- requires the state homeland security and emergency management division to provide administrative support to the office; and
- requires that the office be administered by an executive director appointed by the governor.

Submitted as:
Iowa
House File 64 (Enrolled version)

Status: Enacted into law in 2009.

Comment:
Disposition: 18-30B-01

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2010B
(  ) Include in Volume
(  ) Defer consideration to next task force meeting
(  ) Reject
(  ) No action
Comments/Note to staff:

SSL Committee Meeting: 2010B
(  ) Include in Volume
(  ) Defer consideration
   (  ) next task force mtg.
   (  ) next SSL mtg.
   (  ) next SSL cycle
(  ) Reject
Comments/Note to staff:
This Act directs the state housing and development authority to:

- determine the number of homeless people, including homeless children, in the state, and the number of homeless people in the state who are not residents of the state;
- oversee and encourage a regional homeless delivery system; and
- facilitate the dissemination of information to help people access local resources related to homelessness, housing, and community development.

The Act extends the authority's power to coordinate and establish linkages between governmental and social services programs to include people or families facing or experiencing homelessness.

The Act requires the state department of education to establish an office of coordinator for education of homeless children. Under the Act, each school corporation must appoint a liaison for homeless children and report to the department of education the contact information for the liaison. The department of education must train new liaisons. Each school corporation that has an Internet web site must publish on the web site the contact information for the liaison.

The Act requires certain school corporations to transport a student in foster care to and from the school in which the student was enrolled before receiving foster care. It requires, after June 30, 2009, each school corporation to provide tutoring for a child who is in foster care or who is homeless if the school corporation determines a child has a demonstrated need for tutoring.

The Act requires the department of child services (DCS) to promote sibling visitation for every child who receives foster care. It allows a sibling or certain other individuals to request sibling visitation if one of the siblings is receiving foster care. The Act requires DCS to allow sibling visitation if it is in the best interests of the child receiving foster care. It provides that if DCS denies a request for sibling visitation, a child's guardian ad litem or court appointed special advocate may petition a juvenile court for sibling visitation. The Act requires a court to grant sibling visitation if the court determines sibling visitation is in the best interests of the child who receives foster care. The Act permits a court to appoint a guardian ad litem or court appointed special advocate if a child requesting sibling visitation is receiving foster care.

The law provides that a child may receive shelter and services or items directly related to providing shelter for homeless or low income individuals without the approval of a parent, guardian, or custodian. It requires an emergency shelter or shelter care facility to notify DCS not later than 24 hours after a child enters the shelter or facility unless the child is an emancipated minor. The bill requires DCS to conduct an investigation concerning the child not later than 48 hours after DCS receives notification and notify the child's parent, guardian, or custodian not later than 72 hours after the child enters the shelter or facility. It prohibits DCS from notifying the child's parent, guardian, or custodian as to the specific shelter or facility the child has entered if DCS has reason to believe the child is a victim of child abuse or neglect.

The Act allows a student who has resided in a school corporation for at least two consecutive years immediately before moving to an adjacent school corporation to attend school in the former school corporation without transfer tuition being charged if the principal and superintendent in both school corporations agree. It prohibits a student to enroll primarily for athletic reasons in a school in a school corporation where the student does not have legal settlement.
Submitted as:
Indiana
*House Enrolled Act No. 1165*

Comment:

Disposition:

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2010B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action
Comments/Note to staff:

SSL Committee Meeting: 2010B
( ) Include in Volume
( ) Defer consideration
   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject
Comments/Note to staff:
This Act is based on The Uniform Law Commissioners’ (ULC) Uniform Parentage Act. According to a ULC summary:

“In 1973 the Uniform Law Commissioners promulgated the Uniform Parentage Act. In its time it led a revolution in the law of determination of parentage, paternity actions and child support. A child whose mother was not married was an illegitimate child under the common law. The father of an illegitimate child was burdened neither with rights nor obligations. He could be subject to an action for limited damages (the costs of delivering the baby for the most part) in an action that was quasi-criminal, not a civil action. The child had no right of support, but then the unmarried father also had no rights to custody.

The U.S. Supreme Court eliminated illegitimacy as a legal barrier in a number of cases in the 1960's and 70's. The old-fashioned paternity actions simply did not respond to these changes in fundamental law. The 1973 Uniform Parentage Act was law for a new generation. Section 2 of the Uniform Parentage Act confirmed and completed the revolution with very simple language: "The parent and child relationship extends equally to every child and every parent, regardless of the marital status of the parent."

The rest of the 1973 Uniform Parentage Act was devoted to a modern civil paternity action in which the sole issue was identifying the natural father of any child. Section 15 of the 1973 Uniform Parentage Act also authorized a support action within the paternity action.

In 1988, the Uniform Law Commissioners promulgated two other Acts that deal with issues of parentage. The Uniform Status of Children of Assisted Conception Act provided rules establishing legal parentage for children conceived other than by sexual intercourse and possibly carried by a woman other than the legal mother. It was a response to the technologies of assisted conception, like in vitro fertilization and artificial insemination. The second was the Uniform Putative and Unknown Fathers Act. It is a procedural Act that allows the identification of putative and unknown fathers and termination of their parental rights.

The new Uniform Parentage Act (revised in 2000 and amended in 2002) continues to serve the purposes of the 1973 Uniform Parentage Act, particularly the purpose of identifying fathers so that child support obligations may be ordered. The two 1988 Acts are, also, incorporated into it and lose their separate existence. There are technological changes that make it necessary to revise the 1973 Uniform Act. New technology in the form of the exact genetic identification was not available in 1973. A statute providing for paternity actions in 2002 must take this technology into account.

There are seven substantive articles: Article 2, Parent-Child Relationship; Article 3, Voluntary Acknowledgment of Paternity; Article 4, Registry of Paternity; Article 5, Genetic Testing; Article 6, Proceeding to Adjudicate Parentage; Article 7, Child of Assisted Conception; and, Article 8, Gestational Agreement. It is not possible in a short summary to cover every provision in the new Uniform Parentage Act. This summary provides some highlights of important provisions.

The original policy of the 1973 Uniform Act that provides a relationship between natural parents and their children notwithstanding the marriage of the parents continues. Legal parenthood, however, is more complicated than it was in 1973. In Article 2 of the new Uniform Act, a legal mother is one who carries a child to birth (rather than the one whose egg has been fertilized), but may also be one who is adjudicated as the legal mother, who adopts the child (thus
expressly recognizing adoption), or who is the legal mother under a gestational agreement. In the last three instances, the woman who carries the child to birth is not the legal mother.

In Article 2, the legal father may be one of the following: an unrebutted presumed father (usually a man married to the birth mother at conception or a man who has lived with a child for the first two years of the child's life and treated the child as his child), a man who has acknowledged paternity under Article 3, an adjudicated father as the result of a judgment in a paternity action, an adoptive father, a man who consents to an assisted reproduction under Article 7, or an adjudicated father in a proceeding confirming a gestational agreement under Article 8. The genetic father or the presumed genetic father is the legal father in the first three of these categories, but is not necessarily the legal father in the latter three categories.

The 1973 Uniform Act was simpler, identifying the birth mother and the natural (read genetic) father as the legal parents, except for the case of adoption. It did cut-off the legal fatherhood of the genetic sperm donor in an artificial insemination (the first kind of assisted conception), in favor of the consenting husband of the woman artificially inseminated. But the contrast between the 1973 Uniform Act and the 2000 Uniform Act couldn't be more definitive than just on this issue of legal parenthood. Technology has changed the combinations and permutations of the parent-child relationship, and the new Uniform Act simply reflects that fact.

Article 3 of the new Uniform Act provides a non-judicial, consent proceeding for acknowledgment of paternity. The 1973 Uniform Act permits a court to recommend settlement of a paternity action in a pre-trial proceeding (Section 13), upon acknowledgment of paternity and assumption of a child support obligation by the defendant in the action. An agreed settlement becomes a judgment of paternity. The non-judicial acknowledgment of paternity proceeding under Article 3 of the new Uniform Act allows a knowing and voluntary acknowledgment of paternity that is the equivalent of a judgment of paternity for enforcement purposes. An acknowledgment from another state is given the privilege of full faith and credit in a state adopting the new Uniform Act.

Such an acknowledgment is effective so long as there is not another presumed, acknowledged or adjudicated father. There are provisions for recission, if a proceeding is filed within two years of registration pursuant to Article 4. There is a counterpart denial of paternity by a presumed father that is, also, available and has the effect of a judgment of non-paternity, if another man acknowledged paternity or is adjudicated to be the natural father.

Article 4 provides a specific registry for putative and unknown fathers. The registry permits them to be notified if there is a proceeding for adoption or termination of parental rights. Before a child is one-year-old, there must be a certificate of search presented to the court hearing the adoption or termination of parental rights action. If the certificate shows that no putative or unknown father has registered within 30 days of the birth of the child, parental rights may be terminated without further notice. Once a child has reached the age of one year, however, the registry no longer has any effect. Actual notice is then required before any termination of parental rights may occur.

There are important exclusions from the effect of the registry. No rights of a father who has established a parent-child relationship may be terminated because there was no registration. Therefore, no presumed father, adjudicated father or father by acknowledgment may have his parental rights terminated under Article 4.

Article 5 establishes a separate procedure for genetic testing, so that a court may order testing without a full-blown paternity action. A reasonable probability of sexual contact between the putative father and the mother is enough to initiate the proceeding. A putative father may also
initiate the proceeding to obtain the tests to prove that he is not the genetic father. Standards for genetic testing are part of Article 5. The standard for a presumption of paternity as a result of testing is also established by statute. The measure is 99% probability of paternity based on appropriate calculations of "the combined paternity index." The presumption is rebuttable by further genetic evidence that excludes the putative father or that identifies another man as the genetic father. The standards for admissibility in a paternity proceeding are not contained in Article 5, but are provided in Article 6.

A court may compel genetic testing of a man's blood relatives if he is not available for testing. A child support agency may petition for genetic testing, but only if there is no presumed, acknowledged or adjudicated father. Article 5 also deals with allocation of costs for genetic testing and for confidentiality of results.

The 1973 Uniform Act provided for blood testing in a paternity action. The results were evidence in that action. The "blood" testing of the time could help identify a natural father, but was nowhere as certain and determinative as genetic testing subject to rigorous standards as the new Uniform Act contemplates. Precise genetic testing has changed determination of parentage dramatically.

Article 6 governs the basic proceeding to determine parentage. This was primarily a paternity action under the 1973 Uniform Act, but the new Uniform Act must take into account the need to adjudicate the legal parentage of a woman, also. Who may bring an action is expanded from the 1973 Uniform Act, which favored the mother and the child, but did not generally allow putative fathers to bring actions if a presumed father already existed. Under the new Uniform Act the child, the mother of the child, a man whose paternity is to be adjudicated, a support-enforcement agency, an authorized adoption agency or licensed child-placing agency, a representative of a deceased, incapacitated or minor person, or an intended parent under a gestational contract have standing.

The objective of this proceeding is to adjudicate parenthood for the alleged father or mother. In a paternity proceeding, rebuttal of a presumption of fatherhood, acknowledged fatherhood or prior adjudicated fatherhood requires genetic information that, within the accepted probabilities, excludes the presumed father from paternity or establishes another man as the father of the child. An unrebutted presumption will ripen into an adjudication of fatherhood in the proceeding.

Jurisdiction to bring an action, generally, is governed by Section 201 of the Uniform Interstate Family Support Act. If there is no presumed, acknowledged or adjudicated father, an action to determine parentage may be brought at any time - no limitation. If there is a presumed father, the statute of limitations for an action is two years from the birth of the child. However, an action to disprove the presumed father's paternity may be brought at any time if the presumed father and mother did not cohabit or have sexual intercourse during the time of conception and the presumed father did not treat the child as his own.

Admission of the results of genetic testing are very important in Article 6. A refusal to submit to genetic testing may, in fact, ripen into an adjudication of paternity for the putative father who refuses. Only genetic evidence overcomes a presumption of fatherhood, as noted above. No child (as a party) is bound by an adjudication of fatherhood unless the "adjudication of parentage was based on a finding consistent with the results of genetic testing and the consistency is declared in the determination or is otherwise shown..." The 1973 Uniform Act did not and could not rely upon genetic information in the way the new Uniform Act does.
The section providing for a support action in the 1973 Act is no longer in the new Uniform Parentage Act. Child support actions are covered in other statutes in every state as they were not in 1973.

Article 7 deals with parentage when there is assisted conception and incorporates the earlier Uniform Status of Children of Assisted Conception Act into the 2000 Uniform Parentage Act almost without change. If a couple consents to any sort of assisted conception, and the woman gives birth to the resultant child, they are the legal parents. A donor of either sperm or eggs used in an assisted conception may not be a legal parent under any circumstances.

Article 8 deals with gestational agreements, incorporating parts of the Uniform Status of Children of Assisted Conception Act on this issue. This article is optional to enacting states. Gestational agreements are valid in some states and not in others. They are made an optional part of the new Uniform Act for that reason. Having such provisions available to the states even in optional form is important simply because gestational agreements are being used all the time, and the legal parenthood of children should not be in doubt because such agreements are used.

A gestational agreement occurs between a woman and a couple obligating that woman to carry a child for the intended parents. The conception must be an assisted conception. The woman who carries the child to birth pursuant to a gestational agreement is not the legal mother of that child, an exception to the general rule. If she is a married woman, her husband must consent to the agreement. He then has no parental rights or obligations with respect to the child. The intended parents become the legal parents of the child.

Gestational agreements are carefully controlled under the new Uniform Act. A court must validate such agreements before they are enforceable. The hearing that the court conducts to validate a gestational agreement is analogous to a proceeding for an adoption of a child. The court verifies the birth mother’s qualifications to carry the child and the intended parents’ qualifications to be parents. The birth mother may be compensated, and has the power to terminate the agreement.

The new Uniform Parentage Act is important to parents and children. We must recognize the obligations of parents in any possible combination and permutation of marriage of the parents, method for conception of the child, and arrangements that intended parents make to have children. Otherwise we have children for whom nobody has responsibility. The new Uniform Parentage Act confronts the complicated issue of establishing legal parentage against the complications that technology provides. It brings genetic testing into modern parentage actions in a manner that is efficient, but that preserves due process rights for all concerned. It is necessary law for the new century.”

The ULC reports eight states have adopted the Act as of February 2009: Alabama, Delaware, North Dakota, Oklahoma, Texas, Utah, Washington and Wyoming.

Submitted as:
Alabama
HB 39 (Enrolled version)

Comment:
Disposition: 19-30B-01

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2010B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action
Comments/Note to staff:

SSL Committee Meeting: 2010B
( ) Include in Volume
( ) Defer consideration
  ( ) next task force mtg.
  ( ) next SSL mtg.
  ( ) next SSL cycle
( ) Reject
Comments/Note to staff:
This Act:

- provides that on the request of the mother the product of a fetal death is to be interred in a family member's grave or in another location of a public burial ground or cemetery, including a separate burial ground for infants, on a temporary or permanent basis;
- provides procedures for disinterment or re-interment when one or both parents consent to disinterment or re-interment of the product of a fetal death;
- provides that, with certain documentation, either parent may be granted a fetal death certificate and burial permit for the product of human conception that suffers a fetal death prior to 20 weeks of gestation;
- requires a hospital or physician to notify a woman of the right to a fetal death certificate and the hospital or physician's procedures for disposing of the product of a fetal death and provide the woman with a written statement confirming that she miscarried;
- requires emergency medical service personnel to dispose of the product of a fetal death in the manner set forth in a national standard curriculum; and
- authorizes the state medical board to inspect dangerous drug records for the purpose of enforcing the physician assistant law.

Submitted as:
Ohio
Ohio Substitute Senate Bill Number 175

Comment:
Final Analysis (Abstracted by CSG staff)
Ohio Legislative Services Commission
Fetal death certificates and burial permits

The Revised Code establishes requirements for death certificates and burial permits for fetal deaths. Prior law defined "fetal death" as a "death prior to the complete expulsion or extraction from its mother of a product of human conception of at least twenty weeks of gestation, which after such expulsion or extraction does not breathe or show any other evidence of life such as beating of the heart, pulsation of the umbilical cord, or definite movement of voluntary muscles." A fetal death certificate must be issued by the local registrar of vital statistics prior to a burial permit being issued. Prior law did not authorize death certificates and burial permits for fetal deaths occurring prior to the twentieth week of gestation.

The Act generally permits a death certificate and burial permit to be issued for the product of human conception, irrespective of the duration of pregnancy. Under the Act, "fetal death" is re-defined as "death prior to the complete expulsion or extraction from its mother of a product of human conception, irrespective of the duration of pregnancy, which after such expulsion or extraction does not breathe or show any other evidence of life such as beating of the heart, pulsation of the umbilical cord, or definite movement of voluntary muscles."

