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

2011 CYCLE
DOCKET BOOK A
Final
10/14/09

This docket and referenced legislation can be downloaded from www.csg.org.
CSG AND TRENDS

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).*
TRENDS AND SUGGESTED STATE LEGISLATION

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 workforces 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 workforces 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 so 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 experienced 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 may 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
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(01) CONSERVATION AND THE ENVIRONMENT

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(02) HAZARDOUS MATERIALS/WASTE

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(03) ENERGY

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(04) SCIENCE AND TECHNOLOGY

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(05) PUBLIC, OCCUPATIONAL AND CONSUMER HEALTH AND SAFETY

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(06) PROPERTY, LAND AND HOUSING/INFRASTRUCTURE, DEVELOPMENT/PROTECTION

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06-31A-04 Public Evacuation Shelters LA
06-31A-05 Disaster-Related Abandoned Buildings IA

(07) GROWTH MANAGEMENT

(08) ECONOMIC DEVELOPMENT/GLOBAL DYNAMICS/DEVELOPMENT
08-31A-01 Healthy Food Retail Act LA

(09) BUSINESS REGULATION AND COMMERCIAL LAW
09-31A-01 Fraudulent Filing of UCC Forms AR
09-31A-02 Low-Profit Limited Liability Companies UT
09-31A-03A Motor Vehicle Dealerships OR
09-31A-03B Business Practices Between Auto Manufacturers, Distributors and Dealers NH
09-31A-04 Firearms Freedom MT
09-31A-05 Uniform Foreign-Country Money Judgments Recognition Act NM
09-31A-06 Uniform Debt Management Services Act TN
09-31A-07 Business Entity Transactions KS
09-31A-08 Orphan Trusts TX

(10) PUBLIC FINANCE AND TAXATION

(11) LABOR/WORKFORCE RECRUITMENT, RELATIONS AND DEVELOPMENT
11-31A-01 State Employee Furloughs SC
11-31A-02A Employee Selection Procedures UT
11-31A-02B Employment: Credit History HI
11-31A-03 Workplace Religious Freedom OR
11-31A-04 Workplace Fraud MD

(12) PUBLIC UTILITIES AND PUBLIC WORKS
12-31A-01 Substitute Natural Gas Contracts IN

(13) STATE AND LOCAL GOVERNMENT/INTERSTATE COOPERATION AND LEGAL DEVELOPMENT
13-31A-01 Sanctuary Cities GA

(14) TRANSPORTATION
*14-30B-02 Cancellation, Suspension or Revocation of Licenses - Reports by Health Care Providers WV
(30B-e) See if/how HIPAA impacts this legislation’s requirements ME
14-31A-01 Distracted Driving HI
14-31A-02A Transportation Energy Initiatives WA
(15) COMMUNICATIONS/TELECOMMUNICATIONS
15-31A-01 Video-Conferencing DE

(16) ELECTIONS/POLITICAL CONDITIONS
16-31A-01 False Caller ID for Campaign Purposes IA
16-31A-02 Observation of Voter Registration NH

(17) CRIMINAL JUSTICE, THE COURTS AND CORRECTIONS/PUBLIC SAFETY AND JUSTICE
*17-30B-04 Identity Theft: Judicial Determination of Factual Innocence AZ
17-31A-01 Confidential Informants FL
17-31A-02A Veterans Courts IL
17-31A-02B Veterans Courts NV
17-31A-03 Electronic Discovery CA
17-31A-04 Child Witness Protection MO

(18) PUBLIC ASSISTANCE/HUMAN SERVICES
*18-30B-02 Homelessness, Foster Youth, and Education IN

(19) DOMESTIC RELATIONS/DEMOGRAPHIC SHIFTS/SOCIAL AND CULTURAL SHIFTS
19-31A-01 Embryo Adoption GA

(20) EDUCATION
*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-11 Internet Safety Education Curriculum IL
20-31A-01 Qualified Immunity for Teachers IN
20-31A-02 Graduated Discipline Plan IN
20-31A-03 Concealed Educator Misconduct OR
20-31A-04 Electronic Textbooks in Postsecondary Schools CA
20-31A-05 Electronic Textbooks and Technological Equipment in Public Schools TX
20-31A-06 Move On When Ready GA
20-31A-07 International Student Exchange Visitor Placement Organization Registration Act AR

(21) HEALTH CARE
*21-30B-02 Long-Term Care Patient Access to Pharmaceuticals PA
*21-30B-08 Opioid Treatment IN
(30B-h) Staff get enacted MN bill for next docket.
21-31A-01 Medication Therapy Management Statement MN
*21-30B-10C Health Information Technology VT
*21-30B-11 Advancement in Stem Cell Cures and Therapies OK
21-31A-02 Medical Language Interpreter UT
21-31A-03 Health Care Patient Identity Protection UT
21-31A-04 Nursing Home Resident Fee IA
21-31A-05 Marketing Pharmaceuticals VT
21-31A-06 Sudden Cardiac Arrest Survival UT
21-31A-07 Cardiovascular Disease KY
21-31A-08 Expedited Partner Therapy Treatment UT
21-31A-09A Newborn Screening Tests and Premature Infants MO
21-31A-09B Improving Hospital Discharge of Premature Infants MS
21-31A-10 Patient’s Right to Know Costs of Medical Procedures MT
21-31A-11 Neonatal Diabetes Mellitus Registry IL
21-31A-12A Telemedicine Insurance ME
21-31A-12B Telemedicine Insurance NH
21-31A-13 Electronic Health Records – Regulation and Reimbursement MD

(22) CULTURE, THE ARTS AND RECREATION
22-31A-01 Recreation Responsibility MT

(23) PRIVACY
23-31A-01 Identity Deception IN

(24) AGRICULTURE
*24-30B-02 Seeds WY
(30B-c) Staff to see how many states have this.
24-31A-01 Private Agricultural Parks HI
24-31A-02 Food Banks KY

(25) CONSUMER PROTECTION
25-31A-01 Private Right to Action for Consumer Fraud IA
25-31A-02 Insurance Fraud HI
25-31A-03 Forfeiture of Property Obtained by Securities Fraud CT

(26) MISCELLANEOUS
This Act requires the state department of environmental protection to adopt rules establishing mercury content standards for lamps sold or manufactured in the state on or after January 1, 2012. The standards must be based on mercury content standards for lamps established in California. If one or more categories of lamps are not covered by the mercury content standards established in California, the department may adopt standards minimizing the mercury content of lamps within those categories, including adoption of a no-mercury standard if a nonmercury alternative is available at a cost comparable to a mercury alternative.

When making purchasing decisions on mercury-added lamps and ballasts, the state department of administrative and financial services, in consultation with the department of environmental protection and the state public utilities commission, shall request information on mercury content, energy use, lumen output and lamp life from potential suppliers and shall issue specifications and make purchasing decisions that favor models at comparable cost with high energy efficiency, lower mercury content and longer lamp life. Information obtained on mercury content, energy use and lamp life must be made available by the department of administrative and financial services to other purchasers who purchase a large number of mercury-added lamps. This information must also be posted on the state's publicly accessible website.

The Act directs that effective January 1, 2011, each manufacturer of mercury-added lamps sold or distributed for household use in the state on or after January 1, 2001 shall individually or collectively implement a department-approved program for the recycling of mercury-added lamps from households.

Submitted as:
Maine
LD973
Status: Enacted into law in 2009.

Comment:

Disposition:

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2011A
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action

SSL Committee Meeting: 2011A
( ) Include in Volume
( ) Defer consideration to next SSL mtg.
( ) Reject
Comments/Note to staff:
This Act directs the state pesticide board to develop and maintain a registry of residents and property owners in the state who ask to be placed on a registry to get information about the outdoor application of pesticides using aircraft or air-carrier equipment. The Act directs the board to publish the registry to citizens through newspaper articles, public notices distributed to municipal offices and a notice posted on the board's publicly accessible website. To be placed on the registry, a person must submit to the board, using a form provided on the board's publicly accessible website or a paper copy provided by the board upon request, various information required under the Act.

Any resident, owner or lessee of property in the state is entitled to be placed on the registry. A fee may not be charged to register. People remain on the registry until they notify the board in writing that they want to be removed from the registry or until the board staff determines that the contact is no longer valid.

The Act directs that a land manager may not apply pesticides using aircraft or air-carrier equipment unless the notification requirements of this Act are met. A land manager intending to conduct application of pesticides using aircraft or air-carrier equipment shall provide written notification to residents and managers of buildings on abutting property at least 90 days prior to the first date of pesticides application.

Under the Act, a land manager intending to conduct an outdoor application of pesticides using aircraft or air-carrier equipment shall access the registry of citizens to determine any neighbors on the registry of citizens and shall provide those neighbors with notification. Land managers must maintain records of communications with neighbors regarding outdoor applications of pesticides using aircraft or air-carrier equipment and the dates and means by which the notification required under this Act was provided.

Submitted as:
Maine
**Chapter 378**
Status: Enacted into law in 2009.

Comment:
Disposition:

CSG policy task force recommendations to The Committee on Suggested State Legislation: 2011A
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action
Comments/Note to staff:

SSL Committee Meeting: 2011A
( ) Include in Volume
( ) Defer consideration
( ) next task force mtg.
( ) next SSL mtg.
( ) next SSL cycle
( ) Reject
Comments/Note to staff:
This Act establishes a credit against the state income tax for people or companies that donate the right to withdraw water from streams to the state water conservation board for the purpose of reducing the amount of water that is withdrawn from the streams. The bill specifies that the state water conservation board will approve the credits by issuing certificates to water rights owners who permanently transfer water rights to the water conservation board. The bill establishes the credit at one half of the value of the donated water right, as determined by an appraisal, with a maximum value of $250,000. The bill limits the total annual, dollar amount of credits to $2.0 million.

Submitted as:
Colorado
HB 09-1067
Status: Enacted into law in 2009.

Comment:

Disposition:

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2011A
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action
Comments/Note to staff:

SSL Committee Meeting: 2011A
( ) Include in Volume
( ) Defer consideration
( ) next task force mtg.
( ) next SSL mtg.
( ) next SSL cycle
( ) Reject
Comments/Note to staff:
This Act authorizes pilot projects to use captured rainwater in new real estate developments.

Submitted as:
Colorado
HB 09-1129
Status: Enacted into law in 2009.

Comment:

Disposition:

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2011A
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action
Comments/Note to staff:

SSL Committee Meeting: 2011A
( ) Include in Volume
( ) Defer consideration
( ) next task force mtg.
( ) next SSL mtg.
( ) next SSL cycle
( ) Reject
Comments/Note to staff:
This Act authorizes residents with private wells to collect rainwater for personal use.

Submitted as:
Colorado
SB 09-080
Status: Enacted into law in 2009.

Comment:

Disposition:

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2011A
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action
Comments/Note to staff:

SSL Committee Meeting: 2011A
( ) Include in Volume
( ) Defer consideration
( ) next task force mtg.
( ) next SSL mtg.
( ) next SSL cycle
( ) Reject
Comments/Note to staff:
Louisiana Act 517 was based on model legislation proposed by the Interstate Oil and Gas Compact Commission (“IOGCC”), as modified to fit the state’s regulatory structure and other existing legislation. Significant facets of the Act are:

- treats CO₂ not as a waste, but as a commodity;
- drafted in broad terms and grants the Commissioner of Conservation jurisdiction over “all persons and property necessary to administer and enforce effectively the provisions concerning geologic storage of carbon dioxide;”
- grants permitting authority to the state regulatory agency for the purpose of regulating the facility and protecting against CO₂ pollution or migration;
- empowers a storage operator, after obtaining approval from the state regulatory agency, to exercise the right of eminent domain in order to acquire all surface and subsurface rights necessary for the operation of the storage facility; and
- establishes liability limits for operators with transfer of liability for storage operations to a Geologic Storage Trust Fund run by the state after a specified time.

This Act provides for policy and jurisdiction of the commissioner of conservation over the geologic storage and withdrawal of carbon dioxide. The Act authorizes the state commissioner of conservation to do the following:

- regulate the storage of carbon dioxide and the transmission of carbon dioxide to such storage facilities;
- issue certificates of public convenience and necessity for such facilities and associated pipelines;
- adopt rules, regulations, or orders to prevent the escape of carbon dioxide into other strata; to prevent the pollution of fresh water by oil, gas, salt water or carbon dioxide;
- provide for closure of abandoned wells;
- make inquiries, investigations, and inspection and take such actions that are necessary to enforce new law;
- make drilling records;
- prevent blowouts, caving, and seepage or from operations that may cause injury to leases or property;
- identify ownership of wells used in the storage or transportation of carbon dioxide;
- regulate conversion of recovery operations to storage facilities;
- require the placement of meters to prevent waste;
- require closure of abandoned or unused sites; and
- adopt rules and regulations to collect fees.

This Act provides that only a storage operator is responsible for performance required by the Act. The Act provides that the injected carbon dioxide will “at all times be deemed the property of the party that owns such carbon dioxide, whether at the time of injection, or pursuant to a change of ownership by agreement while the carbon dioxide is located in the storage facility…and in no event shall such carbon dioxide be subject to the right of the owner of the surface of the lands or of any mineral interest therein…. This occurs ten years after the cessation of injection operations, unless a different time period is specified in the rules. At such time, the commissioner will issue a certificate of completion of injection operations, upon a showing by the storage operator that the reservoir is reasonably expected to retain mechanical integrity and the carbon dioxide will reasonably remain emplaced. Upon issuance of the
certificate, both liability for, and ownership of, the remaining project, including the stored carbon
dioxide, transfers to the state.

The legislation provides that prior to using a reservoir and prior to the exercise of eminent
domain the commissioner shall have a hearing and find that such use is suitable and feasible; will
not contaminate other formations containing fresh water, oil, gas, or other commercial mineral
deposits; and will not endanger lives or property. It provides that no reservoir or any part of
which is producing or is capable of producing oil, gas, condensate, or other commercial mineral
in paying quantities, shall be subject to such use, unless all owners have agreed to the use. It
provides that no reservoir shall be subject to such use unless either, the volumes of original
reservoir gas and condensate content therein which are capable of being produced in paying
quantities have all been produced or such reservoir has a greater value or utility as a reservoir for
storage, and at least three-fourths of the owners have consented to such use in writing.

If the commissioner finds that a proposed reservoir has not been fully depleted of
commercially recoverable hydrocarbons, the commissioner shall determine the amount. The Act
authorizes the commissioner to issue orders to ensure that carbon dioxide reduced to possession
and then injected into such a reservoir remains the property of the owner of the carbon dioxide,
not the surface or mineral rights owner, and to issue orders to protect the reservoir.

The Act directs the commissioner to issue a compliance order or commence a civil action
for violations of the Act. Compliance orders must state with specificity the nature of the violation,
a time for compliance and, in the event of noncompliance, assess a civil penalty. The civil penalty
may be no more the $5,000 per day per violation. No penalty may be assessed until the violator
has been give notice and an opportunity to respond. The commissioner or, if requested, attorney
general shall prosecute all civil cases arising out of a violation of new law.

This Act authorizes the commissioner to issue certificates of public convenience and
necessity or certificates of completion of injection operations after a public hearing.

The Act provides that it shall not cause any storage operator or carbon dioxide transmitter
to become, or subject to the duties, liabilities, or obligations of, a common carrier or public utility
or increase their tax liability absent a change in existing law.

The Act authorizes a storage operator that has been issued a permit and a certificate of
public necessity to exercise eminent domain to construct, operate, and modify a storage facility or
lay, maintain, and operate pipelines for the transportation of carbon dioxide to storage, “including
but not limited to surface and subsurface rights, mineral rights, and other property interests
necessary or useful for the purpose of constructing, operating, or modifying a carbon dioxide
facility.” However, as a condition precedent, the commissioner, must have determined that the
reservoir sought to be used is suitable and feasible for such use and meets all regulatory
requirements after public hearing in the parish where the facility is to be located. The eminent
domain authority is to be exercised pursuant to the procedures found in existing law regarding
expropriation, La. R.S. 19:2. The legislation provides that the commissioner is not a necessary or
indispensable party to an eminent domain proceeding and has the right to be dismissed at the
expense and cost of the party that named the commissioner.

It provides that after 10 years, or other time established by rule, after cessation of
operations the commissioner shall issue a certificate of completion of injection operations by
showing the reservoir is expected to retain integrity, at which time ownership is transferred to the
state and the storage operator and all generators of the carbon dioxide shall be released from any
and all duties under new law and any and all liability.
The Act directs that the last operator or owner shall not be released of liability if a Carbon Dioxide Geologic Trust Fund has been depleted. However, the last operator liability can avoid liability if a Site Specific Trust Fund is established. Such release of liability shall not apply to any such owner, operator, or generator that intentionally and knowingly concealed or misrepresented material facts related to the integrity of the storage facility or composition of any injected carbon dioxide.