Rules of the Department of Health permit a "stillbirth certificate" that recognizes fetal death at any length of gestation to be issued by the Director of Health or state registrar.
The Act requires that a fetal death certificate be issued for the product of human conception that suffers a fetal death prior to 20 weeks of gestation, on application by either parent. The Act does not specify where or how the parent is to file an application for the fetal death certificate. The parent must include with the application a copy of a statement from the hospital or physician that confirms that the woman suffered a miscarriage that resulted in a fetal death (see "Notice requirements" below). If the father submits the application, he must include a signed and notarized document from the mother attesting that she voluntarily provided the father with a copy of the statement. The Act provides that a fetal death certificate for the product of human conception prior to 20 weeks of gestation is not to list the cause of death and is not proof of a live birth for tax purposes.

The Act provides that a burial permit for the product of human conception that suffers a fetal death prior to 20 weeks of gestation is to be issued by the local registrar of vital statistics of the registration district in which the fetal death occurs if a parent files a fetal death certificate with the registrar.

Burial requirements

The Act provides that the product of a fetal death for which a burial permit has been issued is to be interred, on the request of the mother, in a township cemetery, municipal cemetery, or cemetery of a cemetery company or association by one of the following:

1. In a single grave within the cemetery that contains, or will contain, the remains of a parent, sibling, or grandparent;
2. In another location of the cemetery, including a separate burial ground for infants, on a temporary or permanent basis.

Continuing law establishes a procedure for approval of disinterment of burial remains. The Act provides that, if one or both surviving parents gives written consent, the disinterment or re-interment of the product of a fetal death is not subject to these procedures for disinterment and requires the cemetery to reinter or disinter the remains. If two surviving parents are listed on the burial documents and only one parent has consented to the re-interment or disinterment, permit disinterment on application of the surviving spouse or order of a probate court; however, if the decedent perished by means of a contagious or infectious disease, the board of health of the general health district or city health district must approve of the disinterment. The Act requires the cemetery must promptly notify the parent who did not consent by registered mail to the parent's last known address. The notice must contain a statement that the re-interment or disinterment will occur if the cemetery does not receive written objection within 30 days from the date the notice is sent. The parent may object to the re-interment or disinterment by giving notice by registered mail not later than 30 days after the cemetery's notice is sent. If the cemetery receives a timely objection, the re-interment or disinterment is subject to probate court action under current law.

The Act further provides that a board of township trustees, in the case of a township cemetery, a legislative authority of a municipal corporation, in the case of a public burial ground or cemetery, or a cemetery company or association may adopt or prescribe rules, or pass and provide for the enforcement of ordinances, for the burial, re-interment, or disinterment of the product of a fetal death in the cemetery or public burial ground under control of that authority.
Notice requirements

The Act provides that if a woman presents herself at a hospital or to a physician as a result of a fetal death prior to 20 weeks of gestation that is not the purposeful termination of her pregnancy (abortion), the hospital or physician is to provide the woman with the following information:

1. A written statement, not longer than one page, that confirms that the woman was pregnant and suffered a miscarriage that resulted in a fetal death;
2. Notice of the right of the woman to apply for a fetal death certificate;
3. A short, general description of the hospital or physician's procedure for disposing of the remains of the product of a fetal death.

A hospital or hospital employee or a physician may present the information listed in (2) and (3) above through oral or written means.

The Act applies the provisions on burial, re-interment, and disinterment on the remains of any fetal death, not just those less than 20 weeks of gestation. Therefore, under the Act, all fetal deaths may be exempt from statutory re-interment and disinterment provisions if a mother provides written consent.

“Physician" means an individual holding a certificate to practice medicine and surgery or osteopathic medicine and surgery pursuant to the law governing the State Medical Board.

The Act provides that a hospital or hospital employee or physician is immune from civil or criminal liability or professional disciplinary action with regard to any action taken in good faith compliance with the notice requirement.

Emergency medical personnel requirement

The Act requires that emergency medical service personnel dispose of the product of a fetal death in the manner set forth for the disposal of fetal remains in the "Emergency Medical Technician-Basic: National Standard Curriculum."

Issues in Focus District Office Support Coughlin For Ohio About Kevin Multimedia News Press Release Index

Multimedia Room
Contact
The Newsroom
FOR IMMEDIATE RELEASE
5/28/2008
Erica Pitchford (614) 466-4823
Kevin's Grieving Parents Act Passed

COLUMBUS—The Ohio General Assembly today offered strong support for Senate Bill 175, legislation sponsored by State Senator Kevin Coughlin (R-Cuyahoga Falls) designed to provide much-needed support and compassion in Ohio law for the tens of thousands of Ohio families who, each year, suffer the devastating loss of a child due to a miscarriage.
SB 175, also known as the Grieving Parents Act, would make changes to state law concerning the disposition of fetal remains, including requiring better information sharing between

“The unexpected loss of a pregnancy can be a very difficult, highly-emotional time for expectant parents,” said Coughlin. “SB 175 works to provide a support system for parents so they can begin the healing process, while giving them the information and tools they need to be able to make informed decisions about what to do with the fetal remains.”

Sen. Coughlin noted that according to the American College of Obstetricians and Gynecologists, miscarriage is the most common type of pregnancy loss. In fact, studies reveal that anywhere from 10-25 percent of all clinically recognized pregnancies will end in miscarriage.

While current Ohio law allows for the burial or cremation of the remains of a fetus that has reached at least 20 weeks of gestation (classified as a stillbirth), there is no such guarantee for women who miscarry prior to 20 weeks (classified as a loss of pregnancy). Also, while hospitals and other health care facilities typically dispose of the fetal remains according to their own policy, there are no standards in Ohio that regulate how or even if a family is informed about the fetal disposition procedures in the hospital or clinic in which they are receiving care.

SB 175 works to remedy this unfortunate disparity by allowing parents, upon request, to seek a death certificate for a miscarried fetus, which would permit them to take possession of the remains and would give them the opportunity to do so before the remains are disposed of according to hospital policy. It would also create uniform standards by which health care providers would be required to inform parents about their right to seek a death certificate, as well as the disposal procedures of each hospital or clinic.

“While many would like to make this a debate between Pro-Life or Pro-Choice, the reality is that this issue is neither,” explained Coughlin. “SB 175 is simply Pro-Parent.”

Five other states, including Colorado, Florida, Illinois, Massachusetts and Missouri have already passed similar legislation, and the issue is being considered in at least five others.

After passing the House of Representatives this afternoon with an 88–6 vote, S.B. 175 received concurrence in the Senate and will now head to Governor Strickland’s desk for a signature.

“In passing this legislation,” Coughlin said, “the Ohio General Assembly is becoming the hand on the shoulder of grieving parents all across the state.”

Paid for by Coughlin For Ohio, Robert J. Kollar, Treasurer.
2324 Iota Avenue, Cuyahoga Falls, Ohio 44223
Copyright © 2008 Coughlin For Ohio. All rights reserved.
Disposition: 19-30B-02

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2010B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action
Comments/Note to staff:

SSL Committee Meeting: 2010B
( ) Include in Volume
( ) Defer consideration
   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject
Comments/Note to staff:
This Act gives veterans’ organizations the right to receive the cremains of a veteran which have not been claimed by a relative or friend of the deceased within six months after cremation upon certification, to the state commissioner of health and senior services’ that a diligent effort has been made to identify, locate and notify a relative or friend of the deceased within that six month period. The Act also specifies that the veterans organizations receiving the cremains must be a 501(c)(3) or 501(c)(19) tax-exempt veterans organizations or federally chartered Veterans Service Organizations. Funeral homes, mortuaries, funeral directors and the veterans organizations and federally chartered Veterans Service Organization, will have immunity from liability for disposal of cremains pursuant to the bill’s provisions, unless damages were the result of gross negligence or willful misconduct.

Submitted as:
New Jersey
P.L. 2009, Chapter 14
Status: Enacted into law in 2009.

Comment:

Disposition:

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2010B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action
Comments/Note to staff:

SSL Committee Meeting: 2010B
( ) Include in Volume
( ) Defer consideration
   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject
Comments/Note to staff:
This Act gives biological parents the option to consent to the receipt, by the child to be adopted, of identifying information of the biological parents. The bill provides that if such consent is made, it shall be revocable by either of the biological parents. The Act directs that a copy of such statement, together with the name, birth date and date of adoption of the child to be adopted, shall be forwarded to the state adoption information registry for inclusion in the records maintained by such registry.

Submitted as:
New York
Chapter 435 of 2008

Comment:

Disposition:

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2010B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action
Comments/Note to staff:

SSL Committee Meeting: 2010B
( ) Include in Volume
( ) Defer consideration
   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject
Comments/Note to staff:
This bill directs the state board of education, in consultation with the commissioner of safety, to survey all states and compile information on legislative and administrative approaches to improving school safety and parental involvement in public schools. The bill directs the state board of education to compile a report evaluating legislative and administrative options based on successes in other states, estimate the costs of implementing such options, make recommendations about such options, and deliver the report to the chairs of the state education committees in both chambers of the state legislature.

Submitted as:
Tennessee
HB 0688 (As introduced)
Status:
Assigned to s/c K-12 of ED 03/03/2009
P2C, ref. to Education 02/18/2009
Intro., P1C. 02/12/2009
Filed for intro. 02/10/2009

Comment:

Disposition:

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2010B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action
Comments/Note to staff:

SSL Committee Meeting: 2010B
( ) Include in Volume
( ) Defer consideration
    ( ) next task force mtg.
    ( ) next SSL mtg.
    ( ) next SSL cycle
( ) Reject
Comments/Note to staff:
This Act creates a pilot program to restructure the teacher professional pay system. It enables participating public school districts to base teacher pay on several criteria that will be part of a Rewarding Excellence in Achievement Plan. These include years of experience and degree levels, teacher evaluations and student performance in the teacher's class or in the teacher's school, and other criteria.

Submitted as:
Arkansas
Act 1029 of 2007
Status: Enacted into law in 2007.

Comment:

NGA
Front and Center
10/17/2007
Arkansas State Board Approves Performance Pay

Contact: Bridget Curran
Education Division
By: Zach Blattner

The Arkansas Board of Education has approved two plans—one backed with state funds and the other with district money—to offer successful teachers additional pay. The Rewarding Excellence in Achievement Program (REAP) was advocated by Governor Mike Beebe and allocates state funds to reward teachers who have demonstrated success in the classroom. The Arkansas Alternative Pay Program is funded through individual districts and, along with teachers, makes additional money available to support-service employees as well.

In REAP, teacher pay increases are based on a combination of student achievement gains on state-mandated tests along with objective evaluations of a teacher’s knowledge and skills. In order to ensure fairness, the evaluations will be conducted by a principal and a trained peer group of teachers. To participate in REAP—which will be fully implemented by July of 2009—schools and districts must apply by March 3, 2008, and the state will announce the 12 selected districts in late April. The state will seek to include districts from different regions and of varying size. Poverty levels will also be a factor.

The Arkansas Alternative Pay Program requires participating districts to design the specific plan but all proposed plans must:

- Include measurable indicators of student success;
- Provide a clear system of payment that is not arbitrary;
- Show that the plan is part of a larger set of reforms in the school; and
- Demonstrate that the plan is aligned to a school’s state-mandated comprehensive improvement plan.
Furthermore, a proposed plan must explicitly state the percentage of pay that can be based on student test scores, and no more than 50 percent of a teacher’s award may be based on such student test gains. Alternative pay will be equal to at least 10 percent of the overall teacher’s salary.

Both of the performance plans must be developed by a local committee comprised of mostly teachers elected by their peers. Additionally, seventy percent of teachers must show an initial interest in the plan to proceed; however, in REAP, teachers can agree to use a different percentage if they choose to as a group. Fifty-one percent of affected employees must ultimately approve the Arkansas Alternative Pay Program while REAP requires that 50 percent or more must choose to participate in order to gain approval from the state board of education.

Related Links:

Arkansas Act 1029
Senate Bill 54
Related Front and Center: South Dakota Governor’s Teacher Pay Plan Moves Ahead

Please note that this printable version may not contain the full text of any PDF files or other attachments.

Printed from the NGA web site.

Comment:

Disposition: 20-30B-02

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2010B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action
Comments/Note to staff:

SSL Committee Meeting: 2010B
( ) Include in Volume
( ) Defer consideration
   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject
Comments/Note to staff:
This Act creates a School Leadership Academy Program within the state department of education to provide comprehensive leadership and professional training to qualified people for leadership positions in public schools.

The Act creates a school leadership academy board ("board") within the department. It establishes duties of the board. The bill requires the board to report annually to the state commissioner of education and the education committees of the house of representatives and the senate.

The Act requires the board to adopt policies and procedures for the purposes of the program and to submit the policies and procedures to the state board of education ("state board") for approval. It requires the state board to review the policies and procedures and either approve or recommend changes to the policies and procedures. The Act requires the board to immediately incorporate any changes to the policies and procedures that are recommended by the state board. It requires the board to set forth curricular components for the program. The board must advise the state board concerning the promulgation of rules establishing standards and criteria for the approval of proposed induction programs for initial principal licensees and for the review of approved induction programs for initial principal licensees. The Act sets a review and repeal date of July 1, 2017, for the board.

The Act requires that the department receive at least $50,000 in gifts, grants, or donations prior to implementing the program. It authorizes the program as a permissible recipient of funding from the state education fund.

This Act establishes a Principal Academy within the Program For Professional And Leadership Training of Principals and Potential Principals. It specifies minimum curricula that shall be included in the training provided by the principal academy. It requires the department, in selecting participants for the Principal Academy, to use criteria adopted by the board. The bill requires the state board to consult with the board concerning the promulgation of rules establishing standards and criteria for the approval of proposed induction programs for initial principal licensees and for the review of approved induction programs for initial principal licensees.

Submitted as:
Colorado
HB08-1386 (Enrolled version)

Comment:
Disposition: 20-30B-03

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2010B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action
Comments/Note to staff:

SSL Committee Meeting: 2010B
( ) Include in Volume
( ) Defer consideration
   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject
Comments/Note to staff:
Colorado HB1335 of 2008 replaces existing programs which authorize the provision of capital construction assistance to school districts and charter schools with a new financial assistance program.

Specifically, this Act:

- creates a public school Capital Construction Assistance Fund (Assistance Fund), and, for any fiscal year commencing on or after July 1, 2008;
- requires the following moneys to be credited to the Assistance Fund:
  - the greater of 35% of the gross amount of income received during the fiscal year from income, mineral royalties, and interest derived from state public school lands (public school lands income) or an amount of such income equal to the total amount of lease payments to be made by the state under the terms of lease-purchase agreements entered into under the Act less the total amount of matching moneys paid to the state for use in making such lease payments in accordance with the Act (matching moneys);
  - all net proceeds from the sale of certificates of participation payable to the state under the terms of such lease-purchase agreements;
  - all matching moneys; and
  - lottery proceeds that would otherwise be transferred to the General Fund pursuant to the state constitution;
- requires an emergency reserve of at least one million dollars to be maintained within the Assistance Fund during each fiscal year commencing on or after July 1, 2008, and allows the public school capital construction assistance board (board), subject to the approval of the state board of education (state board), to expend money from the reserve only to address a public school facility emergency;
- requires all interest and income earned on the deposit and investment of moneys in the Assistance Fund to be credited to the assistance fund;
- creates the state division of public school capital construction assistance (division) as a type 2 agency within the department of education. States that the function of the division is to provide professional and technical support to the board so that financial assistance can be provided for public schools in an equitable, efficient, and effective manner, and specifies the powers and duties of the division;
- creates the board as a type 1 agency within the department of education.
- specifies the means of appointment, terms, and required qualifications of the members of the board, and states that the function of the board is to protect the health and safety of students, teachers, and other persons using public school facilities and maximize student achievement by ensuring that the condition and capacity of public school facilities are sufficient to provide a safe and uncluttered environment that is conducive to students' learning;
- specifies the following duties:
  - requires the board to perform its function by ensuring the most equitable, efficient, and effective use of the state revenues dedicated to provide financial assistance for capital construction projects by assessing public school capital construction needs throughout the state and providing expert recommendations to the state board regarding the appropriate prioritization and allocation of such financial assistance, and specifies the powers and duties of the board;
requires the board to establish public school facility construction guidelines (guidelines) for use by the board in assessing and prioritizing public school capital construction needs, reviewing applications for financial assistance, and making recommendations to the state board regarding appropriate allocation of financial assistance from the assistance fund only;

requires the guidelines to identify and describe the capital construction, renovation, and equipment needs in public school facilities and means of addressing those needs that will provide educational and safety benefits at a reasonable cost and to address considerations relating to health and safety issues, technology, building site requirements, building performance standards and guidelines, the functionality of existing and planned public school facilities for core educational programs, the capacity of existing and planned public school facilities, public school facility accessibility, and the historic significance of existing public school facilities and the potential to meet current programming needs by rehabilitating such facilities;

requires the board to conduct with the assistance of the division, or contract for, a financial assistance priority assessment (assessment) of public school facilities throughout the state, and requires the guidelines to be applied in conducting the assessment. Requires the assessment of each public school facility capital construction project to be based on the condition of the facility, air and water quality in the facility, facility space requirements, the ability to accommodate educational technology, facility site requirements, and facility demographics, and requires the assessment to include five-year projections regarding these criteria;

requires the board, or the division upon the board's request, to establish a database to store the data collected through the assessment and to make the data collected available to the public in an easily accessible form that complies with any federal or state laws or regulations concerning privacy;

with respect to financial assistance, requires the board to establish an annual application timeline and specifies application requirements, evaluation criteria, and matching moneys requirements, as well as factors to be considered in determining the amount of required applicant matching moneys or the waiver of matching moneys requirements, but also allows the state board to establish or cause to be established interim financial assistance application deadlines and applications for the 2008-09 fiscal year only and to designate department personnel to preliminarily review financial assistance applications until the board and the director of the division have been appointed;

specifies that applications for financial assistance shall be in a form prescribed by the board, and establishes items to be included in the application;

requires the board, taking into consideration the assessment, to prioritize financial assistance applications for eligible public school facility capital construction projects based on the following criteria, in descending order of importance:

- projects that address safety hazards or health concerns, including security concerns;
- projects that will relieve overcrowding;
- projects that are designed to incorporate technology into the educational environment; and
- all other projects;

requires the board to annually submit a prioritized list of projects recommended for financial assistance to the state board, and requires the state board to approve, disapprove, or modify financial assistance awards;
• specifies that, subject to state board authorization, the board may provide financial assistance to applicants as matching grants or by instructing the state treasurer to enter into lease-purchase agreements on behalf of the state to finance public school facility capital construction;
• allows applicants to apply for financial assistance, but requires a charter school to notify its chartering authority (authorizer) in advance that it intends to apply for financial assistance and to forward its application for financial assistance to the authorizer, which must then forward the application to the board together with a letter indicating the authorizer's position regarding the application;
• specifies procedures by which an award of financial assistance may be made to address an unanticipated public school facility emergency that makes all or a significant portion of a public school facility unusable for educational purposes or threatens the health or safety of persons using the facility;
• limits the total amount of annual lease payments payable by the state in any fiscal year, and requires payments above lower specified limits to be made only from applicant matching moneys;
• specifies additional procedural and legal requirements relating to lease-purchase agreements, including, but not limited to, requirements that the board enter into a sublease-purchase agreement on behalf of the state for any public school facility financed by a lease-purchase agreement with the applicant that will use the facility and that the state treasurer approve any such sublease-purchase agreement;
• requires legal ownership of any public school facility financed by a lease-purchase agreement to be transferred from the state to the applicant upon the fulfillment of both the state's obligations under the lease-purchase agreement and the applicant's obligations under the sublease-purchase agreement;
• requires continued payment of specified capital construction assistance awarded to school districts or charter schools prior to the end of the 2007-08 fiscal year;
• specifies that the board and division exercise their powers and duties subject to open meeting and records laws; and
• specifies program reporting and auditing requirements.

Submitted as:
Colorado
HB 08-1335 (Enrolled version)

Comment:
Disposition: 20-30B-04

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2010B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action
Comments/Note to staff:

SSL Committee Meeting: 2010B
( ) Include in Volume
( ) Defer consideration
( ) next task force mtg.
( ) next SSL mtg.
( ) next SSL cycle
( ) Reject
Comments/Note to staff:
This Act:
- provides that a local school system may enter into a contract with the state board of education for increased flexibility;
- provides for a local school system to remain under current requirements;
- provides for public input;
- provides for strategic plans;
- provides for submission of a proposed contract;
- provides for contract requirements;
- provides for accountability, flexibility, and consequences components of the contract;
- provides for loss of governance consequences;
- provides for duties of the office of student achievement;
- provides for implementation;
- provides for other funding options;
- provides for exceptions for charter systems;
- provide for rules, regulations, and guidelines;
- changes certain provisions relating to appointment of local school superintendents;
and
- changes certain provisions relating to waivers to improve student performance.

Submitted as:
Georgia  
House Bill 1209 (As Passed House and Senate)  
Disposition: 20-30B-05

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2010B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action
Comments/Note to staff:

SSL Committee Meeting: 2010B
( ) Include in Volume
( ) Defer consideration
   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject
Comments/Note to staff:
This Act requires the state department of education and local boards of education to develop policies and procedures to include students with disabilities in mainstream school physical education and athletic programs. The Act directs the state board of education to adopt a model policy to help local boards implement the Act; provide technical assistance to local boards to help implement the Act, and requires the state board to monitor local boards’ compliance.

Submitted as:
Maryland
Chapter 465 of 2008
Comment:

Women’s Sports Foundation
Victory! Maryland Blazes the Trail for Students with Disabilities

Setting a standard for the rest of the country, Maryland has broken down barriers for students with disabilities, giving every child the chance to get active and enjoy sports.

By Terri Lakowski

On Monday, April 7, the Maryland General Assembly passed the Fitness and Athletics Equity for Students with Disabilities Act, a landmark piece of legislation regarding the inclusion of individuals with disabilities in physical education and athletic programs. This legislation represents the culmination of a strategic public policy initiative of the Women’s Sports Foundation, which began more than two years ago when the Foundation received a phone call that forever changed the course of history for students with disabilities.

Lauren Young, Legal Director for the Maryland Disability Law Center, and Deborah McFadden, mother of Tatyana McFadden, a Paralympics medal winner and world record holder, contacted the Foundation’s Advocacy Department for advice concerning their lawsuit against Atholton High School. Tatyana wanted to compete on the same track, at the same time, with her teammates at Atholton High School in Howard County. Instead of allowing her to be part of a team, she was forced to participate alone on the track in a segregated manner because of her disability.

Seems like deja vu. Just 35 years ago, prior to the passage of Title IX, schools were engaging in the same discriminatory treatment towards all female athletes—slamming the doors of opportunity in young girls’ faces for no other reason than because they were female. Now, history was repeating itself; the doors of opportunity were being slammed shut in the face of a young female athlete, but for a different reason—because she has a disability.

Recognizing this parallel, the Foundation worked with the Maryland Disability Law Center and other experts to devise strategies that ultimately forced the courts to grant an injunction allowing Tatyana to compete on the track at the same time with her colleagues. However, at the state championships, after a race in which Tatyana ran alongside her teammates, the state officials accused Tatyana of “pacing” her teammate, which caused the actual winner of the race, Alison Smith, to be disqualified. The resulting disqualification caused Atholton to lose the state championship.
It was at this moment that the Foundation recognized the need for comprehensive change. Tatyana’s case did not represent one isolated incident of discrimination, but was part of a culture of exclusion and discrimination against individuals with disabilities within school systems.

This culture explains the following facts:

- Individuals with disabilities are almost three times as likely to be sedentary as individuals without disabilities;
- Neither the National Federation of State High School Associations nor the NCAA officially sanctions any intercollegiate or interscholastic program, event, or competition for individuals with disabilities;
- Drawing on its vast experience and expertise with Title IX and gender equity, the Foundation identified the key barrier to the inclusion of students with disabilities in physical education and athletic programs—the absence of clear policy guidelines or legislation.

Unlike Title IX, which has clear and specific regulations and policy guidelines detailing schools’ obligations to provide equitable athletic opportunities and resources to female athletes, specific regulations or guidelines detailing schools’ obligations to provide equitable athletic opportunities and resources to athletes with disabilities do not exist under the Rehabilitation Act (Rehab Act) or the Americans with Disabilities Act (ADA). While both statutes clearly prohibit discrimination on the basis of disability, without specific guidelines detailing what specific actions schools must take to ensure athletic and physical activity equity for individuals with disabilities, discrimination and exclusion continues.

To solve this problem, the Foundation embarked on an initiative to develop and implement legislation to prevent situations like Tatyana’s from occurring.

The Foundation chose Maryland as the first test state for the new legislation, given the public awareness of discrimination against students with disabilities Tatyana’s case created. Under the leadership of the Foundation and the Maryland Disability Law Center, the Fitness and Athletics Equity for Students with Disabilities Act successfully passed the Maryland General Assembly on April 7.

This Act is a landmark piece of legislation that, for the first time, specifies the actions school systems must take to include students with disabilities in physical education and athletic programs. The bill requires that schools ensure that students with disabilities have equal opportunities to participate in physical education and athletic programs, develop policies and procedures to promote and protect the inclusion of students with disabilities, and provide annual reporting to the Maryland State Department of Education detailing their compliance with these requirements.

However, while we have won an important match in Maryland, the set is not yet complete. The lack of opportunities for students with disabilities in school physical activity programs is not isolated to Maryland. To fully eradicate this issue and ensure that individuals with disabilities see the same growth in participation as female athletes did under Title IX, the Foundation will continue working diligently to ensure that other states and the federal government follow Maryland’s lead and adopt the Fitness and Athletics Equity for Students with Disabilities Act.

You can help! To support efforts in other states the Foundation is collecting stories from individuals with disabilities regarding their experiences in school physical activity programs. Tell us your story!
Disposition: 20-30B-06

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2010B
(  ) Include in Volume
(  ) Defer consideration to next task force meeting
(  ) Reject
(  ) No action
Comments/Note to staff:

SSL Committee Meeting: 2010B
(  ) Include in Volume
(  ) Defer consideration
   (  ) next task force mtg.
   (  ) next SSL mtg.
   (  ) next SSL cycle
(  ) Reject
Comments/Note to staff:
This bill permits the governing body of an eligible entity (a city, township, county, school district, or intermediate school district in an area where the percentage of families with children living at or below the Federal poverty rate is higher than the State average), after a public hearing, to establish a “Promise Zone” and provide a promise of financial assistance for postsecondary education to students who graduated from a public or nonpublic high school within that zone. The bill also:

- requires the governing body to apply to state department of treasury for approval to establish a Promise Zone.
- requires the governing body to develop a Promise Zone development plan that included a description of the proposed promise of financial assistance, any eligibility restrictions, an actuarial model of the cost of the plan, and how the necessary funds would be raised.
- requires the proposed promise to provide, at a minimum, funding sufficient to provide an eligible student with tuition necessary to obtain a bachelor's degree or its equivalent at an in-state postsecondary institution, subject to limitations authorized by the bill.
- requires the state department of treasury to review the Promise Zone development plan and certify that it met the bill's requirements and was sustainable.
- provides that the promise of financial assistance can not include funding for attendance at a postsecondary institution located outside the state.
- requires the governing body to create a Promise Zone Authority, under the supervision and control of an 11-member board.
- requires the state to capture half of any increase in the state education tax (SET) collected in the Promise Zone above a certain initial amount, and pay the captured tax to the promise zone authority.
- permits a local government, school district, or intermediate school district that was not an eligible entity to establish a Promise Zone, but prohibits such an entity from capturing set revenue.
- prohibits an authority board from spending more than 5% of the money it received for administrative costs.
- requires the department of the treasury to oversee the operations of a promise Zone Authority or board.

Submitted as:
Michigan
Act 550 of 2008
Status: Enacted into law in 2009.

This bill permits that if the state department of treasury certifies the creation of a promise zone and development plan as permitted under Michigan Act 550 of 2008, then the governing body would, by resolution, create a Promise Zone Authority. The Authority is under the control of an 11-member board appointed by the chief executive officer of the eligible entity, with the advice and consent of the governing body. Not more than five members can be government officials. Of the first members appointed, an equal number (as near as is practicable) must be
appointed for one year, two-year, three-year, and four-year terms; after the initial appointment, each member would serve a four-year term. Members serve without compensation but can be reimbursed for actual and necessary expenses. The chair is be elected by the board.

A Promise Zone Authority Board can do any of the following:
- prepare an analysis of the postsecondary educational opportunities for the residents of the zone;
- study and analyze the need for financial resources to provide postsecondary educational opportunities for residents of the zone;
- acquire, by purchase or lease, land and other property;
- collect fees, rents, and charges for the use of any facility or property under its control;
- lease, in whole or in part, any facility, building, or property under its control; and
- solicit and accept grants and donations of money, property, labor, or other things of value from a public or private source.

Submitted as:
Michigan
Act 549 of 2008
Status: Enacted into law in 2009.

Comment:

MICHIGAN PROMISE ZONE ACT
House Bill 5375 (Substitute H-2)
Sponsor: Rep. Tim Melton

Committee: Education
First Analysis (12-13-07)

BRIEF SUMMARY: The bill would create a new Act, the Michigan Promise Zone Act, to allow communities having areas of high poverty to create promise zone authorities whose purpose would be to ensure financial assistance for postsecondary education to high school graduates who both live and go to school within the zone's boundaries.

FISCAL IMPACT: The bill would have an indeterminate fiscal impact on state and local government. The bill could reduce the amount of revenue available to the state School Aid Fund from the State Education Tax depending on a number of factors. See Background Information.

THE APPARENT PROBLEM:

In the City of Kalamazoo, anonymous philanthropists have promised a free college education, at a Michigan public college or university, to all public school students who live within the city's geographic boundaries. The gift, known as the Kalamazoo Promise, was begun two years ago.

Already, according to a senior economist with the Upjohn Institute (who also serves on the local board of education), Kalamazoo has seen an increase in enrollment among its urban
schools of 11 percent (900 students in the 2006-07 school year, and an additional 300 students in the year following). Its high school graduation rate is up 16 percent overall, and 40 percent among African American students. And, the number of graduates applying for college is up 7 percent, so total college attendees have increased an estimated 25 percent. Further, out-of-state college attendance is down from 8 percent to 3 percent, while enrollment at the University of Michigan and Michigan State has doubled. Retention rates in college also appear to be above average, as the "Promise" takes effect.

As the Kalamazoo Promise unfolds, other cities—Grand Rapids and Muskegon among them—have explored creating a similar program. Unlike the Kalamazoo Promise, these communities seek to fund their programs by garnering widespread financial support throughout their communities. The programs' advocates note that their programs spurs economic development, since a more highly educated population is better equipped to compete successfully in the new, often global, economy. Indeed, Kalamazoo officials report early positive developments in housing, as property values rise modestly, and professionals relocate to Kalamazoo from other regions in the country.

In order to make college tuition free for students who live in the poorest areas of the state (See Background Information.), legislation has been introduced to allow communities to establish economic development "promise zones." Then, a portion of the annual growth in the State Education Tax within the zone could be captured, to augment the work of Promise Zone Authorities who successfully raise the millions of dollars necessary to fund a locally designed college promise for their students.

THE CONTENT OF THE BILL:

House Bill 5375 (H-2) would create a new Act to be known as the Michigan Promise Zone Act. It would allow the governing bodies of certain communities (called "eligible entities") to create promise zone authorities. Those authorities could identify "promise zones," and then create a "promise zone development plan" whose purpose would be to ensure financial assistance for postsecondary education to high school graduates who both live and go to school within the zone's boundaries. The promise would be made to both public and non-public school students.

[The bill defines "eligible entities" to mean a city, township, county, local school district, or intermediate school district, in which the percentage of children under age 18 living at or below the federal poverty level is greater than the state average of children under age 18 living at or below the federal poverty level, as determined by the Department of Treasury.]

The bill also provides under certain conditions for the capture of a portion of the incremental growth in revenue from the State Education Tax (SET) in a zone, with the captured amount returned to the promise zone for use in funding tuition payments. A zone would need to have raised money and paid out tuition assistance before any captured tax revenue would be available. (This is described more fully later.)

The program would be administered by the Michigan Department of Treasury. A more detailed explanation of the bill follows.

Creating a Promise Zone. If a governing body determined that it was necessary in the best interest of the public to promote access to postsecondary education, then the governing body could, by resolution, declare its intention to establish a promise zone. The governing body would set a date for a public hearing on the proposal, and properly give notice of that hearing. Within
30 days following the hearing, the governing body could submit an application to the Department of Treasury seeking approval to establish the promise zone. If the department certified the eligibility of a governing body to establish a promise zone, then a governing body could create, by resolution, a promise zone.

Within 90 days following the resolution's approval, a local school district could, by resolution elect not to participate in the creation of the promise zone, and the resolution would indicate that the local school district would establish a separate promise zone under the Act. (If the local school district failed to create the zone, then the Department of Treasury could include that local school district in the promise zone where the district was located.)

If the Department of Treasury certified the eligibility of a governing body to create a promise zone and the governing body did so, then it would have to create a promise zone authority, by resolution. That authority would develop a promise zone development plan.

Promise Zone Development Plan. The promise zone development plan would have to include at least all of the following:

- A complete description of the proposed promise of financial assistance (which, at a minimum, would have to provide sufficient funding to cover tuition necessary to obtain a bachelor's degree or its equivalent at a public state institution, and could also be used for education improvement activities designed to increase college readiness).
- A complete description of any limitation on the promise of financial assistance (including whether the assistance would be prorated based on residency length; would require public or non-public high school attendance; would be predicated on a minimum college grade point average and class load; or would be restricted to attendance at one or more institutions of post-secondary education).
- Whether graduates of a public or non-public high school would be required to exhaust all other available publicly funded scholarship before receiving financial assistance.
- How funds necessary to accomplish the promise of financial assistance would be raised.
- An actuarial model of how much the proposed plan was estimated to cost (based on actuarial formulas developed by the Department of Treasury).

The plan would have to prohibit financial assistance for attendance at a postsecondary institution outside of Michigan.

The authority board would submit the promise zone development plan to the Department of Treasury promptly after its adoption, and that plan would have to be published at least once in a local newspaper. The department would review the plan and certify that it met all requirements under this legislation, and that the plan was sustainable. Further, the department would review any proposed amendments to the plan.

The bill specifies that the creation of a zone or plan would not create a cause of action in law or in equity against the state, an eligible entity, or a promise zone authority, if the proposed promise of the financial assistance set forth in the plan were not paid to an eligible student.

Promise Zone Authority. If the Department of Treasury certified the creation of a promise zone and development plan, then the governing body would, by resolution, create a promise zone authority. The authority would be under the control of an 11-member board appointed by the chief executive officer of the eligible entity, with the advice and consent of the governing body. Not more than five members could be government officials. Of the first members appointed, an
equal number (as near as is practicable) would be appointed for one year, two-year, three-year, and four-year terms; after the initial appointment, each member would serve a four-year term. Members would serve without compensation but could be reimbursed for actual and necessary expenses. The chair would be elected by the board.

The proceedings and rules of the board would be subject to the Open Meetings Act, and the board would be required to adopt rules governing its procedure, subject to the approval of the governing body (which could remove authority members for cause). A writing prepared, owned, used, in the possession of, or retained by the board in the performance of an official function would be subject to the Freedom of Information Act.

The authority's board could employ a director who would serve at its pleasure. The director would be required to take the constitutional oath of office and furnish bond, the premium on which would be considered an operating expense of the authority. The director would be responsible for implementing the zone development plan. The director also would attend the board's meetings, and provide regular reports concerning the activities and financial condition of the authority.

The board could also employ a treasurer, who together with the director would approve all vouchers for the expenditure of authority funds. The bill specifies that money received by the authority must immediately be deposited to the authority's credit. The board also could employ a secretary who would maintain custody of the records, as well as keep a record of all the board's proceedings when attending the board's meetings. The board could retain legal counsel, and employ other personnel.

The bill specifies that the promise zone authority board could not expend more than five percent of the money received for administrative costs.

Duties of the Promise Zone Authority Board. The promise zone authority board could do any of the following:

- Prepare an analysis of the postsecondary educational opportunities for the residents of the zone.
- Study and analyze the need for financial resources to provide postsecondary educational opportunities for residents of the zone.
- Acquire, by purchase or lease, land and other property.
- Collect fees, rents, and charges for the use of any facility or property under its control.
- Lease, in whole or in part, any facility, building, or property under its control.
- Solicit and accept grants and donations of money, property, labor, or other things of value from a public or private source.

Authority Budget. The bill specifies that the director of an authority must submit an operating budget to the board each fiscal year. The budget must be prepared in the manner and contain the information required of municipal departments. After review by the board, the budget would be submitted to the governing body, which must approve the budget before the board can adopt it. Unless authorized by the governing body, funds of the eligible entity could not be included in the authority's budget.

Capture of State Education Tax Incremental Growth. The year preceding that in which an authority makes its initial tuition payment would be the base year for determining the amount of
incremental growth for the capture of the State Education Tax. The base would be the amount of revenue received from the collection of the State Education Tax in the promise zone. However, in the three years immediately succeeding the base year, if the amount of revenue received from the collection of the state education tax in the promise zone is less than the amount collected in the base year, then the base year would be the amount collected in that year.

If the authority continued to make annual payments in accord with its promise of financial assistance, in the year immediately succeeding the base year, and each year thereafter, the State of Michigan would be required to capture half of the increase in revenue, if any, from the collection of the State Education Tax. (The state would not capture any revenue if that revenue were subject to capture under any other law.) The proceeds from the capture of the SET would be deposited in the state treasury, and credited to a restricted fund to be used solely for the purposes of the new Act.

If the authority continued to make annual tuition payments in accord with the promise of financial assistance, then two years after the initial payment and each year thereafter, the state would pay to the authority the captured SET amounts.

If the authority did not make annual tuition payments, any amount captured from the promise zone in the restricted fund would be paid into the School Aid Fund. The bill specifies that payments under this section would not be included in determining payments for financial assistance in the immediately preceding year.

The bill specifies that a city, township, county, local school district, or intermediate school district that is not an eligible entity could create a promise zone, but it could not capture revenue from the state education tax. However, this provision would not prevent an eligible entity located within a city, township, county, local school district, or ISD that is not an eligible entity from creating a promise zone and capturing revenue from the state education tax.

Treasury Oversight. The Department of Treasury would be required to oversee the operations of any promise zone authority or board created under this Act. If the department determined that the actions of an authority or board were not in accord with the development plan, then the department could assume operational control of the authority or board.

Dissolution. An authority that had completed the purposes for which it was organized would be dissolved by resolution of the governing body, while the property and assets remaining after the satisfaction of authority obligations would belong to the eligible entity.

Federal Poverty Level. The bill would define "federal poverty level" to mean the poverty guidelines published annually in the Federal Register by the United States Department of Health and Human Services under its authority to revise the poverty line under the Omnibus Budget Reconciliation Act.

BACKGROUND INFORMATION:

According to committee testimony, there are more than 125 communities in 41 of Michigan's 83 counties that meet the federal poverty level test contained in the bill, making citizens in them eligible to set-up promise zones.

FISCAL INFORMATION:
The bill would have an indeterminate fiscal impact on state and local government. The bill could reduce the amount of revenue available to the state School Aid Fund from the State Education Tax depending on a number of factors, including the following:

- The number of eligible communities that chose and were approved to establish promise zones.
- The resulting impact on property values and economic activity (if any).
- The reduction in state revenue would be equal to one-half of the increase in revenue from the State Education Tax within the promise zone, compared to the year immediately preceding the first year tuition payments were made for that zone; those revenues would be shifted to the local promise zone authority. The bill would increase administrative costs for the Department of Treasury to implement its provisions by an indeterminate amount.

The bill could increase local revenue, to the extent that the incentive of the tax increment financing encouraged private contributions for tuition payments. The bill would create local costs for communities establishing promise zones by creating an obligation to make tuition payments for eligible students.

The magnitudes and net impact of these impacts is indeterminate. The bill would require communities choosing to establish promise zones to develop an actuarial model of how much the proposed plan is estimated to cost.

ARGUMENTS:

For: Proponents of this legislation say that it is the spark that can light a candle of hope in the hearts of able yet financially strapped students throughout Michigan. They point to the early effects of the Kalamazoo Promise as evidence of their claim. Proponents also note that the legislation is voluntary, offering entrepreneurial opportunities to communities where citizens step forward to embrace the economic development challenges of a highly competitive global economy that values brains over brawn. Under the legislation, each community's Promise Program would differ, as members of the local authorities crafted "promise plans" that met both student need, and the level of financial resources at hand. After two years of successful local fundraising to establish a Promise Program, a community would then be eligible to augment their local contribution with a portion of the increment of annual growth in the State Education Tax that is collected in their community.

Against: Opponents of this legislation worry that the high level of community fundraising necessary to sustain a Promise Program indefinitely—millions of dollars each year—is unrealistic. Consequently, a program could create false hope, and devastate the dreams of students. Others note that the real social problem that this legislation does not address is the extraordinarily high cost of a college education. And yet others oppose the legislation because it places a burden on the School Aid Fund, since the annual growth in the State Education Tax would be earmarked for post-secondary education, rather than K-12 education.

Response: According to testimony from the Department of Treasury, if all 141 districts currently eligible to create Promise Zones did so, the School Aid Fund would "lose" $14 million annually in the short-run, but gain twice that (or more) in local funds committed to post-secondary education in the long term.
Comment:

Disposition: 20-30B-07A

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2010B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action
Comments/Note to staff:

SSL Committee Meeting: 2010B
( ) Include in Volume
( ) Defer consideration
   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject
Comments/Note to staff:

Comment:

Disposition: 20-30B-07B

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2010B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action
Comments/Note to staff:

SSL Committee Meeting: 2010B
( ) Include in Volume
( ) Defer consideration
   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject
Comments/Note to staff:
Biometric technologies are those which automatically measure people’s physiological or behavioral characteristics. Examples include automatic fingerprint identification, iris and retina scanning, face recognition, and hand geometry.

There are two approaches to recording an individual’s biometric characteristics. The first is to record a complete image of a face or a finger, as in a passport photograph or a fingerprint. The second is to take measurements that adequately capture the uniqueness of the source but do not capture a complete image and therefore do not allow the original to be reconstructed from the data. The second approach is the one that is typically being used in schools’ biometric technology systems, specifically in the implementation of school lunch programs.

This Act defines biometric information and prohibits school districts and charter schools from collecting a pupil’s biometric information without written permission from the pupil’s parent. The Act requires each school to provide written notice to the parents or guardians of pupils stating their intent to collect biometric information 30 days prior to the collection. It stipulates that the written notice must contain a statement informing the parent or guardian that they must give written permission before the school can collect biometric information from the pupil.

Submitted as:
Arizona
Chapter 189 of 2008

Comment:

According to an Arizona legislative fact sheet, three states have set statutory conditions for the fingerprinting of children. In Illinois, school districts are not permitted to sell, lease, or disclose biometric information unless the parent or guardian consents or if the disclosure is required by court order. In Iowa and Michigan, under each state’s Child Identification and Protection Act (Acts), a governmental unit, including a school district, is prohibited from fingerprinting children with some limited exceptions. Specifically, the Acts prohibit fingerprinting of children except in the following circumstances: (a) if authorized by a parent or guardian in case a child becomes a runaway or is missing, (b) if the child is arrested, (c) if the fingerprinting is required by court order, or (d) with the parent's or guardian's permission to aid in a specific criminal investigation.
Disposition: 20-30B-08

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2010B
(  ) Include in Volume
(  ) Defer consideration to next task force meeting
(  ) Reject
(  ) No action
Comments/Note to staff:

SSL Committee Meeting: 2010B
(  ) Include in Volume
(  ) Defer consideration
   (  ) next task force mtg.
   (  ) next SSL mtg.
   (  ) next SSL cycle
(  ) Reject
Comments/Note to staff:
According to a legislative analysis, state law requires the state board of education to review allegations of insolvency and gross mismanagement by a school district. The state board can find a school district insolvent if:

- the district is unable to pay its debts in the usual course of business;
- employee salaries are unpaid for 45 days;
- tuition due to other school districts remains unpaid on January 1 following the year it was due;
- the district has defaulted on bond, interest or rental payments for 60 days;
- the district contracted for an unauthorized loan;
- the district has operated with a deficit equal to five percent or more of the district’s revenue control limit for any fiscal year in the previous two fiscal years; or
- the district’s servicing bank or county treasurer have failed to honor the school district’s warrants and they remain unpaid for 60 days.

If the state board finds a school district is insolvent or has engaged in gross mismanagement, the state board must place the district into receivership and appoint a receiver to review and investigate the school district’s financial affairs. The receiver is required to submit a report to state board within 120 days of being appointed. The report must detail the findings of their investigation and include a financial improvement plan and budget to eliminate gross financial mismanagement and achieve financial solvency. A receiver’s power and authority includes the ability to override any decisions made by the school district’s governing board and/or superintendent concerning the management and operation of the school district, suspend or terminate the school district’s superintendent and/or chief financial officer and subsequently appoint a chief educational officer and chief financial officer and cancel or renegotiate any contract other than certified teachers who have been employed by the district for more than one year.

This Act:
- requires a county school superintendent to provide written notice to the school district governing board and the state department of education if a school district has committed an overexpenditure;
- prohibits a county school superintendent from drawing a warrant for a school district expenditure that is in excess of the amount budgeted for that school district and has not previously been expended;
- stipulates that a county school superintendent who does not comply with statutory requirements regarding the process for drawing warrants for an expenditure from any school district fund is guilty of unprofessional conduct; and
- allows the attorney general to commence an action in superior court to enforce this requirement.

If a county school superintendent is found guilty of unprofessional conduct, requires a court to remove the county school superintendent from office and revoke all certificates issued by state board.

This Act also:
- stipulates that a vacancy in the office of a county school superintendent resulting from a court order will be filled in the manner provided by law;
requires department of education, upon receipt of written notice from a county school superintendent, to monitor a school district that has committed an overexpenditure and provide technical assistance to the school district and the county school superintendent.

requires the department of education to request a meeting of state board of education if the department of education determines that:

- a school district has failed to resolve the overexpenditure, or
- the overexpenditure will exceed the school district’s general budget limit, unrestricted capital limit or soft capital allocation limit by the lesser of $50,000 or 0.05%;

requires state boards, at the request of department of education, to hold a public meeting regarding an overexpenditure by a school district and take one of the following actions:

- requires department of education to monitor the expenditures of the school district.
- directs department of education to contract with a level one fiscal crisis team.
- directs the department of education to contract with a level two fiscal crisis team.

authorizes a level one fiscal crisis team to provide on-site supervision and off-site monitoring of a school district for twelve months or less;

requires a level one fiscal crisis team to advise the school district on all financial matters including related professional development training;

authorizes a level two fiscal crisis team to provide on-site supervision and off-site monitoring of a school district for twenty-four months or less and advise the school district on all financial matters;

allows a level two fiscal crisis team to override any financial act or decision of the school district including expenditures;

stipulates that a fiscal crisis team must be composed of at least one person who is an expert in school finance and may include current or former school district financial officers, business managers or school district superintendents and certified public accountants;

prohibits an employee of state board or department of education from serving on a fiscal crisis team;

maintains that the expenses incurred by a fiscal crisis team or receiver appointed as the result of an overexpenditure will be paid by the school district;

requires the fiscal crisis team or receiver appointed as the result of an overexpenditure to review the school district’s financial affairs and submit a report to SBOE within 120 days of being appointed (the report must include a description of the fiscal management plan that has been implemented to correct the overexpenditure and a description of the development of the fiscal management plan, including the role played by the fiscal crisis team, school district governing board and school district administrators);

requires the fiscal crisis team or receiver, beginning 90 days after submitting the initial report, to submit quarterly progress reports to state board.

requires the progress report include:

- the results of the review of the school district’s finances including expenditures.
- recommendations made by the fiscal crisis team or receiver.
- the status of the fiscal management plan described in the initial report.
recommendations to state board about the content of professional development training related to overexpenditures.

- recommendations of potential action to be taken by state board concerning the certification of school district personnel.
  - stipulates that a copy of the fiscal management plan must be made available on the school district’s website and at the school district’s administrative offices;
  - requires the state board to quarterly review the expenses and costs of the fiscal crisis team;
  - requires the state board to submit an annual report by December 31 each year to the governor, legislature, secretary of state and library, archives and public records (the report must include a summary of the fiscal management reports, any action taken by SBOE and recommendations for improvement to laws of the state or the administrative actions required by law);
  - requires the state board to adopt a list of approved professional development training providers that meet training curriculum requirements determined by state board in school finance, governance, employment, staffing, inventory and human resources, internal controls and procurement;
  - mandates twelve hours of professional development training for the governing board members and administrative personnel of school district that has been assigned a level two fiscal crisis team or a receiver (the training must be completed within 120 days after the assignment of the fiscal crisis team);
  - requires the professional development training be selected from the list approved by the state board of educations;
  - stipulates that a school district governing board member who fails to complete the professional development training is guilty of malfeasance of office.
  - requires the state board to forward a complaint to the attorney general who may take action in superior court to remove the governing board member from office;
  - allows the state board to revoke the certification of any school district administrative personnel who fail to complete the professional development training;
  - allows a school district placed into receivership before December 31, 2007 to conduct an election to unify or consolidate with another school district with coterminous or overlapping boundaries;
  - allows a high school student that resides within the boundaries of a common school district that unifies or consolidates to enroll in any school district that provides high school instruction for the next four academic years after the election given that the school district of attendance allows enrollment of nonresident pupils.
  - requires the state board to withhold 10% of the portion of state money due to a school district for each violation of noncompliance with the Uniform System of Financial Records.
  - defines overexpenditure as an expenditure in excess of a school district’s general budget limit, unrestricted capital budget limit or soft capital allocation limit.
  - contains an emergency measure relating to the extended payback of the overexpended school districts and the consolidation or unification of an overexpended school district; and
  - contains a delayed effective date of June 30, 2008 for all provisions relating to receivership and the establishment of fiscal crisis teams.
Submitted as:
Arizona
Chapter 111 of 2008

Comment:

Disposition: 20-30B-09

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2010B
(  ) Include in Volume
(  ) Defer consideration to next task force meeting
(  ) Reject
(  ) No action
Comments/Note to staff:

SSL Committee Meeting: 2010B
(  ) Include in Volume
(  ) Defer consideration
(  ) next task force mtg.
(  ) next SSL mtg.
(  ) next SSL cycle
(  ) Reject
Comments/Note to staff:
This Act protects students and parents from lenders and institutions of higher education from conflicts of interest. For example, the under the Act, a lending institution must prohibit an employee or agent of the lending institution from being identified to borrowers or prospective borrowers as a college or university employee. The Act prohibits lending institution employees from staffing the financial aid or financial call center of colleges and universities. The Act also stipulates how colleges and universities list in their financial aid material institutions which offer financial aid.