The legislation directs that after issuance of the certificate of completion of injection operation any performance bonds shall be released and the monitoring or remediation of the site shall become the responsibility of a Carbon Dioxide Geologic Storage Trust Fund.

This Act provides that the state shall not assume or have any liability by the act of assuming ownership of a storage facility after the issuance of the certificate of completion of injection operations. It limits the civil liability of an owner or operator of a storage facility or such transmission pipeline, or generator of the carbon dioxide for non-economic damages to $250,000 per occurrence; however, in an action for wrongful death, permanent and substantial physical deformity, loss of use of limb or organ systems; or permanent physical or mental injury that prevents independent care and prevents life-sustaining activities non-economic damages shall not exceed $500,000. If the liability caps provided for in the Act are found unconstitutional, such damages shall not exceed $1,000,000.

The Act establishes a Carbon Dioxide Geologic Storage Trust Fund which shall be funded by fees, penalties, bond forfeitures, private contributions, interest on deposited funds, civil penalties, costs recovered from responsible parties, grants, donations, and site-specific trust accounts.

The Act directs the commissioner to levy per tonnage of carbon dioxide stored fee on operators up to a maximum of $5,000,000. The rate of collecting the fee shall be determined by the commissioner based on the formula $F \times 120 < M$, where "$F$" is the per unit fee, "120" is the minimum number of months over which the fee is collected, and "$M$" is the maximum payment of $5,000,000. The commissioner shall suspend the collection of the fee once the storage operator's balance in the fund equals $5,000,000 and will resume once the balance falls below that amount. It provides for a regulatory fee payable to the commissioner in the form and schedule set by the commissioner not to exceed $50,000 for FY 2010-2011 and thereafter. The Act provides for an application fee in the form and schedule set by the commissioner not to exceed 8½% above the amount charged on July 1, 2010.

The Act provides for the following uses of the Fund:

- operational and long-term inspecting, testing, and monitoring of sites;
- remediation of mechanical problems associated with remaining wells and surface infrastructure;
- repairing mechanical leaks;
- administrative cost of the commissioner not to exceed $750,000 per year;
- payment of fees and cost associated with site specific accounts; and
- payments of fees and cost to acquire insurance

This Act authorizes the commissioner to enter into agreements and contracts for the following purposes:

- research and development in carbon sequestration technology and methods;
- monitor sites;
- remEDIATE mechanical problems;
- repair leaks; and
- contract with a private legal entity

The legislation directs the commissioner to keep an accurate accounting of the Fund and to report to the legislature about effectiveness of the Fund and the program.

The Act also provides for site-specific accounts that are established for long-term maintenance and restoration when a storage facility is transferred from one party to another.

Submitted as:
Louisiana
Act 517 of 2009
Status: Enacted into law in 2009.

Comment: The SSL Committee published a draft of Wyoming Chapter 30 of 2008 about Carbon Sequestration in the 2010 SSL Volume. Louisiana Act 517 expands upon the Wyoming legislation through the inclusion of eminent domain provisions for construction and operation of the facility, including installation of pipelines to transport carbon dioxide. The Louisiana Act also addresses long term liability with transfer of ownership to the state 10 years (or other time period adopted by rule) after facility closure. Finally, Act 517 establishes a Carbon Dioxide Geologic Storage Trust Fund, funded by fees and penalties, to provide for log-term operation and maintenance of facilities.

Disposition:

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2011A
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action
Comments/Note to staff:

SSL Committee Meeting: 2011A
( ) Include in Volume
( ) Defer consideration
   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject
Comments/Note to staff:
This Act requires the department of business, economic development, and tourism, assisted by a temporary advisory committee, to develop a statewide starlight reserve strategy, including an intelligent statewide lighting law, to preserve the quality of the night sky and its associated cultural, scientific, astronomical, natural, and landscape-related values. Under the Act, a starlight reserve is a site where a commitment to defend the quality of the night sky and access to starlight has been established. Its main function is to preserve the quality of the night sky and its associated cultural, scientific, astronomical, natural, and landscape-related values. A starlight reserve is to have a core or dark zone, which is an unpolluted area where natural night sky light conditions are kept intact. This core zone is to be protected by a buffer or protection zone to avoid the adverse effects of air and light pollution reaching the core zone. Finally, there is to be an external zone where intelligent and responsible lighting criteria are to be enforced, protecting night sky quality from harmful factors such as air pollution.

Submitted as:
Hawaii
SB NO. 536, S.D. 1, H.D.1, C.D.1
Status: Enacted into law in 2009.

Comment:

Disposition:

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2011A
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action

Comments/Note to staff:

SSL Committee Meeting: 2011A
( ) Include in Volume
( ) Defer consideration
( ) next task force mtg.
( ) next SSL mtg.
( ) next SSL cycle
( ) Reject

Comments/Note to staff:
This Act prohibits the state department of environmental quality from issuing, modifying, or renewing permits to certain types of oil and gas storage facilities without proof from such facilities that the facilities have the financial means to close and restore their sites in a manner that protects human health and the environment.

Submitted as:
Arkansas
Act 369
Status: Enacted into law in 2009.

Comment:

Disposition:

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2011A
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action
Comments/Note to staff:

SSL Committee Meeting: 2011A
( ) Include in Volume
( ) Defer consideration
   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject
Comments/Note to staff:
This bill requires residential building contractors to offer to buyers of their new homes a residential photovoltaic solar generation system or a residential solar thermal system, or both; upgrades of wiring or plumbing, or both, planned by the builder to accommodate future installation of such systems; or a chase or conduit, or both, constructed to allow ease of future installation of the necessary wiring or plumbing for such systems.

Submitted as:
Colorado
HB 09-1149
Status: Enacted into law in 2009.

Comment:

Disposition:

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2011A
(  ) Include in Volume
(  ) Defer consideration to next task force meeting
(  ) Reject
(  ) No action
Comments/Note to staff:

SSL Committee Meeting: 2011A
(  ) Include in Volume
(  ) Defer consideration
    (  ) next task force mtg.
    (  ) next SSL mtg.
    (  ) next SSL cycle
(  ) Reject
Comments/Note to staff:
For FY 2009-10 through FY 2016-17, this bill makes all sales, storage and use of components used in solar thermal systems exempt from the state sales and use tax. The bill specifies various components for solar thermal systems that are affected, and defines such a system as one whose primary purpose is to use energy from the sun to produce heat or cold for heating or cooling a residential or commercial building or water; or any industrial, commercial, or manufacturing process. Finally, the bill allows local governments to provide the same financial incentives for solar thermal installations as are now be provided for solar electric installations.

Submitted as:
Colorado
HB 09-1126
Status: Enacted into law in 2009.

Comment:

Disposition:

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2011A
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action
Comments/Note to staff:

SSL Committee Meeting: 2011A
( ) Include in Volume
( ) Defer consideration
( ) next task force mtg.
( ) next SSL mtg.
( ) next SSL cycle
( ) Reject
Comments/Note to staff:
This Act prohibits cities or counties from adopting building codes that are materially different than the International Energy Conservation Code. The Act requires the highest available energy conservation code as determined by the state energy office to be the referenced energy code for all new detached 1 and 2-story family dwellings and all other new residential buildings 3 stories or less in height. Energy standards for all other new buildings, to include high-rise residential, shall be established to meet the latest available standard of the American Society of Heating, Refrigerating and Air Conditioning Engineers/Illuminating Engineering Society of North America as determined by the state energy office.

The Act directs the state energy office to establish programs to promote the construction of zero net energy capable homes. It defines a zero net energy capable home as a commercial building or residence that annually, through the use of energy efficient construction, lighting, appliances, and on site renewable energy generation uses no more energy than is produced on site (zero net energy consumption from the utility provider). This Act requires all new residential building construction in the state be zero net energy capable by December 31, 2025, and it requires all new commercial building construction be zero net energy capable by December 31, 2030.

Submitted as:
Delaware
SB 59
Status: Enacted into law in 2009.

Comment: A July 29, 2009 press release from the governor’s office states:

NEWARK – Gov. Jack Markell signed two pieces of his administration’s energy agenda into law Wednesday at a business that is helping to put Delaware on the leading edge of the Green Economy.

“Placing environmental sustainability at the forefront of our public policy debate creates jobs and opportunities for Delaware residents and companies, Markell said during a ceremony at WhiteOptics in Newark, which manufactures material that make light fixtures more energy efficient. “We must boldly move forward because efficiency produces real cost savings, environmental benefits, and economic opportunity. By reducing our energy use, we will have more money to save and spend in our local communities, generating well-paying jobs and greater prosperity for us all.”

Senate Bill 59 updates Delaware’s building codes to increase energy efficiency requirements for new buildings and promotes the construction of “zero net energy” homes and office buildings. A “zero net energy” building does not consume more energy than it generates.”
greenhouse gas emissions from homes, building, districts, and neighborhoods. It directs the
department and the state building code council to convene a work group to inform the initial
development of the strategic plan. The Act requires the state energy code to be designed to
accelerate construction of increasingly energy efficient homes and buildings that help achieve the
broader goal of building zero fossil-fuel greenhouse gas emission homes and buildings by the
year 2031.

This legislation requires the state building code council to adopt starter energy codes from
2013 through 2031 that incrementally move towards achieving seventy percent reduction in
annual net energy consumption.

It requires utilities to:
- maintain records of the energy consumption data of all nonresidential and
qualifying public agency buildings to which they provide service;
- create an energy benchmark for each reporting public facility using a portfolio
manager;
- report the environmental protection agency national energy performance rating for
each reporting public facility included in the technical requirements for this rating to the
department of general administration; and
- link all portfolio manager accounts to the state portfolio manager master account to
facilitate public reporting.

The bill requires the department of community, trade, and economic development to
recommend to the legislature a methodology to determine an energy performance score for
residential buildings and an implementation strategy to use such information to improve the
energy efficiency of the state's existing housing supply.

This Act requires the department of general administration to:
- establish a state portfolio manager master account;
- select a standardized portfolio manager report for reporting public facilities;
- make the standard report of each reporting public facility available to the public
through the portfolio manager web site;
- develop a technical assistance program to facilitate the implementation of a
preliminary audit and the investment grade energy audit and design the program to utilize audit
services provided by utilities or energy services contracting companies when possible; and
- conduct a review of facilities not covered by the national energy performance
rating, and based on this review, develop a portfolio of additional facilities that require
preliminary energy audits.

Submitted as:
Washington
Chapter 423, Laws of 2009
Status: Enacted into law in 2009.

Comment:
Disposition: 03-31A-03A

CSG policy task force recommendations to The Committee on Suggested State Legislation: 2011A
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action
Comments/Note to staff:

SSL Committee Meeting: 2011A
( ) Include in Volume
( ) Defer consideration
   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject
Comments/Note to staff:

Disposition: 03-31A-03B

CSG policy task force recommendations to The Committee on Suggested State Legislation: 2011A
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action
Comments/Note to staff:

SSL Committee Meeting: 2011A
( ) 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 utilities division to establish and administer a small wind innovation zone program to optimize local, regional, and state benefits from wind energy and to facilitate and expedite interconnection of small wind energy systems with electric utilities throughout the state. “Small wind innovation zone” means a political subdivision of the state, including but not limited to a city, county, township, school district, community college, area education agency, institution under the control of the state board of regents, or any other local commission, small wind energy system owners who agree to its terms.

The Act directs the state chapters of the National League of Cities and National Association of Counties to develop a model ordinance with the state wind energy association and representatives from the utility industry that political subdivisions in the state can use to establish small wind innovation zones. The legislation also directs the utilities board to create a model interconnection agreement that owners of small wind energy systems can use to connect to energy utilities.

Submitted as:
Iowa
House File 810 – Enrolled
Status: Enacted into law in 2009.

Comment:

Disposition:

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2011A
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action
Comments/Note to staff:

SSL Committee Meeting: 2011A
( ) Include in Volume
( ) Defer consideration
   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject
Comments/Note to staff:
This Act defines human-animal hybrids and prohibits creating or attempting to create a human-animal hybrid by transferring or attempting to transfer a human embryo into a nonhuman womb or transferring or attempting to transfer a nonhuman embryo into a human womb. The Act exempts research involving the use of transgenic animal models containing human genes and xenotransplantation of human organs, tissues or cells into recipient animals other than animal embryos.

Submitted as:
Louisiana
Act 108, Regular Session, 2009
Status: Enacted into law in 2009.

Comment:

Disposition:

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2011A
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action
Comments/Note to staff:

SSL Committee Meeting: 2011A
( ) Include in Volume
( ) Defer consideration
   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject
Comments/Note to staff:
This Act relates to adulterating and misbranding food. It directs the state commissioner of agriculture to establish requirements for testing samples or specimens of foods and ingredients at food processing plants for the presence of poisonous or deleterious substances or other contaminants. The Act directs the commissioner to establish regulations requiring food processing plants to develop and submit food safety plans describing the procedures used at such plants to prevent the presence of hazards such as poisonous or deleterious substances or other contaminants that would render finished foods or finished ingredients as manufactured at such plant injurious to health. The plans must include preventive controls, monitoring to ensure the effectiveness of such controls, and records of corrective actions, including actions taken in response to the presence of known hazards.

The Act enables the state commissioner of agriculture or their agent to have free access during all hours of operation and at all other reasonable hours to any factory, warehouse, or establishment in which food is manufactured, processed, packed, or held for introduction into commerce and any vehicle being used to transport or hold such foods to commerce for evidence of contaminated food or to take samples to test for contamination.

Submitted as:
Georgia
Act 98/SB 80
Status: Enacted into law in 2009.

Comment:

05-31A-01B Food Safety
LA

This Act directs that beginning January 1, 2011, every food processing plant operating within the state shall maintain a written food processing plan which shall be immediately available for review by the department upon request. Any food processing plant which maintains a Hazard Analysis Critical Control Point Plan which meets or exceeds the criteria required for such plan by either the United States Department of Agriculture or the Food and Drug Administration shall be deemed to have satisfied the requirements of the Act.

Submitted as:
Louisiana
SB 93
Status: Enacted into law in 2009.

Comment:
Disposition: 05-31A-01A

CSG policy task force recommendations to
The Committee on Suggested State
Legislation: 2011A
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action
Comments/Note to staff:

SSL Committee Meeting: 2011A
( ) Include in Volume
( ) Defer consideration
   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject
Comments/Note to staff:

Disposition: 05-31A-01B

CSG policy task force recommendations to
The Committee on Suggested State
Legislation: 2011A
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action
Comments/Note to staff:

SSL Committee Meeting: 2011A
( ) Include in Volume
( ) Defer consideration
   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject
Comments/Note to staff:
This Act requires wireless telecommunications carriers disclose the location of cell phone callers when they use their cell phones to make emergency calls. The Act directs that no cause of action shall lie in any court against any wireless telecommunications carrier, its officers, employees, agents or other specified persons for providing call location information while acting in good faith and in accordance with the provisions of the Act. The Act also directs the state bureau of investigation to collect and distribute information about wireless carriers doing business in the state to public safety answering points throughout the state.

Submitted as:
Kansas
Section 1 of SB336 (excludes Section 2)
Status: Enacted into law in 2009. SB336 is a technical measure that reconciles conflicting statutes and corrects bill drafting errors that have been discovered in the 2009 legislation and that is why CSG staff trimmed this submission to just the pertinent section 1 of that bill.

Comment:

Disposition:

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2011A
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action
Comments/Note to staff:

SSL Committee Meeting: 2011A
( ) 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 felony for assault, battery, or assault and battery upon emergency medical care providers performing emergency duties. The felony imprisonment term is two years and the fine is $1,000.00. The Act defines “emergency medical care providers” as doctors, residents, interns, nurses, nurses’ aides, ambulance attendants and operators, paramedics, emergency medical technicians, and members of a hospital security force.

Submitted as:
Oklahoma
HB1360 (Enrolled version)
Status: Enacted into law in 2009.

Comment:

Disposition:

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2011A
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action

Comments/Note to staff:

SSL Committee Meeting: 2011A
( ) Include in Volume
( ) Defer consideration
   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject

Comments/Note to staff:
The Uniform Emergency Volunteer Health Practitioners Act (UEVHPA), promulgated by the Uniform Law Commission (ULC) in 2006 and amended in 2007, responds to a serious problem caused by a lack of uniformity in state laws that was revealed during the horrific hurricane season of 2005. Doctors, nurses, EMTs, mental health professionals, veterinarians, coroners, and other health professionals providing needed individual and public health services from outside the affected Gulf Coast states who volunteered to provide desperately needed assistance to disaster victims were seriously delayed, and in some cases prevented, from providing services because they were unable to quickly and clearly obtain authorization to practice within the affected states.