Submitted as:
Iowa
HF 2690 (Enrolled version)

Comment:

Disposition:

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2010B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action

Comments/Note to staff:

SSL Committee Meeting: 2010B
( ) Include in Volume
( ) Defer consideration
    ( ) next task force mtg.
    ( ) next SSL mtg.
    ( ) next SSL cycle
( ) Reject

Comments/Note to staff:
This Act directs schools to adopt an age-appropriate curriculum about Internet safety for students in grades kindergarten through 12. It recommends the curriculum provide a minimum of 2 hours of education each school year about:

- safe and responsible use of social networking websites, chat rooms, electronic mail, bulletin boards, instant messaging, and other means of communication on the Internet;
- recognizing, avoiding, and reporting online solicitations of students, their classmates, and their friends by sexual predators;
- risks of transmitting personal information on the Internet;
- recognizing and avoiding unsolicited or deceptive communications received online;
- recognizing and reporting online harassment and cyber-bullying;
- reporting illegal activities and communications on the Internet; and
- copyright laws for written materials, photographs, music, and video.

Submitted as:
Illinois
Public Act 095-0509
Status: Enacted into law in 2007.

Comment:

Disposition:

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2010B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action
Comments/Note to staff:

SSL Committee Meeting: 2010B
( ) Include in Volume
( ) Defer consideration
   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject
Comments/Note to staff:
This Act creates a Higher Education Energy and Water Savings Revolving Loan Fund to enable colleges and universities to get loans to initiate projects to reduce energy and water use at campus buildings. Projects will be considered for loans on a competitive basis. Those offering the highest savings and quickest payback will be funded. Institutions must repay the loan with the dollars saved from reduced energy and water costs. Once the payback point is reached, subsequent savings accrue to the benefit of the institution.

Submitted as:
West Virginia
Enrolled Committee Substitute for HB 4434

Comment:

Disposition:

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2010B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action
Comments/Note to staff:

SSL Committee Meeting: 2010B
( ) Include in Volume
( ) Defer consideration
   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject
Comments/Note to staff:
The Act directs a board of trustees in each school district to establish and maintain kindergartens in connection with the public schools of the district with at least one full-day kindergarten program available within the district.

Submitted as: Wyoming

Enrolled Act 80 of 2009

Status: Enacted into law in 2009.

Comment:

Disposition:

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2010B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action

Comments/Note to staff:

SSL Committee Meeting: 2010B
( ) Include in Volume
( ) Defer consideration
   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject

Comments/Note to staff:
This Act defines a virtual charter school as a charter school that provides an online learning program. The Act exempts for a limited time people who teach in virtual charter schools from having a teaching license or permit issued by the state department of public instruction. However, it requires that beginning July 1, 2013, no person may teach an online course in a public or charter school unless he or she has completed a professional development program, approved by state department of public instruction, that is designed to prepare a teacher for online teaching.

The bill directs state department of public instruction to make online courses available for a reasonable fee, through a statewide web academy, to school districts, cooperative educational service agencies, charter schools, and private schools. That department must also establish instructional standards for online courses taken by pupils enrolled in public and charter schools.

The bill directs school boards (or chartering entity, if other than a school board) to do all of the following:

• determine which pupils may enroll in an online course, which online courses are available, and the number of online courses a pupil may take;
• provide a safe and secure online environment, ensure the confidentiality of pupil coursework and records, and verify the authenticity of pupil coursework;
• except for teachers in virtual charter schools in existence on the bill’s effective date, assign an appropriately licensed teacher for each online course;
• ensure that pupils enrolled part-time in online courses have direct contact with a teacher, each week school is scheduled, for at least 20 minutes for each online course;
• ensure that elementary school pupils who are enrolled full-time in online courses have direct contact with a teacher for at least two hours each day that school is scheduled;
• ensure that high school pupils enrolled full-time in online courses have direct contact with a teacher for at least 30 minutes each day that school is scheduled;
• determine the average equivalency hours for online courses;
• ensure that only pupils who reside in this state enroll in online courses; and
• limits how many students can enroll in a virtual charter school through an Open Enrollment Program.

Submitted as:
Wisconsin
2007 Wisconsin Act 222

Comment: Per 30A-e, SSL staff put the enacted version of this Wisconsin legislation on this docket.
Disposition: 20-30A-07

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2010B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action
Comments/Note to staff:

SSL Committee Meeting: 2010B
( ) Include in Volume
( ) Defer consideration
   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject
Comments/Note to staff:
This bill prohibits the state board of education from waiving residency requirements for virtual public charter school. It limits attendance of virtual public charter school to students in grades 7 through 12 unless specific requirements are met. It establishes criteria for a proposal submitted by applicant for virtual public charter school.

The bill requires a student to have approval of resident school district before the student attends public charter school in another school district. The bill prohibits the state board of education from adopting rules that have fiscal impact related to public charter schools unless rules are adopted at legislative direction.

Submitted as:
Oregon
SB 767 (Introduced version)
Status:
03/05 (S) Introduction and first reading. Referred to President's desk.
03/12 (S) Referred to Education and General Government.

Comment:

Disposition:

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2010B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action
Comments/Note to staff:

SSL Committee Meeting: 2010B
( ) Include in Volume
( ) Defer consideration
   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject
Comments/Note to staff:
20-30B-15 Calculating Distributions of State School Fund to Public Charter Schools that Offer Online Courses

This bill adjusts calculations of aggregate days membership for the purpose of calculating distributions from the State School Fund to public charter schools offering online courses.

Submitted as:
Oregon
SB 881 (Introduced version)
Status:
03/09 (S) Introduction and first reading. Referred to President's desk.

Comment:

Disposition:

CSG policy task force recommendations to The Committee on Suggested State Legislation: 2010B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action
Comments/Note to staff:

SSL Committee Meeting: 2010B
( ) Include in Volume
( ) Defer consideration
( ) next task force mtg.
( ) next SSL mtg.
( ) next SSL mtg.
( ) Reject
Comments/Note to staff:
This bill:
  • requires the school report card that is delivered to parents in each school district include the district's teacher turnover rate;
  • creates a Teacher Induction Initiative to provide support to new teachers;
  • requires each district to develop and implement a Teacher Induction Initiative;
  • requires school districts report the teacher turnover rate to the state commissioner of education;
  • requires school districts submit a plan to address its new teacher attrition rate under certain circumstances;
  • requires the state department of education to establish a statewide data collection and reporting system to determine the annual district cost of replacing teachers; and
  • requires the department to conduct a study to determine the relationship of teacher retention and attrition to student academic achievement.

Submitted as:
Florida
S1874
Status:
02/18/09 SENATE Filed
02/26/09 SENATE Referred to Education Pre-K - 12; Education Pre-K – 12 Appropriations
03/03/09 SENATE Introduced, referred to Education Pre-K - 12; Education Pre-K- 12 Appropriations -SJ 00125

Comment:

Disposition:

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2010B
(  ) Include in Volume
(  ) Defer consideration to next task force meeting
(  ) Reject
(  ) No action
Comments/Note to staff:

SSL Committee Meeting: 2010B
(  ) Include in Volume
(  ) Defer consideration
  (  ) next task force mtg.
  (  ) next SSL mtg.
  (  ) next SSL cycle
(  ) Reject
Comments/Note to staff:
This bill requires the state board of education to convene a summit of education stakeholders to discuss school safety problems, funding requirements, and alternative approaches and solutions for management of safety related problems. Stakeholders include the state parent teacher association, state association of chiefs of police, and the state association of school counselors and psychologists.

Submitted as:
Tennessee
**HB 0687 ( Introduced version)**

Status:
Assigned to s/c K-12 of ED 02/25/2009
P2C, ref. to Education 02/18/2009
Intro., P1C. 02/12/2009
Filed for intro. 02/10/2009

Comment:

Disposition:

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2010B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action
Comments/Note to staff:

SSL Committee Meeting: 2010B
( ) Include in Volume
( ) Defer consideration
    ( ) next task force mtg.
    ( ) next SSL mtg.
    ( ) next SSL cycle
( ) Reject
Comments/Note to staff:
This Act:
• provides that a hospital, other than a rural hospital or critical access hospital, shall provide a discount from its charges to any uninsured patient who applies for a discount and has family income of not more than 600% of the federal poverty income guidelines for all medically necessary health care services exceeding $300 in any one inpatient admission or outpatient encounter;
• provides that a rural hospital or critical access hospital shall provide a discount from its charges to any uninsured patient who applies for a discount and has annual family income of not more than 300% of the federal poverty income guidelines for all medically necessary health care services exceeding $300 in any one inpatient admission or outpatient encounter;
• provides that hospitals may make the availability of a discount and the maximum collectible amount under the act contingent upon the uninsured patient first applying for coverage under public programs, such as Medicare, Medicaid, Allkids, the state Children's Health Insurance Program, or any other program, if there is a reasonable basis to believe that the uninsured patient may be eligible for such program;
• provides for exemptions and limitations;
• provides for enforcement of the act by the attorney general;
• provides for the assessment of a civil monetary penalty not to exceed $500 for a hospital's knowing violation of the Act by pattern or practice; and
• limits the concurrent exercise of home rule powers.

Submitted as:
Illinois
Public Act 095-0965

Comment: According to a September 24, 2008 article in the Chicago Tribune,
“A groundbreaking bill extending hospital discounts to people without health insurance has become law, after the legislature overturned Gov. Rod Blagojevich’s amendatory veto.
“The legislation requires hospitals to offer significant discounts to uninsured Illinoisans. Instead of paying the full stocker price – typically two to three times the actual cost of care – consumers will pay charges based on the actual cost of care plus a 35 percent markup.”
“Illinois will become the first state in the nation to limit the amount that uninsured consumers pay any given hospital in a single year under the new legislation. That cap is set at 25 percent of an individual’s gross income.”

According to the Illinois General Assembly website: A summary of the Governor’s Amendatory Veto Message:
• Recommends that the definition of “uninsured discount factor” mean 1.0 less the product of a hospital’s cost to charge ratio multiplied by 1.20 for uninsured patients with family income above 200% of the federal poverty level and 1.0 for uninsured patients with family income at or below 200% of the federal poverty level (instead of just multiplied by 1.35).
• Makes changes in family income requirements in the provision concerning eligibility for uninsured patient discounts.
• Provides that for all children with juvenile diabetes, a hospital shall provide children with juvenile diabetes who are admitted for a diagnosis related to juvenile diabetes a 50% discount on any co-pay, coinsurance, or deductible that they would have otherwise owed if such a discount were not available.
• Deletes certain patient disclosure requirements in the provisions concerning uninsured patient discounts and patient responsibility.
• Provides that hospitals shall permit an uninsured patient to apply for a discount within 120 days (instead of 60 days) of the date of discharge or date of service.
• In the provision concerning enforcement, replaces all references to the Attorney General with the Illinois Department of Public Health; replaces the Attorney General Court Ordered and Voluntary Compliance Payment Projects Fund with the General Revenue Fund; and deletes a requirement for the use of moneys in the Attorney General Court Ordered and Voluntary Compliance Payment Projects Fund.
• Makes other changes.

Disposition: 21-30B-01

CSG policy task force recommendations to The Committee on Suggested State Legislation: 2010B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action

Comments/Note to staff:

SSL Committee Meeting: 2010B
( ) Include in Volume
( ) Defer consideration
    ( ) next task force mtg.
    ( ) next SSL mtg.
    ( ) next SSL cycle
( ) Reject

Comments/Note to staff:
This Act establishes a state health care quality and cost council to promote public transparency about the quality and cost of health care in the state, improve health care quality, reduce racial and ethnic health disparities and contain health care costs. It will do this by collecting and disseminating health care quality and cost data to consumers, health care providers and insurers, establishing quality improvement and cost containment goals; and establishing standard performance measures, quality performance benchmarks and statewide health information technology adoption goals for health care providers.

The council shall disseminate the data it collects through a publicly-accessible consumer health information website; reports on performance provided to health care providers; and any other analysis and reporting the council deems appropriate.

When collecting data, the council shall, to the extent possible, use existing public and private data sources and agency processes for data collection, analysis and technical assistance. The council may enter into an interagency service agreement with the division of health care finance and policy for data collection analysis and technical assistance. The council can also contract with an independent health care organization for data collection, analysis or technical assistance related to its duties.

Insurers and health care providers must submit data to the council, to an independent health care organization with which the council has contracted, or to the division of health care finance and policy, as required by the council’s regulations. The council, through its rules and regulations, may determine what type of data may reasonably be required and the format in which it shall be provided.

The council can ask third-party administrators to submit data to the council, to an independent health care organization with which the council has contracted, or to the division of health care finance and policy. The council, through its rules and regulations, may determine the format in which the data shall be provided. The council shall publicly post a list of third-party administrators that refuse to submit requested data.

The council must maintain a consumer health information website. The website shall contain information comparing the quality and cost of health care services and may also contain general health care information as the council deems appropriate. The website shall be designed to assist consumers in making informed decisions regarding their medical care and informed choices among health care providers. Information shall be presented in a format that is understandable to the average consumer. The council shall take appropriate action to publicize the availability of its website.

The Act establishes an advisory committee to the health care quality and cost council.

It establishes an institute for health care innovation, technology and competitiveness, to be known as the e-Health Institute. The institute shall advance the dissemination of health information technology across the commonwealth, including the deployment of electronic health records systems in all health care provider settings that are networked through a statewide health information exchange.

The Act establishes a health information technology council to advise the institute on the dissemination of health information technology across the state, including the deployment of electronic health records systems in all health care provider settings that are networked through a statewide health information exchange.
The Act sets up a fund dedicated to supporting the advancement of health information technology in the commonwealth, including, but not limited to, the full deployment of electronic health records. There shall be credited to the fund any appropriations, proceeds of any bonds or notes of the commonwealth issued for the purpose, or other monies authorized by the general court and designated thereto; any federal grants or loans; any private gifts, grants or donations made available; and any income derived from the investment of amounts credited to the fund.

Any plan approved by the board and every grantee and implementing organization that receives monies for the adoption of health information technology shall:

- establish a mechanism to allow patients to opt-in to the health information network and to opt-out at any time;
- maintain identifiable health information in physically and technologically secure environments by means including, but not limited to: prohibiting the storage or transfer of unencrypted and non-password protected identifiable health information on portable data storage devices; requiring data encryption, unique alpha-numerical identifiers and password protection; and other methods to prevent unauthorized access to identifiable health information;
- provide individuals the option of, upon request, obtaining a list of individuals and entities that have accessed their identifiable health information; and
- develop and distribute to authorized users of the health information network and to prospective network participants, written guidelines addressing privacy, confidentiality and security of health information and inform individuals of what information about them is available, who may access their information, and the purposes for which their information may be accessed.

The Act establishes a health care workforce center to improve access to health care services. The center, in consultation with the health care workforce advisory council shall coordinate health care workforce activities with other state agencies and public and private entities involved in health care workforce training, recruitment and retention and monitor trends in access to primary care providers, nurse practitioners practicing as primary care providers, and other physician and nursing providers. This includes:

- reviewing existing data and collection of new data as needed to assess the capacity of the health care workforce to serve patients, including patient access and regional disparities in access to physicians or nurses and to examine physician and nursing satisfaction;
- reviewing existing laws, regulations, policies, contracting or reimbursement practices, and other factors that influence recruitment and retention of physicians and nurses;
- making projections about the ability of the workforce to meet the needs of patients over time;
- identifying strategies currently being employed to address workforce needs, shortages, recruitment and retention;
- studying the capacity of public and private medical and nursing schools in the commonwealth to expand the supply of primary care physicians and nurse practitioners practicing as primary care providers;
- establishing criteria to identify underserved areas and to determine statewide target areas for health care provider placement based on the level of access;
- address health care workforce shortages through the following activities, including coordinating state and federal loan repayment and incentive programs for health care providers;
- providing assistance and support to communities, physician groups, community health centers and community hospitals in developing cost-effective and comprehensive recruitment initiatives;
maximizing all sources of public and private funds for recruitment initiatives;
• designing pilot programs and make regulatory and legislative proposals to address workforce needs, shortages, recruitment and retention; and
• making short-term and long-term programmatic and policy recommendations to improve workforce performance, address identified workforce shortages and recruit and retain physicians and nurses.

The Act directs the institute director to prepare and annually update a statewide electronic health records plan, and an annual update thereto. Each plan must contain a budget for the application of funds from the E-Health Institute Fund for use in implementing each such plan. The institute director shall submit such plans and updates, and associated budgets, to the council for its approval. Each such plan and the associated budget must be subject to approval of the board following action on it by the council.

Components of each such plan, as updated, shall be community-based implementation plans that assess a municipality’s or region’s readiness to implement and use electronic health record systems and an interoperable electronic health records network within the referral market for a defined patient population. Each such implementation plan shall address the development, implementation and dissemination of electronic health records systems among health care providers in the community or region, particularly providers, such as community health centers that serve underserved populations, including, but not limited to, racial, ethnic and linguistic minorities, uninsured persons, and areas with a high proportion of public payer care.

The Act establishes a health care workforce loan repayment program, administered by the health care workforce center. The program shall provide repayment assistance for medical school loans to participants who:
• are graduates of medical or nursing schools;
• specialize in family health or medicine, internal medicine, pediatrics, psychiatry, or obstetrics/gynecology;
• demonstrate competency in health information technology, including use of electronic medical records, computerized physician order entry and e-prescribing; and
• meet other eligibility criteria, including service requirements, established by the board.

The Act directs the state health department shall, in cooperation with state university medical school develop, implement and promote an evidence-based outreach and education program about the therapeutic and cost-effective utilization of prescription drugs for physicians, pharmacists and other health care professionals authorized to prescribe and dispense prescription drugs.

The law requires all insurance carriers to recognize nurse practitioners as participating providers and include coverage on a nondiscriminatory basis to their insured’s for care provided by nurse practitioners for the purposes of health maintenance, diagnosis and treatment. Such coverage shall include benefits for primary care, intermediate care and inpatient care, including care provided in a hospital, clinic, professional office, home care setting, long-term care setting, mental health or substance abuse program, or any other setting when rendered by a nurse practitioner who is a participating provider and is practicing within the scope of his professional license to the extent that such policy or contract currently provides benefits for identical services rendered by a provider of health care licensed by the state.

The Act directs the state Medicaid office to establish a medical home demonstration project to the extent certain funding is available.
The Act directs the state university medical school to establish and maintain an enhanced learning contract program available to medical students every academic year. The program shall provide full waivers of tuition and fees at the state university medical school. In exchange for the waivers, the contract shall require at least 4 years of service within the state in areas of primary care, public or community service or underserved areas, as determined by the health care workforce center.

The Act sets up a Nursing and Allied Health Workforce Development Trust Fund to develop and support short-term and long-term strategies to increase the number of public and private higher education faculty and students who participate in programs that support careers in fields related to nursing and allied health.

This Act establishes a pilot grant or loan program to assist hospitals, community health centers, and physician practices in providing housing grants or loans for health care professionals who commit to practicing in underserved areas.

Submitted as:
Massachusetts
Chapter 305 of the Acts of 2008
Comment:

Disposition: *21-30A-14

CSG policy task force recommendations to The Committee on Suggested State Legislation:
2010B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action

Comments/Note to staff:

SSL Committee Meeting: 2010B
( ) Include in Volume
( ) Defer consideration
   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject

Comments/Note to staff:
This Act provides a mechanism whereby patients who have the ability to acquire lower cost drugs through the Veterans' Administration have access to those drugs if they reside in a long-term care facility. This means permitting the pharmacy within the long-term care facility or which has a contract with the long-term care facility to receive the lower cost drugs directly from the Veterans' Administration Drug Benefit Program in the patient's name and repackaged and relabeled those drugs so they may be dispensed in unit doses to the patient.

Submitted as:
Pennsylvania
HB2034

Comment:

Disposition:

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2010B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action
Comments/Note to staff:

SSL Committee Meeting: 2010B
( ) Include in Volume
( ) Defer consideration
   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject
Comments/Note to staff:
Under prior law, a hospital could be designated as a trauma center so severely injured patients can be transported to the nearest designated trauma center. The Act changes the laws regarding hospital designations by the state department of health and senior services to include a STEMI center and a stroke center if it meets the department's applicable level of STEMI or stroke center criteria. "ST-Elevation Myocardial Infarction" (STEMI) is defined as a type of heart attack in which impaired blood flow to the heart is evidenced by findings in electrocardiogram analysis.

This Act directs the department of health to:

- compile and assess peer-reviewed and evidence-based clinical research and guidelines that provide or support recommended treatment standards for STEMI and strokes;
- assess the capacity of the emergency medical services system and hospitals to deliver recommended treatments in a timely fashion;
- establish protocols for transporting STEMI patients to STEMI centers and stroke patients to stroke centers;
- establish regions within the state for coordinating the delivery of STEMI and stroke care;
- promote the development of regional or community-based plans for transporting STEMI and stroke patients to STEMI and stroke centers; and
- establish procedures for the submission of community-based or regional plans for department approval.

Submitted as:
Missouri

Senate Substitute for House Committee Substitute for House Bill No. 1790
[Truly Agreed to and Finally Passed]

Disposition: 21-30B-03

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2010B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action
Comments/Note to staff:

SSL Committee Meeting: 2010B
( ) Include in Volume
( ) Defer consideration
   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject
Comments/Note to staff:
This Act provides that a surrogate decision-making committee shall act as guardian of a mentally retarded person who otherwise has no other person to act as a guardian for the purpose of making a decision to withhold or withdraw life-sustaining treatment. It also provides for nonbinding dispute mediation when a party objects to a decision relating to life sustaining treatment of a mentally retarded person.

Submitted as:
New York
Chapter 262 of 2008
Comment:
(EXCERPTED FROM) SPONSORS MEMO:
NEW YORK STATE SENATE INTRODUCER'S MEMORANDUM IN SUPPORT
BILL NUMBER: S7752
SPONSOR: HANNON
JUSTIFICATION:

The Health Care Decisions Act (HCDA) for persons with Mental Retardation was originally enacted as Chapter 500 of the Laws of 2002. It has been subsequently amended three times to expand decision making authority to all types of guardians appointed pursuant to Article 17-A. Most recently, it was amended to authorize family members close to an individual with mental retardation to act as a guardian for purposes of making a decision regarding life-sustaining treatment.

The HCDA gives these guardians and family members the authority to withhold or withdraw life-sustaining treatment, subject to extreme end-of-life circumstances and rigorous oversight. The HCDA recognizes that under New York State law persons with mental retardation may be denied their right to refuse life-sustaining treatment, which only serves to prolong the agony of death since, as a class, they often lack the ability to make their wishes known in clear and convincing terms.

The HCDA has been steadily expanded, both to protect vulnerable persons who cannot speak for themselves and in recognition of court decisions which characterized the Act's standards and procedures as very significant, substantial and strict (MATTER OF MB, 6 NY3d 437 2006). Further, the Court Of Appeals noted that in light of the significant procedural protections afforded in SCPA 1750-b, the rights of mentally retarded persons would be safeguarded. In other court decisions, the HCDA has been upheld because these protections, among other things, require a thorough analysis of all aspects of the patient's medical state, prognosis and expressed wishes before permitting the rejection of life-sustaining treatment (MATTER OF CHANTEL, 34AD3d99 2006).

Consecutive lower court decisions have echoed these themes. The strength of the HCDA is not that guardians are decision makers but that their decisions, as noted by New York's courts, are subject to such strict oversight.

The HCDA has functioned smoothly for six years, earning the trust of advocates, parents and state officials. It has consistently passed court muster as a means of making end-of-life decisions in the best interests of individuals who cannot decide for themselves. It has given
innumerable families the assurance that their loved one will be spared a painful death prolonged by futile treatment.

However, laws have not yet been enacted to cover all of those individuals with mental retardation who cannot decide for themselves. Still remaining are those who have no guardian or committed family members to advocate for them. Of the vulnerable individuals that the HCDA was intended to protect, these are the most vulnerable. Yet, they, of all individuals, are not afforded the HCDA’s protections. Many are elderly, without living family members. Many were institutionalized and abandoned by their families years ago. They are, with no entity to act on their behalf, disproportionately victimized by futile medical care which only serves to prolong the agony of death. This bill would resolve this problem. It expands the authority of SDMCs, which now make major medical decision for exactly this population, to make a decision to withhold or withdraw life-sustaining treatment. To do this, SDMCS would be required to follow the strict standards and procedures, tailored specifically for this decision, contained in Section 1750-b of the SCPA, the HCDA. SDMCs are administered by the Commission on the Quality of Care and Advocacy for people with Disabilities (CQCAPD). Created in 1985, SDMCs operated on a pilot basis in a handful of counties. In 1995 advocates successfully persuaded the Governor to expand SDMC coverage into every county in New York State. SDMCs have the explicit responsibility for making major medical decisions for persons who do not have the capacity to make those decisions for themselves and have no surrogate, such as a parent or guardian, to decide on their behalves. SDMCs have, over the years, gained a superb reputation among advocates, providers and family members for their compassion and competence. They consist of trained volunteers who hear individual cases, backed up by staff from the CQCAPD, and utilize the extensive advice of medical personnel including physicians, nurses and other professionals.

In giving SDMCs the authority to make this critical decision for individuals without a guardian or involved family member, this bill would complete the Health Care Decisions Act. It would finally provide a uniform process, approved by the courts and lauded by parents and advocates, to protect the right of all persons with mental retardation to refuse treatment that only prolongs the agony of death.

Further, by using existing mechanisms in the health care system, the bill seeks to moderate the complexity and expense now required to resolve disputes emanating from an objection to a decision rendered pursuant to Section 1750-b. Specifically, instead of going directly to court, the bill would refer disputes to dispute resolution systems established pursuant to section 2972 of the Public Health Law or hospice ethics committees, if available, for non-binding resolution. In the event such mediation entity is not available or cannot resolve a dispute within 72 hours, the time period currently specified in statute for dispute resolution systems, the matter would be referred to court for judicial review.

Courts are often unfamiliar and uncomfortable with these kinds of issues. They lack knowledge of the unique needs of persons with mental retardation. Families often cannot afford legal representation. Certainly it makes sense to provide a means to resolve an objection before it goes to court and avoid the needless expense and inconvenience to courts and families as well as the suffering of the individuals with mental retardation who are intended to benefit from the HCDA.

LEGISLATIVE HISTORY:
Disposition: 21-30B-04

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2010B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action
Comments/Note to staff:

SSL Committee Meeting: 2010B
( ) Include in Volume
( ) Defer consideration
  ( ) next task force mtg.
  ( ) next SSL mtg.
  ( ) next SSL cycle
( ) Reject
Comments/Note to staff:
This legislation enables the use of an end-of-life planning form called a “Physician Orders for Scope of Treatment (POST).” Although similar in intent to a “Do Not Resuscitate” (DNR) order or other advance directives, the form provides greater flexibility in selecting treatment options, acts as a physician’s order, and provides a high degree of portability because it is recognized across care settings.

Submitted as:
Idaho
HB119
Status: Enacted into law in 2007.

Comment:

According to the Alzheimer’s Association, a physician orders for life-sustaining treatment (POLST) form is a form an individual voluntarily completes with his or her doctor clearly stating which treatments are to be given to that person at the end of his or her life. At least eight states currently recognize POLST forms, including California, Idaho, New York, North Carolina, Oregon, Tennessee, Washington and West Virginia. Although the names of the program may differ slightly (such as the Idaho’s POST program), the programs are essentially the same.

A POLST form is a standardized form and easily recognizable because it is printed on brightly colored paper. It is intended for people with a terminal illness, anyone in a nursing home, or anyone expected to die within the next year. The POLST form offers more choices than a DNR, which typically gives people just two choices if they go into cardiac arrest: resuscitate or do not resuscitate. On a POLST form, people can record their choices about feeding tubes, intubation, mechanical ventilation, IV fluids, comfort measures, or other treatments.

The elections in a POLST form constitute a physician’s order. While advance directives merely express a person’s wishes, the POLST form translates those wishes into medical orders that healthcare professionals such as EMT’s and physicians must follow.

POLST follows patients across care settings. When someone moves from a nursing home to the hospital or is discharged from the hospital and returns to his or her own home, a DNR or advance directive is not guaranteed to stand in the new setting. With a POLST form, however, the physician’s order is enforceable regardless of setting. Most states with POLST programs, such as Idaho, include in their POLST laws that if there is a disagreement between an advance directive or other end-of-life planning document and a POLST form, the POLST form legally trumps the advance directive.

If the person lives at home, the brightly colored POLST form is taped to the refrigerator, so it can be located easily in a medical emergency. If the person lives in a long-term care facility, the form goes in his or her chart. In Idaho, the state also authorized the development of a standardized piece of identification jewelry POST program participants can wear. Paramedics in POLST states are trained to check for a POLST form before making treatment decisions. When transporting a person to a hospital, paramedics physically attach the POLST form to the patient, so physicians and other hospital staff can align care with the person’s wishes as expressed on the POLST form.
Disposition: 21-30B-05

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2010B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action
Comments/Note to staff:

SSL Committee Meeting: 2010B
( ) Include in Volume
( ) Defer consideration
   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject
Comments/Note to staff:
This Act mandates instructing public high school, higher education, medical school and nursing school students and professionals about the myths associated with organ donation, provide accurate information, and emphasize the fundamental responsibility of people to take appropriate action, when able, to help save another person’s life. The Act also directs the state motor vehicle commission to develop an Internet-based process to enable people to designate their preference to donate an organ if they use the Internet to obtain or renew a driver’s license or personal identification card.

The Act directs the state board of education, in consultation with the organ procurement organizations, to review the state Core Curriculum Content Standards for Comprehensive Health and Physical Education to ensure that information about organ donation is included therein to students in grades 9 through 12, beginning with the 2008-2009 school year. The goals of the instruction are to emphasize the benefits of organ and tissue donation to the health and well-being of society generally, and to individuals whose lives are saved by organ and tissue donations, so that students will be motivated to make an affirmative decision to register as a donor when they become adults. The instruction is to explain the options available to adults, including the option of designating a decision-maker to make the donation decision on one’s behalf, and instill an understanding of the consequences when an individual does not make a decision to become an organ donor and does not register or otherwise record a designated decision-maker. Students also will be advised that beginning five years from the date of enactment of this bill, the MVC will not issue or renew a driver’s license or personal identification card unless a prospective or renewing licensee or card holder makes an acknowledgement regarding the donor decision. Instructional materials are to be made available to private high schools, which are encouraged to use them.

Similarly, this information is to be provided at each public institution of higher education in the State beginning with the 2008-2009 school year, either through student health services or as part of the curriculum, and the information likewise is to be prepared in collaboration with the State’s federally-designated OPOs. Independent institutions of higher education in the State are encouraged to provide this information to their students.

The State Board of Medical Examiners and the state Board of Nursing, in collaboration with the designated OPOs, are to prescribe by regulation requirements for physician and professional nurse training as follows:

- the curriculum in each school in the state shall include instruction in organ and tissue donation and recovery designed to address clinical aspects of the donation and recovery process. Completion of such instruction will be required as a condition of receiving a diploma.
- a college of medicine or nursing program which includes instruction in organ and tissue donation and recovery in its curricula shall offer such training for continuing education credit.
- a physician licensed to practice prior to the effective date of this bill, who was not required to receive and did not receive such instruction as part of the physician’s school curriculum, is encouraged to complete training in organ and tissue donation and recovery no later than three years after the effective date of the bill through an on-line credit-based course developed by or for the OPOs.
- a professional nurse registered in this state prior to the effective date of this bill, who was not required to receive and did not receive such instruction as part of the nurse’s school curriculum, shall be required, as a condition of license renewal, to document completion of such
training no later than three years after the effective date of the bill. The training may be completed through an on-line, one credit hour course developed by or for the OPOs and approved by the board. The board may waive this training requirement if an applicant for relicensure demonstrates that he or she has attained the substantial equivalent to the required training.

Within six months after the effective date of the bill, the Chief Administrator of the MVC is to ensure access by residents to an Internet-based interface, to be known as the Donate Life NJ Registry, that promotes organ and tissue donation and enables residents who are 18 years of age or older to register as donors and have their decisions immediately integrated into the current database maintained by the commission. The database shall include only affirmative donation decisions. Registration shall be provided at no cost to the registrant. Donor information entered into the registry shall supersede any prior conflicting information provided to the registry or on the individual’s driver’s license or identification card.

Within one year of the effective date of the bill, the MVC is to establish a system allowing holders of state driver’s licenses or identification cards who do not have access to the on-line Donate Life Registry to add their donor designation to the registry by submitting a paper form to the MVC, at no cost to the registrant. The form and content of the registry shall be designed in collaboration with the State’s federally-designated OPOs.

Beginning five years after the effective date of the bill, no driver’s license or personal identification card shall be issued or renewed unless the applicant first addresses the issue of donation through a portal associated with the Donate Life Registry or at MVC agencies and regional service centers. The portal shall be accessible to applicants seven days per week, 24 hours per day, and shall provide for adequate security to protect an individual’s privacy. The form and content of the portal shall be designed in collaboration with the OPOs. A resident who has not registered as an organ donor, and who seeks a driver’s license or identification card or seeks renewal thereof, will have to register as an organ donor through the Donate Life Registry; or acknowledge an understanding of the life-saving potential of organ and tissue donation, and an understanding of the consequences when an individual does not make a decision to become an organ donor, and does not register or otherwise record a designated decision-maker.

Within one year of the effective date of the bill, both the registry and the official website of the MVC shall provide links through which individuals may make voluntary contributions of $1.00 or more to an Organ and Tissue Donor Awareness Education Fund established by another state law.

The MVC shall collaborate with the OPOs in applying for any federal or private grants recommended by the OPOs related to developing and implementing the Donate Life NJ Registry. The Chief Administrator of the MVC shall collaborate with the OPOs to identify, and if appropriate, apply for and accept relevant grants from the federal government, or any foundation, corporation, association or individual. The MVC, and the Departments of Human Services, Health and Senior Services, and Law and Public Safety may collaborate with the OPOs in applying for any federal or private grants recommended by the OPOs.

This bill also provides that a designated decision-maker or agent at the time of the decedent’s death who could have made an anatomical gift immediately before the decedent’s death shall be given first priority for making a gift of a decedent’s body or part.