Although all 50 states have adopted the Emergency Management Assistance Compact ("EMAC") that provides for the interstate recognition of licenses held by professionals responding to disasters and emergencies, the Compact cannot be efficiently used to supply the "surge capacity" required to deliver health services during emergencies. This occurs because, aside from its application to state government employees, EMAC only extends its benefits to other emergency responders who go through a complicated process of entering into agreements with their home jurisdictions to be deployed to other states pursuant to mutual aid agreements. As a result, very few private sector volunteers were able to be deployed to the Gulf Coast through the Compact and the capacity of state and federal government agencies to immediately provide needed assistance was overwhelmed.

Because of the limited ability of EMAC and federal agencies to quickly supply needed health care personnel, states attempted to facilitate the flow of private sector volunteer practitioners into disaster areas through executive orders and directives issued pursuant to other emergency management laws. Unfortunately, the reliance of states on an ad hoc and non-uniform mechanism of executive orders and directives created a system whose parameters and requirements were poorly communicated and not well understood by either volunteers or emergency relief organizations. This lack of coordination seriously delayed the delivery of needed services and left volunteers confused and justifiably anxious about their status. Furthermore, virtually no states were able to provide guidance regarding how in emergency circumstances to address complex and serious legal issues arising due to differences in the scope of practice authorized for many types of health professionals that exist between states. In addition, no rules were established to clarify the jurisdiction of "source state" or "host state" licensing boards and emergency management agencies over volunteer health practitioners.

The objective of the UEVHPA, therefore, is to fill the tragic gap so that in future years health practitioners will be able to be quickly deployed to health care facilities and disaster relief organizations pursuant to clear and well-understood rules that will both meet the needs of volunteers and relief agencies and provide an effective framework to ensure the delivery of high quality care to disaster victims.

UEVHPA establishes a system whereby health professionals may register either in advance of or during an emergency to provide volunteer services in an enacting state. Registration may occur in any state using either governmentally established registration systems, such as the federally funded "ESAR VHP" or Medical Reserve Corps programs, or with

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1 The acronym "ESAR-VHP" refers to Emergency Systems for the Advance Registration Systems of Volunteer Health Professionals financed by the U.S. Department of Health and Human Services.
registration systems established by disaster relief organizations, licensing boards or national or multi-state systems established by associations of licensing boards or health professionals.

UEVHPA authorizes healthcare facilities and disaster relief organizations in affected states (working in cooperation with local emergency response agencies) to use professionals registered with these systems and to rely on the registration systems to confirm that registrants are appropriately licensed and in good-standing. Properly registered professionals will have their licenses recognized in affected states for the duration of emergency declarations, subject to any limitations or restrictions that host states determine may be necessary.

UEVHPA also authorizes, but does not require, states affected by disasters to utilize these registration systems to confirm that any professionals practicing during emergencies are licensed and in good-standing. In addition, licensing boards in host states are given jurisdiction over out-of-state volunteers practicing within their boundaries, and are mandated to report any disciplinary actions undertaken to each professional's home jurisdiction. The use of registration systems to confirm registration and of licensing boards to oversee the delivery of services, however, differs from the establishment of individualized credentialing systems that might create a potentially dangerous non-uniform service delivery bottleneck. Instead, the goal of UEVHPA is to establish a robust system with redundant alternatives for the deployment of volunteers that can function even during the most severe disasters in which communication systems are disrupted and government officials are unavailable to provide direction and supervision.

Under UEVHPA, a health professional licensed in another state is subject to the scope of practice for practitioners licensed in the state with the emergency. In addition, out-of-state professionals may not exceed the scope of practices as established by their licensing jurisdiction, unless expressly authorized to do so by host states. Host states are expressly authorized, however, to modify practice limits if necessary to respond to emergency conditions. Similarly, healthcare facilities and relief organizations in host states are authorized to regulate, limit or restrict the nature, scope and type of services provided by volunteers. All volunteers practicing within a state and organizations using these volunteers are further subject to management and control to the extent provided by other state emergency management laws.

In August, 2007, the ULC approved amendments to the UEVHPA to complete previously reserved sections addressing the civil liability of disaster volunteers and the care of volunteers who are injured, become ill or die while delivering emergency services. With regard to civil liability, the Act provides two options. In Alternative “A”, a volunteer health practitioner is not liable for acts or omissions, nor can any party be held vicariously liable for a volunteer practitioner’s acts or omissions, unless the conduct in question rises to the level of willful misconduct, or wanton, grossly negligent, reckless, or criminal conduct, represents an intentional tort; involves a breach of contract, is a claim by a host or deploying entity, or is an act or omission relating to the operation of a motor vehicle, vessel, aircraft, or other vehicle. Alternative “B” utilizes the same basic exclusions, but caps the compensation a volunteer can receive in connection with the emergency (not including reimbursement of reasonable expenses) at $500 per year, and does not include the limitation on vicarious liability. It is anticipated that enacting states will choose the alternative that most closely tracks their existing state provisions regard “Good Samaritan” liability protection and/or each state’s implementation of federal law on this subject. The 2007 Amendments also provide that a volunteer health practitioner who is not otherwise covered by the workers’ compensation laws of the host or deploying state may elect to be deemed an employee of the host state for purposes of making a claim under the host state’s
workers’ compensation system. The act directs enacting states to coordinate implementation of this coverage with other enacting states.

The objective of the Act is to open the door for volunteers, with appropriate skills and expertise, to volunteer services in a state with an emergency as if they are licensed in the state with the emergency. This should mean better, faster services to the victims of disasters such as hurricanes and earthquakes. It would mean more lives saved, more victims treated and more relief to disaster-affected areas, clearly in the interests of the citizens of states which enact the UEVHPA.

Submitted as:
North Dakota
HB 1073/Chapter 310
Status: Enacted into law in 2009.

Comment: This Uniform Act has been enacted in four states in 2009: North Dakota, Oklahoma, Arkansas and Louisiana.

According to Uniform Law Commissioners staff, current law provides for interstate recognition of licenses for health practitioners deployed to disasters by the federal government or by state agencies as part of federally sponsored programs. However, no system exists to ensure recognition of the licenses held out-of-state volunteers who are not part of these limited systems. The Uniform Emergency Volunteer Health Practitioners Act (UEVHPA) provides that properly registered out-of-state health practitioners providing disaster relief services through host entities during a declared emergency in conformity with current state law will have their professional licenses recognized in the disaster state.

Advance Registration.

Volunteers must register with a public or private registration system that meets certain standards, most importantly the capacity to determine whether they are properly licensed and in good standing within their principal state of practice. The organizations that may operate a registration system are strictly limited to public and private organizations with the competence and experience to reliably meet the Act’s standards. By imposing rigorous standards, the UEVHPA provides a reliable yet flexible system for assuring the state in which the emergency has been declared that the volunteers providing services to its residents in their time of need are well qualified and licensed.

Private Sector Included.

Interstate license recognition under many existing systems is functionally limited to state officers, employees, or other volunteers formally incorporated into official “state forces.” Under the UEVHPA, all licensed practitioners providing health, veterinary, or mortuary services may register as emergency volunteer health practitioners. This includes physicians, EMTs, nurses, psychologists, social workers, counselors, morticians, veterinarians, and other licensed health professionals whose services may be needed to respond effectively to an emergency that overwhelms local capacity.
Flexibility.

Volunteers are allowed to register in advance with systems located throughout the country rather than requiring that they register in the affected state at a time when its systems may be overwhelmed and its communications severely disrupted. This allows for states to take advantage of the expanding number of registration systems already being developed by private and public agencies, and provides a safeguard against breakdowns in communication and infrastructure that might otherwise affect local capacity to deploy volunteers when an emergency is declared.

Integration with existing state systems.

Host entities, meaning the entities in the disaster state that deploy and use volunteer health practitioners, must coordinate all activities with the state agency charged with emergency management, thus ensuring effective and appropriate use of their services. This coordination requirement helps ensure that volunteers do not “self-deploy” in a manner that is counterproductive to a state’s efforts.

Regulation.

Volunteer health practitioners must conform to scope of practice requirements of both their home state and the state within which they provide services. They may not perform services that a similar health practitioner would not be allowed to perform under a license issued by the host state, and they may not perform services that go beyond those for which they are licensed in their home states.

Liability and Workers’ Compensation Coverage.

The Act clarifies the extent to which volunteers and organizations registering, deploying, and using them are exposed to or immune from civil liability for professional malpractice. Further, the Act also makes workers’ compensation benefits available to volunteer health practitioners who otherwise would not have access to such benefits, treating them as if they were employees of the host state.
This Act enables doctors to authorize the use of influenza vaccine orders for a group of patients. It provides for influenza vaccine protocol agreements between physicians and pharmacists or nurses and requirements for the content of influenza vaccine protocol agreements. The Act prohibits a party to an influenza vaccine protocol agreement from delegating their authority.

Submitted as:
Georgia
HB 217 (As Passed House and Senate)
Status: Enacted into law in 2009.

Comment:

Disposition:

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2011A
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action
Comments/Note to staff:

SSL Committee Meeting: 2011A
( ) Include in Volume
( ) Defer consideration
   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject
Comments/Note to staff:
The United States Center for Disease Control and Prevention (CDC) publishes the following documents: Adult Immunization Schedule and Health Information for International Travel. The first lists these vaccines: tetanus, diphtheria, pertussis; human papillomavirus; varicella; zoster; measles, mumps, rubella; influenza; pneumococcal; hepatitis A; hepatitis B; meningococcal. The second contains additional vaccination recommendations depending on the destination. This Act allows certified pharmacists to administer to adults without a prescription certain immunizations or vaccines listed in the CDC’s recommended Adult Immunization Schedule and Immunizations or vaccines recommended by the CDC’s Health Information for International Travel. It also allows certified pharmacists to administer emergency epinephrine and diphenhydramine to manage an acute allergic reaction to those immunizations or vaccines. The Act requires pharmacists be certified under criteria established by the state pharmacy board and an advisory committee that is created under the Act to help develop the certification criteria.

The legislation requires pharmacists who administer such immunizations, vaccines, or emergency medications under the Act to report the administration to the patients’ primary care providers, if available, within forty-eight hours after the administration. Pharmacists must also report information to any adult immunization information system or vaccine registry established by the state department of health services. Pharmacists must maintain a record of these immunizations as required by law and participate in any federal vaccine adverse event reporting system or successor database.

The bill establishes that no cause of action is created against a patient’s primary care provider for any adverse reaction, complication, or negative outcome arising from the administration of any immunization, vaccine, or emergency medication by pharmacists without a prescription.
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 relevant factors to be considered include, but are not limited to the existence and amount of increases in fees or charges in connection with purchases of mortgages by the Fannie Mae or the Federal Home Loan Mortgage Corporation (Freddie Mac). It increases in fees or charges imposed by mortgage insurers and the impact, including the magnitude of the impact, that such increases have had, or will likely have, on APRs for mortgage loans in this state. It increases to a particular percentage cannot exceed .25%, and the total of all increases the commissioner authorizes to a particular percentage cannot exceed .5%.

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 of the licensee's or among the licensee's officers, directors, members, 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: This item was deferred to the 31A SSL Committee meeting.

Disposition: 06-30B-02

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2011A
(   ) Include in Volume
(   ) Defer consideration to next task force meeting
(   ) Reject
(   ) No action
Comments/Note to staff:

SSL Committee Meeting: 2011A
(   ) 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: This item was deferred to the 31A SSL Committee meeting.

Disposition:

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2011A
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action
Comments/Note to staff:

SSL Committee Meeting: 2011A
( ) 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: This item was deferred to the 31A SSL Committee meeting.

Disposition:

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2011A
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action
Comments/Note to staff:

SSL Committee Meeting: 2011A
( ) Include in Volume
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( ) Reject
Comments/Note to staff:
The Act creates a guarantee fund to finance investments in new thirty-year, fixed-rate conventional mortgage loans through a program administered by the state housing finance authority.

Submitted as:
Alabama
Act 2009-284/SB 367
Status: Enacted into law in 2009.

Comment:

Disposition:

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2011A
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action
Comments/Note to staff:

SSL Committee Meeting: 2011A
( ) Include in Volume
( ) Defer consideration
   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject
Comments/Note to staff:
This Act:
• allows a security interest in rents to accrue prior to foreclosure as an interest that is
distinct from any lien on the property which produces the rents;
• makes the assignment of rents effective against third persons upon proper
recordation;
• establishes standards to govern the appointment of a receiver for mortgaged real
property;
• characterizes rents as any sum paid by a tenant, licensee, or other person for the
right to possess or occupy the real property of another;
• permits an assignee to enforce its security interest in rents through proper
notification;
• allows a mortgage to create a security interest in rents by default;
• clarifies that the assignee's ability to collect rents from tenants is subject to any
claim or defense by the tenant of the assignee's nonperformance; and
• coordinates with Article 9 of the Uniform Commercial Code regarding proceeds of
rents and creates rules to establish priorities between conflicting interests.

Submitted as:
Utah
SB 54
Status: Enacted into law in 2009.

Comment: According to NCCUSL, Utah is the first state to enact this uniform law. New Mexico
considered it in 2008-09, but it died upon adjournment.

NCCUSL summarizes the law thus:
“When a creditor takes a mortgage on rental property (whether residential, commercial or
industrial), does that creditor have a protected interest in the rent (income) from that rental
property in the event the debtor/owner of the property defaults on the mortgage? The answer is
generally and surprisingly no. Usually a mortgagee (the creditor) takes a separate assignment of
rents from the mortgagor (debtor), which provides a direct right to rent payments to the
mortgagee in the event of a default. But even then, the right to payment is uncertain against other
competing creditors. What happens if the tenant pays the mortgagor without notice of the
assignment and the mortgagee subsequently demands another payment is not clearly set out. This
may put tenants in the untenable position of having to pay twice. Given the sophistication of
modern real estate transactions it is a surprise that there is so much uncertainty about this
ancillary, though important issue.

For that reason, the Uniform Law Commissioners promulgated the Uniform Assignment
of Rents Act (UARA) in 2005. It provides basic rules that establish the “security interest” of the
creditor, the rights of tenants to notice and the effect of notice, and the priority of the security
interest against other creditors.

The term “security interest” is derived from commercial secured transactions law under
Article 9 of the Uniform Commercial Code. A creditor’s security interest attaches to specific
collateral that the creditor may possess in the event of a default on the debt. It “arises by
agreement and secures performance of an obligation.” UARA provides that a “security
"instrument" (a mortgage, deed of trust, etc.) creates an assignment of rents unless the instrument expressly excludes such an assignment. Further, the assignment of rents creates a “presently effective security interest” which the creditor may then perfect. “Perfection” is another term derived from commercial secured transactions law. It occurs under UARA when a security instrument is registered/filed in the pertinent real estate records. Perfection provides priority in the collateral. That is, as of the date registered/filed, the security interest has priority over any unperfected security interests or security interests that are perfected by registering/filing after that date.

The effect is to make it clear that any mortgage, deed of trust or the like that provides a creditor an interest in a piece of real estate will also provide a security interest in the rental income of that property, all enforceable in the event there is a default on the debt.

An assignee of rents may obtain direct payment of rents from tenants by providing notice. UARA has specific informational provisions and a statutory form for notice that meets the informational requirements. Once notice is received, the tenant must pay the rent to the assignee. Any payment to the assignor will risk the obligation of double payment, unless the tenant occupies the rented premises as a primary residence. A copy of the notice to a tenant must also go to the assignor.

If more than one assignee gives a tenant notice, the tenant must always honor the latest notice provided. The tenant is not obligated to sort out any disputes over priority of the security interest in the rents.

Enforcement of a perfected security interest in rents may occur in two other forms. The assignee may petition for the appointment of a receiver in the event the assignor has consented or the assignee has been made insecure about enforcement of the security interest. The receiver then takes care of obtaining the rents. The second method is by notifying the assignor directly. The assignor is then required to pay proceeds of rent collection to the assignee directly.

UARA provides a remedy for the existing insecurities involved in obtaining a security interest in rents when a debtor defaults on a real estate obligation. Its uniform enactment in the states will be a boon to interstate real estate markets and it should be enacted in every state as soon as practicable.”

Disposition:

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This Act requires the state building code commissioner to establish standards for safe rooms and storm shelters by January 1, 2011. Shelters and safe rooms are not mandated in new buildings, but the standards will be available to people who want them.

Submitted as:
Iowa
House File 705
Status: Enacted into law in 2009.

Comment: A May 22, 2009 press release from the governor’s office states:

“CEDAR RAPIDS – Governor Chet Culver continued his work of helping communities recover from the disasters of 2008 by signing five disaster recovery-related bills into law today. The Governor was joined by local officials from Linn County and the City of Cedar Rapids for the ceremony at Mays Island, the historic home of local government.

“As we approach the one year anniversary of last year’s natural disasters, one thing is clear – Iowans have joined together to rebuild our homes, business, and communities,” said Governor Culver. “We have already made much progress, but there is much more to do, and these five bills will not only help us in our rebuilding efforts, but also help us take steps to prevent the damage and destruction we saw last year. As Governor, I am committed to rebuilding this state, and I look forward to working with all Iowans to create the safer, stronger future we all know is possible.”

Below is a summary of the bills the Governor signed into law.

Senate File 415: An act relating to the acquisition of title to disaster-affected abandoned property by cities in certain years and authorizing cities to establish a property rights defense account.

Senate File 377: An act relating to the prescription drug donation repository program. The bill helps Iowans who have been victims of disaster through a prescription drug repository that authorizes medical facilities, and pharmacies, and the department to redispense prescription drugs and supplies that would otherwise be destroyed.

House File 705: An act concerning safe rooms and storm shelters in newly constructed buildings. The state building code commissioner, in cooperation with the department of public defense, the department of natural resources, and the rebuild Iowa office, will review and assess best practices in the design, construction, and maintenance of buildings, safe rooms, and storm shelters to reduce the risk of personal injury from tornadoes and other severe weather.

House File 756: An act relating to regional watershed, land use, and floodplain management policies, and providing for the establishment of the Mississippi river partnership council, which will be a forum for city, county, state, agriculture, business, conservation, and environmental and other stakeholders to discuss matters relevant to the health, management, and use of the Mississippi river.
House File 759: An act requiring counties and cities with flood hazard areas within their boundaries to participate in the national flood insurance program, and requiring preparation of a flood insurance report by the commissioner of insurance.

These bills are among two dozen disaster-related pieces of legislation signed into law this year. Previous bills signed by Governor Culver include the Rebuild Iowa Act, which includes $56 million in disaster relief, and the I-JOBS initiative, which provides $165 million in help to communities impacted by last year’s flood as well as $100 million to help rebuild the flood-damaged campus at the University of Iowa.”

Disposition:

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2011A
(   ) Include in Volume
(   ) Defer consideration to next task force meeting
(   ) Reject
(   ) No action
Comments/Note to staff:

SSL Committee Meeting: 2011A
(   ) Include in Volume
(   ) Defer consideration
    (   ) next task force mtg.
    (   ) next SSL mtg.
    (   ) next SSL cycle
(   ) Reject
Comments/Note to staff:
This Act is intended to ensure there is not a deficit of safe public evacuation shelter space in any region of the state by 2014. The Act authorizes the director of a parish office of homeland security and emergency preparedness to request to use public facilities, including schools, postsecondary education facilities, and other facilities owned or leased by the state or local governments, but excluding hospitals or nursing homes, which are suitable for use as public evacuation shelters and which are not subject to an existing and contrary agreement for use during an emergency response.

The legislation requires the director of a parish office of homeland security and emergency preparedness to coordinate with the appropriate school board, university, community college, technical school, or local governing board when requesting the use of such facilities as public evacuation shelters.

The legislation directs that any public facility that is the recipient of retrofitting or hardening construction that is funded from money appropriated by the state or federal government for purposes of being used as a shelter are to make such facility available for use as a public evacuation shelter at the request of the director of the governor’s office of homeland security and emergency preparedness.

The bill directs the governor’s office of homeland security and emergency preparedness to select facilities recommended by directors of the parish offices of homeland security and emergency preparedness for retrofitting and hardening as shelters.

Submitted as:
Louisiana
Act 353
Status: Enacted into law in 2009.

Comment:

Disposition:

CSG policy task force recommendations to The Committee on Suggested State Legislation: 2011A ( ) Include in Volume ( ) Defer consideration ( ) Defe considerati next task force ( ) next SSL mtg. ( ) next SSL ccy ( ) Reject Comments/Note to staff: SSL Committee Meeting: 2011A ( ) Include in Volume ( ) Defer consideration ( ) next task force mtg. ( ) next SSL mtg. ( ) next SSL cycle ( ) Reject Comments/Note to staff:
This Act provides cities with a quick process to acquire building that are abandoned after natural disasters. It authorizes cities to establish a property rights defense account.

Submitted as:
Iowa
Senate File 415
Status: Enacted into law in 2009.

Comment:

Disposition:

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2011A
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action
Comments/Note to staff:

SSL Committee Meeting: 2011A
( ) 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 agriculture and forestry to set up a financing program to stimulate investment in healthy food retail outlets in underserved areas of the state. The Act defines “Healthy food retailers” as for-profit or not-for-profit retailers that sell high quality fresh fruits and vegetables at competitive prices, including but not limited to supermarkets, grocery stores, and farmers’ markets.

Submitted as:
Louisiana
Act 252, Regular Session, 2009
Status: Enacted into law in 2009.

Comment:

Disposition:

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2011A
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action
Comments/Note to staff:

SSL Committee Meeting: 2011A
( ) Include in Volume
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   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject
Comments/Note to staff:
This Act creates the offense of fraudulent filing of a Uniform Commercial Code financing statement. The first offense is a Class A misdemeanor. A subsequent offense is a Class D felony. The Act also establishes civil penalties for violating the Act.

Submitted as:
Arkansas
Act 336
Status: Enacted into law in 2009.

Comment:

Disposition:

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2011A
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action
Comments/Note to staff:

SSL Committee Meeting: 2011A
( ) Include in Volume
( ) Defer consideration
( ) next task force mtg.
( ) next SSL mtg.
( ) next SSL cycle
( ) Reject
Comments/Note to staff:
This Act establishes operating requirements for low-profit limited liability corporations. The Act defines a low-profit limited liability corporation as one that:

- significantly furthers the accomplishment of one or more charitable or educational purposes within the meaning of Section 170(c)(2)(B), Internal Revenue Code;
- demonstrates that it would not be formed but for the company's relationship to the accomplishment of a charitable or educational purpose;
- may not have as a significant purpose the production of income or the appreciation of property; and
- may not have as a purpose to accomplish one or more political or legislative purposes within the meaning of Section 170(c)(2)(D), Internal Revenue Code.

Submitted as:
Utah
SB148/Session Law Chapter 141
Status: Enacted into law in 2009.

Comment:

Disposition:

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2011A
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action
Comments/Note to staff:

SSL Committee Meeting: 2011A
( ) Include in Volume
( ) Defer consideration
 ( ) next task force mtg.
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( ) Reject
Comments/Note to staff:
According to a legislative summary, existing state law outlined how “fair and reasonable compensation” is determined for a vehicle dealer when a franchise relationship is dissolved. Part of the compensation included “all new current model year motor vehicle inventory” with a gross vehicle weight (GVW) rating of less than 8,500 pounds purchased from the manufacturer, distributor or importer that has not been materially altered, substantially damaged or driven for more than 300 miles.” This Act removes the GVW limitation and increases the threshold amount of repaired damages from $500 to $1000 that is required to be included in a vehicle dealer’s written disclosure to a purchaser of a new motor vehicle prior to entering into a sales contract.

The Act also provides additional rights to automobile dealerships where the dealership agreements have been terminated as part of a bankruptcy, restructuring, or any other reason other than for good cause (as provided within the franchise agreement) by an automobile manufacturer. It requires vehicle manufacturers to provide, within 30 days, to a dealer whose franchise has been cancelled specific reasons for cancellation when another franchise in same market area was not cancelled. It requires that cancelled franchisee be offered a franchise if a new franchise is to be established or existing franchise is to be expanded into previous franchisee’s market area.

Finally, this bill encourages state contracting agencies to buy automobiles from dealers whose dealership agreements have been terminated by manufacturers for reasons other than good cause.

Submitted as:
Oregon
HB2739 (Enrolled version)
Status: Enacted into law in 2009.

Comment:

This bill addresses requirements for operating or closing a motor vehicle franchise.

Submitted as:
New Hampshire
SB 153/Chapter 20
Status: Enacted into law in 2009.

Comment:
Disposition: 09-31A-03A

CSG policy task force recommendations to
The Committee on Suggested State
Legislation: 2011A
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action

Comments/Note to staff:

SSL Committee Meeting: 2011A
( ) Include in Volume
( ) Defer consideration
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   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject

Comments/Note to staff:

Disposition: 09-31A-03B

CSG policy task force recommendations to
The Committee on Suggested State
Legislation: 2011A
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action

Comments/Note to staff:

SSL Committee Meeting: 2011A
( ) Include in Volume
( ) Defer consideration
   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject

Comments/Note to staff:
This Act declares that a personal firearm, a firearm accessory, or ammunition that is manufactured commercially or privately in the state and that remains within the borders of the state is not subject to federal law or federal regulation, including registration, under the authority of Congress to regulate interstate commerce. This Act applies to a firearm, a firearm accessory, or ammunition that is manufactured from basic materials and that can be manufactured without the inclusion of any significant parts imported from another state. The Act declares that generic and insignificant parts that have other manufacturing or consumer product applications are not firearms, firearms accessories, or ammunition, and their importation into the state and incorporation into a firearm, a firearm accessory, or ammunition manufactured in the state does not subject the firearm, firearm accessory, or ammunition to federal regulation. The Act also states that basic materials, such as unmachined steel and unshaped wood, are not firearms, firearms accessories, or ammunition and are not subject to Congressional authority to regulate firearms, firearms accessories, and ammunition as Interstate Commerce.

Submitted as:
Montana
HB246/Chapter 205
Status: Enacted into law in 2009.

Comment:

Disposition:

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2011A
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action
Comments/Note to staff:

SSL Committee Meeting: 2011A
( ) Include in Volume
( ) Defer consideration
   ( ) next task force mtg.
   ( ) next SSL mtg.
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( ) Reject
Comments/Note to staff:
In 1962, the Uniform Law Commissioners promulgated the Uniform Foreign Money-Judgments Recognition Act. It is a companion to the 1948 (amended in 1962) Uniform Enforcement of Foreign Judgments Act. In spite of the similarities in titles, these acts deal with quite different problems of judgment enforcement. The Enforcement of Foreign Judgments Act provides for enforcement of a state court judgment in another state to implement the Full Faith and Credit clause of the U.S. Constitution. The Foreign Money-Judgments Recognition Act provided for enforcement of foreign country judgments in a state court in the United States. The 1962 Uniform Foreign Money-Judgments Recognition act has been enacted in 32 states.

The increase in international trade in the United States has also meant more litigation in the interstate context. This means more judgments to be enforced from country to country. There is a strong need for uniformity between states with respect to the law governing foreign country money-judgments. If foreign country judgments are not enforced appropriately and uniformly, it may make enforcement of the judgments of American courts more difficult in foreign country courts. To meet the increased needs for enforcement of foreign country money-judgments, the Uniform Law Commissioners have promulgated a revision of the 1962 Uniform Act with the 2005 Uniform Foreign-Country Money Judgments Recognition Act (UFCMJR).

The first step towards enforcement is recognition of the foreign country judgment. The recognition occurs in a state court when an appropriate action is filed for the purpose. If the judgment meets the statutory standards, the state court will recognize it. It then may be enforced as if it is a judgment of another state of the United States. Enforcement may then proceed, which means the judgment creditor may proceed against the property of the judgment debtor to satisfy the judgment amount.

First, it must be shown that the judgment is conclusive, final and enforceable in the country of origin. Certain money judgments are excluded, such as judgments on taxes, fines or criminal-like penalties and judgments relating to domestic relations. Domestic relations judgments are enforced under other statutes, already existing in every state. A foreign-country judgment must not be recognized if it comes from a court system that is not impartial or that dishonors due process, or there is no personal jurisdiction over the defendant or over the subject matter of the litigation. There are a number of grounds that may make a U.S. court deny recognition, i.e., the defendant did not receive notice of the proceeding or the claim is repugnant to American public policy. A final, conclusive judgment enforceable in the country of origin, if it is not excluded for one of the enumerated reasons, must be recognized and enforced. The 1962 Act and the 2005 Act generally operate the same.

The primary differences between the 1962 and the 2005 Uniform Acts are as follows:

1. The 2005 Act makes it clear that a judgment entitled to full faith and credit under the U.S. Constitution is not enforceable under this Act. This clarifies the relationship between the Foreign-Country Money Judgments Act and the Enforcement of Foreign Judgments Act. Recognition by a court is a different procedure than enforcement of a sister state judgment from within the United States.

2. The 2005 Act expressly provides that a party seeking recognition of a foreign judgment has the burden to prove that the judgment is subject to the Uniform Act. Burden of proof was not addressed in the 1962 Act.
3. Conversely, the 2005 Act imposes the burden of proof for establishing a specific ground for non-recognition upon the party raising it. Again, burden of proof is not addressed in the 1962 Act.

4. The 2005 Act addresses the specific procedure for seeking enforcement. If recognition is sought as an original matter, the party seeking recognition must file an action in the court to obtain recognition. If recognition is sought in a pending action, it may be filed as a counter-claim, cross-claim or affirmative defense in the pending action. The 1962 Act does not address the procedure to obtain recognition at all, leaving that to other state law.

5. The 2005 Act provides a statute of limitations on enforcement of a foreign-country judgment. If the judgment cannot be enforced any longer in the country of origin, it may not be enforced in a court of an enacting state. If there is no limitation on enforcement in the country of origin, the judgment becomes unenforceable in an enacting state after 15 years from the time the judgment is effective in the country of origin.

These are the principal advances of the 2005 Act over the 1962 Act. The 2005 Act builds upon the tried principles of the 1962 Act in a necessary upgrade for the 21st Century. It should be enacted in every state as soon as possible. If substantial uniformity is not gained within the foreseeable future, Congress may preempt the recognition and enforcement law.

Submitted as:
New Mexico
HB 690
Status: Enacted into law in 2009.

Comment:

According to Uniform Law Commissioners staff, this Act is a revision of the Uniform Foreign Money Judgments Recognition Act of 1962, which codified the most prevalent common law rules with regard to the recognition and enforcement of money judgments rendered in other countries. Under the 1962 Act, a state was required to recognize a foreign-country money judgment if the judgment satisfied the standards for recognition set out in the Act.

Since its promulgation more than 40 years ago, the 1962 Act has been adopted in a majority of the states and has been in large part successful in carrying out its purpose of establishing clear and uniform standards under which state courts will enforce the foreign-country money judgments that come within its scope.

Notwithstanding the success of the 1962 Act, a revision is necessary to update that Act. The revision is made timely by the continuing increase in international trade and the need for making each state a recognized forum for international business. Highlights of the Revised Act include:

- provides simple court procedures for the enforcement of foreign-country money judgments;
- corrects and clarifies gaps in the 1962 Act revealed in the case law over the last 40 years;
- addresses burdens of proof for the first time, providing that a petitioner for recognition has the burden of proving a judgment is entitled to recognition under the standards of the Act, and that any respondent resisting recognition and enforcement has the burden of proof respecting denial of recognition;
• revises the grounds for denying recognition of foreign-country money judgments;
• establishes a statute of limitations for recognition actions; and
• updates and clarifies both the definitions and the scope section.

The Uniform Foreign-Country Money Judgments Recognition Act provides clear and certain rules for obtaining foreign-country money judgments. The Revised Act is a more comprehensive Act than its predecessor, and provides a better response to the current conditions of international trade.

Disposition:

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2011A
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action
Comments/Note to staff:

SSL Committee Meeting: 2011A
( ) Include in Volume
( ) Defer consideration
( ) next task force mtg.
( ) next SSL mtg.
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( ) Reject
Comments/Note to staff:
Millions of Americans are in serious financial trouble, with consumer debt exceeding $2.5 trillion; the average American household has more than $8,500 in credit-card debt. Many have turned to debt-counseling, debt-management, and debt-settlement firms for assistance with their unsecured debts. Consumer debt counseling and management services have been available to individuals with serious credit problems going back to the 1950s. There are generally two kinds of services that have been available. Some of these services have provided counseling coupled with assisting debtors in establishing programs to pay off debts over an extended time. Others have provided consolidation and management services, in which agreements are reached with creditors to settle on a percentage of debt. Most of these services have collected a periodic amount from the debtors from which payment to creditors has been made. The general objective of these services is to avoid bankruptcy.

The history of debt counseling and management services is checkered. There have been numerous abuses and efforts to counter abuses statutorily in many states. These services have been criticized for their efforts to steer debtors away from bankruptcy when it may have been more advantageous and less costly to debtors to file. Many states prohibit for-profit debt management services while permitting nonprofit debt counseling services. One of the continuing controversies is whether for-profit services should be allowed even if regulated.

However, federal bankruptcy reform effective in 2005 has changed the perspective on such services. For an individual to file for Chapter 7 bankruptcy, that individual will in most cases have to show that consumer debt counseling has been sought and attempted. This shifts a highly significant burden upon private services to perform honestly and effectively. Because the new bankruptcy rules are federal and apply in every state, regulating the counseling and management services in every state must be uniform in character for the new bankruptcy rules to be effective and for consumers to be protected.

In 2005 the Uniform Law Commissioners promulgated the Uniform Debt-Management Services Act (UDMSA). It provides the states with a comprehensive act governing these services that will mean national administration of debt counseling and management in a fair and effective way. Four states have, to date, adopted the UDMSA.

UDMSA may be divided into three basic parts: registration of services, service-debtor agreements and enforcement.

Registration

No service may enter into an agreement with any debtor in a state without registering as a consumer debt-management service in that state. Registration requires submission of detailed information concerning the service, including its financial condition, the identity of principals, locations at which service will be offered, form for agreements with debtors and business history in other jurisdictions. To register, a service must have an effective insurance policy against fraud, dishonesty, theft and the like in an amount no less than $250,000.00. It must also provide a security bond of a minimum of $50,000.00 which has the state administrator as a beneficiary. If a registration substantially duplicates one in another state, the service may offer proof of registration in that other state to satisfy the registration requirements in a state. A satisfactory application will result in a certificate to do business from the administrator. A yearly renewal is required.
Agreements

In order to enter into agreements with debtors, there is a disclosure requirement respecting fees and services to be offered, and the risks and benefits of entering into such a contract. The service must offer counseling services from a certified counselor and a plan must be created in consultation by the counselor for debt-management service to commence. The contents of the agreements and fees that may be charged are set by the statute. There is a penalty-free three-day right of rescission on the part of the debtor. The debtor may cancel the agreement also after 30 days, but may be subject to fees if that occurs. The service may terminate the agreement if required payments are delinquent for at least 60 days.

Any payments for creditors received from a debtor must be kept in a trust account that may not be used to hold any other funds of the service. There are strict accounting requirements and periodic reporting requirements respecting funds held.

With respect to debt settlement services, the UDMSA provides for an overall fee cap based on the amount saved by the consumer (30% of the difference between the principal amount owed upon initiation of the service and the amount the debt is ultimately settled for).

Enforcement

The Act prohibits specific acts on the part of a service including: misappropriation of funds in trust; settlement for more than 50% of a debt with a creditor without a debtor’s consent; gifts or premiums to enter into an agreement; and representation that settlement has occurred without certification from a creditor. Enforcement of the Uniform Act occurs at two levels, the administrator and the individual level. The administrator has investigative powers, power to order an individual to cease and desist; power to assess a civil penalty up to $10,000.00, and the power to bring a civil action. An individual may bring a civil action for compensatory damages, including triple damages if a service obtains payments not authorized in the Uniform Act, and may seek punitive damages and attorney’s fees. A service has a good faith mistake defense against liability. The statute of limitations pertaining to an action by the administrator is four years, and two years for a private right of action.

Banks as regulated entities under other law are not subject to the Uniform Act, as are other kinds of activities that are incidental to other functions performed. For example, a title insurer that provides bill-paying service that is incidental to title insurance is not subject to it.

The UDMSA provides important protections to consumers and reasonable national regulations to legitimate debt services companies. It should be adopted in every state. The approved text of the Uniform Debt-Management Services Act can be found at www.nccusl.org.

Submitted as:
Tennessee
Chapter 469 of 2009
Status: Enacted into law in 2009.

Comment:

The 2004 SSL volume contains an SSL draft about Debt Management Services based on Maryland Chapter 374 of 2003.
According to Michael Kerr of NCCUSL,

“...This [Maryland] act covers the same general substantive area as the UDMSA, but it is not the same. The UDMSA is significantly more comprehensive. The Maryland law has been significantly amended since its adoption in 2003. The Md bill (as chaptered) limits licensure to nonprofits, bans ‘debt adjusting’, and doesn’t provide meaningful oversight of debt settlement services (which largely arose after 2003). I’d recommend keeping the UDMSA in the docket, as there is a lot of interest.”

WHY STATES SHOULD ADOPT THE UNIFORM DEBT-MANAGEMENT SERVICES ACT

The Uniform Debt-Management Services Act (UDMSA), promulgated by the National Conference of Commissioners on Uniform State Laws in 2005, is a comprehensive statute that provides guidance and regulation to the consumer debt counseling industry, while also providing fairer and better services to debtors. The consumer debt management industry has taken many forms over the time since its development in the 1950’s. The industry has had a checkered past, with frequent accusations of abuse. The interest in debt counseling and management, however, has been dramatically escalated by the bankruptcy reform legislation passed by Congress in 2005. It mandates counseling by a private agency before an individual may enter into bankruptcy. The UDMSA regulates debt-management companies by requiring them to register with the state.

There are a number of reasons why every state should adopt the Uniform Debt Management Services Act. The Act applies to both credit counseling services and debt settlement services (credit counseling services generally help a consumer repay all of his or her debt, while debt settlement services generally attempt to persuade creditors to settle for less than the full amount of the consumer’s debt).

The Act requires registration of anybody offering debt-management services, mandating that a provider must supply information about itself, must obtain insurance against employee dishonesty, and must post a surety bond to safeguard any money that it receives from individuals for payment of creditors.

The Act requires disclosure to debtors of goods and services – and the charges for each – that an agency will provide, and provisions governing the performance and termination of agreements.

The Act provides for enforcement both by a public authority and by private individuals, including rule-making power on the part of the administrator and recovery of minimum, actual, and, in appropriate cases, punitive damages in private enforcement actions.

The Act strives to establish uniformity of regulation, including reciprocity to registrations from one state by another state.

UNIFORMITY

A uniform approach is particularly important because the great majority of agencies operates in multiple states and would otherwise be subject to multiple and sometimes conflicting requirements. Also, because the new bankruptcy rules are federal and apply in every state, regulating the counseling and management services in every state must be uniform in character for the new bankruptcy rules to be effective and for consumers to be protected. Every state should act quickly to adopt the Uniform Debt-Management Services Act.
Disposition: 09-31A-06

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2011A
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action
Comments/Note to staff:

SSL Committee Meeting: 2011A
( ) Include in Volume
( ) Defer consideration
   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject
Comments/Note to staff:
This Act provides comprehensive statutory authority for business entities (corporations, partnerships, limited partnerships, and limited liability companies) to perform mergers, conversions, interest exchanges, and domesticate transactions with similar businesses.

Submitted as:
Kansas
**SB 132**
Status: Enacted into law in 2009.
Comment: According to NCCUSL, Kansas is the first state to enact a Business Entity Transaction Act.

Disposition:

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<td>( ) Reject</td>
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This Act prohibits the trustee of a charitable trust from changing the location in which the trust administration takes place from a location in the state to a location outside the state, except as specifically authorized by the terms of the trust or as otherwise provided by the Act. The bill requires the trustee to take certain actions if the trustee decides to change the location in which the trust is administered, including submitting the selection or proposal, as applicable, to the attorney general. The bill authorizes the trustee to file an action in the appropriate district or statutory probate court seeking an order authorizing the location change and prohibits the trust administration location from being changed, except as provided above, unless the trust's charitable purposes would not be impaired if the trust administration is moved and a district or statutory probate court authorizes the relocation. The bill authorizes the attorney general to bring an action to enforce the bill's provisions.

Submitted as:
Texas
SB 666
Status: Enacted into law in 2009.

Disposition:

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2011A
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action
Comments/Note to staff:

SSL Committee Meeting: 2011A
( ) Include in Volume
( ) Defer consideration
( ) next task force mtg.
( ) next SSL mtg.
( ) next SSL cycle
( ) Reject
Comments/Note to staff:
11-31A-01 State Employee Furloughs

This Act sets criteria for furloughing state employees.

Submitted as:
South Carolina
H3378/Act No. 8
Status: Enacted into law in 2009.

Comment:

Disposition:

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2011A
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action
Comments/Note to staff:

SSL Committee Meeting: 2011A
( ) Include in Volume
( ) Defer consideration
    ( ) next task force mtg.
    ( ) next SSL mtg.
    ( ) next SSL cycle
( ) Reject
Comments/Note to staff:
11-31A-02A Employee Selection Procedures UT

This Act restricts the information employers can collect about job applicants and how employers use that information in determining whether to hire applicants.

Submitted as:
Utah
HB 206
Status: Enacted into law in 2009.

Comment:

11-31A-02B Employment: Credit History HI

This Act sets parameters on how employers use job applicants’ credit histories to determine whether to hire the applicants.

Submitted as:
Hawaii
Act 1, 1st Special Session
Status: Enacted into law in 2009.

Comment:

Disposition: 11-31A-02A
CSG policy task force recommendations to The Committee on Suggested State Legislation: 2011A
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action
Comments/Note to staff:

Disposition: 11-31A-02B
CSG policy task force recommendations to The Committee on Suggested State Legislation: 2011A
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action
Comments/Note to staff:

SSL Committee Meeting: 2011A
( ) Include in Volume
( ) Defer consideration
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( ) Reject
Comments/Note to staff:
This Act makes it unlawful for employers to refuse to allow employees to use vacation leave or other leave to religious observance or practices of the employees permitting such leave doesn’t impose an undue hardship on the employer’s business. The Act makes it unlawful for employers to impose an occupational requirement that restricts the ability of employees to wear religious clothing, take time off for a holy day, or to take time off to participate in a religious observance or practice if reasonably, if doing such things does not impose an undue hardship on the employer’s business.

Submitted as:
Oregon
SB 786
Status: Enacted into law in 2009.

Comment:

Disposition:

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2011A
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action
Comments/Note to staff:

SSL Committee Meeting: 2011A
( ) Include in Volume
( ) Defer consideration
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   ( ) next SSL cycle
( ) Reject
Comments/Note to staff:
According to a Maryland legislative staff analysis, this bill generally establishes a presumption that work performed by an individual paid by an employer creates an employer-employee relationship. It prohibits construction companies and landscaping businesses from failing to properly classify an individual as an employee, and establishes investigation procedures and penalties for noncompliance. Under the Act, an employer misclassifies an employee when an employer-employee relationship exists, but the employer has not classified the individual as an employee. An employer-employee relationship exists in an affected industry unless an employer can demonstrate that a worker is an exempt person, as defined by the bill, or independent contractor, as defined in the statute and subject to clarifying regulations issued by the state commissioner of labor and industry.

The Act requires employers in the two targeted industries to keep certain personnel records for at least three years. At the time of hire, employers must provide each exempt person or independent contractor a written explanation of the implications of his or her classification.

Submitted as:
Maryland
HB 819
Status: Enacted into law in 2009.

Comment:

Disposition:

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2011A
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action
Comments/Note to staff:

SSL Committee Meeting: 2011A
( ) Include in Volume
( ) Defer consideration
( ) next task force mtg.
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( ) Reject
Comments/Note to staff:
This Act permits the state finance authority to enter into contracts to buy Substitute Natural Gas (SNG) from coal gasification facilities and requires the authority to establish a Substitute Natural Gas Account to help fund SNG related business.

Submitted as:
Indiana
Senate Enrolled Act No. 423
Status: Enacted into law in 2009.

Comment:

Disposition:

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2011A
(   ) Include in Volume
(   ) Defer consideration to next task force meeting
(   ) Reject
(   ) No action
Comments/Note to staff:

SSL Committee Meeting: 2011A
(   ) Include in Volume
(   ) Defer consideration
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    (   ) next SSL cycle
(   ) Reject
Comments/Note to staff:
This Act prohibits local governments from enacting a sanctuary policy. The Act defines a sanctuary policy as any regulation, rule, policy, or practice adopted by a local governing body which prohibits or restricts local officials or employees from communicating or cooperating with federal officials or law enforcement officers with regard to reporting immigration status information while such local official or employee is acting within the scope of his or her official duties.

Submitted as:
Georgia
SB 20 (As Passed)
Status: Enacted into law in 2009.

Comment:

Disposition:

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2011A
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action
Comments/Note to staff:

SSL Committee Meeting: 2011A
( ) Include in Volume
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( ) 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: This item was deferred to the 31A SSL Committee meeting. Per item 30b-e, See if/how HIPAA impacts this legislation’s requirements. CSG were awaiting a reply from West Virginia legislative staff as of October 12 about if/how HIPAA impacts this legislation.

Disposition:

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2011A
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action
Comments/Note to staff:

SSL Committee Meeting: 2011A
( ) Include in Volume
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( ) Reject
Comments/Note to staff:
This bill makes driving while distracted a moving violation. It prohibits engaging in an activity that impairs the driver's ability to drive. The Act defines ‘distracted’ as “Engaging in an activity that impairs the operator's ability to drive, including, but not limited to, using an electronic device, applying cosmetics or performing personal grooming with any device.”

Submitted as:
Maine
**Chapter 446**
Status: Enacted into law in 2009.

Comment:

Disposition:

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2011A
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action
Comments/Note to staff:

SSL Committee Meeting: 2011A
( ) Include in Volume
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( ) Reject
Comments/Note to staff:
This Act makes developing non-fossil fuels a state policy. The Act requires designating parking spaces for electric vehicles in public and private parking facilities and it provides penalties for parking a non-electric vehicle in spaces for electric vehicles. The Act directs that beginning January 1, 2010, all state and county entities, when purchasing new vehicles, seek vehicles with reduced dependence on petroleum-based fuels that meet the needs of the agency. Priority for selecting vehicles shall be as follows:

1. Electric or plug-in hybrid electric vehicles;
2. Hydrogen or fuel cell vehicles;
3. Other alternative fuel vehicles;
4. Hybrid electric vehicles; and
5. Vehicles identified by the United States Environmental Protection Agency in its annual “Fuel Economy Leaders” report as being among the top performers for fuel economy in their class.

Submitted as:
Hawaii
SB 1202
Status: Enacted into law in 2009.

Comment:

This Act requires state agencies to achieve forty percent fuel usage for operating publicly owned vessels, vehicles, and construction equipment from electricity or biofuel by June 1, 2013. The legislation requires the state to install electrical outlets capable of charging electric vehicles in each of the state's fleet parking and maintenance facilities and install electrical outlets capable of charging electric vehicles in each state-operated highway rest stop by December 31, 2015. The Act contains provisions to lease space to install and operate battery exchange stations or battery charging stations in appropriate state-owned highway rest stops.

This Act authorizes local governments to adopt incentive programs to encourage retrofitting existing structures with the electrical outlets capable of charging electric vehicles. It authorizes an alternative fuels corridor pilot project capable of supporting electric vehicle charging and battery exchange technologies. The bill authorizes the state department of transportation to enter into partnership agreements with other public and private entities for the use of land and facilities along state routes and within interstate highway rights-of-way for an alternative fuels corridor pilot project.

The legislation requires the state building code council to adopt rules for electric vehicle infrastructure requirements. The bill directs the state department of community, trade, and economic development to distribute to local governments model ordinances, model development regulations, and guidance for local governments for siting and installing electric vehicle infrastructure.
This Act also provides tax incentives to develop an electric vehicle infrastructure. The tax incentives expire January 1, 2020.

Submitted as:
Washington
Chapter 459 of 2009
Status: Enacted into law in 2009.

Comment:

Disposition: 14-31A-02A
CSG policy task force recommendations to The Committee on Suggested State Legislation: 2011A
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action
Comments/Note to staff:

Disposition: 14-31A-02B
CSG policy task force recommendations to The Committee on Suggested State Legislation: 2011A
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action
Comments/Note to staff:

SSL Committee Meeting: 2011A
( ) Include in Volume
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( ) Reject
Comments/Note to staff:
This bill permits members of certain public bodies such as boards and commissions to participate in meetings using video-conferencing under certain conditions.

Submitted as:
Delaware
SB 104
Status: Enacted into law in 2009.

Comment: A May 18, 2009 press release from the governor’s office states:

WILMINGTON – Governmental bodies in Delaware will be able to use technology to increase public participation under legislation Gov. Jack Markell announced Monday.

Senate Bill 104, sponsored by Sen. David Sokola and Rep. Darryl Scott, allows certain governmental bodies such as boards and commissions, to set up videoconferencing locations. Members of the boards and commissions could participate in the meetings via teleconference. The locations would also be open to the public. Delawareans living Downstate who are interested in particular issues will not have to drive to Wilmington to participate in a meeting, or vice versa.

“SB 104 is a good government bill,” Markell said. “This legislation will make it easier for members of boards and commissions to attend meetings and for the public to view the meetings without having to drive a long distance. Expanding the use of teleconferencing will help our environment by taking cars off the road, save taxpayer money and make government more transparent.”

The legislation would add to videoconferencing efforts already underway in state government. Lt. Gov. Matt Denn last week used videoconferencing to talk to students at Smyrna High School about the Markell-Denn administration’s education reform plan, and has previously utilized the technology for his Back to School Briefings and Stimulus Suggestion Box public meetings.

To illustrate how the bill would be implemented, Rep. Scott participated in the announcement in Wilmington via a teleconferencing location in the Tatnall Building in Dover.

“In my private-sector job, I participate daily in conference calls,” said Rep. Scott, who is director of account management for Milford-based company Sitel. “The private sector has fully embraced the value of teleconferencing and videoconferencing, using it to drive collaboration, reduce cost and improve productivity. I’m excited to see the state of Delaware embrace this technology to accomplish similar goals. It’s green, it’s cost-effective and it also will enable non-elected board members and citizens throughout Delaware to participate in government without having to travel the length of the state.”

State Representative Greg Lavelle, who attended today’s press event, is hopeful that the video-conferencing technology will generate more public participation in various public boards and commissions. He stated, “Hopefully, someone who may not typically be able to commit the time to participate as a member may now be more easily persuaded to volunteer their time. Cutting out hours of travel time, alone, may make the difference in getting a member of the public to serve on a board, for example.”
Disposition: 15-31A-01

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2011A
(   ) Include in Volume
(   ) Defer consideration to next task force meeting
(   ) Reject
(   ) No action
Comments/Note to staff:

SSL Committee Meeting: 2011A
(   ) Include in Volume
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   (   ) next SSL cycle
(   ) Reject
Comments/Note to staff:
This Act prohibits callers from providing false information to people they call when the callers are making calls to urge people to vote for or against a candidate or a ballot issue.

Submitted as:
Iowa
House File 776
Status: Enacted into law in 2009.

Comment:

Disposition:

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2011A
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action

Comments/Note to staff:

SSL Committee Meeting: 2011A
( ) Include in Volume
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   ( ) next SSL cycle
( ) Reject

Comments/Note to staff:
This Act declares a person has the right to observe other people registering to vote if the observer is least 5 feet away from the table and can’t see or hear personal information the prospective voter is giving to the election official when registering to vote.

Submitted as:
New Hampshire
Chapter 127/HB 387
Status: Enacted into law in 2009.

Comment:

Disposition:

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2011A
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action
Comments/Note to staff:

SSL Committee Meeting: 2011A
( ) Include in Volume
( ) Defer consideration
( ) next task force mtg.
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( ) 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. 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: This item was deferred to the 31A SSL Committee meeting.

Disposition: 17-30B-04

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2011A
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action
Comments/Note to staff:

SSL Committee Meeting: 2011A
( ) Include in Volume
( ) Defer consideration
( ) next task force mtg.
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( ) next SSL cycle
( ) Reject
Comments/Note to staff:
This Act prohibits law enforcement agencies from using a person as a confidential informant in a law enforcement undercover operation if that person is:

- currently participating in a court-ordered drug or substance abuse treatment program unless the law enforcement agency receives express approval from the circuit judge supervising the drug court;
- voluntarily enrolled in a drug or substance abuse treatment program unless the law enforcement agency receives the express approval from the state attorney of the circuit in which the law enforcement agency is located; or
- currently on parole or probation unless the law enforcement agency receives the express approval from the state attorney in the circuit in which the law enforcement agency is located and the approval of the parole and probation officer supervising the parolee or probationer.

The Act provides that if a person has no prior convictions for committing a violent crime, that person may not be used as a confidential informant in a law enforcement undercover operation involving a target offender who is known or suspected to have engaged in violence in the past or if the law enforcement agency has reason to believe that the person may be exposed to harm. It requires the development of a written substantial assistance agreement that is executed by the law enforcement agency and the confidential informant and approved by the state attorney prior to the confidential informant providing any assistance. This Act requires each person solicited to act as a confidential informant be given the opportunity to consult with legal counsel before entering into the substantial assistance agreement. The bill requires law enforcement agencies that use confidential informants establish guidelines and protocols and maintain certain records. The bill sets forth a list of factors law enforcement agencies must consider in determining whether a confidential informant has the ability to safely perform the required tasks.

Submitted as:
Florida
CS/CS/HB271
Status: Enacted into law in 2009.

Comment:

Disposition:

CSG policy task force recommendations to The Committee on Suggested State Legislation: 2011A
( ) Include in Volume
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Comments/Note to staff:

SSL Committee Meeting: 2011A
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Comments/Note to staff:
This Act creates a task force to investigate and develop a statutory basis for a specialized military and veterans court system to handle service-related problems of veterans living in the state. Such problems include drug and alcohol abuse, mental health conditions, and problematic social interactions.

Submitted as:
Illinois
Public Act 0096-0093
Status: Enacted into law in 2009.

Comment: A June 18, 2009 stateline.org article reports:

“Twenty years after local officials in Miami opened the nation’s first drug court — a specialized “treatment court” aimed at rehabilitating low-level drug offenders instead of locking them up — state lawmakers in Illinois and Nevada are applying the same idea to a different population: war veterans who have had run-ins with the law.

The two states this year became the first to authorize the statewide creation of special “veterans’ courts,” which, like existing drug or mental-health courts, use a softer criminal justice approach to rehabilitate — not incarcerate — a select category of offenders charged with nonviolent crimes. Connecticut, New Mexico, New York, Oklahoma and Texas considered similar legislative proposals this year, and individual veterans’ courts already exist in Buffalo and Rochester, N.Y., Anchorage, Alaska, Orange County, Calif., and Tulsa, Okla.

U.S. Sens. John F. Kerry (D-Mass.) and Lisa Murkowski (R-Alaska) have pushed similar legislation at the federal level, but their bill stalled in Congress last year.

While drug and mental-health courts are geared toward those with substance-abuse problems or mental illnesses, veterans’ courts are designed for current and former military service members who have broken the law — potentially, the courts’ proponents say, because they face combat-related stress, financial instability or other difficulties adjusting to life after wartime deployments to Iraq, Afghanistan or elsewhere.

A study by the nonprofit RAND Corporation last year found that about one-fifth of all Iraq and Afghanistan veterans — or about 300,000 of the more than 1.6 million U.S. troops to see action in the two wars — reported symptoms of post-traumatic stress disorder (PTSD) or “major depression.” Many of those veterans did not seek treatment for their problems, the study found. State lawmakers in Illinois and Nevada say troubled veterans who have relatively minor scrapes with the law deserve help, not punishment. They point to the high prevalence of PTSD and other conditions among veterans as possible reasons for their offenses. Backers of the courts also say that treating more low-level offenders will help improve public safety by decreasing the chances they will commit other crimes in the future and will free up valuable jail and prison space for more serious offenders.

Some critics, however, say veterans’ courts create a separate system of justice for current and former troops without any evidence that such a system is necessary. Singling out veterans in the criminal justice system, these critics say, is discriminatory because it suggests that veterans are more likely than other citizens to commit crimes.

The veterans’ courts envisioned in Illinois and Nevada are modeled on the nation’s first veterans’ court, started last year in Buffalo, where offenders must complete rigorous and
individually tailored treatment programs. Those who are successful can have the criminal charges against them dropped or reduced.

The programs differ from those in drug or mental-health courts because they include mentoring sessions with other veterans and meetings with federal Veterans Administration employees who can steer them toward financial and other benefits they may not know about, according to Judge Robert T. Russell Jr., who created Buffalo’s court early last year.

Illinois state Rep. Michael Tryon (R), who co-sponsored his state’s bill to authorize veterans’ courts statewide, said he heard about Russell’s court and pushed the legislation on the advice of veterans’ service organizations in his district. Tryon said veterans charged with crimes would benefit from “liaisons” with similar wartime experiences and practical advice to give.

“It’s a shame that somebody who’s made that kind of commitment to the country…sometimes (isn’t) in a position to get all the help that’s available,” Tryon said, noting that he expects Gov. Pat Quinn (D) to sign the bill, which saw “zero opposition” in the General Assembly. But in Nevada — where Gov. Jim Gibbons (R) signed the state’s measure into law in May — the American Civil Liberties Union opposed the bill, saying it wrongly emphasized some criminal offenders’ “status” in society.

Unlike drug courts, which are for those who have committed drug crimes, or mental-health courts, which are for those with diagnosed conditions, veterans’ courts are based on who offenders are, said Allen Lichtenstein, general counsel for the ACLU of Nevada. Veterans’ courts are tantamount to creating special courts for “crimes committed by police officers, teachers or politicians,” he said.

“In America, we have one justice system for all, and to deviate from that, even for a benign purpose, really does go against our fundamental principles,” Lichtenstein said. Those who support veterans’ courts hope they will prove as successful as the drug court model. After getting their start in Miami in 1989, drug courts now exist in all 50 states and number more than 2,300, according to the National Association of Drug Court Professionals, which advocates for more drug courts. According to the organization, which last month organized a press conference to highlight the anniversary of Miami’s drug court, 70 percent of all those who are referred to drug courts successfully complete treatment programs and 75 percent “never see another pair of handcuffs.”

Florida legislators this year boosted funding for the state’s drug courts, hoping to keep 3,000 people out of prison and save the state $4 million.

While drug courts are widely seen as a success — both Republican and Democratic presidents have praised them — the veterans’ courts that are already in existence have not been around long enough for researchers to determine their effectiveness. But anecdotal evidence of their success has spread quickly in the judicial community and in state legislatures.

In particular, said Joe Davis, a spokesman for Veterans of Foreign Wars in Washington, D.C., the courts have attracted the attention of judges who are themselves veterans and see a chance to capitalize on the “peer pressure” atmosphere of the military by helping fellow veterans complete their treatment programs.

Russell, who is not a veteran but said he developed the Buffalo court after noticing an uptick in veterans appearing in the city’s criminal justice system, said in an interview with Stateline.org that the court is working with about 100 offenders, none of whom have been re-arrested during their time in rehabilitation. Those who have completed their programs — which can take more than a year — either are employed or have gone back to college, he said.
Russell said a key component of the success of his court is the veterans’ interaction with other veterans. When he initially observed veterans in court, Russell said, “they appeared to take greater pride in speaking to another veteran. They would stand more erect in court.” He noted that a common excuse cited by many troubled veterans — “no one understands me” — no longer applied.

“You now have a courtroom where everyone (understands),” Russell said.”

17-31A-02B Veterans Courts NV

This Act authorizes a district court to establish a program to treat defendants who are veterans or members of the military. This Act authorizes a court to suspend further proceedings, without entering a judgment of conviction and with the consent of an eligible defendant, and to place the defendant on probation with terms conditions that include successful completion of the program of treatment. The Act also generally prohibits a court from assigning a defendant to a program of treatment if the defendant:

- committed an offense for which the suspension of sentence or the granting of probation is prohibited by existing law;
- committed an offense that involved the use of force or violence; or
- was previously convicted of a felony that involved the use or threatened use of force or violence.

The Act requires a court to seal documents relating to a case involving a defendant who was assigned to the program of treatment after the defendant is discharged from probation. The Act authorizes justice courts and municipal courts to transfer original jurisdiction of certain cases involving misdemeanors to the district court for the purpose of assigning offenders to the program of treatment. In addition, the provisions of this Act also require a district court, justice court and municipal court to ask a defendant if he is a veteran or a member of the military.

Submitted as:
Nevada
AB 187
Status: Enacted into law in 2009.

Comment:
### Disposition: 17-31A-02A

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**Comments/Note to staff:**

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### Disposition: 17-31A-02B

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**Comments/Note to staff:**

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### SSL Committee Meeting: 2011A

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**Comments/Note to staff:**

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### SSL Committee Meeting: 2011A

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**Comments/Note to staff:**
This Act establishes procedures for discovery of electronically stored information in addition to documents, tangible things, and land or other property, in the possession of any other party to an action. This bill permits discovery by copying, testing, or sampling, in addition to inspection, of documents, tangible things, land or other property, or electronically stored information.

Submitted as:
California
Chapter 5
Status: Enacted into law in 2009.

Comment:

Disposition:

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2011A
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Comments/Note to staff:

SSL Committee Meeting: 2011A
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Comments/Note to staff:
This Act sets parameters on using children to testify in judicial proceedings. The Act:

- requires courts to ensure the oath is given to a child in a manner that the child understands their duty to tell the truth;
- requires questions be stated in a form which is appropriate for the age of the child, and that questions are explained to the child if necessary in order for him or her to understand;
- allows a court to limit in duration or limit to normal school hours the taking of testimony of the child;
- allows the child when testifying to have a comfort item, such as a toy, blanket, or similar item, upon a motion at least 30 days in advance of the judicial proceeding and if all parties agree or under specified court findings;
- allows the child to have a support person present and in close proximity during the child’s testimony to provide emotional support;
- requires a court to prevent intimidation or harassment of the child by the parties or their attorneys; and
- allows a court, upon its own motion or the motion of any party at least 30 days in advance of the judicial proceeding, to order comfortable accommodations for the child which can include adjusting the courtroom layout, conducting the proceedings outside of a courtroom, or relaxing the formalities of the proceedings.

Submitted as:
Missouri
HB 863 (Truly Agreed to and Finally Passed version)
Status: Enacted into law in 2009.
Comment:

Disposition:

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2011A
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Comments/Note to staff:

SSL Committee Meeting: 2011A
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( ) 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.
Indiana
House Enrolled Act No. 1165

Comment: This item was deferred to the Education Policy Task Force.

Disposition:

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2011A
( ) Include in Volume
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Comments/Note to staff:

SSL Committee Meeting: 2011A
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( ) Reject
Comments/Note to staff:
This Act defines embryos and establishes criteria for legal custodianship of embryos.

Submitted as:
Georgia
HB 388 (As Passed House and Senate)
Status: Enacted into law in 2009.

Comment:

Disposition:

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2011A
( ) Include in Volume
( ) Defer consideration to next task force meeting
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Comments/Note to staff:

SSL Committee Meeting: 2011A
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Comments/Note to staff:
*20-30B-05 Local School System Flexibility from General State Requirements

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)

Comment: This item was deferred to the 31A SSL Committee meeting.

Disposition:
CSG policy task force recommendations to The Committee on Suggested State Legislation: 2011A
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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: This item was deferred to the 31A SSL Committee meeting.

Disposition: 20-30B-06

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2011A
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Comments/Note to staff:

SSL Committee Meeting: 2011A
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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: This item was deferred to the 31A SSL Committee meeting.

Disposition:

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2011A
( ) Include in Volume
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Comments/Note to staff:

SSL Committee Meeting: 2011A
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( ) Reject
Comments/Note to staff:
This Act:
  • requires the attorney general and the state superintendent of public instruction to publicize annually to teachers that the attorney general may defend suits against teachers and that teachers have qualified immunity for reasonable acts of discipline;
  • requires a school corporation, a charter school, and an accredited nonpublic school to conduct an expanded criminal history background check before employing a potential employee in any position within the school corporation;
  • adds possession of child pornography to the list of felonies for which a teacher may lose the teacher's license;
  • gives qualified immunity for certain school employees for reasonable acts of discipline; and
  • establishes an administrative procedure for a student who has been removed from a classroom.

Submitted as:
Indiana
House Enrolled Act No. 1462
Status: Enacted into law in 2009.

Comment:

Disposition:

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2011A
( ) Include in Volume
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Comments/Note to staff:

SSL Committee Meeting: 2011A
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( ) Reject
Comments/Note to staff:
This Act:

- requires the governing body of a school corporation to develop an evidence based plan to improve behavior and discipline in the school corporation, and schools within the school corporation to comply with the plan;
- requires school corporation discipline rules to incorporate a graduated system of discipline, which includes actions that may be taken in lieu of suspension or expulsion; and
- requires the department of education to develop a master evidence based plan for improving student behavior and discipline upon which school corporations may base plans.

Submitted as:
Indiana
House Enrolled Act No. 1419
Status: Enacted into law in 2009.

Comment:

Disposition:

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2011A
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Comments/Note to staff:

SSL Committee Meeting: 2011A
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( ) Reject

Comments/Note to staff:
This Act requires school boards adopt policies about reporting sexual conduct by school employees directed toward students. It requires a school employee who has reasonable cause to believe that a student has been subjected to sexual conduct to report that information to a supervisor or other person designated by the school board.

The bill requires applicants for positions with education providers to provide a list of current and former employers to the providers and authorization for those employers to disclose certain information and a statement as to whether applicant has been or is subject of report or investigation related to child abuse or sexual conduct. It also requires school districts to conduct criminal records check on applicants for certain positions.

The legislation prohibits education providers from entering into agreements or contracts which suppress information related to child abuse or sexual conduct or affect providers’ duty to report suspected child abuse or sexual conduct or impairs providers’ ability to discipline employee for child abuse or sexual conduct.

Submitted as:
Oregon
HB 2062/Chapter 93, 2009 Laws
Status: Enacted into law in 2009.

Comment:

Disposition:

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2011A
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Comments/Note to staff:

SSL Committee Meeting: 2011A
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( ) Reject
Comments/Note to staff:
This Act requires publishers of textbooks offered for sale at public or private postsecondary institutions of education make the textbooks available, in whole or in part, in electronic format by January 1, 2020. The bill also requires electronic versions of textbooks include the same content as the printed versions and allows the electronic versions to be copy-protected.

Submitted as:
California
SB 48
Status: Enacted into law in 2009.

Comment:

Disposition:

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2011A
( ) Include in Volume
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Comments/Note to staff:

SSL Committee Meeting: 2011A
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( ) Reject
Comments/Note to staff:
This Act requires school districts and open-enrollment charter schools to certify annually to the State Board of Education (SBOE) and the commissioner of education that, for each subject in the foundation curriculum and each grade level, the districts provide each student with textbooks, electronic textbooks, or instructional materials that cover all elements of the essential knowledge and skills adopted by the SBOE for that subject and grade level. The bill authorizes a state textbook fund to be used to purchase technological equipment necessary to support the use of electronic textbooks or instructional material included on the adopted list or any textbook or material approved by the SBOE.

The bill requires the commissioner to adopt a list of electronic textbooks and instructional material, including tools, models, and investigative materials designed for use in the foundation curriculum for science in kindergarten through grade five, and it authorizes a school district to select a textbook or material on that list to be funded by the state textbook fund. The bill establishes conditions and criteria for the placement of such textbooks or material on the list, including a requirement for the SBOE to be given an opportunity to comment on the textbook or material before its placement. The bill requires the commissioner to update the list as necessary, sets forth prerequisites for the removal of textbooks or material from the list, and authorizes the provider of an electronic textbook or instructional material to update the textbook's or material's content or related navigational features or management system after notice to the commissioner.

If a school district or open-enrollment charter school selects an electronic textbook or instructional material on the list, the bill requires the state to pay the district or school an amount equal to the cost of the electronic textbook or instructional material plus textbook credits as specified in the bill, times number of such textbooks or materials needed by the district or school.

The bill authorizes a school district or open-enrollment charter school that selects a subscription-based electronic textbook or instructional material on the conforming list or the adopted list to cancel the subscription and subscribe to a new electronic textbook or instructional material before the end of the state contract period if the district or school has used the textbook or material for at least one school year and the Texas Education Agency approves the change based on a written request by the district or school that specifies the reasons for the change.

This Act requires the commissioner by rule to establish a computer lending pilot program to provide computers to participating public schools that make computers available for use by students and their parents. The bill requires the commissioner to establish administrative procedures, including procedures for distributing to a participating school any surplus or salvage data processing equipment available for distribution under the pilot program or computers donated or purchased for that purpose with funds from any source. A school is eligible to participate if 50 percent or more of its students are educationally disadvantaged and the school operates or agrees to operate a computer lending program that allows students and parents to borrow a computer; includes an option for students and parents to work toward owning a computer initially borrowed under the program, subject to any applicable restrictions on the computer's disposition; provides computer training for students and parents; and operates outside regular school hours, including operation until at least 7 p.m. on at least three days each week. The bill requires the commissioner, not later than January 1 of each year, to submit a report to the legislature regarding the computer lending pilot program.
The bill also establishes criteria for transferring surplus or salvaged data processing equipment between schools and charter schools or the state criminal justice department.

Submitted as:
Texas
HB 4294
Status: Enacted into law in 2009.

Comment:

Disposition:

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2011A
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Comments/Note to staff:

SSL Committee Meeting: 2011A
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( ) Reject
Comments/Note to staff:
This Act establishes a program to enable eleventh and twelfth grade students to attend postsecondary colleges and schools and get high school credit. It contains requirements for course credit and state funding.

Submitted as:
Georgia
HB 149 (As Passed House and Senate)
Status: Enacted into law in 2009.

Comment:

Disposition:

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2011A
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Comments/Note to staff:

SSL Committee Meeting: 2011A
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( ) Reject
Comments/Note to staff:
This Act defines “International Student Exchange Visitor Placement Organization” or “Organization” as a person, partnership, corporation, or other entity that regularly arranges the placement of international student exchange visitors for the purpose, in whole or in part, of allowing the student an opportunity to attend school in the United States. The legislation directs that beginning January 1, 2010 for the 2010-2011 school year, an International Student Exchange Visitor Placement Organization that proposes to place a foreign exchange student in a public or private school in the state shall submit an application for a certificate of registration with the Secretary of State by January 1 immediately preceding the next regular school year in which the organization proposes to place a foreign exchange student. It directs the Secretary of State to issue a certificate of registration to the organization by February 1 if the application is in order, otherwise the application shall be returned to the organization with resubmission instructions.

The Act directs the Secretary of State to publish a list of international student exchange visitor placement organizations registered in the state. It requires such organizations to place information about the organizations’ services and responsibilities to students with host families and schools before the international students arrive at their host homes and schools.

Submitted as:
Arkansas
Act 966 of the Regular Session, 2009
Status: Enacted into law in 2009.

Comment:

Disposition:

CSG policy task force recommendations to The Committee on Suggested State Legislation: 2011A
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( ) No action ( ) Reject
Comments/Note to staff: 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 repackage and relabel those drugs so they may be dispensed in unit doses to the patient.

Submitted as:
Pennsylvania
HB2034

Comment: This item was deferred to the Health Policy Task Force.

Disposition:

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2011A
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action
Comments/Note to staff:

SSL Committee Meeting: 2011A
( ) Include in Volume
( ) Defer consideration
    ( ) next task force mtg.
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    ( ) 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: This item was deferred to the Health Policy Task Force.

Disposition:

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2011A
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action
Comments/Note to staff:

SSL Committee Meeting: 2011A
( ) Include in Volume
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   ( ) 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. Minnesota was among the first states to adopt such practices.

Minnesota first addressed medication therapy management in 2005 as part of H.F. No. 139, a Health and Human Services Omnibus Bill. The state codified medication therapy management requirements in 2008 Minnesota Statutes 256B.0625 Covered Services, Subd. 13h. Medication therapy management services:

(a) Medical assistance and general assistance medical care cover medication therapy management services for a recipient taking four or more prescriptions to treat or prevent two or more chronic medical conditions, or a recipient with a drug therapy problem that is identified or prior authorized by the commissioner that has resulted or is likely to result in significant nondrug program costs. The commissioner may cover medical therapy management services under MinnesotaCare if the commissioner determines this is cost-effective. For purposes of this subdivision, “medication therapy management” means the provision of the following pharmaceutical care services by a licensed pharmacist to optimize the therapeutic outcomes of the patient's medications:

(1) performing or obtaining necessary assessments of the patient's health status;
(2) formulating a medication treatment plan;
(3) monitoring and evaluating the patient's response to therapy, including safety and effectiveness;
(4) performing a comprehensive medication review to identify, resolve, and prevent medication-related problems, including adverse drug events;
(5) documenting the care delivered and communicating essential information to the patient's other primary care providers;
(6) providing verbal education and training designed to enhance patient understanding and appropriate use of the patient's medications;
(7) providing information, support services, and resources designed to enhance patient adherence with the patient's therapeutic regimens; and
(8) coordinating and integrating medication therapy management services within the broader health care management services being provided to the patient.

Nothing in this subdivision shall be construed to expand or modify the scope of practice of the pharmacist as defined in section 151.01, subdivision 27.

(b) To be eligible for reimbursement for services under this subdivision, a pharmacist must meet the following requirements:

(1) have a valid license issued under chapter 151;
(2) have graduated from an accredited college of pharmacy on or after May 1996, or completed a structured and comprehensive education program approved by the Board of Pharmacy and the American Council of Pharmaceutical Education for the provision and documentation of pharmaceutical care management services that has both clinical and didactic elements;
(3) be practicing in an ambulatory care setting as part of a multidisciplinary team or have developed a structured patient care process that is offered in a private or semiprivate patient care area that is separate from the commercial business that also occurs in the setting, or in
home settings, excluding long-term care and group homes, if the service is ordered by the provider-directed care coordination team; and

(4) make use of an electronic patient record system that meets state standards.

(c) For purposes of reimbursement for medication therapy management services, the commissioner may enroll individual pharmacists as medical assistance and general assistance medical care providers. The commissioner may also establish contact requirements between the pharmacist and recipient, including limiting the number of reimbursable consultations per recipient.

(d) The commissioner, after receiving recommendations from professional medical associations, professional pharmacy associations, and consumer groups, shall convene an 11-member Medication Therapy Management Advisory Committee to advise the commissioner on the implementation and administration of medication therapy management services. The committee shall be comprised of: two licensed physicians; two licensed pharmacists; two consumer representatives; two health plan company representatives; and three members with expertise in the area of medication therapy management, who may be licensed physicians or licensed pharmacists. The committee is governed by section 15.059, except that committee members do not receive compensation or reimbursement for expenses. The advisory committee expires on June 30, 2007.

(e) The commissioner shall evaluate the effect of medication therapy management on quality of care, patient outcomes, and program costs, and shall include a description of any savings generated in the medical assistance and general assistance medical care programs that can be attributable to this coverage. The evaluation shall be submitted to the legislature by December 15, 2007. The commissioner may contract with a vendor or an academic institution that has expertise in evaluating health care outcomes for the purpose of completing the evaluation.

Minnesota added provisions to state law addressing medication therapy management in 2009. Minnesota’s Department of Health Services summarized these additions as:

• NOTICE IS HEREBY GIVEN to recipients, providers of services, and to the public of certain statutory changes made to the Medical Assistance (MA) Program, the General Assistance Medical Care (GAMC) Program, and the MinnesotaCare Program that the 2009 Minnesota Legislature enacted during the Regular Session, and that result from the Commissioner of Finance's actions to reduce allotments.

• Effective July 1, 2009, requires a pharmacy benefit manager to make medication therapy management services available to certain enrollees with chronic medical conditions. - Minnesota Laws 2009, Chapter 79, Article 4, Section 7.

• Effective July 1, 2009, requires the Department of Human Services to establish a pilot project for an intensive medication program for patients identified by the commissioner with multiple chronic conditions and a high number of medications who are at high risk of preventable hospitalizations, emergency room use, medication complications, and suboptimal treatment outcomes due to medication related problems.- Minnesota Laws 2009, Chapter 79, Article 5, Section 31, as amended by Chapter 173, Article 1, Section 21.

Submitted as:

Statement about Minnesota law addressing Medication Therapy Management

Comment:
CSG staff added these provisions per (30B-h).

According to the National Association of Chain Drugstores (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. I’ll go 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.

Disposition: 21-31A-01

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2011A
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Comments/Note to staff:

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Comments/Note to staff:
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.
Comment: This item was deferred to the Technology Working Group.
Disposition: 21-30B-10C
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: This item was deferred to the Health Policy Task Force.

Disposition:

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2011A
( ) Include in Volume
( ) Defer consideration to next task force meeting
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( ) No action
Comments/Note to staff:

SSL Committee Meeting: 2011A
( ) Include in Volume
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( ) Reject
Comments/Note to staff:
This Act:
• provides that a person who renders language interpretation services between a health care provider who speaks English and another person in Spanish, Russian, Bosnian, Somali, Mandarin Chinese, Cantonese, or Navajo, can get certified by the state division of occupational and professional licensing as a medical language interpreter;
• provides that a person may provide medical interpreter services without obtaining the certification described in the preceding paragraph;
• describes the requirements that a person must comply with in order to obtain certification;
• makes it a class A misdemeanor to represent or hold oneself out as a certified medical language interpreter when not certified under the provisions of this bill;
• permits the division to charge a fee to recover the costs of administering the certification examination and issuing the certificate described in this bill;
• grants rulemaking authority to the division; and
• allows the state department of health and the state department of human services to give priority to contracting with companies that use certified medical language interpreters.

Submitted as:
Utah
HB144/Session Law Chapter 49
Status: Enacted into law in 2009.

Comment:

Disposition:
CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2011A
( ) Include in Volume
( ) Defer consideration to next task force meeting
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Comments/Note to staff:

SSL Committee Meeting: 2011A
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Comments/Note to staff:
This Act:
- directs a medical facility or a health professional office to, prior to providing services to a patient, to request identification for the patient and an individual who consents to the provision of services to the patient, if the patient lacks the capacity to consent;
- permits a medical facility or a health professional office to use certain methods to document or confirm a patient’s identity;
- prohibits a medical facility or a health professional office that is subject to the federal Emergency Medical Treatment and Active Labor Act from denying services to an individual on the basis that the individual does not provide identification when requested;
- provides that a medical facility or a health professional office is not subject to a private right of action for failing to ask for identification; and
- prohibits the imposition of penalties if a medical facility or a health professional office does not request documentation.

Submitted as:
Utah
HB81/Session Law Chapter 36
Status: Enacted into law in 2009.

Comment:

Disposition:

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2011A
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action

Comments/Note to staff:

SSL Committee Meeting: 2011A
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( ) Reject

Comments/Note to staff:
This Act imposes a quality assurance assessment (tax) on nursing facilities for each patient day. This assessment is applied to all for-profit and nonprofit private nursing facilities, but not to State nursing facilities. Revenue received from the assessment is to be deposited in a Quality Assurance Trust Fund under the authority of the state department of human services (DHS). The money in the Fund is to be used to provide a supplemental payment, matched with federal financial participation, to nursing facilities. This payment, to the extent possible, is intended to offset the cost of the assessment to nursing facilities. The DHS is directed to submit certain requests to the Center for Medicare and Medicaid Services (CMS) by June 30, 2009, unless the DHS, upon consultation with the governor, determines the requests would adversely affect the existing IowaCare Waiver. The requests include:

- an amendment to the IowaCare waiver eliminating the provision that prohibits a provider tax;
- a uniform tax requirement waiver to allow various levels of taxation to be imposed; and
- a State Plan Amendment to the nursing facility reimbursement methodology to allow the Medicaid to reimburse nursing facilities for the Medicaid portion of the assessment.

The quality assurance assessment is contingent on approval of all requests submitted to CMS and an appropriation by the General Assembly to provide the nursing facility supplemental payments.

Submitted as:
Iowa
Senate File 476
Status: Enacted into law in 2009.

Comment:

Disposition:

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2011A
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action

Comments/Note to staff:

SSL Committee Meeting: 2011A
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject

Comments/Note to staff:
This Act establishes a ban on gifts from manufacturers of prescription drugs, medical devices, and biological products to a health care professional, hospital, nursing home, pharmacist, health benefit plan administrator, or anyone else authorized to dispense or purchase for distribution prescribed products in the state, except for:

- samples of a prescribed product for free distribution to patients;
- the short-term loan of a medical device for evaluation and the provision of medical device demonstration and evaluation units;
- clinical articles, medical journals and other items that serve a genuine educational function for the benefit of patients;
- scholarships for medical students, residents, and fellows to attend major conferences;
- rebates and discounts provided in the normal course of business; and
- labels approved by the Food and Drug Administration.

The Act requires manufacturers to disclose all allowable expenditures and permitted gifts made to health care providers to the state attorney general annually on October 1. The following are exempt from the disclosure requirement:

- royalties and licensing fees.
- rebates and discounts.
- samples of prescription drugs.
- payments for clinical trials, which must be disclosed only after the earlier of the date of the approval or clearance of the prescribed product by the Food and Drug Administration or two calendar years after the date the payment was made.

For clinical trials, a manufacturer must identify to the attorney general the clinical trial, the start date, and the web link to the clinical trial registration on the national clinical trials registry.

The Act requires the office of the attorney general to report to the general assembly and the governor annually by April 1 on the disclosures it receives under the Act and make the data used in the report publicly available through an Internet website. It also requires the state office of health access to examine the data to determine whether and to what extent prescribing patterns by health care providers of prescribed products reimbursed under state health programs may reflect manufacturer influence, and to report its analysis annually to the general assembly and the governor by October 1. The Act directs the office of the attorney general to institute a $500.00 fee to collect and manage the information disclosed under the Act.

The Act requires the office of the attorney general, in consultation with the commission on health care reform, to review the advisability of manufacturers of prescribed products disclosing information about free samples given to health care providers and to report to legislative committees by December 15, 2009. It creates a therapeutic equivalent drug work group to recommend a sample list and a process for substitution of generic drugs in the same therapeutic class as prescribed brand-name drugs. The group must provide a report to legislative committees by January 15, 2010. And the Act directs the office of health access, in consultation with the commissioner of corrections, to convene a work group to review a report by the Heinz Family Philanthropies analyzing health care costs in the corrections system and identify ways to provide health services and prescription drugs using 340B pricing. They must report by July 31, 2009 to the commission on health care reform and the joint legislative corrections oversight committee.
Submitted as:
Vermont
Act 59
Status: Enacted into law in 2009.

Disposition: 21-31A-05

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2011A
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Comments/Note to staff:

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Comments/Note to staff:
This Act permits a person to administer Cardiopulmonary Resuscitation (CPR) or use an Automatic External Defibrillator (AED) on a person reasonably believed to be in sudden cardiac arrest without a license or certificate and regardless of whether the person is trained to administer CPR or to use an AED. The bill provides immunity from civil liability for certain acts or omissions relating to administering CPR, operating, designing, or managing a CPR or AED program, or providing instructions or training, or taking other specified action, in relation to CPR or AEDs, unless the actions constitute gross negligence or willful misconduct. The Act does not relieve a manufacturer, designer, developer, marketer, or commercial distributor from liability relating to an AED or an AED accessory. It requires a person who owns or leases an AED to report certain information, including the location of, or removal of, the AED, to the emergency medical dispatch center that provides emergency dispatch services for that area.

The legislation describes the duty of an emergency medical dispatch center to disclose information about the location of an AED. It describes the duty of the state bureau of emergency medical services and a person who owns or leases an AED to providing education and training about CPR and using an AED.

Submitted as:
Utah
HB 31
Status: Enacted into law in 2009.

Comment:

Disposition: 21-31A-06

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2011A
( ) Include in Volume
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Comments/Note to staff:

SSL Committee Meeting: 2011A
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Comments/Note to staff:
This Act creates a program to reduce the impact of cardiovascular disease in the state. The Act creates a board to govern the program. The Act requires the governing board to establish goals and business plans for 1, 3, 5, and 10 year time periods that address outreach, early identification, education, follow-up strategies for at-risk populations, improving access to information for patients and health care professionals, and research on cardiovascular disease and treatment. The Act calls for commercializing intellectual property about cardiovascular disease. It calls for developing an Internet-based data repository and e-health programs at centers affiliated with universities about cardiovascular and other diseases that can be accessed by health care providers working with patients. The legislation permits the governing board to create a public or nonprofit corporation to facilitate public-private collaboration in development and implementation of the Act. It requires the board to present plans to the legislature prior to expenditures or implementation and make business plans available to the public.

Submitted as:
Kentucky
HB 185 EN
Status: Enacted into law in 2007.

Comment:

Disposition:

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2011A
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Comments/Note to staff:

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Comments/Note to staff:
This Act declares that with certain exceptions, it is not unlawful conduct or unprofessional conduct, and it does not violate state law, if a pharmacist issues a prescription for a drug to treat a sexually transmitted disease to a sexual partner by writing “partner of (patient name)” on the prescription order and giving the partner’s prescription to the patient for subsequent use by the partner. The Act also provides immunity from medical malpractice actions for practicing expedited partner therapy.

Submitted as:
Utah
HB17 (Enrolled version)
Status: Enacted into law in 2009.

Comment:

According to the Centers for Disease Control and Prevention:
- EPT is permissible in 19 states and Baltimore, Maryland.
- EPT is potentially allowable in 21 states, the District of Columbia, and Puerto Rico.
- EPT is likely prohibited in 10 states.

Disposition:

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2011A
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Comments/Note to staff:

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Comments/Note to staff:
This Act requires by July 1, 2012, the state department of health and senior services to expand newborn screening requirements to include certain specified lysosomal storage diseases. The department is authorized to increase the current fee for newborn screening tests to cover the additional costs of the expanded tests.

The Act directs the state HealthNet Program and the State Children's Health Insurance Program (SCHIP), in consultation with statewide organizations focused on premature infant health care, to examine and improve hospital discharge and follow-up care procedures for premature infants born earlier than 37 weeks gestational age. The bill urges certain hospitals to report rehospitalizations of infants born earlier than 37 weeks gestational age during their first six months of life. It encourages those hospitals to use guidance from the federal Centers for Medicare and Medicaid Services' Neonatal Outcomes Improvement Project to implement programs to improve outcomes, reduce costs, and establish ongoing quality improvement for newborns.

The Act directs the state department of health and senior services to prepare written educational publications with information about possible complications, proper care, and support associated with premature infants and distribute that material to children’s health and maternal care providers, hospitals, public health departments, and medical organizations; and to encourage those organizations to provide the publications to parents or guardians of premature infants.

Submitted as:
Missouri
SCS HB0716 (Truly Agreed to and Finally Passed version)
Status: Enacted into law in 2009.

Comment:

This Act directs the state Medicaid Program and the Children's Health Insurance Program, in consultation with statewide organizations focused on premature infant healthcare, to examine and improve hospital discharge and follow-up care procedures for premature infants born earlier than thirty-seven (37) weeks gestational age to ensure standardized and coordinated processes are followed as premature infants leave the hospital from either a Level 1 (well baby nursery), Level 2 (step down or transitional nursery) or Level 3 (neonatal intensive care unit) unit and transition to follow-up care by a health care provider in the community; and

The Act directs the state Medicaid Program and the Children's Health Insurance Program to use guidance from the Centers for Medicare and Medicaid Services' Neonatal Outcomes Improvement Project to implement programs to improve newborn outcomes, reduce newborn health costs and establish ongoing quality improvement for newborns.

The Act requires data about the incidence and cause of rehospitalization in the first six (6) months of life for infants born premature at earlier than thirty-seven (37) weeks gestational age shall be reported to the legislature by the state Department of health using a mandated hospital discharge data system authorized by state law.

143
Submitted as: Mississippi HB 1449
Status: Enacted into law in 2009.

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This Act directs that upon request of a patient or a patient’s agent, a health care provider, outpatient center for surgical services, clinic, or hospital shall provide the patient or the patient's agent with its estimated charge for a health care service or course of treatment that exceeds $500. The estimate must be provided for a service that a patient is receiving or has been recommended to receive. The estimate must be provided at the time the service is scheduled or within 10 business days of the patient's or agent's request. The patient or patient’s agent may request such information be provided in writing or electronically. The estimated charge must represent a good faith effort to provide accurate information to the patient or the patient's agent; is not a binding contract upon the parties; and is not a guarantee that the estimated amount will be the charged amount or will account for unforeseen conditions.

Submitted as:
Montana
HB 263/Chapter 206
Status: Enacted into law in 2009.

Comment:

Disposition:

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2011A
( ) Include in Volume
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SSL Committee Meeting: 2011A
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Comments/Note to staff:
This Act directs the state department of public health to develop and implement a 3-year pilot program to create and maintain a monogenic neonatal diabetes mellitus registry. The department shall create an electronic registry to track the glycosylated hemoglobin level of each person with monogenic neonatal diabetes who has a laboratory test to determine that level performed by a physician or healthcare provider or at a clinical laboratory in this state. The department shall facilitate collaborations between participating physicians and other healthcare providers and the Kovler Diabetes Center at the University of Chicago in order to assist participating physicians and other healthcare providers with genetic testing and follow-up care for participating patients.

The goals of the registry are as follows:
• identify new and existing patients with neonatal diabetes;
• provide a clearinghouse of information for individuals, their families, and doctors about these syndromes;
• track patients with these mutations who are being treated with sulfonylurea drugs and their treatment outcomes; and
• identify new genes responsible for diabetes.

The Act directs physicians licensed to practice medicine in all its branches and other healthcare providers treating a patient in the state with diabetes mellitus with onset before 12 months of age to report to the department the following information from all such cases no more than 30 days after diagnosis: the name of the physician, the name of the patient, the birthdate of the patient, the patient's age at the onset of diabetes, the patient's birth weight, the patient's blood sugar level at the onset of diabetes, any family history of diabetes of any type, and any other pertinent medical history of the patient. Clinical laboratories performing glycosylated hemoglobin tests in the state for patients with diabetes mellitus with onset before 12 months of age must report the results of each test that the laboratory performs to the department within 30 days after performing such test.

Submitted as:
Illinois
Public Act 096-0395
Status: Enacted into law in 2009.

disposition:

CSG policy task force recommendations to The Committee on Suggested State Legislation: 2011A ( ) Include in Volume ( ) Defer consideration ( ) Include in Volume ( ) next task force mtg. ( ) Defer consideration to next task force meeting ( ) next SSL mtg. ( ) Reject ( ) next SSL cycle ( ) No action ( ) Reject Comments/Note to staff: Comments/Note to staff:
21-31A-12A Telemedicine Insurance  ME

This Act prohibits carriers offering health plans in the state from denying coverage on the basis that the coverage is provided through telemedicine if the health care service would be covered were it provided through in-person consultation between the covered person and a health care provider. Coverage for health care services provided through telemedicine must be determined in a manner consistent with coverage for health care services provided through in-person consultation.

Submitted as:
Maine
Chapter 169 of 2009
Status: Enacted into law in 2009.

Comment: According to an article by Michael Edwards, Maine Telemedicine, Service News, Sept. 11, 2009 – “Both Maine and New Hampshire in the Summer of 2009 passed and obtained Governor signatures for laws which require insurance companies to pay for services delivered by telemedicine. Along with Oregon earlier this year, this brings the total to 12 for states with similar statutes (joining California, Colorado, Georgia, Hawaii, Kansas, Kentucky, Louisiana, Texas, and Oklahoma - see the Telemedicine Information Exchange).”

21-31A-12B Telemedicine Insurance  NH

This Act requires insurance coverage for telemedicine services if the health care service would be covered by the insurer if it were provided through in-person consultation between the patient and provider.

Submitted as:
New Hampshire
Chapter 259 of 2009
Status: Enacted into law in 2009.

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This Act requires the Maryland Health Care Commission (MHCC) and the Maryland Health Services Cost Review Commission (HSCRC) to designate a State Health Information Exchange (HIE) by October 1, 2009. By various deadlines, MHCC also must adopt regulations requiring “State-regulated payors” to provide incentives to providers to promote the adoption and meaningful use of electronic health records (EHRs); designate one or more management service organizations (MSOs) to offer EHR services; and submit specified reports.

Beginning the later of January 1, 2015, or the date established for the imposition of penalties under the federal American Recovery and Reinvestment Act of 2009, each provider using an EHR that seeks payment from a State-regulated payor must use EHRs that are certified by a national certification organization designated by MHCC and capable of connecting to and exchanging data with the State HIE. State-regulated payors may reduce payments to health care providers for noncompliance with these requirements.

Submitted as:
Maryland
Chapter 689 of 2009
Status: Enacted into law in 2009.

Comment:

Disposition:
CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2011A
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Comments/Note to staff:
This Act provides that a person who engages in a sport or recreational opportunity assumes the inherent risks in that sport or recreational opportunity and is responsible for injuries and damages resulting from those inherent risks; limits the liability of the providers of a sport or recreational opportunity; provides governmental immunity; and clarifies that a provider is not required to eliminate, alter, or control the inherent risks within a particular sport or recreational opportunity.

Submitted as:
Montana
**HB 150**
Status: Enacted into law in 2009.

Comment:

Disposition:

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2011A
( ) Include in Volume
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Comments/Note to staff:
This Act creates an identity theft unit in the office of the attorney general. The Act directs the unit to investigate consumer complaints related to identity theft; assist victims of identity theft; cooperate with law enforcement investigations related to identity theft; assist state and federal prosecuting attorneys in the investigation and prosecution of identity theft; and promptly notify the appropriate law enforcement agency and prosecuting attorney if there is reasonable suspicion to believe that a person has committed identity theft.

The Act authorizes certain agencies and people to cooperate with the unit in investigating identity theft, and authorizes a prosecuting attorney to deputize the attorney general or a deputy attorney general to assist in the prosecution of an identity theft case. It provides that the unit may establish an educational program to inform consumers concerning identity theft.

The bill requires the owner of a data base to notify the attorney general and the owner's regulator, if applicable, of a breach of the security of data. It requires a data base owner to take certain steps to safeguard data unless the data base owner has its own safeguards in accordance with certain federal laws.

The bill provides certain rights to the victims of identity theft. Increases the penalty for identity deception committed against the person's child to a Class C felony. It provides that unlawfully using identifying information that identifies a fictitious person or a person other than the person who is using the information but that does not belong in its entirety to any live or deceased person constitutes synthetic identity deception.

Submitted as:
Indiana
**HEA 1121**
Status: Enacted into law in 2009.

Comment:

Disposition:
CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2011A ( ) Include in Volume
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Comments/Note to staff:

SSL Committee Meeting: 2011A
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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:
Per 30B-c, according to the Association of Official Seed Certifying Agencies (AOSCA), 44 states have seed certifying agencies. Mr. Ken Bertsch, Commissioner of the North Dakota State Seed Department, did a brief survey of the Wyoming legislation on this docket, and said it bears many similarities to North Dakota’s practices. These seed certifying agencies are regulatory in nature and often fall under the aegis of state departments of agriculture. They vary widely in the type of seed they certify. For example, Bertsch said Idaho has three agencies regulating and overseeing potatoes.

Disposition:

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2011A
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Comments/Note to staff:

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Comments/Note to staff:
This Act encourages owners of neighboring agricultural lands to enter into private agreements to reduce the shared costs of generating and transmitting electrical energy, cold water for refrigeration and cooling, and nonpotable water for irrigation. The Act allows owners of contiguous parcels within the agricultural district to establish private agricultural parks registered with the department of agriculture. It also specifies activities within a private agricultural park.

Submitted as:
Hawaii
HB 1351 CD1
Status: Enacted into law in 2009.

Comment:

Disposition:

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2011A
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Comments/Note to staff:
This Act establishes a program in the state department of agriculture to award grants to nonprofit organizations to collect and distribute surplus food grown in the state to food banks and other charitable organizations that serve needy or low-income people. The Act creates a Surplus Agricultural Commodities Fund to fund the program and an advisory committee to guide the program.

Submitted as:
Kentucky
09 RS HB 344/GA
Status: Enacted into law in 2009.

Comment:

Disposition:

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2011A
(   ) Include in Volume
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Comments/Note to staff:
This Act makes it unlawful for a person to not engage in a practice or act the person knows or reasonably should know is an unfair practice, deception, fraud, false pretense, or false promise, or the misrepresentation, concealment, suppression, or omission of a material fact, with the intent that others rely upon the unfair practice, deception, fraud, false pretense, false promise, misrepresentation, concealment, suppression, or omission in connection with the advertisement, sale, or lease of consumer merchandise, or the solicitation of contributions for charitable purposes.

A consumer who suffers an ascertainable loss of money or property as the result of a prohibited practice or act in violation of this Act may bring an action at law to recover actual damages. The court may order such equitable relief as it deems necessary to protect the public from further violations, including temporary and permanent injunctive relief. If the court finds that a person has violated this Act and the consumer is awarded actual damages, the court shall award to the consumer the costs of the action and to the consumer's attorney reasonable fees.

Submitted as:
Iowa
House File 712
Status: Enacted into law in 2009.

Comment:

Disposition:

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2011A
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Comments/Note to staff:
This bill expands the authority of the insurance division’s fraud investigations unit to prevent, investigate, and prosecute insurance fraud to all lines of insurance except workers' compensation.

Submitted as:
Hawaii
**HB 262 CD1**
Status: Enacted into law in 2009.

Comment:

Disposition:

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2011A
( ) Include in Volume
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Comments/Note to staff:
This Act extends the definition of racketeering activity under the Corrupt Organizations and Racketeering Activity Act (CORA) to include violations of the federal Currency and Foreign Transactions Reporting Act by broker-dealers and specifies that CORA applies to securities fraud and related offenses under the Uniform Securities Act. CORA provides for criminal penalties and property forfeiture.

The Act requires the chief state's attorney, in consultation with the attorney general, chief court administrator, and banking commissioner, to study the establishment of a fund to hold money and proceeds of property forfeited under CORA for securities fraud and related offenses and most appropriate way to administer the fund to provide restitution to victims. The chief state's attorney must report findings and recommendations to the Judiciary Committee by March 31, 2010.

Comment: A June 29, 2009 press release from the governor’s office states:

On the same day convicted financier Bernard Madoff was sentenced for masterminding one of the biggest financial scams in history, Governor M. Jodi Rell today signed a bill that targets money managers who defraud Connecticut investors and puts in place protections for victims by establishing the groundwork for a restitution fund. The law expands the state’s organized crime law to include securities fraud and ensures that those white collar criminals face significant jail time and steep penalties.

“The investors and families who fell victim to Madoff’s Ponzi scheme had their lives turned upside down. He derailed their future by brazenly taking their hard-earned money and replacing it with nothing but lies,” Governor Rell said. “Victims of white-collar crime are robbed of their security. They are robbed of their future and they are robbed of their trust in others. This bill helps us protect them.”

The bill was crafted in the wake of the high-profile federal prosecution of Madoff, who was convicted in a multi-billion Ponzi scheme. Some of his thousands of victims included private investors, businesses and non-profits in Connecticut as well as the town of Fairfield.

House Bill 6339, An Act Concerning the Forfeiture of Property Obtained by Securities Fraud, expands the state’s organized crime law to include securities fraud. It allows the state to freeze the assets of anyone convicted of investment fraud. If a defendant transfers property to avoid forfeiture, the new law allows a court to set aside that transfer. Seized property can then transferred to an innocent party or converted to cash and given to a state agency for public use.

The bill also requires the state Banking Commissioner – along with the Attorney General and Chief State’s Attorney – to conduct a study in order to establish a restitution fund for victims and report those findings to the General Assembly by March 31, 2010.

“This law will help us prevent another Madoff-type scam from claiming more victims in Connecticut. What happened to the people who believed in Bernie Madoff should serve as a sobering warning that the criminal element exists everywhere,” Governor Rell said. “White collar
criminals are as slick as the schemes they peddle and will be dealt with severely in the State of Connecticut.”

Disposition: 25-31A-03

CSG policy task force recommendations to
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