The bill amends a provision of the Uniform Anatomical Gift Act and provisions of the motor vehicle statutes to incorporate references to the Donate Life Registry established in the bill and to ensure that any information provided to the OPOs for related educational initiatives is aggregated and non-identifying.
Submitted as:
New Jersey
Chapter 48 of 2008

Comment:

Disposition: 21-30B-06

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2010B
(  ) Include in Volume
(  ) Defer consideration to next task force meeting
(  ) Reject
(  ) No action
Comments/Note to staff:

SSL Committee Meeting: 2010B
(  ) Include in Volume
(  ) Defer consideration
   (  ) next task force mtg.
   (  ) next SSL mtg.
   (  ) next SSL cycle
(  ) Reject
Comments/Note to staff:
Section 21 of this Act requires the state health commissioner to negotiate and contract with a nonprofit organization for an annual survey of carriers offering private group health insurance policies and that are subject to reporting, to determine the reimbursement that is paid for a minimum of 25 most frequently reported health care services, and to make the survey reports public through a website operated by the contracting organization. This bill also requires carriers to report the average reimbursement paid for a specific service from all providers and provider types.

Submitted as:
Virginia
Chapter 71 of 2008

Comment:

Disposition:

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2010B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action
Comments/Note to staff:

SSL Committee Meeting: 2010B
( ) Include in Volume
( ) Defer consideration
   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject
Comments/Note to staff:
This Act changes the term “methadone treatment” to “opioid treatment” for purposes of the law concerning certification of opiate addiction treatment facilities. The Act requires approval and certification for each location that an opioid treatment program is operated. It requires an opioid treatment program to periodically and randomly test a patient for the use of specified drugs; and take certain actions if the drug test is positive for an illegal drug other than the drug being used for the patient's treatment.

This Act requires the state division of mental health and addiction to adopt rules about standards for operation of an opioid treatment program; a requirement that the opioid treatment facilities submit a current diversion control plan; and fees to be paid by an opioid treatment facility. The Act requires the division to create a central registry and prepare a biennial report.

Submitted as:
Indiana
Senate Enrolled Act No. 157

Comment:

Disposition:

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2010B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action

Comments/Note to staff:

SSL Committee Meeting: 2010B
( ) Include in Volume
( ) Defer consideration
  ( ) next task force mtg.
  ( ) next SSL mtg.
  ( ) next SSL cycle
( ) Reject

Comments/Note to staff:
The federal Medicare Part-D program requires PDPs and MA-PDs to establish medication therapy management (MTM) programs designed to ensure appropriate use of drugs by “targeted beneficiaries,” lower health care costs by improving patients’ health care outcomes, and reduce the risk of adverse events. This model legislation would create similar MTM pilot programs at the state level.

The bill generally defines “Medication Therapy Management” and related components, including the provision of the certain services by licensed pharmacists to optimize the therapeutic outcomes of a patient’s use of medications. It directs the State Medical Assistance program and State Employee Benefit Plan to reimburse pharmacists for certain MTM services separate from dispensing services; and requires the Secretary to appoint an MTM Advisory Committee, evaluate the impact of MTM on care, outcomes, and costs, and provide a report to the legislature of program results and savings directly attributable to MTM.

Submitted as:
Model
National Association of Chain Drug Stores

Status: As of March 16, 2009, no state has passed this model bill. This legislation was drafted by NACDS last fall and is based on a Minnesota statute with a number of updates. This current version has not been passed in any states.

According to the NACDS, the federal Medicare Part-D program requires PDPs and MA-PDs to establish medication therapy management (MTM) programs designed to ensure appropriate use of drugs by “targeted beneficiaries” and reduce risk of adverse events. The attached model legislation would create similar MTM pilot programs at the state-level, similar to successful efforts briefly described below, and break through the inertia in the marketplace and drive forward proven improvements to the health care system.

The health care debate has begun in earnest, with the goal of providing broad coverage to our citizens through the delivery of high-quality, efficacious and cost-effective services. During a breakout session of the White House Forum on Health Reform on March 5, 2009, Kendall Powell, chairman and CEO of General Mills, emphasized the importance and value of prevention. Powell participated on behalf of his company and on behalf of The Business Roundtable. The Associated Press said Powell “came with an idea that generated interest. His company offers several preventive coverage packages, tailored specifically to people with one of four conditions: asthma, diabetes, cardiovascular problems and back pain.” Powell said employees are “profoundly grateful” for General Mills’ emphasis on prevention: “We keep them healthy; we keep them out of the hospital; we save money for the company, which benefits everybody in the company.” In elaborating on prevention, Powell specifically mentioned the role of pharmacy: “Someone said something about medications; and I think it was the difficulty and just how hard it is… I will tell you that we have studied this for several years at General Mills. No one understands these medications. They are too complex. We have white collar, professional, highly educated people at General Mills who do not know how to follow their meds. And so what we’re doing now – again on this prevention tact – is we’re sitting them down with a pharmacist. For as long as they need to, to understand what they’re taking, why, the consequences of withdrawal, all the interactions. And again it makes a huge difference in the management of chronic disease.”
Here are a few additional facts that emphasize the importance of medication to reduce costs, if used properly.

- U.S. spends 53% more per person on healthcare than any other industrialized nation.
- The seven most common chronic diseases inflict a $1.3 trillion annual drag on the economy.
- Failure to take medications as prescribed costs an estimated $177 billion annually.
- More than 1.5 million preventable medication-related adverse events occur each year.

Over more than a decade, the focus of pharmacy education has changed to now emphasize the role of pharmacists as the medication expert in the health care system, in preparation for an integral role of pharmacists to assure the best outcomes from medication selection and usage. Today's pharmacists go beyond the traditional dispensing role, and provide quality patient-care services that improve health and reduce health care costs. Here are a few examples:

- In its first year, the Iowa Medicaid Pharmaceutical Care Management Project identified 2.6 medication-related problems per patient; 52% of the time pharmacists recommended new medication and 33% of the time pharmacists recommended stopping a medication. Patients receiving services had a 12.5% increase in the Medication Appropriateness Index, and a 24% decrease in the use of inappropriate meds for elderly, 60 years of age or older.
- The Minnesota Department of Health established a Medication Therapy Management Care Program. In its first year, 789 drug therapy problems were identified and resolved from among 259 patients, 73% due to inadequate therapy. The annual cost savings of $403.30 per patient were estimated for patients over 18 achieving “optimal care” for diabetes, with 41 of the 114 patients with diabetes receiving “optimal care.”
- The Missouri Medicaid Program Disease Management Program projected annualized program savings of $2.4 million based on its first year results. Patients enrolled experienced a 7.6% net decrease in healthcare utilization. Total healthcare expenditures for patients receiving services fell $6,084 per patient per year vs. the control group.

Finally, after 5 years, the Asheville Project continues to demonstrate significant savings and improved outcomes.

Diabetes: Decrease in average direct medical costs -$1,200 to $1,872 per patient per year; 50% decrease in use of sick days; increased productivity estimated at $18,000 annually; annual average insurance claims decreased by $2,704 per patient in first follow-up year and by $6,502 per patient in fifth year.

Cardiovascular (after 6 yrs.): Average cost per CV event decreased from $14,343 to $9,931; rate of CV events dropped from 77 out of 1,000 people to 38 out of 1,000 during the study period; observed > 50% decrease in risk of CV-related ED/hospital visit.

Asthma: Visits to ED dropped from 9.9% to 1.3%; hospitalizations decreased from 4% to 2%; direct cost savings averaged $725 per patient per year and indirect cost savings $1,230 per patient per year; lost work days decreased from 10.8 days per year to 2.6 days per year.

Comment:
Disposition: 21-30B-09

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2010B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action
Comments/Note to staff:

SSL Committee Meeting: 2010B
( ) Include in Volume
( ) Defer consideration
   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject
Comments/Note to staff:
This Act establishes a statewide Health Information Exchange (HIE) under state authority to allow for the electronic mobilization of confidential health care information in the state. Confidential health care information may only be accessed, released or transferred from the HIE in accordance with this Act. Patients and health care providers can choose to participate in the HIE, provided however, that provider participants must continue to maintain their own medical records documentation and other standards imposed by other applicable law.

Participation in the HIE shall have no impact on the content of or use or disclosure of confidential health care information of patient participants that is held in locations other than the HIE. Nothing in this Act shall be construed to limit, change or otherwise affect entities’ rights to exchange confidential health care information in accordance with other applicable laws.

The state imposes on the HIE the obligation to maintain, and abide by the terms of, HIPAA compliant business associate agreements, including, without limitation, using appropriate safeguards to prevent use or disclosure of confidential health care information in accordance with HIPAA and the Act, not to use or disclose confidential health care information other than as permitted by HIPAA and this Act, or to make any amendment to a confidential health care record that a provider participant so directs and to respond to a request by a patient participant to make an amendment to the patient participant's confidential health care record.

Under the Act, the director of the department of health shall develop regulations regarding the confidentiality of patient participant information received, accessed or held by the HIE and is authorized to promulgate such other regulations as the director deems necessary or desirable to implement the provisions of this Act.

The Act directs that a health information organization (HIO) shall be responsible for implementing recognized national standards for interoperability and all administrative, operational, and financial functions to support the HIE, including, but not limited to, implementing and enforcing policies for receiving, retaining, safeguarding and disclosing confidential health care information as required by the Act.

The Act directs that a patient participant’s confidential health care information may only be accessed, released or transferred from the HIE in accordance with an authorization form signed by the patient participant or the patient’s authorized representative. No authorization for release or transfer of confidential health care information from the HIE shall be required in the following situations:

- to a health care provider who believes, in good faith, that the information is necessary for diagnosis or treatment of that individual in an emergency; or
- to public health authorities in order to carry out their functions as described in state statutes, and rules promulgated under those titles. These functions include, but are not restricted to, investigations into the causes of disease, the control of public health hazards, enforcement of sanitary laws, investigation of reportable diseases, certification and licensure of health professionals and facilities, review of health care such as that required by the federal government and other governmental agencies, and mandatory reporting state; and
- to an HIO in order for it to effectuate the operation and administrative oversight of the HIE.

The content of an authorization form for access to, or the disclosure, release or transfer of confidential health care information from the HIE shall be prescribed by the HIO in accordance
with applicable department of health regulations, but at a minimum shall contain the following information in a clear and conspicuous manner:

- a statement of the need for and proposed uses of that information; and
- a statement that the authorization for access to, disclosure of and/or release of information may be withdrawn at any future time and is subject to revocation.

- that the patient has the right not to participate in the HIE; and
- the patient’s right to choose to enroll in and participate fully in the HIE or designate only specific health care providers that may access the patient participant’s confidential health care information.

Except as specifically provided by the Act, a patient participant’s confidential health care information shall not be accessed by, given, sold, transferred, or in any way relayed from the HIE to any other person or entity not specified in the patient participant authorization form meeting the requirements the Act without first obtaining additional authorization.

Nothing contained in this Act shall be construed to limit the permitted access to or the release, transfer, access or disclosure of confidential health care information.

Confidential health care information received, disclosed or held by the HIE shall not be subject to subpoena directed to the HIE or HIO unless the person seeking the confidential health care information has already requested and received the confidential health care information from the health care provider that was the original source of the information, and a determination has been made by the superior court upon motion and notice to the HIE or HIO and the parties to the litigation in which the subpoena is served that the confidential health care information sought from the HIE is not available from another source and is either relevant to the subject matter involved in the pending action or is reasonably calculated to lead to the discovery of admissible evidence in such pending action. Any person issuing a subpoena to the HIE or HIO pursuant to this section shall certify that such measures have been completed prior to the issuance of the subpoena.

The HIE must be subject to at least the following security procedures:

- authenticate the recipient of any confidential health care information disclosed by the HIE pursuant to this Act;
- limit authorized access to personally identifiable confidential health care information to people who need to know that information;
- identify an individual or people who have responsibility for maintaining security procedures for the HIE;
- provide an electronic or written statement to each employee or agent as to the necessity of maintaining the security and confidentiality of confidential health care information, and of the penalties for the unauthorized access, release, transfer, use, or disclosure of this information;
- take no disciplinary or punitive action against any employee or agent for bringing evidence of violation of this chapter to the attention of any person.

Under the Act, any confidential health care information obtained by a provider participant may be further disclosed by such provider participant with or without authorization of the patient participant to the same extent that such information may be disclosed pursuant to existing state and federal law, without regard to the source of the information.

A patient participant who has his or her confidential health care information transferred through the HIE shall have the right to:

- obtain a copy of his or her confidential health care information from the HIE;
• obtain a copy of the disclosure report pertaining to his or her confidential health care information;
• be notified as required by the state Identity Theft Protection Act, of a breach of the security system of the HIE;
• terminate his or her participation in the HIE in accordance with rules and regulations promulgated by the agency; and
• request to amend his or her own information through the provider participant.

Any health care provider who relies in good faith upon any information provided through the HIE in his, her or its treatment of a patient, shall be immune from any criminal or civil liability arising from any damages caused by such good faith reliance. This immunity does not apply to acts or omissions constituting negligence or reckless, wanton or intentional misconduct.

This Act shall only apply to the HIE system, and does not apply to any other private and/or public health information systems utilized in the state, including other health information systems utilized within or by a health care facility or organization.

As this Act provides extensive protection with regard to access to and disclosure of confidential health care information by the HIE, it supplements, with respect to the HIE only, any less stringent disclosure requirements, including, but not limited to, those contained in of this title, the Health Insurance Portability and Accountability Act (HIPAA) and regulations promulgated thereunder, and any other less stringent federal or state law.

The Act shall not be construed to interfere with any other federal or state laws or regulations which provide more extensive protection than provided in this chapter for the confidentiality of health care information. Notwithstanding such provision, because of the extensive protections with regard to access to and disclosure of confidential health care information by the HIE provided for in this Act, patient authorization obtained for access to or disclosure of information to or from the HIE or a provider participant shall be deemed the same authorization required by other state or federal laws including information regarding mental health.

Submitted as:
Rhode Island
Chapter 08-466

Comment: Per (30A-f): Get similar legislation from other states for Idaho Docket.

A March 10, 2008 report entitled State Level Health Information Exchange: Final Report Part I, by the Foundation of Research and Education of American Health Information Management Association says, “Although more than three-quarters of the states are pursuing HIE strategies of some kind, they vary considerably in their level of development. On the basis of a categorization developed by RTI International, state-level initiatives can be organized into the categories and development continuum described below.

• Early Planning (15 states as of January 2008): An agency or government body conducted assessment of HIE efforts in the state.
• Foundational Component (12 states as of January 2008): A central body was identified and established to coordinate HIE development. A governing body (e.g., board of
directors) was appointed, operating committees established, and a strategic plan or road map completed.

- Early Implementation (13 states as of January 2008): Some of the key road-map implementation steps have been undertaken, the state-level HIE initiative has begun coordination activities and/or selected a technology vendor, and pilot implementation has begun.
- Operating Implementation (five states as of January 2008): A fully functioning state-level HIE is fulfilling either governance and/or technical operation roles, and the effort may be supporting only one or just a few types of clinical electronic HIE.

State-level HIEs derive their ability to serve in a statewide capacity from a wide variety of sources. Research in 2006 revealed that launching of state-level HIE initiatives does not depend on the formation of a new legal entity. States demonstrated that a preexisting entity can be used, or a virtual state-level HIE initiative can be established through the use of contracts and memoranda of understanding to establish the relationships between the parties or stakeholders and the governing structure for decision making. In addition, state-level HIE initiatives frequently solicit participation of state government representatives on their boards and committees.

A state-level HIE initiative’s scope of authority is commonly established by gubernatorial executive orders, legislation, agency regulations and rules, or contracts that specify performance of certain tasks (e.g., privacy assessment, technical services, standards implementation). A number of state-level HIE efforts have also used less formal mechanisms to gain recognition as entities that serve statewide interests. For example, gubernatorial campaign platforms and state agency policy briefs have been used effectively to confer recognition on state-level HIE efforts.”

Per 30A-f, NCSL’s *Health Information Technology 2007 and 2008 State Legislation* reports “States have taken significant steps during the past two years to address policy issues associated with health IT. From January 2007 through August 2008, more than 370 bills with provisions relating to health IT were introduced in state legislatures.

The National Conference of State Legislatures found that 132 bills with health IT content were enacted in 44 states and the District of Columbia (see Figure 1). This represents a more than threefold increase compared to 2005 and 2006, during which 36 bills were enacted, according to the eHealth Initiative. Many early health information exchange efforts began in the private sector, and state governments were asked to join. The current wave of health information exchanges, by contrast, is as likely to originate at the state level.

Texas and Indiana created bodies to run the state-level health information exchange; and Connecticut, Vermont and Rhode Island designated existing independent nonprofit entities. Whether they create new entities or bless existing activities, statutes that define a state-level health information exchange confer formal status and authority, charge the health information exchange to promote health IT in both private and public sectors, define governance to include state agencies, and determine that they may receive and disburse funds on behalf of statewide health IT initiatives. Beyond these broad elements, various models have been adopted, reflecting existing activity in the state. Statutes that create these entities typically are comprehensive measures that, among other things, include: start-up support for a designated group, a state governance role, ongoing funding, and unique state-level responsibilities.”

Accordingly, Indiana Senate Enrolled Act No. 551 of 2007, Texas H.B 1066, and Vermont H229 were added to the docket as items 21-30B-10A, 21-30B-10B and 21-30B-10C, respectively.
This Act establishes the Indiana Health Informatics Corporation (IHIC). It provides that the IHIC is a body politic and corporate. It requires the IHIC to encourage and facilitate the development of health informatics functions in Indiana. The bill provides that the IHIC is governed by a board consisting of the following nine members: the secretary of family and social services, or the secretary's designee; the state health commissioner, or the state health commissioner's designee; seven people appointed by the governor; one of which must be a physician; and one of which must be a hospital administrator.

This Act authorizes the IHIC board to appoint any advisory panels that the board considers useful in advising the board and the corporation on issues determined by the board. The bill requires the IHIC to do the following:

- encourage and facilitate the development of a statewide health information exchange system;
- encourage and facilitate users of the statewide health information exchange system and other interested parties in developing and adopting standards;
- develop programs and initiatives to promote and advance the exchange of health information;
- recommend policies and legislation that advance the development and efficient operation of the statewide health information exchange system; and
- report on Indiana's progress toward implementing the statewide health information exchange system.

The legislation requires the IHIC's plan to create a statewide health information exchange system to provide for procedures and security policies to ensure compliance with the federal Health Insurance Portability and Accountability Act (HIPAA), protection of information privacy, and the use of information in the system only in accordance with HIPAA and as required by public health agencies. It requires the state board of accounts to examine the IHIC and its funds, accounts, and financial affairs. It specifies that the IHIC is subject to the open door law and the public records law. It provides that the IHIC must comply with current statutory provision when adopting rules. The bill provides the IHIC board may adopt emergency rules. It provides that the IHIC shall determine qualifications, duties, compensation, and terms of service for IHIC employees.

The legislation prohibits the IHIC from issuing bonds or other debt obligations. The bill authorizes the IHIC to make grants, loans, and loan guarantees. It authorizes the IHIC to establish a nonprofit subsidiary to solicit and accept nonprofit entity funding.

Finally, the Act provides that the IHIC is abolished June 30, 2015.

Submitted as:
Indiana
Senate Enrolled Act No. 551
Status: Enacted into law in 2007.

This Act creates the Texas Health Services Authority as a public-private collaborative to implement the state-level health information technology functions identified by the Texas Health
Information Technology Advisory Committee. The bill provides for the authority's powers and duties, organization, and funding. This Act prohibits the authority from engaging in activities relating to the collection, analysis, and use of certain health-related information and to performance measures of physicians. The Act requires the authority to submit an annual report to the governor, lieutenant governor, speaker of the house of representatives, and appropriate legislative committees.

Submitted as:
Texas
**HB 1066**
Status: Enacted into law in 2007.

21-30B-10C Health Information Technology  
**VT**

Part of this Act directs the state commissioner of health to facilitate the development of a statewide health information technology plan that includes the implementation of an integrated electronic health information infrastructure for the sharing of electronic health information among health care facilities, health care professionals, public and private payers, and patients. The plan shall include standards and protocols designed to promote patient education, patient privacy, physician best practices, electronic connectivity to health care data, and, overall, a more efficient and less costly means of delivering quality health care in the state.

The health information technology plan shall:

- support the effective, efficient, statewide use of electronic health information in patient care, health care policymaking, clinical research, health care financing, and continuous quality improvements;
- educate the general public and health care professionals about the value of an electronic health infrastructure for improving patient care;
- promote the use of national standards for the development of an interoperable system, which shall include provisions relating to security, privacy, data content, structures and format, vocabulary, and transmission protocols;
- propose strategic investments in equipment and other infrastructure elements that will facilitate the ongoing development of a statewide infrastructure;
- recommend funding mechanisms for the ongoing development and maintenance costs of a statewide health information system, including funding options and an implementation strategy for a loan and grant program;
- incorporate the existing health care information technology initiatives in order to avoid incompatible systems and duplicative efforts;
- integrate the information technology components of several other state agency initiatives; and
- address issues related to data ownership, governance, and confidentiality and security of patient information.

Submitted as:
Vermont
**Act 70 / H229**
Status: Enacted into law in 2007.
Disposition: *21-30A-10

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2010B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action
Comments/Note to staff:

SSL Committee Meeting: 2010B
( ) Include in Volume
( ) Defer consideration
( ) next task force mtg.
( ) next SSL mtg.
( ) next SSL cycle
( ) Reject
Comments/Note to staff:

Disposition: 21-30B-10A

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2010B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action
Comments/Note to staff:

SSL Committee Meeting: 2010B
( ) Include in Volume
( ) Defer consideration
( ) next task force mtg.
( ) next SSL mtg.
( ) next SSL cycle
( ) Reject
Comments/Note to staff:
Disposition: 21-30B-10B

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2010B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action
Comments/Note to staff:

SSL Committee Meeting: 2010B
( ) Include in Volume
( ) Defer consideration
   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject
Comments/Note to staff:

Disposition: 21-30B-10C

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2010B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action
Comments/Note to staff:

SSL Committee Meeting: 2010B
( ) Include in Volume
( ) Defer consideration
   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject
Comments/Note to staff:
This Act sets guidelines to perform stem cell research. It limits such research to embryonic stem cell lines created prior to August 1, 2001, in accordance with federal law as it existed on November 1, 2007 and without the use of a human embryo, including a human embryo produced using cloning technology. The bill requires the state department of health to establish a reporting system for stem cell research.

Submitted as:
Oklahoma
HB 3126 (Enrolled version)

Comment:

Disposition:

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2010B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action
Comments/Note to staff:

SSL Committee Meeting: 2010B
( ) Include in Volume
( ) Defer consideration
   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject
Comments/Note to staff:
This Act makes it illegal for third parties to knowingly and deceptively cause computer software to be copied onto personal computers that:

- changes the computer users’ settings without the users’ permission;
- prevents users from resetting their computers to their original preferences or removing the third party software;
- secretly collects information about Internet searches;
- disables the computer’s security software; or
- causes related disruptive activities.

Submitted as:
Georgia
SB 127
Status: Enacted into law in 2005.

Comment:

Utah H.B. 323 4th Sub. was on the 2005 SSL Docket B as item 23-25B-01 and entitled “Regulating Spyware.” The SSL Committee deferred that item to the next SSL cycle and ultimately pulled that bill from the SSL docket at the request of the bill’s sponsor. According to AOL, in June 2004, H.B. 323 4th Sub. was struck down for violating the First Amendment and Dormant Commerce Clauses of the U.S. Constitution in WhenU.com, Inc., v. State of Utah. According to AOL, several states subsequently introduced legislation based on H.B. 323 4th Sub. as referenced in the 2005 SSL Docket B, and that legislation failed to pass.

Disposition:

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2010B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action
Comments/Note to staff:

SSL Committee Meeting: 2010B
( ) Include in Volume
( ) Defer consideration
( ) next task force mtg.
( ) next SSL mtg.
( ) next SSL cycle
( ) Reject
Comments/Note to staff:
This Act creates a commission and a fund to develop programs to promote oilseed production, research, market development and education.

Submitted as:
Oklahoma
HB 3187 (Enrolled version)

Comment:

Disposition:

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2010B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action
Comments/Note to staff:

SSL Committee Meeting: 2010B
( ) Include in Volume
( ) Defer consideration
   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject
Comments/Note to staff:
This Act creates a seed laboratory advisory group; requires a license for conditioning grain or seed; and establishes a procedure to set seed laboratory fees.

Submitted as:
Wyoming
HB 123 / Enrolled Act No. 13
Status: Enacted into law in 2007.

Comment:

Disposition:

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2010B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action
Comments/Note to staff:

SSL Committee Meeting: 2010B
( ) Include in Volume
( ) Defer consideration
   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject
Comments/Note to staff:
24-30B-03 Farm-to-School

This Act establishes a grant program to encourage schools to buy food from local farmers. The Act also directs the secretary of agriculture to help develop and implement educational programs for farmers designed to increase sales to schools. Finally, the Act directs the commissioner of education to expand regional training for school and child care personnel concerning strategies relating to purchasing, processing, and serving locally grown foods.

Submitted as:
Vermont
Act 24
Status: Enacted into law in 2007.

Comment:

Disposition:

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2010B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action

Comments/Note to staff:

SSL Committee Meeting: 2010B
( ) Include in Volume
( ) Defer consideration
   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject

Comments/Note to staff:
This Act incorporates current veterinary and epidemiological practices in authorities of the state department of agriculture for the detection, containment and suppression of Anthrax in livestock.

Submitted as:
Nebraska
LB 99
Status: Enacted into law in 2009.

Comment:

Disposition:
CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2010B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action
Comments/Note to staff:

SSL Committee Meeting: 2010B
( ) Include in Volume
( ) Defer consideration
   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject
Comments/Note to staff:
This Act provides the state department of environmental quality with the authority to administer the open burning of crop residue. The legislation requires the department to approve such burnings and prohibits the department from granting that approval if it determines that ambient air-quality levels exceed or are projected to exceed seventy-five percent (75%) of the level of any national air ambient air quality standard on any burn day or eighty percent (80%) of the one hour action criteria for particulate matter under state law. The Act sets a two dollar per acre fee for burning.

The bill also requires the department to conduct further air-quality analysis prior to allowing the burning of more than 20,000 acres of bluegrass within the state, which does not include tribal lands within the reservation boundaries as recognized by the federal Clean Air Act.

Submitted as:
Idaho
HB 557

Comment:

Disposition:

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2010B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action
Comments/Note to staff:

SSL Committee Meeting: 2010B
( ) Include in Volume
( ) Defer consideration
   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject
Comments/Note to staff:
This Act directs the state department of toxic substances control by January 1, 2011, to adopt regulations to establish a process by which chemicals or chemical ingredients in products may be identified and prioritized for consideration as being chemicals of concern. The Act specifies a procedure for the adoption of those regulations, including requiring that the department, in adopting those regulations, prepare a multimedia life cycle evaluation, as defined, and submit the regulations and the multimedia life cycle evaluation to the state Environmental Policy Council for review.

The Act requires the department of toxic substances control, by January 1, 2011, to adopt regulations to establish a process by which chemicals of concern in products, and their potential alternatives, are evaluated to determine how best to limit exposure or to reduce the level of hazard posed by a chemical of concern. The regulations must specify actions that the department may take following the completion of the analysis, including imposing requirements to provide additional information, requirements for labeling or other types of product information, controlling access to or limiting exposure, managing the product at the end of its useful life, or funding green chemistry challenge grants, restrictions on the use of the chemical of concern in the product, or prohibitions on use.

The legislation directs the department of toxic substance control to establish a Green Ribbon Science Panel to advise the department and the state council on environmental quality about the issues addressed by the bill.

Finally, this Act establishes a procedure to protect information submitted to the department of toxic substance control that is claimed to be a trade secret.

Submitted as:
California
Chapter 559 of 2008

Comment:
Disposition: 25-30B-01

CSG policy task force recommendations to The Committee on Suggested State Legislation: 2010B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action
Comments/Note to staff:

SSL Committee Meeting: 2010B
( ) Include in Volume
( ) Defer consideration
   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject
Comments/Note to staff:
This Act:
- requires certain state agencies adopt rules regulating access to the confidential personal information the agencies keep, whether paper or electronic;
- provides that a person harmed by a violation of a rule of a state agency adopted under the act may bring an action in a court of claims against any person who directly and proximately caused the harm, and imposes a criminal penalty for such a violation; and
- requires the state tax commissioner adopt rules to generally require the tracking of searches of any of the department of taxation's databases.

The rules must include:
- criteria for determining which employees of the state agency may access, and which supervisory employees of the state agency may authorize those employees to access, confidential personal information;
- a list of the valid reasons, directly related to the state agency's exercise of its powers or duties, for which only employees of the state agency may access confidential personal information;
- references to the applicable federal or state statutes or administrative rules that make the confidential personal information confidential;
- a procedure that requires the state agency to provide that any upgrades to an existing computer system, or the acquisition of any new computer system, that stores, manages, or contains confidential personal information include a mechanism for recording specific access by employees of the state agency to confidential personal information, until an upgrade or new acquisition occurs, except as otherwise described in the next sentence, keep a log that records specific access by employees of the state agency to confidential personal information (a procedure adopted under this provision is not to require a state agency to record in the log it keeps any specific access by any employee of the agency to confidential personal information if the access occurs as a result of research performed for official agency purposes, routine office procedures, or incidental contact with the information, unless the conduct resulting in the access is specifically directed toward a specifically named individual or a group of specifically named individuals, or if the access is to confidential personal information about an individual and the access occurs as a result of a request by that individual for confidential personal information about that individual).
- a procedure that requires the state agency to comply with a written request from an individual for a list of confidential personal information about the individual that the state agency keeps, unless the confidential personal information relates to an investigation about the individual based upon specific statutory authority by the state agency;
- a procedure that requires the state agency to notify each person whose confidential personal information has been accessed for an invalid reason by employees of the state agency of that specific access;
- a requirement that the director of the state agency designate an employee of the state agency to serve as the data privacy point of contact within the state agency to work with the chief privacy officer within the office of information technology to ensure that confidential personal information is properly protected and that the state agency complies with the Act's provisions and rules adopted under those provisions;
• a requirement that the data privacy point of contact for the state agency complete a privacy impact assessment form; and
• a requirement that a password or other authentication measure be used to access confidential personal information that is kept electronically.

The Act directs the state office of information technology to develop a Privacy Impact Assessment Form and post the form on its Internet web site by December 1 each year. The form must assist each state agency in complying with the rules it must adopt under the Act's provisions, in assessing the risks and effects of collecting, maintaining, and disseminating confidential personal information, and in adopting privacy protection processes designed to mitigate potential risks to privacy.

The Act generally defines “state agency” as the office of any elected state officer and any agency, board, commission, department, division, or educational institution of the state. “Local Agency” means any municipal corporation, school district, special purpose district, or township of the state or any elected officer or board, bureau, commission, department, division, institution, or instrumentality of a county.

The Act generally exempts any state agency or part thereof that performs as its principal function any activity relating to the enforcement of the criminal laws, including police efforts to prevent, control, or reduce crime or to apprehend criminals, the criminal courts, prosecutors, any state agency or part thereof that is a correction, probation, pardon, or parole authority, or personal information systems that are comprised of investigatory material compiled for law enforcement purposes by agencies that are not described above.

Under the Act, applicable state agencies must establish a training program for all employees of the state agency who may access, or who are supervisory employees of the state agency who may authorize employees to access, confidential personal information so that these employees are made aware of all applicable statutes, rules, and policies governing their access to confidential personal information. These state agencies must distribute the policies included in the rules adopted under the Act's provisions to each employee of the agency who may access, or who is a supervisory employee of the agency who may authorize employees to access, confidential personal information and must require that the employee acknowledge receipt of the copy of the policies. The state agency must create a poster that describes the policies and post it in a conspicuous place in the main office of the state agency and in all locations where the state agency has branch offices. The agencies must post the policies on its Internet web site if it maintains such a web site. A state agency that has established a manual or handbook of its general policies and procedures must include the policies in the manual or handbook.

No collective bargaining agreement entered into under the state's Public Employee Collective Bargaining Law on or after the Act's effective date can prohibit disciplinary action against or termination of an employee of a state agency who is found to have accessed, disclosed, or used personal confidential information in violation of a rule adopted under the Act's provisions or as otherwise prohibited by law.

The Act directs the state auditor to obtain evidence that state agencies adopted the procedures and policies in a rule under the Act's provisions, must obtain evidence supporting whether the state agency is complying with those policies and procedures, and may include citations or recommendations relating to those provisions in any audit report.

The Act prohibits any person from knowingly accessing confidential personal information in violation of a rule of a state agency adopted under the Act's provisions, and prohibits any person from knowingly using or disclosing confidential personal information in a manner
prohibited by. A violation of either of these prohibitions is a first degree misdemeanor. The Act prohibits a state agency from employing a person who has been convicted of or pleaded guilty to a violation of either of these prohibitions.

The Act requires the state tax commissioner to adopt rules under the state's Administrative Procedure Act that, requiring any search of any of the databases of the Department of Taxation be tracked so that administrators of the database or investigators can identify each account holder who conducted a search of the database. The rules adopted under this provision are not to require the tracking of any search of any of the databases of the Department conducted by an account holder if the search occurs as a result of research performed for official agency purposes, routine office procedures, or incidental contact with the information, unless the search is specifically directed toward a specifically named individual or a group of specifically named individuals, or the search is for information about an individual, and it is performed as a result of a request by that individual for information about that individual.

Submitted as:
Ohio
**Substitute House Bill Number 648**

Comment:

Disposition: 25-30B-02

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2010B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action

Comments/Note to staff:

SSL Committee Meeting: 2010B
( ) Include in Volume
( ) Defer consideration
( ) next task force mtg.
( ) next SSL mtg.
( ) next SSL cycle
( ) Reject

Comments/Note to staff: