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

2013 CYCLE
DOCKET BOOK B
Final

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 workforce and 20 percent of the low-wage workforce. Immigrants are especially important in certain sectors, such as health care. Because of immigration restrictions since Sept. 11, some areas of the United States are experiencing doctor shortages, especially many rural areas that rely heavily on foreign-born care workers.

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

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

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

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

3. Population Growth Patterns

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

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

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

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

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

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

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

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

5. New Economy

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

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

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

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

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

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

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

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

7. Privacy and Security

As the amount of readily available information increases so do concerns about individual and governmental privacy and security. The more information that is available, the more potential there is for misuse of this information.

One growing concern is identity theft. Criminals can use a variety of methods, ranging from rummaging through your trash to find pre-approved credit offers to hacking into your company’s computer system to find Social Security numbers, to obtain personal information to commit fraud or theft. Identity theft is on the rise and will continue to be a major issue because of the relatively easy access to information.

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

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

8. Natural Resource Use and Protection

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

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

Experts project that the world could reach its peak oil production capacity within the next 10 to 40 years. After that, the supply of oil may not keep up with demand. With this in mind, some states are leading the way in promoting energy efficiency and conservation. California, for instance, has built a “green” government building, and New York renovated one of its government office buildings to be more environmentally friendly. And many states have incentive programs aimed at encouraging the purchase of alternative fuel vehicles, the conversion of vehicles to run on biofuels and the installation and operation of fueling facilities to serve these vehicles.

Policy-makers will have to focus on longer-term policies, programs and commitments in order to ensure balanced approaches to the use of natural resources and development of “greener” and “cleaner” technologies. Air quality as well as water quality and availability will remain on the agendas of many state officials.

9. Polarization of Society

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

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

There is growing economic polarization as well. According to the U.S. Census Bureau, the country has experience a long-term trend of a widening income gap. In other words, there is increasing income inequality between the “haves” and the “have nots.” This trend 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.
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.

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

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

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

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**Summary:** [These are typically excerpted from bill digests, committee summaries, and related materials which are contained in or accompany the legislation.]

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

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

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

Comments/Note to staff:

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

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.

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(10) PUBLIC FINANCE AND TAXATION
10-33B-01 Alternative Legal Tender         UT
10-33B-02 Electronic News Sources Tax Exemption  NY
10-33B-03 Expensing Qualified Investments Statement  KS
10-33B-04 Taxpayer Refund Choice         NY

(11) LABOR/WORKFORCE RECRUITMENT, RELATIONS AND DEVELOPMENT
11-33B-01 Drug Testing State Employees  FL
11-33B-02 Workforce Development, Industry Partnerships    PA
11-33B-03 Heroes for Hire            AL

(12) PUBLIC UTILITIES AND PUBLIC WORKS
12-33B-01 Utility Service Collections for Hunger Programs           WA
12-33B-02 Community Choice Aggregation         CA
12-33B-03 Electric Usage Data                OK
12-33B-04 Gas Pipelines                      VA
12-33B-05 Remote Net Metering by Farm and Non-Residential Customer-Generators NY

(13) STATE AND LOCAL GOVERNMENT/INTERSTATE COOPERATION AND LEGAL DEVELOPMENT
13-33B-01 Forward Energy Pricing            VA
13-33B-02A Designation of Active Military or Veteran Status on a Driver's License or Nondriver Identification Card ME
13-33B-02B Designation as Veteran on Driver License TX

(14) TRANSPORTATION
*14-33A-01A Personal Vehicle Sharing          CA
*14-33A-01B Personal Vehicle Sharing          OR
*14-33A-02 School Bus Safety via Digital Tracking CT
*14-33A-04 Alternative Fuel/Autonomous Vehicles NV
14-33B-01 Autonomous Vehicles                FL
14-33B-02 Electric Vehicle Charging Service VA
14-33B-03 Congestion Reduction Charges       WA
14-33B-04 Driver’s Licenses, Permits, Identcards Facial Recognition Matching System WA

(15) COMMUNICATIONS/TELECOMMUNICATIONS

(16) ELECTIONS/POLITICAL CONDITIONS
16-33B-01 Campaign-Free Zones            NJ
16-33B-02 Public Integrity Reform Statement NY

(17) CRIMINAL JUSTICE, THE COURTS AND
CORRECTIONS/PUBLIC SAFETY AND JUSTICE
(33A-c) Add similar legislation from other states, if available, to the next docket, concerning sexting.
17-33B-01A Cybercrime Youth Rescue NY
17-33B-01B Sexting FL
17-33B-01C Sexting RI
17-33B-01D Sexting TX
17-33B-02 Uniform Child Witness Protective Measures NM
17-33B-03 Prostitution Offenders CO
17-33B-04 Jurors: Electronic Communications CA
17-33B-05 Advertising Commercial Sex Abuse of a Minor WA
17-33B-06 Predatory Loitering by a Sexual Offender MT
17-33B-07 Sexually Violent Predator Civil Commitment Cases WA
17-33B-08 Statewide Automated Victim Information and Notification System HI
17-33B-09 DNA Databank NY
17-33B-10 Protecting Seniors and Other Vulnerable Adults AK
17-33B-11 Recovering Crime Victims’ Property AK
17-33B-12 Victims of Human Trafficking and Promoting Prostitution WA
17-33B-13 Post Conviction Access to Forensic and Scientific Analysis MA

(18) PUBLIC ASSISTANCE/HUMAN SERVICES
18-33B-01 Elder Economic Planning CA
18-33B-02 Elder and Vulnerable Adult Placement Referrals WA
18-33B-03 Child-Placing Agencies: Conscience Clause VA

(19) DOMESTIC RELATIONS/DEMOGRAPHIC SHIFTS/SOCIAL AND CULTURAL SHIFTS
19-33B-01 Marriage and Civil Union by Proxy for People in the Military NJ
19-33B-02 Marriage Equality NY

(20) EDUCATION
*20-33A-04 Teacher Excellence AR
*20-33A-06 Teacher Collective Bargaining IN
20-33B-01 Nonprofit Online University WA
20-33B-02 Postsecondary Education Credits for High Schoolers WA
20-33B-03 Objectionable Materials in School Courses NH
20-33B-04 Public Education Regional Service Centers UT
20-33B-05 Student Assessments/Core Academic Standards Statement KY
20-33B-06 Renaissance School Districts NJ
20-33B-07 Postsecondary Tiered Technical Education
(21) HEALTH CARE
*21-33A-11 Health Insurance Rate Review    NM
*21-33A-12 Authorizing Electronic Prescriptions    ND
21-33B-01 Infection Control Training    NC
21-33B-02 Health Care Price Transparency    FL
21-33B-03A Retainer Medical Practices    OR
21-33B-03B Concierge Medicine    WA
21-33B-04 Regulating Prescription Pill Mills    FL
21-33B-05 Coordinated Care Organizations Statement    OR
21-33B-06 Medicaid Accountable Care Organization Demonstration Project    NJ
21-33B-07 Health Benefit Exchange    MD
21-33B-08 Prescription Drug Authorization Form    CA
21-33B-09 Requiring Mammogram Results Include Information About Density of Breast Tissue    CT
21-33B-10 Pulse Oximetry Screening of Newborns    NJ
21-33B-11 Health Care Sharing Ministries    IN

(22) CULTURE, THE ARTS AND RECREATION
22-33B-01 Zipline Responsibility Act    WV

(23) PRIVACY
23-33B-01 Reader Privacy    CA
23-33B-02 Domestic Violence Victims: Internet Disclosure    CA
23-33B-03 Employee Privacy    MD

(24) AGRICULTURE
24-33B-01 Farmland Purchase and Preservation Loan Program: Young Farmers    DE

(25) CONSUMER PROTECTION
25-33B-01 Home Service Contract    OK

(26) MISCELLANEOUS
This Act authorizes the state utilities commission to adopt procedures to allow a lessor of a residential building or complex having individually metered units for electric service in the lessor’s name to charge for the actual costs of providing electric service to each tenant when the lessor has a separate lease for each bedroom in the unit.

Submitted as:
North Carolina
Session Law 2011-252
Status: Enacted into law in 2011.

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Comment:

Disposition:

CSG policy task force recommendations to The Committee on Suggested State Legislation: 2013B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action

Comments/Note to staff:

SSL Committee Meeting: 2013B
( ) Include in Volume
( ) Defer consideration
   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject

Comments/Note to staff:
This Act requires the state department of agriculture to establish a program to compensate people whose livestock are killed by wolves and to implement nonlethal techniques to keep wolves from killing livestock.

Submitted as:
Oregon
HB 3560 (Enrolled version)
Status: Enacted into law in 2011.

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Comment:

Press Release: June 24, 2011:

Governor Kitzhaber lauds historic wolf/livestock agreement

(SALEM, Ore.) — Governor Kitzhaber released the following statement after Senate passage of HB 3560, The Livestock Compensation and Wolf Co-Existence Act.

“The Livestock Compensation and Wolf Co-Existence Act represents an historic agreement between livestock growers, rural communities, and wildlife conservationists. I applaud the hard work and good will demonstrated by Oregon Cattlemen’s Association, Oregon Farm Bureau, Defenders of Wildlife, Hells Canyon Preservation Council, state and local agencies, and the Legislature in finding an equitable solution. Today, Oregonians have once more demonstrated the tremendous potential we have to solve tough issues if we do it together.”

The Livestock Compensation and Wolf Co-Existence Act is the first of its kind in the United States. It establishes precedents that go beyond what other states have done related to livestock compensation by authorizing local, county led programs to address compensation for and deterrence of livestock losses, guaranteeing funding for non-lethal techniques to deter wolves from killing livestock, and conditioning compensation in areas of known wolf activity on attempts to use wolf deterrence techniques. The Act also intentionally brings together the Oregon Department of Agriculture (ODA), which handles agricultural matters, such as livestock, together with the Oregon Department of Fish and Wildlife (ODFW), which has jurisdiction over wildlife management. ODA will manage the distribution of funds to counties while ODFW will determine whether a livestock kill was caused by wolves or other factors.

Media Contacts:
Christine Miles, 503-559-8795
Amy Wojcicki, 503-689-5324
Page updated: June 24, 2011
Disposition:

CSG policy task force recommendations to The Committee on Suggested State Legislation: 2013B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action

Comments/Note to staff:

SSL Committee Meeting: 2013B
( ) Include in Volume
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   ( ) next task force mtg.
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   ( ) next SSL cycle
( ) Reject

Comments/Note to staff:
This Act designates “Wounded Warrior Special Hunt Areas” within state forests and limits guest admittance to such areas for eligible veterans and service members.

Submitted as:
Florida
CS/HB 663 (Enrolled version)
Status: Enacted into law in 2011.

Comment: A press release from the Florida governor’s office says:

“7/5/2011 Largo, Fla. – Governor Rick Scott today visited the Armed Forces Military Museum in Largo to highlight several pieces of legislation that benefit Florida’s 1.6 million veterans and 58,000 active-duty military stationed in Florida. . . .

One of the bills signed by Governor Scott is House Bill 663 – State Forests. The bill honors the service of injured war veterans by providing special outdoor recreational opportunities for them. The Division of Forestry will designate one or more areas of state forests as “Wounded Warrior Special Hunt Areas.” With funding from the Friends of Florida State Forests Program, all active duty members and veterans of the U.S. Armed Forces with combat-related injuries will now have access to specialized hunting areas that are specially adapted to assist their needs.”

Disposition:

CSG policy task force recommendations to The Committee on Suggested State Legislation:
2013B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action

Comments/Note to staff:

SSL Committee Meeting: 2013B
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   ( ) next SSL cycle
( ) Reject

Comments/Note to staff:
This Act requires commercial facilities which cook with vegetable oil or animal fat to maintain receptacles to collect used cooking oil for recycling and prohibits such facilities from disposing such oil in a manner other than by recycling.

Submitted as:
Rhode Island
S 0185 Substitute A (Chapter 335)
Status: Enacted into law in 2011.

Comment:

Disposition:

CSG policy task force recommendations to The Committee on Suggested State Legislation: 2013B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action

Comments/Note to staff:

SSL Committee Meeting: 2013B
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   ( ) next SSL cycle
( ) Reject

Comments/Note to staff:
This Act establishes requirements for permits and regulatory rules governing drilling horizontal wells in the state. Specifically, it:

- requires permits for horizontal wells;
- establishes permit application requirements and contents for drilling horizontal wells;
- establishes well performance standards;
- establishes application requirements and payment of fees;
- requires emergency and legislative rules pertaining to drilling such wells in karst formations;
- authorizes rules governing large pits and impoundment;
- addresses providing notice to property owners enter their property to survey or to conduct seismic activity related to such wells;
- provides for public notice and comments about proposed wells;
- establishes well location restrictions;
- requires a report to the legislature about noise, light dust and volatile organic compounds related to such wells;
- addresses guidelines and procedures to control and mitigate noise, light, dust and volatile organic compounds in relation to horizontal drilling activities;
- requires rules for plugging and abandonment of horizontal wells;
- establishes reclamation requirements;
- requires performance bonds or other security;
- provides for compensation for certain damages to certain surface owners;
- provides for reimbursement of property taxes to surface owners;
- provides for civil action, rebuttable presumption and relief for water contamination or deprivation;
- addresses water rights and replacement procedures;
- creates a Oil and Gas Horizontal Well Production Damage Compensation Act;
- defines terms; conditions and parameters for compensating surface owners for drilling operations;
- preserves common law right of action and providing offset for compensation or damages paid, and
- modifies legal definitions of “shallow wells” and “deep wells”.

Submitted as:
West Virginia
HB 401 (Chapter 1, Acts, 4th Extraordinary Session, 2011)
Status: Enacted into law in 2011.

Comment: This Act is not in the packet because it is 62 pages.

A December 22, 2011 governor’s press release stated:

“This is a milestone piece of legislation and a significant achievement in our state’s history,” said Governor Tomblin. “It provides reasonable regulations to protect the environment and opens the door to new job opportunities for the citizens of our state. I again, extend my sincere appreciation to the members of the legislature for working long and hard to develop and pass this historic legislation for the future of West Virginia.”

The Horizontal Well Act provides distinct permitting and regulatory rules governing the drilling of horizontal wells in West Virginia. The regulatory certainty created by passage of this legislation will allow the natural gas industry to continue to invest in West Virginia and create additional jobs for our citizens. The Act also provides the West Virginia Department of Environmental Protection with sufficient funding and regulatory authority to protect the environment and our precious water resources. Going forward, this legislation requires operators drilling horizontal wells to provide additional advance notice to surface owners prior to commencing drilling activities. This historic legislation will position West Virginia for continued success and will require that the natural gas within our Marcellus Shale be developed in a responsible manner.”

Disposition:

CSG policy task force recommendations to The Committee on Suggested State Legislation:
2013B
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Comments/Note to staff:

SSL Committee Meeting: 2013B
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( ) Reject

Comments/Note to staff:
This Act creates a program to encourage using renewable energy in state parks buildings.

Submitted as:
Colorado
House Bill 10-1349
Status: Enacted into law in 2010.

Comment:
April 25, 2010
Fischer Bringing Renewable Energy Projects to State Parks
(Denver)

Representative Randy Fischer (D-Larimer) is invigorating Colorado’s economic and environmental needs with the creation of the Re-energize Colorado Program. House Bill 1349 passed an initial vote in the House today. The Re-energize Colorado Program encourages renewable energy projects in state parks to supply or offset their electrical energy needs.

“In bringing renewable energy projects into our state parks we will create new jobs and a more secure and sustainable energy system,” Rep. Fischer said. Rep. Fischer’s bill also creates a map of renewable energy generation locations so that the state is able to better identify what resource areas are available and appropriate for renewable energy. This will make it easier for the state to tap into its renewable energy resources.

The bill is cosponsored by Representative Sal Pace (D-Pueblo) in the House and supported by Senator Gail Schwartz (D-Snowmass) in the Senate.

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Comments/Note to staff:
This Act facilitates and promotes installation of grid-connected generation of renewable energy. The Act requires an electric distribution company to enter into standard contracts to buy certain amounts of energy generated from solar or wind projects over time.

Submitted as:
Rhode Island  
Chapter 143 of 2011  
Status: Enacted into law in 2011.

Comment:

Disposition:

CSG policy task force recommendations to The Committee on Suggested State Legislation: 2013B  
( ) Include in Volume  
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( ) Reject  
( ) No action

Comments/Note to staff:

SSL Committee Meeting: 2013B  
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( ) next SSL cycle  
( ) Reject

Comments/Note to staff:
This Act defines wind easements and wind energy agreements.

Submitted as:
Montana
HB 0295 (Enrolled version)
Status: Enacted into law in 2011.

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Comment:

Disposition:

CSG policy task force recommendations to The Committee on Suggested State Legislation: 2013B
( ) Include in Volume
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( ) No action

Comments/Note to staff:

SSL Committee Meeting: 2013B
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    ( ) next SSL cycle
( ) Reject

Comments/Note to staff:
This Act generally redefines “net renewable generation capacity” in state law to mean the gross generation or storage capacity of the renewable energy resource. This generally ensures that renewable energy placed into storage via batteries, compressed air, flywheels, etc., is still considered renewable energy when it is actually used.

Submitted as:
Kansas:
**HB 2708 (Introduced version)**
Status: Enacted into law in 2012 as part of Conference Committee report.

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Comment: This Act is reported to be the first to specifically designate energy stored from renewable sources as part of the total renewable energy capacity of a public utility.

Disposition:

CSG policy task force recommendations to The Committee on Suggested State Legislation: 2013B
( ) Include in Volume
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( ) No action

Comments/Note to staff:

SSL Committee Meeting: 2013B
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( ) Reject

Comments/Note to staff:
This Act prohibits a person who manufactures optical discs for commercial purposes from possessing, owning, controlling, or operating manufacturing equipment or any optical disc mold unless it has been adapted to apply an appropriate identification mark or unique identifying code. It prohibits a person who manufactures optical discs for commercial purposes from making, possessing, or adapting any optical disc mold for the purpose of applying a forged, false, or deceptive identification mark or identifying code. It authorizes law enforcement officers to inspect commercial optical disc manufacturing facilities during regular business hours without a warrant to verify compliance with the Act. It also authorizes law enforcement officers, when performing such investigations, to seize any optical disc or production part manufactured in violation of the Act.

Submitted as:
California
Chapter 421
Status: Enacted into law in 2011.

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Comment:

Disposition:

CSG policy task force recommendations to The Committee on Suggested State Legislation:
2013B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action

Comments/Note to staff:

SSL Committee Meeting: 2013B
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   ( ) next SSL cycle
( ) Reject

Comments/Note to staff:
This bill creates a tax credit for workplace wellness programs. The amount of the credit generally equals 30 percent of the cost employers pay to run such programs each year for up to 3 years.

Submitted as:
Wisconsin
Assembly Bill 220
Status: Enacted into law in 2011.

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Comment:

Disposition:

CSG policy task force recommendations to The Committee on Suggested State Legislation: 2013B
( ) Include in Volume
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( ) Reject
( ) No action

Comments/Note to staff:

SSL Committee Meeting: 2013B
( ) Include in Volume
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   ( ) next SSL cycle
( ) Reject

Comments/Note to staff:
This Act generally defines unconventional wells as bore holes drilled or being drilled to produce natural gas from an unconventional formation. It generally defines unconventional formations as geological shale formations from which natural gas cannot be produced economically except by using hydraulic fracturing.

The legislation requires the department of environmental protection to develop regulations requiring operators of such wells register unique addresses for their wells, develop and submit emergency response plans, and post signs locating such wells.

Submitted as:
Pennsylvania
Act 9 of 2012
Status: Enacted into law in 2012.

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Comment:

Disposition:

CSG policy task force recommendations to The Committee on Suggested State Legislation: 2013B
( ) Include in Volume
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( ) No action

Comments/Note to staff:

SSL Committee Meeting: 2013B
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( ) Reject

Comments/Note to staff:
This Act authorizes a landlord of a residential dwelling unit to prohibit smoking tobacco products on the property, in a dwelling unit, in another interior or exterior area, or on the premises on which the dwelling unit is located. It requires notices about such prohibitions on leases executed after a certain date.

Submitted as:
California
Chapter 264
Status: Enacted into law in 2011.

Comment: According to the American Nonsmokers’ Rights Foundation, this could be the first state law to ban smoking in multifamily housing. The Foundation maintains a chart listing smoke free laws and ordinances in the U.S. and its territories.

Disposition:

CSG policy task force recommendations to The Committee on Suggested State Legislation: 2013B
( ) Include in Volume
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( ) Reject
( ) No action

Comments/Note to staff:

SSL Committee Meeting: 2013B
( ) Include in Volume
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( ) Reject

Comments/Note to staff:
This Act requires people who sell certain real estate to provide to prospective buyers a form that discloses various information about the condition of the property and related matters that could influence a decision to buy the property. The seller must provide the form to the buyer not more than 10 days after accepting an offer to purchase the property. If the seller fails to provide the form within this timeframe, the seller provides an incomplete form, or the form discloses a defect of which the buyer was not aware, the buyer may rescind the offer to purchase.

Submitted as:
Wisconsin
2011 Wisconsin Act 107
Status: Enacted into law in 2011.

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Comment:

Disposition:

CSG policy task force recommendations to The Committee on Suggested State Legislation:
2013B
( ) Include in Volume
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( ) Reject
( ) No action

Comments/Note to staff:

SSL Committee Meeting: 2013B
( ) Include in Volume
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( ) Reject

Comments/Note to staff:
This Act defines “foreclosure avoidance measure” under statutes governing mortgages, trusts, and deeds. It requires a beneficiary or beneficiary’s agent under residential trust deed to send notice of mediation and enter into mediation with grantor for purpose of agreeing to foreclosure avoidance measure. The bill requires the state Attorney General to establish by rule a schedule of mediation fees and professional requirements of mediation service providers. The AG must contract with mediation service providers to provide the mediation services between the grantors and the beneficiaries. Payment to mediation service providers would be split between grantors and the beneficiaries with a $200 limit placed on the grantor’s portion.

The contracts are exempted from state procurement statutes.

The Act creates a “Foreclosure Avoidance Mediation Fund” that the payments to mediation service providers flow through. Specified entities recording more than 250 actions to foreclose must pay an additional $100 fee for each subsequent filing.

The measure creates an actionable cause for failure on the part of beneficiaries to complete certain filings and notifications related to determination of ineligibility or non-compliance of grantors to participate in any foreclosure avoidance measure.

Submitted as:
Oregon
SB 1552 (Enrolled version)
Status: Awaiting governor’s action as of 3/8/12.
This Act enables cities and counties to establish registries of vacant or foreclosed properties within city or county boundaries. Registrants must file the following information:

- The real property owner's name, street address, mailing address, phone number, facsimile number, and e-mail address;
- The agent's name, street address, mailing address, phone number, facsimile number, and e-mail address;
- The real property's street address and tax parcel number;
- The transfer date of the instrument conveying the real property to the owner; and
- At such time as it becomes available, recording information, including deed book and page numbers, of the instrument conveying the real property to the owner.

Submitted as:
Georgia
House Bill 110 (AS PASSED HOUSE AND SENATE)
Status: Awaiting governor’s action as of 4/11/12.

GO TO TABLE OF CONTENTS

Disposition:

CSG policy task force recommendations to The Committee on Suggested State Legislation: 2013B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action

Comments/Note to staff:

SSL Committee Meeting: 2013B
( ) Include in Volume
( ) Defer consideration
   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject

Comments/Note to staff:
This Act establishes a procedure to allow a creditor in a mortgage or an enforcement authority with jurisdiction in the location of the mortgaged property to petition the court having jurisdiction over an existing mortgage foreclosure action to find that the mortgaged property is abandoned. It establishes criteria that constitute prima facie evidence that a mortgage property is abandoned.

Submitted as:
Indiana
HOUSE ENROLLED ACT No. 1238
Status: Enacted into law in 2012.

GO TO TABLE OF CONTENTS

Comment:

Disposition:

CSG policy task force recommendations to The Committee on Suggested State Legislation:
2013B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action

Comments/Note to staff:

SSL Committee Meeting: 2013B
( ) Include in Volume
( ) Defer consideration
   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject

Comments/Note to staff:
This Act establishes an Economic Recovery Review Council as an independent council that reports directly to the Governor. It authorizes the Council to perform expedited site reviews for proposed industrial development projects that have state significance. It establishes an Economic Recovery Review Council Fund and continuously appropriates moneys into the Fund to pay for expedited site reviews. It authorizes local governments to nominate regionally significant industrial areas for designation by the Council and requires the Council to designate between five and fifteen regionally significant industrial areas.

The Act allows expedited permitting of industrial uses in regionally significant industrial areas and sets timelines and procedures for local government review of expedited industrial use permits.

Submitted as:
Oregon
Chapter 564 of 2011
Status: Enacted into law in 2011.

GO TO TABLE OF CONTENTS

Comment:

Disposition:

CSG policy task force recommendations to The Committee on Suggested State Legislation: 2013B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action

Comments/Note to staff:

SSL Committee Meeting: 2013B
( ) Include in Volume
( ) Defer consideration
( ) next task force mtg.
( ) next SSL mtg.
( ) next SSL cycle
( ) Reject

Comments/Note to staff:
This Act requires certain retail sellers and manufacturers doing business in the state to disclose their efforts to eradicate slavery and human trafficking by their suppliers.

Submitted as:
California
Chapter 556
Status: Enacted into law in 2010.

Comment:

Disposition:

CSG policy task force recommendations to The Committee on Suggested State Legislation: 2013B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action

Comments/Note to staff:

SSL Committee Meeting: 2013B
( ) Include in Volume
( ) Defer consideration
  ( ) next task force mtg.
  ( ) next SSL mtg.
  ( ) next SSL cycle
( ) Reject

Comments/Note to staff:
This bill defines and prohibits the use, purchase, installation, transfer, or sale of any automated sales suppression device or phantomware.

Submitted as:
Utah
HB 96 (Enrolled version)
Status: Enacted into law in 2012.

GO TO TABLE OF CONTENTS

Comment:

Disposition:

CSG policy task force recommendations to The Committee on Suggested State Legislation: 2013B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action

Comments/Note to staff:

SSL Committee Meeting: 2013B
( ) Include in Volume
( ) Defer consideration
( ) next task force mtg.
( ) next SSL mtg.
( ) next SSL cycle
( ) Reject

Comments/Note to staff:
This Act authorizes exchange wagering on the results of horse races, and provides that the New Jersey Racing Commission may issue a license to the New Jersey Sports and Exposition Authority to establish an exchange. Under the bill, exchange wagering may be conducted through an exchange wagering system by exchange wagering account holders who must be residents of this State.

Under the Act, “exchange wagering” is defined as a form of pari-mutuel wagering in which two or more persons place directly opposing wagers on the outcome of a horse race or races. Exchange wagering allows a bettor to “back” or wager on a selected outcome occurring, and anotherbettor to “lay” or wager on that same outcome not occurring. A back and a lay become identically opposing wagers, and are matched, when a bettor lays a selected outcome at the same price at which another bettor backs that same outcome, with the amount subject to the lay being proportionately commensurate to the amount subject to the back. These identically opposing wagers, which may involve at least two persons wagering, become matched wagers and part of the exchange wagering pool when matched through the exchange wagering system. Once the outcome of the race or races is determined, funds will be transferred from the exchange wagering pool to the bettor or bettors that won wagers in that pool, and applicable transaction or other fees will be levied by the exchange wagering licensee for use and distribution as provided by the commission’s rules and regulations.

The Act authorizes the commission to consider an application by the authority to establish the exchange. It directs the commission to issue the license if the commission determines that the authority has demonstrated, by clear and convincing evidence, that wagers placed through the proposed exchange will be accurately processed, and that the exchange wagering system would contain sufficient safeguards to maintain the integrity of the horse racing industry in this State. The issuance of the license is subject to the approval of the New Jersey Attorney General. The bill further provides that the authority may enter into a contract or agreement with a person or entity to conduct or operate the exchange, and may transfer the license to a successor in interest upon approval of the commission and the Attorney General.

The legislation prescribes certain conditions for the establishment of the exchange, including, but not limited to, the requirement for: (a) an exchange wagering account holder to be at least 18 years of age, and a resident of this State; (b) necessary documentation to be submitted by an applicant for an exchange wagering account in order to open the exchange wagering account and place wagers through the exchange wagering system; (c) the types of credits and debits that may be made to an exchange wagering account by the authority and the exchange wagering account holder; and (d) the manner in which wagers may be placed, in person, by direct telephone call, or by communication through other electronic media.

It provides that exchange wagers submitted to be posted in a given market on the exchange in this State may, under approved conditions, be matched with exchange wagers on the same horse race or set of horse races submitted by residents of jurisdictions outside this State to an authorized exchange operator in such jurisdictions.

It also provides that the commission may promulgate the necessary rules and regulations with respect to exchange wagering, including, but not limited to, the manner in which exchange wagers may be accepted; the requirements for any person to participate in exchange wagering; conditions under which the exchange wagering license is issued or renewed in this State; performance of an annual audit of the exchange wagering licensee's books and records pertaining to exchange wagering; and the licensing of employees engaged in conducting wagering related activities.
Furthermore, under the bill, the commission must require 50% of the exchange revenues retained by the exchange wagering licensee to be paid to overnight purses in this State, after the payments of its contractual obligations to other racetracks and to any approved exchange operator, and after deduction of all reasonable and necessary expenses incurred by the licensee in administering, marketing and operating the exchange wagering system. Under the bill, as amended, the exchange wagering licensee must reach a business agreement with all permit holders within this State, within one year from the date when the exchange wagering system becomes operational, for the distribution of the net exchange wagering revenues remaining after those payments are made and after the payment of operating expenses, pursuant to approval by the commission; provided that, if an agreement is not reach within that time frame, the commission shall distribute the exchange wagering revenues among the exchange wagering licensees and the permit holders in this State as it deems appropriate. The bill also extends to exchange wagering the existing protections in current law for persons with a compulsive gambling problem.”

Submitted as:
New Jersey
Chapter 15 of 2011
Status: Enacted into law in 2011.

GO TO TABLE OF CONTENTS

Comment:

Disposition:

CSG policy task force recommendations to The Committee on Suggested State Legislation:
2013B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action

Comments/Note to staff:

SSL Committee Meeting: 2013B
( ) Include in Volume
( ) Defer consideration
   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject

Comments/Note to staff:
This Act recognizes gold and silver coins that are issued by the federal government as legal tender in the state and exempts the exchange of the coins from certain types of state tax liability. It does not compel a person to tender or accept gold and silver coin and provides that the exchange of gold and silver coins for another form of legal tender does not create any individual income or sales tax liability.

Submitted as:
Utah
H.B. 317 (Enrolled version)
Status: Enacted into law in 2011.

GO TO TABLE OF CONTENTS

Comment: Utah is reported to be the first state to have enacted such a law.

Disposition:

CSG policy task force recommendations to The Committee on Suggested State Legislation: 2013B

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

Comments/Note to staff:

SSL Committee Meeting: 2013B

( ) Include in Volume
( ) Defer consideration
   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject

Comments/Note to staff:
This Act defines and exempts electronic news services and electronic periodicals from sales and compensating use taxes.

Submitted as:
New York
Chapter 583 of 2011
Status: Enacted into law in 2011.

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Comment:

Disposition:

CSG policy task force recommendations to The Committee on Suggested State Legislation: 2013B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action

Comments/Note to staff:

SSL Committee Meeting: 2013B
( ) Include in Volume
( ) Defer consideration
  ( ) next task force mtg.
  ( ) next SSL mtg.
  ( ) next SSL cycle
( ) Reject

Comments/Note to staff:
A Kansas legislative staff summary says House Sub. for SB 196 provides a new state income tax deduction known as “expensing” for certain qualified investments; repeals or phases out a number of existing state income tax credit and sales tax exemptions; repeals the Kansas Economic Opportunity Initiative Fund (KEOIF); and creates a new fund, the Job Creation Program Fund (JCPF). Finally, an additional provision establishes a new individual income tax check off for the Kansas Hometown Heroes Fund.

One section of the bill allows taxpayers to claim an expense deduction from Kansas net income before expensing or recapture for the cost of certain machinery and equipment depreciable under Section 168 of the federal Internal Revenue Code and certain canned software, defined under Section 197, placed into service beginning in tax year 2012. The property must be located in Kansas to qualify for expensing. A member of a unitary group of corporations filing a combined report may, under certain circumstances, take the expense deduction for an investment made by another member of the group. Any amount of excess expensing deduction is to be treated as a net operating loss for state income tax purposes. Any property sold during the applicable recovery period, as defined by federal law or relocated outside the state during such period will be subject to have a portion of its expense deduction “recaptured” for Kansas income tax purposes.

Taxpayers electing to expense qualified investments are prohibited from also claiming a number of existing tax incentives that might otherwise apply to such investments, including tax credits for the high performance incentive program (HPIP); research and development; alternative fueled vehicles; swine facility improvements; historic preservation; carbon dioxide capture equipment; film production; refineries; oil or gas pipelines; integrated coal or coke gasification nitrogen fertilizer plants; biomass-to-energy plants; integrated coal gasification power plants; renewable electric cogeneration facilities; and biofuel storage and blending equipment. Taxpayers claiming expensing also are prohibited from claiming accelerated depreciation otherwise available for the latter seven of these investment purposes.

Beginning in tax year 2012, income tax credits may no longer be earned pursuant to the Kansas Enterprise Zone Act; and the Job Expansion and Investment Credit Act. Transitional language authorizes certain extant credits earned under both programs in tax year 2011 or previous years to continue to be carried forward.

Provisions relating to HPIP income tax credits are modified such that beginning in tax year 2012, the current $50,000 minimum investment threshold in five urban counties (Douglas, Johnson, Sedgwick, Shawnee, and Wyandotte) is increased to $1 million. All HPIP related tax incentives also are required to be reviewed prior to January 1, 2017.

Another income tax credit relative to property taxes paid on commercial and industrial machinery and equipment is repealed beginning in tax year 2012.

A sales tax exemption relative to projects that qualify for the business and job development income tax credit program is repealed on January 1, 2012.

The bill further creates the Job Creation Program Fund (JCPF), which will be administered by the Secretary of Commerce, in consultation with the Secretary of Revenue and the Governor, to promote job creation and economic development by funding projects related to: the major expansion of an existing Kansas commercial enterprise; potential relocation to Kansas of a major employer; the award of a significant grant that has a financial matching requirement; the potential departure from the state or substantial reduction of operations of an existing employer; training or retraining activities; the potential closure or substantial reduction of a
major state or federal institution; projects in counties with at least a 10 percent population decline over the last decade; or other “unique” economic development opportunities.

The two percent of withholding tax receipts under prior law that was earmarked for the Investments in Major Projects and Comprehensive Training (IMPACT) program will be earmarked for the JCPF on July 1, 2012, except that transitional language generally provides that current debt services for the IMPACT Program Repayment Fund be met, as well as administrative costs associated with the IMPACT Program Services Fund.

Additional language requires the Secretary of Revenue to estimate annually beginning on July 1, 2012, the amount of net savings realized under the provisions of the bill in anticipation of such amount being appropriated to the JCPF. The Secretary of Commerce also is required to report annually on JCPF expenditures and the cost-effectiveness of such expenditures.

A new income tax check off program is placed on the state individual income tax form, whereby taxpayers may voluntarily contribute to the Kansas Hometown Heroes Fund. All moneys deposited in the Fund are required to be used solely for the veteran services program of the Kansas Commission on Veterans’ Affairs. The expensing related provisions of the bill are expected to increase State General Fund (SGF) receipts by $2.874 million in FY 2012 and by $39.490 million in FY 2013; increase State Highway Fund (SHF) receipts by $1.126 million in FY 2012 and by $5.560 million in FY 2013; and increase revenues available to the Economic Development Initiatives Fund (EDIF) by $1.3 million for both fiscal years as a result of the repeal of the KEOIF program. The net provisions from this part of the bill therefore will produce an additional $5.3 million of available resources in FY 2012 and an additional $46.350 million in available resources in FY 2013.

Submitted as:
Kansas
SB 196 (Enrolled version)
Status: Enacted into law in 2011.

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Comment:

05.26.11
Governor Signs Pro-Growth Legislation at KCK Business

Topeka – Kansas Governor Sam Brownback signed two pieces of legislation aimed at growing the state’s economy and getting unemployed Kansans back to work into law today during a signing ceremony at NetStandard, Inc. in Kansas City, Kansas. Lt. Governor Jeff Colyer, M.D., Revenue Secretary Nick Jordan, several state legislators as well as a number of business owners joined the Governor at the bill signing.

The bills signed into law are:

- Among other modifications, Senate Bill 193 will expand the Promoting Employment Across Kansas (PEAK) program and make several changes in High Performance Incentive Program (HPIP) tax credits, including extending the carry-forward period from 10 to 16 years.
- Senate Bill 196 will establish a new state income tax deduction known as “expensing” for certain qualified investments; repeal or phase out a number of existing state
income tax credit and sales tax exemptions; repeal the Kansas Economic Opportunity Initiative Fund (KEOIF); and create a new fund, the Job Creation Program Fund (JCPF).

Governor Brownback praised both measures as pro-growth and pointed out SB 196 is unique to Kansas. “Our number one priority is to grow the Kansas economy and get the more than 100,000 unemployed Kansans back to work. We face difficult economic times and high levels of unemployment,” Governor Brownback said. “This environment underscores the need to make Kansas more competitive in attracting jobs and businesses to the state. SB 196 makes Kansas the only state to offer an economic development incentive of this nature.”

SB 196 allows a business who makes a qualified capital investment to take a 100% deduction against income tax for the depreciation of the investment in the first year - instead of requiring a prescribed schedule of smaller deductions over multiple years.

"Governor Brownback and I campaigned on the promise to create private sector jobs. These important bills will spark investment and produce jobs," Lt. Governor Colyer said. “Expensing, properly implemented, is a tax policy that treats all businesses equally.” Kansas Revenue Secretary Nick Jordan also expressed his support for SB 196.

“This bill will encourage broad based economic growth by creating a uniform tax treatment for Kansas businesses of all sizes when they invest in equipment or software,” Secretary Jordan said. “When businesses – from small mom and pop stores on Main Street to large multinational corporations – get to keep more of their hard-earned money, we help them grow the economy and create more jobs.”

Kansas Commerce Secretary Pat George called the bill a major step toward expanding the Kansas economy and creating jobs. “The Brownback Administration wants to enact tax policies that maximize economic growth, and the guiding principle has always been that every business, every innovation and every entrepreneur matters,” Secretary George said. “Expensing will result in uniform income tax treatment for capital investment in qualifying machinery and equipment by businesses of all types and sizes, which will encourage broad-based growth.”

NetStandard CEO Jeff Melcher said growing companies like his will benefit from the pro-growth legislation. “The Job Creation and Business Investment Bill is particularly interesting to me because it includes small and mid-sized businesses such as NetStandard,” Melcher said. “Legislative changes like this continue to improve the business environment in Kansas allowing us to grow and create jobs.”

The recent federal tax package included one year of full expensing. The Kansas expensing proposal goes into effect after the expiration of the federal program. The law allows businesses to reinvest up to $50 million a year.

Disposition:

CSG policy task force recommendations to The Committee on Suggested State Legislation: 2013B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action

SSL Committee Meeting: 2013B
( ) Include in Volume
( ) Defer consideration to next SSL mtg.
( ) next SSL cycle
( ) Reject

Comments/Note to staff:
This Act is designed to ensure the right of state residents to continue to receive personal income tax refunds by paper check in addition to any other options that may be offered. It provides that if the state tax commissioner establishes a prepaid debit card or direct deposit program for payment of personal income tax refunds, all taxpayers are entitled to receive their personal income tax refund by paper check and to opt out of any prepaid debit card or direct deposit program.

Submitted as:
New York
S5140B-2011
Status: Enacted into law in 2011.

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Comment:

Disposition:

CSG policy task force recommendations to The Committee on Suggested State Legislation:
2013B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action

Comments/Note to staff:
SSL Committee Meeting: 2013B
( ) Include in Volume
( ) Defer consideration
   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject

Comments/Note to staff:
This bill authorizes state agencies to conduct random drug testing on employees every 3 months. Employees to be tested must be chosen via computer-generated random sampling by an independent third party, and each sample may not constitute more than 10 percent of the total employee population. Agencies may also administer drug tests to all job applicants.

The Act revises state law related to discipline and management of state agency employees with positive drug tests. An agency may discipline or terminate the employment of any employee who receives a first-time positive drug test. If the employee is not discharged, the employer may refer him or her to an employee assistance program or alcohol and drug rehabilitation program, in which he or she may participate at personal expense or at the expense of a health insurance plan. The employer must determine whether the employee is able to safely and effectively perform assigned job duties while participating in such programs, and if the employee is deemed unable to do so, he or she must be placed in a job assignment which can be performed during that time or placed on leave status. Certain employees, such as those who carry firearms or work with children, are automatically considered to be unable to perform their duties while participating in employee assistance programs or alcohol and drug rehabilitation programs.
According to a Pennsylvania legislative staff analysis:

“This Act put into statute operating guidelines for an “Industry Partnership” program. The legislation defines such partnerships as a collaboration that brings together multiple employers and workers in a targeted industry cluster to address common workforce needs. The legislation would require that the Department of Labor and Industry work with businesses, industry associations, career and technical associations, participating agencies, state and local workforce investment boards, and economic development entities, to identify industry clusters based on:

- statistics showing competitiveness;
- importance to state or regional economic development;
- other employers that supply materials or services to the industry;
- research studies; and
- other criteria deemed relevant by the Department.

In collaboration with these groups, as well as business and labor leaders, the Department must select targeted industry clusters for workforce and economic development investments, based on:

- importance to the state and regional economy;
- workforce development needs;
- potential for economic growth;
- competitiveness;
- employment base; and
- wages, benefits, and career opportunities.

The Department must periodically evaluate targeted industry clusters for needed changes. By July 1 of each year, the Department must post industry cluster related statistics, including labor market information and occupational analysis of employment and wages, on its website. The Department must annually provide a list of high-priority occupations targeted for workforce and educational investments.

The Department shall administer a grant program for Industry Partnerships subject to available funds appropriated by the General Assembly. Industry Partnerships may use grant funds for any of the following purposes:

- To facilitate collaboration between employers, workers, and their representatives in an industry cluster.
- To identify businesses’ training needs, including skill gaps.
- To work to combine training and education needs of multiple employers.
- To assist educational and training institutions in aligning curricula to industry demands.
- To work with PA Careerlinks, youth councils, business-education partnerships, intermediate units, secondary and postsecondary educational institutions, parents, and career counselors to address career connections for disadvantaged adults and youth.
- To help employers identify and address human resource challenges.
- To develop and strengthen career ladders that enable entry-level workers to improve skills and advance to higher-wage jobs.
- To help employers attract a diverse workforce, including individuals who face economic or other barriers to employment.
• To strengthen businesses’ connections and generate additional cooperation to improve competitiveness and job quality.

To receive grant funding, Industry Partnerships must:
• demonstrate involvement of local workforce investment board;
• demonstrate participation of workers or labor representatives;
• provide for private sector matching funding of at least 25%; and
• commit to participate in the performance and evaluation system.

The Department must:
• establish grant guidelines and applications;
• develop forms and procedures to award competitive grants;
• establish an application review process;
• establish a process to provide applicants with additional information and assistance;
• provide technical assistance to applicants and grantees; and
• seek other grants or revenue sources to fund administrative and training activities.

The Department will oversee the operation of the grant program with support from participating agencies. The grant period will be not less than 12 and not more than 24 months. Grantees may apply to renew grants. Participating agencies will be required to supply relevant information and assistance, including performance measurements related to workforce development programs or policies.

The Department will be required to provide industry and labor market research to support Industry Partnerships. This includes current data on targeted industry clusters, industry employment and trends, and high-priority occupations and trends.

The Department will be required to maintain an evaluation and performance improvement system that collects data annually from Industry Partnerships, including what the Industry Partnership has learned, common human resource challenges, use of technology, challenges foreseen, best practices, and other information deemed relevant by the Department. The system will also identify benefits of the Industry Partnerships and provide annual performance information to the General Assembly, the public, and workforce stakeholders.”

Submitted as:
Pennsylvania
Status: Enacted into law in 2011.
GO TO TABLE OF CONTENTS
Comment:
Disposition:
CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2013B
( ) Include in Volume
( ) Defer consideration
( ) next task force mtg.
( ) next SSL mtg.
( ) next SSL cycle
( ) Reject
( ) No action
Comments/Note to staff:
This Act provides a $1,000 tax credit to employers who hire unemployed veterans and a $2,000 income tax credit to veterans who start their own businesses.

Submitted as:
Alabama
HB152 (Enrolled version)
Status: Enacted into law in 2012.
Comment:
March 20, 2012
Governor Bentley Praises Senate Approval of Heroes for Hire Act

MONTGOMERY – Governor Robert Bentley on Tuesday welcomed Senate approval of a bill that will help Alabama’s returning veterans find new jobs or start new businesses.

Known as the Heroes for Hire Act, House Bill 152 provides a $1,000 tax credit to employers who hire recently deployed, and now discharged, unemployed veterans. The Act also creates a $2,000 income tax credit to recently deployed, and now discharged, unemployed veterans who launch their own businesses. The bill is sponsored by State Senator Tom Whatley and State Representative DuWayne Bridges.

“I look forward to signing this bill and helping our veterans who have faithfully served their country,” Governor Bentley said. “We must not forget the sacrifices veterans have made, and we encourage employers to remember our veterans as they fill open positions. These men and women have worked hard for this country, and this is one way we can show our appreciation for their service.”

The bill was approved by House members earlier in the legislative session.

Disposition:
CSG policy task force recommendations to The Committee on Suggested State Legislation:
2013B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action

Comments/Note to staff:

SSL Committee Meeting: 2013B
( ) Include in Volume
( ) Defer consideration
   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject

Comments/Note to staff:
This Act enables public utility districts and municipal utilities to request voluntary donations from their customers to support hunger programs. Donations received by a public utility district or a municipal utility for this purpose are not considered gross income for the purposes of calculating public utility taxes.

Submitted as:
Washington
Chapter 226, Laws of 2011
Status: Enacted into law in 2011.

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Comment:

Disposition:

CSG policy task force recommendations to The Committee on Suggested State Legislation: 2013B
(  ) Include in Volume
(  ) Defer consideration to next task force meeting
(  ) Reject
(  ) No action

Comments/Note to staff:

SSL Committee Meeting: 2013B
(  ) Include in Volume
(  ) Defer consideration
(  ) next task force mtg.
(  ) next SSL mtg.
(  ) next SSL cycle
(  ) Reject

Comments/Note to staff:
The federal Public Utility Regulatory Policies Act of 1978 (PURPA) requires every state regulatory authority with respect to each electric utility, as defined, for which it has ratemaking authority, to determine whether to adopt certain federal standards if consistent with otherwise applicable state law. The federal standards include that no electric utility may recover from any person other than the shareholders or other owners of the utility, any direct or indirect expenditure by the electric utility for promotional or political advertising, as defined.

This Act requires the state public utilities commission to institute a rulemaking proceeding for the purpose of considering and adopting a code of conduct, associated rules, and enforcement procedures, to govern the conduct of an electrical corporation relative to the consideration, formation, and implementation of community choice aggregation programs and to implement the code of conduct, associated rules, and enforcement procedures. The Act requires the code of conduct, associated rules, and enforcement procedures do the following:

- ensure that an electrical corporation does not market against a community choice aggregation program, except through an independent marketing division that is funded exclusively by the electrical corporation’s shareholders,
- limit the electrical corporation’s independent marketing division’s use of support services from the electrical corporation’s ratepayer funded divisions,
- ensure that the electrical corporation’s independent marketing division does not have access to competitively sensitive information,
- incorporate rules that the commission finds to be necessary or convenient in order to facilitate the development of community choice aggregation programs, to foster fair competition, and to protect against cross-subsidization paid by ratepayers, and
- provide for other matters that the commission determines to be necessary or advisable to protect a ratepayer’s right to be free from forced speech or to implement that portion of PURPA that establishes the federal standard that no electric utility may recover from any person other than the shareholders or other owners of the utility, any direct or indirect expenditure by the electric utility for promotional or political advertising.

Existing law authorized a community choice aggregator to aggregate the electrical load of interested electricity consumers within its boundaries and requires a community choice aggregator to file an implementation plan with the commission. Existing law required an electrical corporation to cooperate fully with any community choice aggregator that investigates, pursues, or implements community choice aggregation programs, including providing appropriate billing and electrical load data. This Act expanded the entities that are permitted to undertake community choice aggregation. It requires that the electrical load data to be supplied by an electrical corporation as part of its duty to cooperate fully with any community choice aggregator, include electrical consumption data, as defined.

The Act revises certain resource adequacy requirements as they relate to community choice aggregators. It requires any program funded through a nonbypassable charge be administered on a nondiscriminatory basis so that the electric service customers of a community choice aggregator may participate in the program on an equal basis with the customers of an electrical corporation. It requires the commission to authorize a community choice aggregator to elect to become a 3rd-party administrator of funds collected from the aggregator’s electric service customer and collected through a nonbypassable charge authorized by the commission for cost-effective energy efficiency and conservation programs, except those funds collected for broader statewide and regional programs authorized by the commission.
The Act requires the governing body of a community choice aggregator to adopt a policy that expressly prohibits the dissemination by the community choice aggregator of any statement relating to the community choice aggregator’s rates or terms and conditions of service that is untrue or misleading, and that is known, or that, by the exercise of reasonable care, should be known, to be untrue or misleading.

Submitted as:
California
Chapter 599
Status: Enacted into law in 2011.

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Comment:

Disposition:

CSG policy task force recommendations to The Committee on Suggested State Legislation: 2013B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action

Comments/Note to staff:

SSL Committee Meeting: 2013B
( ) Include in Volume
( ) Defer consideration
    ( ) next task force mtg.
    ( ) next SSL mtg.
    ( ) next SSL cycle
( ) Reject

Comments/Note to staff:
This Act establishes procedures governing how utilities can disclose information about customer-identifiable usage data to customers, utility affiliates, and other parties.

Submitted as:
Oklahoma
HB 1079
Status: Enacted into law in 2011.

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Comment:

Disposition:

CSG policy task force recommendations to The Committee on Suggested State Legislation: 2013B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action

Comments/Note to staff:

SSL Committee Meeting: 2013B
( ) Include in Volume
( ) Defer consideration
    ( ) next task force mtg.
    ( ) next SSL mtg.
    ( ) next SSL cycle
( ) Reject

Comments/Note to staff:
In 2011, U.S. Secretary of Transportation Ray LaHood called on gas utilities to accelerate repairs on or replace old gas pipelines across the country in order to prevent potentially catastrophic incidents. Doing this will be expensive and that cost will exceed the amounts currently budgeted by many gas utilities to maintain and upgrade such pipelines. For example, according to the Pennsylvania Public Utility Commission, replacing the state’s most at-risk pipe segments is estimated to cost 12 billion dollars or more.

In addition, those utilities’ ability to quickly raise the additional money to meet these goals is limited by the rate setting mechanisms in many states. Virginia and Texas enacted laws that could help gas utilities adjust rates to raise the additional money needed to meet the Secretary’s goal of improving public safety by replacing old gas pipes.

Texas SB 1271 authorizes a gas utility that has filed a rate case in the last two years to file with its regulatory authority a tariff or rate schedule that provides for an interim adjustment in its monthly customer charge or initial block rate to recover the cost of investment changes. The law requires notice to affected customers within 45 days of filing and that the adjustment must be allocated among customer classes in the same manner as the utility's cost of service. Filing must occur at least 60 days before the proposed implementation date, and during that interval the regulatory authority may suspend implementation.

All amounts collected under the tariff or rate schedule before the next filing of a rate case are subject to potential refund, but once a final order or decision is issued in a subsequent rate case, the investment change included in an interim adjustment is no longer subject to review for reasonableness or prudence. The bill establishes methods for calculating the interim adjustment and requires that it be recalculated on an annual basis.

The gas utility must file with the regulatory authority an annual report describing investment projects completed and placed in service and investments retired or abandoned and addressing issues of cost, need, and customer benefit. The utility must also file with the regulatory authority an annual earnings monitoring report and, if the return on invested capital is above a certain threshold, a statement must accompany the report giving reasons why the utility's rates are not unreasonable or in violation of law.

Other provisions specify when the utility must next file a rate case and provide for reimbursement by a utility of its share of railroad commission costs in administering the interim rate adjustment mechanism.

Virginia Chapter 142 of 2010 authorizes investor-owned natural gas utilities to petition the State Corporation Commission to implement a separate rider that will allow for recovery of certain costs associated with eligible infrastructure replacement projects. Eligible infrastructure replacement projects are projects that:

- enhance safety or reliability by reducing system integrity risks associated with customer outages, corrosion, equipment failures, material failures, natural forces, or other outside force damage;
- do not increase revenues by directly connecting the infrastructure replacement to new customers;
- reduce greenhouse gas emissions;
- are not included in the natural gas utility's rate base in its most recent rate case; and
- are commenced on or after January 1, 2010. The costs recoverable from an eligible infrastructure replacement project include a return on the investment, a revenue
conversion factor, depreciation, property taxes, and carrying costs on the over- or under-recovery of the eligible infrastructure replacement costs.

Submitted as:
Virginia
Chapter 142 of 2010
Status: Enacted into law in 2010.

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Comment:

DOT 41-11
Monday, April 4, 2011
U.S Transportation Secretary Ray LaHood Announces Pipeline Safety Action Plan
U.S. DOT Initiates National Effort to Prevent Hazardous Pipeline Incidents

ALLENTOWN, Pa. - U.S. Transportation Secretary Ray LaHood today launched a national pipeline safety initiative to repair and replace aging pipelines to prevent potentially catastrophic incidents.

Following several fatal pipeline accidents, including one that killed five people in Allentown, PA, Secretary LaHood called upon U.S. pipeline owners and operators to conduct a comprehensive review of their oil and gas pipelines to identify areas of high risk and accelerate critical repair and replacement work. Secretary LaHood also announced federal legislation aimed at strengthening oversight on pipeline safety, as well as plans to convene a Pipeline Safety Forum on April 18th in Washington, DC, to gather state officials, industry leaders, and other pipeline safety stakeholders in order to discuss steps for improving the safety and efficiency of the nation’s pipeline infrastructure.

“People deserve to know that they can turn on the lights, the heat, or the stove without endangering their families and neighbors,” said Secretary LaHood. “The safety of the American public is my top priority and I am taking on this critical issue to avoid future tragedies we have seen in Allentown and around the country.”

Secretary LaHood was joined by the U.S. Department of Transportation’s Pipeline and Hazardous Materials Safety Administrator Cynthia Quarterman, Pennsylvania Senator Bob Casey, Congressman Charlie Dent and other federal, state and local officials to unveil the Department’s new pipeline safety action plan in Allentown, where a devastating natural gas pipeline failure killed five people and leveled homes and businesses on February 9.

Several other cities have also recently experienced pipeline incidents, including the environmentally devastating rupture in Marshall, MI, and the deadly San Bruno, CA, explosion which highlighted the need for pipeline operators to accelerate the repair, rehabilitation, and replacement of their highest risk lines.

“We must work together to develop a comprehensive solution to prevent these tragedies from happening,” said Administrator Quartersman.

In a meeting in March, Secretary LaHood asked the CEOs of major pipeline companies around the country to conduct a comprehensive review of their pipeline systems to identify the highest risk pipelines and prioritize critical repair needs. Secretary LaHood committed that the Department would provide technical assistance in helping to identify high risk pipelines.
Secretary LaHood also called on Congress to increase the maximum civil penalties for pipeline violations from $100,000 per day to $250,000 per day, and from $1 million for a series of violations to $2.5 million for a series of violations. He urged Congress to authorize the Department to close regulatory loopholes, strengthen risk management requirements, add more inspectors, and improve data reporting to help identify potential pipeline safety risks early.

The Department’s pipeline safety action plan will address immediate concerns in pipeline safety, such as ensuring pipeline operators know the age and condition of their pipelines; proposing new regulations to strengthen reporting and inspection requirements; and making information about pipelines and the safety record of pipeline operators easily accessible to the public.

The Pipeline and Hazardous Materials Safety Administration will also create a new web page to provide the public – as well as community planners, builders and utility companies – with clear and easy to understand information about their local pipeline networks. Ensuring the public has access to information about local pipelines will help keep people safe and reduce the potential for serious accidents.

“To the American public, it doesn’t matter who has jurisdiction over these essential utility lines. We have a responsibility to work together to prevent the loss of life and environmental damage that can result from poor pipeline conditions,” Secretary LaHood added.

Pipeline incidents resulting in serious injury or death are down nearly 50 percent over the last 20 years. In 1991, there were 67 such incidents compared to 36 in 2010, and an average of 42 per year over the last 10 years. However, a series of recent incidents have highlighted the need to address the nation’s aging pipeline infrastructure.

Click here to see the pipeline safety action plan at: http://bit.ly/GKOYVz

Pipeline Safety Fact Sheet and Backgrounder

Today, more than 2.5 million miles of pipelines are responsible for delivering oil and gas to communities and businesses across the United States. That's enough pipeline to circle the earth approximately 100 times.

Currently, these pipelines are operated by approximately 3,000 companies and fall under the safety regulations of the U.S. Department of Transportation’s Pipeline and Hazardous Materials Safety Administration (PHMSA). PHMSA has engineers and inspectors around the country to oversee the safety of these lines and ensure that companies comply with critical safety rules that protect people and the environment from potential dangers. While PHMSA directly regulates most hazardous liquid pipelines in the nation, states take over when it comes to intrastate natural gas pipelines. Every state except Hawaii and Alaska are responsible for the inspection and enforcement of their own state pipeline safety laws for the natural gas pipeline systems within the state. Some states – about 20 percent - also regulate the hazardous liquid lines within state borders.

Over the last three years, annual fatalities have risen from nine in 2008, to 13 in 2009 to 22 in 2010. The ten year average number of fatalities is 15.

Causes of Pipeline Accidents

Pipeline incidents resulting in serious injury or death are down nearly 50 percent over the last 20 years. In 1991, there were 67 such incidents compared to 36 in 2010, and an average of 42 per year over the last 10 years. However, a series of recent incidents have highlighted the need to address the nation’s aging pipeline infrastructure.
There are three major causes of significant pipeline failures resulting in oil spills or gas explosion: damage from digging; corrosion; and failure of the pipe material, welds, or equipment. This type of failure is caused by problems with valves, pumps, or the poor construction on any of these.

Safety Requires Coordination

Communities and pipeline operators must work together during planning and construction to prevent potentially fatal mistakes. Incidents like the September 2010, San Bruno, California explosion are lessons to developers and local governments to work together to ensure homes and businesses are not built too close to, and in many cases on top of existing pipelines.

Pipeline Maintenance & Monitoring

Maintaining healthy pipeline systems requires regular inspections and repairs. Many cast-iron pipelines were installed more than 50 years ago. While some states have replacement plans, most of those plans do not require pipeline replacement for decades into the future. For example: Pennsylvania’s cast iron pipeline systems are required to be replaced by 2111, which means pipes that are already 80 years old may not be replaced for another 100 years; New York’s oldest, cast iron pipes will be replaced by 2090, in 79 years; and Connecticut’s pipelines won’t be completely replaced until 2080, or another 69 years.

811 “Call Before You Dig” Hotline

PHMSA helped set up a toll-free 811 “Call Before You Dig” hotline that connects excavators and do-it-yourselfers anywhere in the country to One Call centers that alert utility owners of planned digging. One of the primary tools for avoiding damage to pipelines and other underground utilities is timely communication between excavators and those who operate or own buried utilities. More information is available at www.call811.com.

Contact: Olivia Alair • Tel: 202-366-4570

Disposition:

CSG policy task force recommendations to
The Committee on Suggested State Legislation: 2013B
( ) Include in Volume
( ) Defer consideration
( ) Next task force meeting
( ) Reject
( ) No action

SSL Committee Meeting: 2013B
( ) Include in Volume
( ) Defer consideration
( ) Next SSL mtg.
( ) Next SSL cycle
( ) Reject

Comments/Note to staff:
This Act generally permits farmers and certain other customers who use solar electric generating equipment, farm waste electric generating equipment, or wind electric generating equipment, to designate all or a portion of the net metering credits generated by such equipment to meters at any property their own or lease within the service territory of the same electric corporation to which their net energy meters are interconnected.

Submitted as:
New York
Chapter 35 of 2011
Status: Enacted into law in 2011.
This Act defines forward pricing mechanisms as contracts or financial instruments that obligate a public body to buy or sell a specified quantity of energy at a future date at a set price or provide the option to buy or sell the contract or financial instrument. The Act generally authorizes any public body to use forward pricing mechanisms for budget risk reduction. Forward pricing mechanism transactions may be made only if the quantity of energy affected by the mechanism does not exceed the estimated energy use for the public body for the same period; the period of the mechanism does not exceed 48 months; a separate account is established for operational energy for the public body; the public body develops written policies and procedures, and the public body establishes an oversight process.

Submitted as:
Virginia
Chapter 204 of 2012
Status: Enacted into law in 2012.

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Comment:

Disposition:

CSG policy task force recommendations to The Committee on Suggested State Legislation:
2013B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action

Comments/Note to staff:

SSL Committee Meeting: 2013B
( ) Include in Volume
( ) Defer consideration
( ) next task force mtg.
( ) next SSL mtg.
( ) next SSL cycle
( ) Reject

Comments/Note to staff:
This Act directs the Secretary of State, at the request of an eligible applicant, to issue a driver’s license or nondriver identification card to that applicant with a military service designation that identifies the applicant as a person actively serving in an enlisted grade of the United States Armed Forces or as a veteran of the United States Armed Forces.

Submitted as:
Maine
S.P.304 – L.D. 986
Status: Enacted into law in 2011.

Comment:

This Act requires the department of public safety to include the designation “VETERAN” on a driver’s license issued to a person who has served in and been honorably discharged from the United States armed forces or the National Guard if the person requests the designation and provides proof of that military service and honorable discharge. The bill requires the application for an original driver’s license to provide space for an applicant to voluntarily list any military service qualifying the applicant to receive a license with a veteran’s designation and to include proof of the applicant's eligibility to receive a license with such a designation.

Submitted as:
Texas
HB 1514 (Enrolled version)
Status: Enacted into law in 2011.
Disposition: 13-33B-02A

CSG policy task force recommendations to The Committee on Suggested State Legislation: 2013B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action

Comments/Note to staff:

SSL Committee Meeting: 2013B
( ) Include in Volume
( ) Defer consideration
  ( ) next task force mtg.
  ( ) next SSL mtg.
  ( ) next SSL cycle
( ) Reject

Comments/Note to staff:

Disposition: 13-33B-02B

CSG policy task force recommendations to The Committee on Suggested State Legislation: 2013B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action

Comments/Note to staff:

SSL Committee Meeting: 2013B
( ) Include in Volume
( ) Defer consideration
  ( ) next task force mtg.
  ( ) next SSL mtg.
  ( ) next SSL cycle
( ) Reject

Comments/Note to staff:
This Act prohibits a private passenger motor vehicle from being classified for insurance purposes as a commercial, for-hire, or permissive use vehicle, or livery solely on the basis that it is being used for personal vehicle sharing if the annual revenue received by the vehicle’s owner that is generated by personal vehicle sharing does not exceed the annual expenses of owning and operating the vehicle. That includes, but is not limited to, depreciation, interest, lease payments, automobile loan payments, insurance, maintenance, parking, and fuel, and the fact that the personal vehicle sharing is conducted pursuant to a personal vehicle sharing program.

The bill defines a personal vehicle sharing program as a legal entity qualified to do business in the state that facilitates personal vehicle sharing. The bill requires a personal vehicle sharing program, among other things, during all times that the vehicle is engaged in personal vehicle sharing, to provide insurance coverage, and collect, maintain, and make available to the vehicle owner and the vehicle owner’s primary automobile liability insurer verifiable electronic records identifying the date, time, initial and final locations of the vehicle, and miles driven when it is being used as part of the personal vehicle sharing program.

The Act limits the circumstances under which the vehicle owner’s automobile liability insurance can be subject to liability, and requires that automobile insurance policies not be canceled, voided, terminated, rescinded, or not renewed solely on the basis that the private passenger motor vehicle has been made available for personal vehicle sharing. It authorizes the insurer of the vehicle to exclude any and all coverage afforded under the vehicle owner’s automobile insurance policy while the vehicle is used by a person other than the owner as part of a personal vehicle sharing program, and provides the primary and excess insurers of owners, operators, and maintainers of the vehicle with the right to inform the insured that it has no duty to defend or indemnify any person or organization for liability for any loss that occurs during use of the vehicle in a personal vehicle sharing program.

Submitted as:
California
Chapter 454 of 2010
Status: Enacted into law in 2010.

Comment: This item was deferred to the policy task force meeting in LaQuinta, California.
by the vehicle’s registered owner that was generated by the personal vehicle sharing does not exceed the annual expenses of owning and operating the vehicle, including depreciation, interest, lease payments, motor vehicle loan payments, insurance, maintenance, parking, fuel, cleaning, automobile repair and costs associated with personal vehicle sharing, including but not limited to the installation, operation and maintenance of computer hardware and software, signage identifying the vehicle as a personal vehicle sharing vehicle and any fees charged by a personal vehicle sharing program.

Submitted as:
Oregon
HB 3149 (Enrolled version)
Status: Enacted into law in 2011.

Comment: This item was deferred to the policy task force meeting in LaQuinta, California.

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This Act authorizes using a “live digital video school bus violation detection monitoring system” to monitor and help enforce laws pertaining to motorists’ behavior around school buses.

Submitted as:
Connecticut
Public Act No. 11-255
Status: Enacted into law in 2011.

Comment: This item was deferred to the policy task force meeting in LaQuinta, California.

Disposition:
CSG policy task force recommendations to The Committee on Suggested State Legislation: 2013B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action

Comments/Note to staff:

SSL Committee Meeting: 2013B
( ) Include in Volume
( ) Defer consideration
   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject

Comments/Note to staff:
This bill defines “qualified alternative fuel vehicle” to include plug-in vehicles that are powered by an electric motor and vehicles which are powered by an alternative fuel and meet specified federal emissions standards. It requires, with limited exceptions, local authorities to establish a special parking program for qualified alternative fuel vehicles. The bill provides that the owner or long-term lessee of such a vehicle may apply to the local authority for a distinctive decal, label or other identifier that distinguishes the vehicle from other vehicles; and while displaying the distinctive identifier, park the vehicle without the payment of a parking fee at certain times in certain public parking lots, parking areas and metered parking zones.

This Act authorizes using qualified alternative fuel vehicles in high-occupancy vehicle lanes irrespective of the occupancy of the vehicle.

The Act defines an “autonomous vehicle” to mean a motor vehicle that uses artificial intelligence, sensors and global positioning system coordinates to drive itself without the active intervention of a human operator. It requires the department of transportation to establish a driver’s license endorsement for the operation of an autonomous vehicle on the highways of the state.

Submitted as:
Nevada
AB 511 (Enrolled version)
Status: Enacted into law in 2011.

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Comment: This item was deferred to the SSL Committee meeting in LaQuinta, California.

Disposition:

CSG policy task force recommendations to The Committee on Suggested State Legislation: 2013B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action

Comments/Note to staff:

SSL Committee Meeting: 2013B
( ) Include in Volume
( ) Defer consideration
( ) next task force mtg.
( ) next SSL mtg.
( ) next SSL cycle
( ) Reject

Comments/Note to staff:
This Act:
- Defines “autonomous technology” and “autonomous vehicle.”
- Provides legislative intent regarding vehicles with autonomous technology.
- Authorizes the operation of autonomous vehicles.
- Provides requirements for autonomous vehicles.
- Provides guidelines for testing autonomous vehicles.
- Provides a framework for liability for autonomous vehicles.
- Requires the Department of Highway Safety and Motor Vehicles to submit a report to the President of the Senate and the Speaker of the House of Representatives recommending additional legislative or regulatory action that may be required for the safe testing and operation of motor vehicles equipped with autonomous technology.

Submitted as:
Florida
CS/HB 1207 (Enrolled version)
Status: Awaiting governor’s action as of 3/27/12

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Disposition:

CSG policy task force recommendations to The Committee on Suggested State Legislation: 2013B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action

Comments/Note to staff:

SSL Committee Meeting: 2013B
( ) 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 allow retailers to operate electric vehicle charging stations without being designated a public utility under state law. The Act excludes any person who is not a public service corporation and who provides electric vehicle charging service at retail from the meaning of the terms “public utility,” “public service corporation,” or “public service company.” It declares that the ownership or operation of a facility at which electric vehicle charging service is sold, and the selling of electric vehicle charging service from that facility, does not render the person a public utility, public service corporation, or public service company solely because of that sale, ownership, or operation.

The legislation directs that the provision of electric vehicle charging service by a person who is not a public utility shall not constitute the retail sale of electricity if the electricity furnished in connection with the provision of electric vehicle charging service is used solely for transportation purposes and the person providing the electric vehicle charging service has procured the furnished electricity from the public utility that is authorized by the state corporation commission to engage in the retail sale of electricity within the exclusive service territory in which the service is provided. Providing electric vehicle charging service is declared to be a permitted electric utility activity of a certificated electric utility.

The Act bars the utility commission is barred from setting the rates, charges, and fees for the provision of retail electric vehicle charging service provided by nonutilities. The measure directs public utilities to evaluate options to develop and offer off-peak charging rates or other incentives to encourage owners of an electric vehicle to charge or recharge its battery during nonpeak times, when practical. Finally, it provides that the commission is authorized to approve pilot programs conducted by public electric utilities. The pilot programs may offer special rates, contracts, or incentives to determine the feasibility of allowing time-differentiated rates that encourage users of electric motor vehicles to charge vehicles during nonpeak periods. An electric utility that participates in a pilot program will be entitled to recover annually the costs of its participation in such a program.

Submitted as:
Virginia
Chapter 408
Status: Enacted into law in 2011.
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Comment: CSG Energy and Environment Policy staff says Virginia is the first state to enact legislation to permit retailers to set up electric vehicle charging stations.

Disposition:
CSG policy task force recommendations to The Committee on Suggested State Legislation: 2013B
( ) Include in Volume ( ) Defer consideration
( ) Include in Volume ( ) next task force meeting
( ) Defer consideration to next task force meeting ( ) next SSL mtg.
( ) Reject ( ) next SSL cycle
( ) No action ( ) Reject

Comments/Note to staff:
This Act enables public transportation systems to impose up to a $20 charge on certain vehicles to encourage reducing traffic congestion in certain areas. Public transportation systems which impose the congestion reduction charge must complete a traffic congestion reduction plan before implementing the charge and provide detailed reports about how money generated by the charges is spent.

Submitted as:
Washington
Chapter 373, Laws of 2011
Status: Enacted into law in 2011.

Comment:

Disposition:

CSG policy task force recommendations to The Committee on Suggested State Legislation: 2013B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action

Comments/Note to staff:

SSL Committee Meeting: 2013B
( ) Include in Volume
( ) Defer consideration
   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject

Comments/Note to staff:
This Act eliminates a biometric matching system and establishes a facial recognition matching system for drivers’ licenses, permits, and identicards. It changes renewal periods for drivers' licenses, motorcycle endorsements, and identicards. It increases fees for certain licenses, identicards, instruction permits, original license examinations, and DUI hearings. It directs that a driver's license issued to a person under twenty-one years old expires on the person's twenty-first birthday.

Facial recognition matching system is defined as a system that compares the biometric template derived from an image of an applicant or holder of a driver license, permit, or identicard with the biometric templates derived from the images in DOL’s negative file.

DOL is authorized to implement a facial recognition matching system for all driver licenses, permits, and identicards to determine whether the person has been issued identification under a different name or names.

The results from the system are not available for public inspection and copying and may only be disclosed: (1) pursuant to a valid court order; (2) to a federal government agency, if specifically required under federal law; or (3) to a government agency, including a court or law enforcement agency, for use in carrying out its functions if the DOL has determined that person has committed certain prohibited practices and this determination has been confirmed by a hearings examiner. The results from the facial recognition matching system are not available for public inspection and copying under the Public Records Act.

DOL must provide specified public notices at driver licensing offices and on DOL's website that address how the facial recognition matching system works, all ways in which DOL may use the results, how an investigation based on results from the system would be conducted, and a person's right to appeal any determination made.

DOL must develop procedures to handle incidents when the facial recognition matching system fails to verify the identity of an applicant for a renewal or duplicate driver license or identicard. The procedures must allow the applicant to prove identity without using the facial recognition matching system.

DOL must report to the Governor and the Legislature annually regarding the facial recognition matching system, including the number of investigations initiated based on the results from the system; determinations that were confirmed and those overturned; and determinations that were referred to law enforcement. This requirement expires in 2017.

Beginning July 1, 2013, a Washington State driver license, endorsement, or identicard is valid for up to six years. From July 1, 2013, until June 30, 2021, DOL may issue a driver license or identicard for a period of other than six years in order to evenly distribute the yearly renewal rate. DOL may also issue a driver license that includes a hazardous materials endorsement for a period of other than six years in order to match the validity of certification from the federal transportation security administration.

The initial motorcycle endorsement fee is changed to reflect the issuance over a six-year period instead of five years, but the per year cost remains the same as is currently collected, $2 per year. The motorcycle endorsement renewal fee is also changed to reflect the issuance over a six-year period, but the per year cost remains the same as is currently collected, $5 per year.

Fees are increased on certain state issued documents.
Submitted as:
Washington
Chapter 80, Laws of 2012
Status: Enacted into law in 2012.

GO TO TABLE OF CONTENTS

Comment:

Disposition:

CSG policy task force recommendations to The Committee on Suggested State Legislation: 2013B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action

Comments/Note to staff:

SSL Committee Meeting: 2013B
( ) Include in Volume
( ) Defer consideration
   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject

Comments/Note to staff:
This bill prohibits soliciting campaign contributions on public property by elective public office candidates and it prohibits people from making such contributions to such candidates on public property.

Submitted as:
New Jersey
P.L.2011, Chapter 204
Status: Enacted into law in 2012.

Comment:

Disposition:

CSG policy task force recommendations to The Committee on Suggested State Legislation:
2013B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action

Comments/Note to staff:

SSL Committee Meeting: 2013B
( ) Include in Volume
( ) Defer consideration
   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject

Comments/Note to staff:
New York Chapter 399 of 2011 comprehensively reforms both the requirements and enforcement of public ethics for New York State government officials. Among other reforms, the bill establishes a new Joint Commission on Public Ethics to oversee and investigate compliance with the financial disclosure and other ethics requirements by executive and legislative employees and elected officials in both branches of government, and to oversee the conduct of registered lobbyists. It expands and enhances financial and client disclosures required of executive and legislative employees and elected officials, including disclosure of outside clients and customers. It establishes a new database to aggregate information concerning all firms and individuals that appear in a representative capacity before any state agency, public authority, board, or commission and make such information readily available to the public. The bill requires mandatory ethics training for executive and legislative employees and elected officials and lobbyists and increase penalties for violations of certain provisions of the code of ethics contained in state law. It requires the reduction or forfeiture of a public officer's pension under certain circumstances where he or she has been convicted of a felony related to his office; expand the definition of “lobbying” to include advocacy related to the “introduction” of legislation and resolutions; require lobbyists that lobby on their own behalf and clients of lobbyists that devote substantial funds to lobbying in New York State to disclose the sources of such funding. It clarifies certain definitions in an existing gift ban to facilitate better compliance and improve enforcement. The Act also amends certain provisions of state election law to enhance penalties for violations of the campaign finance laws. It requires the State Board of Elections to enforce requirement s that entities and individuals that spend funds on advertising and other forms of advocacy to influence the outcome of elections or ballot proposals must disclose such expenditures.

Part A: Ethics Enforcement & Financial Disclosure Reform

Sections 1, 3, 5, 7, 10, 11, 12 and 13 change references in law to a State Ethics Commission and Legislative Ethics Committee or Commission to the newly constituted Joint Commission on Public Ethics, thereby subjecting all legislators and legislative employees to investigative jurisdiction of a unified, independent body, the current iteration of which has jurisdiction over only executive employees and statewide elected officials and lobbyists.

Section 2 prohibits the receipt by any state officer or employee of any compensation for action or decisions regarding “any legislation or resolution before the state legislature” or any “executive order.”

Section 3 requires certain legislative employees to file financial disclosure forms with both the Joint Commission on Public Ethics and the Legislative Ethics Commission.

Section 4 establishes a new database ("Project Sunlight") to aggregate information concerning all firms and individuals that appear in a representative capacity before any state agency, public authority, board, or commission and requires that such state entities track and provide such information for inclusion in the database. The information in the database will be made publicly and readily available and will, for the first time, allow the public to understand more fully any potential conflicts of interest raised by such appearances.

Section 5 provides that all financial disclosure statements be filed with the new Joint Commission on Public Ethics, which shall post those statements of elected officials on the internet and end the practice of redacting the monetary values and amounts reported by the filer. This section also provides for greater and more precise disclosure of financial information by
expanding the categories of value used by reporting individuals to disclose the dollar amounts in their financial disclosure statements; newly requires disclosure of the reporting individual's and his or her firm's outside clients and customers doing business with, receiving grants or contracts from, seeking legislation or resolutions from, or involved in a case or proceeding before the State; and expressly authorizes the Joint Commission to impose civil penalties in addition to referring any potential criminal violations to the appropriate prosecutor, rather than just in lieu of such referral. If sufficient cause is found, the Joint Commission is also required to refer evidence of any violations of other state or federal laws to the appropriate prosecutor(s).

Section 6 replaces a Commission on Public Integrity with a Joint Commission on Public Ethics with jurisdiction over all elected state officials and their employees, both executive and legislative, as well as lobbyists. The bipartisan Joint Commission shall have 14 members, six appointed by the governor and lieutenant governor at least three of whom shall be enrolled members of the major political party that is not that of the governor; and eight appointed by the legislative leaders (four from each major political party). Among other restrictions, no individual shall be eligible to serve on the Joint Commission who is or has been within the last three years a registered lobbyist, a statewide elected office holder or member of the legislature, or a political party chairman, and no individual who is or has been a state officer or employee or a legislative employee within the last year is eligible to be appointed.

The executive director of the Joint Commission shall be selected without regard to his or her political party affiliation, and may be removed only for neglect of duty, misconduct, or inability or failure to discharge the powers or duties of the office, including the failure to follow the lawful instructions of the Joint Commission.

Among other new powers, the Joint Commission shall have jurisdiction to investigate potential violations of law by legislators and legislative employees and, if any violation is found, shall issue a written report to the Legislative Ethics Commission that sets forth the Joint Commission's findings of fact and conclusions of law. To continue and conduct a full investigation to determine if there is a substantial basis to find a violation of law, the Joint Commission requires a vote of eight members and such vote must occur within 45 days of receiving a complaint or referral or the Joint Commission's initiation of a preliminary review. The Joint Commission's investigative report must be made public within 45 days of being provided to the Legislative Ethics Commission (with the option of one 45-day extension), and that Commission must dispose of the matter and indicate in a public statement the nature and reasons for such disposition within 90 days. The Legislative Ethics Commission shall have exclusive jurisdiction to impose penalties on members of the legislature and legislative employees based upon the findings of fact and law in the Joint Commission's investigative report.

With respect to executive employees and lobbyists, like the current Commission on Public Integrity, the Joint Commission shall have jurisdiction to investigate and penalize such individuals and the report and disposition of such matters will be made public.

A majority (8 members) of the board must consent to the initiation of the investigation, and at least two of whom are of the same branch and, except for executive employees not directly appointed by a statewide elected official, of the same party as the subject of the investigation. The same procedure applies to issue findings of fact and conclusions of law. If the subject of the investigation is a lobbyist, only a simple majority is required.

The Joint Commission and its staff will be subject to strict confidentiality restrictions to protect the integrity of its investigations, punishable as a Class A misdemeanor.
The commissioners of the Joint Commission shall be prohibited from making campaign contributions to candidates for elected executive or legislative offices during their tenure on the Joint Commission.

The Joint Commission shall conduct mandatory ethics training for executive and legislative officials that meets requirements set forth in this section, except where either chamber of the legislature already provides such training and that training meets the same requirements. The Joint Commission will also track, in coordination with the Legislative Ethics Commission, the status of compliance with these new training requirements by state agencies and by the legislature, and shall make such aggregate compliance statistics available to the public on an annual basis.

The Joint Commission will conduct a program of random reviews of financial disclosure statements to help determine compliance with applicable disclosure requirements.

Section 7 mandates online ethics training for lobbyists under the auspices of the Joint Commission.

Sections 7-a, 7-b, and 8 require lobbyists disclose the names of every state official and employee, including legislators and legislative employees, with whom the lobbyist has a “reportable business relationship,” a term also newly defined in the bill.

Section 9 clarifies that the Legislative Ethics Commission will have the authority and jurisdiction to impose penalties upon members and employees of the legislature, but will no longer have investigative jurisdiction over the legislature. This section establishes the procedure to be followed by the Legislative Ethics Commission upon its receipt of an investigative report from the Joint Commission on Public Ethics to ensure that the Legislative Ethics Commission issues a public disposition of each matter within 90 days of receiving such report.

This section also establishes that written advisory opinions issued by the Legislative Ethics Commission shall be binding upon that Commission with respect to the imposition of any penalties, but the Joint Commission on Public Ethics shall have jurisdiction to investigate both whether the person's advisory opinion was supported by his or her full disclosure of the relevant facts and whether that opinion covered the person's actual conduct. The Joint Commission will have full authority to investigate conduct falling outside the proper scope of such an advisory opinion issued by the Legislative Ethics Commission.

This section further amends the Legislative Law to clarify that the executive director of the Legislative Ethics Commission may be removed for neglect of duty, misconduct in office, or inability or failure to discharge the powers or duties of office.

This section also amends the Legislative Law to increase the penalties for violations of certain provisions of the code of ethics, including those provisions addressing financial conflicts of interest damaging to public confidence in the State government.

Sections 14 through 21 ensure that the existing authority, records, and business of the Commission on Public Integrity will be properly transferred to the Joint Commission on Public Ethics.

Part B: Disclosure by Lobbyists Lobbying on Their Own Behalf and by Clients of Lobbyists of Their Sources of Funding for Lobbying Activities

Section 1 requires registered lobbyists whose lobbying activity is performed on their own behalf and not pursuant to retention by a client, and that have spent at least $50,000 and at least 3% of their total expenditures during the last year on such activity in New York State, must disclose each source of funding over $5,000 used for such lobbying. Such lobbyists may seek an exemption to avoid such disclosure based upon a showing that it may cause harm, threats,
harassment, or reprisals to the source of funding or its property. If the Joint Commission declines to grant such an exemption, the lobbyist may appeal that decision to an independent judicial hearing officer pursuant to regulations developed by the Joint Commission.

In addition, not-for-profit organizations qualified as exempt organizations under I.R.C. § 501(c)(3) are exempted from this disclosure requirement. Not-for-profit organizations qualified as exempt under I.R.C. § 501(c)(4) shall also be exempted pursuant to regulations promulgated by the Joint Commission if their primary activities concern any area of public concern that would create a substantial likelihood that such disclosure would lead to harm, threats, harassment, or reprisals. The bill expressly identifies the area of “civil rights and civil liberties” as one area in which organizations are expected to qualify for such an exemption in the Joint Commission's regulations. Among other issues included in this area, organizations whose primary activities focus on the question of abortion rights, family planning, discrimination or persecution based upon race, ethnicity, gender, sexual orientation or religion, immigrant rights, and the rights of certain criminal defendants are expected to be covered by such an exemption.

Section 2 requires clients of lobbyists that meet the same threshold criteria as those set forth above must similarly disclose the sources of their funding for their lobbying activity. The same set of potential exemptions would apply to clients of lobbyists as well.

Part C: Pension Forfeiture for Public Officials

Section 1 establishes a procedure whereby certain public officials who commit crimes related to their public offices may have their pensions reduced or forfeited under certain circumstances. This applies prospectively to officials who enter any of the applicable retirement systems upon or after the effective date of the law.

Section 2 requires criminal defendants whose pensions may ultimately be reduced or forfeited shall be notified of that possibility by the court prior to any trial or plea entered in their criminal case.

Part D: Expanded Definition of Lobbying and Clarification of Definitions in Gift Ban

This section expands the definition of lobbying under state law to include advocacy to affect the “introduction” of legislation or a resolution. This section further amends these provisions principally to clarify certain definitions in the gift ban to assist public officials in their efforts to comply with that ban and to facilitate its enforcement.

Part E: Campaign Finance Enforcement

Section 1 requires the State Board of Elections to issue regulations clarifying the requirements under existing law for individuals, corporations, political committees, and any other entities to disclose independent expenditures made for advertisements or any other type of advocacy that expressly identifies a political candidate or ballot proposal and that is not coordinated or approved by the candidate in question.

Section 2 requires broadcast television scripts and internet advertisements used in political campaigns must be disclosed and provided to the board of elections.

Section 3 increases substantially the penalties for violations of existing filing requirements and contribution limits.

Sections 4 and 5 expand or create jurisdiction in the county and supreme court for proceedings to enforce the requirements of the Election Law relating to campaign finance.
restrictions and specify the standards to be applied by the court in determining an appropriate penalty for such violations.

Submitted as:
New York
Chapter 399 of 2011
Status: Enacted into law in 2011.

GO TO TABLE OF CONTENTS

Comment: This bill is not in the packet because it is 51 pages.

Disposition:

CSG policy task force recommendations to The Committee on Suggested State Legislation: 2013B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action

Comments/Note to staff:

SSL Committee Meeting: 2013B
( ) Include in Volume
( ) Defer consideration
   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject

Comments/Note to staff:
17-33B-01A Cybercrime Youth Rescue    NY

This Act creates an educational reform program and a diversionary program for juveniles who are criminally charged with certain offenses involving the creation, exhibition or distribution of a photograph depicting nudity through the use of an electronic communication device, an interactive wireless communications device, or a computer.

Submitted as:
New York
Chapter 535 of 2011
Status: Enacted into law in 2011.

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17-33B-01B Sexting    FL

This Act:
• provides that a minor commits the offense of sexting if he or she knowingly uses a computer, or any other device capable of electronic data transmission or distribution, to transmit or distribute to another minor any photograph or video of any person which depicts nudity and is harmful to minors;
• provides that a minor commits the offense of sexting if he or she knowingly possesses a photograph or video of any person that was transmitted or distributed by another minor which depicts nudity and is harmful to minors;
• provides that the transmission, distribution, or possession of multiple photographs or videos is a single offense if the transmission occurs within a 24-hour period;
• provides that the act does not prohibit prosecution of a minor for conduct relating to material that includes the depiction of sexual conduct or sexual excitement or for stalking; and
• defines the term “found to have committed.”

Submitted as:
Florida
CHAPTER 2011-180
Status: Enacted into law in 2011.

GO TO TABLE OF CONTENTS

17-33B-01C Sexting    RI

This Act directs that no minor shall knowingly and voluntarily and without threat or coercion use a computer or telecommunication device to transmit an indecent visual depiction of himself or herself to another person.

Submitted as:
Rhode Island
2011 – H 5094 AS AMENDED
Status: Enacted into law in 2011.
GO TO TABLE OF CONTENTS
This Act directs that a person who is a minor commits an offense if the person intentionally or knowingly by electronic means promotes to another minor visual material depicting a minor, including the actor, engaging in sexual conduct, if the actor produced the visual material or knows that another minor produced the visual material or possesses in an electronic format visual material depicting another minor engaging in sexual conduct, if the actor produced the visual material or knows that another minor produced the visual material.

Submitted as:
Texas
SB 407
Status: Enacted into law in 2011.

Comment: These 4 bills were added to the docket per (33A-c) -- Add legislation from other states, if available, to the next docket, focused on sexting.

See also the Cyberbullying Research Center’s fact sheet about sexting.

Disposition: 17-33B-01A
CSG policy task force recommendations to The Committee on Suggested State Legislation: 2013B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action
Comments/Note to staff:

Disposition: 17-33B-01B
CSG policy task force recommendations to The Committee on Suggested State Legislation: 2013B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action
Comments/Note to staff:

SSL Committee Meeting: 2013B
( ) Include in Volume
( ) Defer consideration
( ) next task force mtg.
( ) next SSL mtg.
( ) next SSL cycle
( ) Reject
Comments/Note to staff:
Disposition: 17-33B-01C

CSG policy task force recommendations to
The Committee on Suggested State
Legislation: 2013B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action

Comments/Note to staff:

SSL Committee Meeting: 2013B
( ) Include in Volume
( ) Defer consideration
( ) next task force mtg.
( ) next SSL mtg.
( ) next SSL cycle
( ) Reject

Comments/Note to staff:

Disposition: 17-33B-01D

CSG policy task force recommendations to
The Committee on Suggested State
Legislation: 2013B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action

Comments/Note to staff:

SSL Committee Meeting: 2013B
( ) Include in Volume
( ) Defer consideration
( ) next task force mtg.
( ) next SSL mtg.
( ) next SSL cycle
( ) Reject

Comments/Note to staff:
This Act establishes methods by which children under 16 years old are protected from testifying in open court, face to face with a defendant in a criminal case, or in front of all parties in a non-criminal case.

According to NCCUSL:

“Increasingly, children are called to testify in court proceedings. Trauma resulting from exposure to an open courtroom or confrontation with a defendant can lead to emotional distress and inaccurate testimony. The Uniform Child Witness Testimony by Alternative Method Act (UCWTBAMA) addresses the complicated issues of child witness testimony.

In the process of revising the Uniform Rules of Evidence (URE), a project completed in 1999, the Drafting Committee eliminated what was then Rule 807(d). Rule 807 provides an exception to the hearsay rule for statements of a child victim and the deleted subdivision provided alternative methods for taking the testimony of a child victim. The provisions were removed from the URE because the Committee: (1) believed the provisions were incompatible with a child victim or witness exception to the hearsay rule and would be better dealt with in a separate rule or statute, (2) noted wide divergence among the states with respect to the use of alternative means of taking child witness testimony, supporting the argument for a uniform state law on this subject, and (3) felt that a separate uniform law on the subject would better allow states to fashion procedures based on local decisional law. Accordingly, Rule 807(a)(2) of the URE, as modified in 1999, more generally provides that the child must either testify at the proceeding “[or pursuant to an applicable state procedure for the giving of testimony by a child]” and allows a statement of a child to be introduced through an alternative method recognized under applicable state law without complicating the Rule 807 exception to the hearsay rule.

The UCWTBAMA fills the gap created in the 1999 URE by providing an “applicable state procedure” that gives presiding officers clear authority to allow children to testify using alternative methods in criminal, civil, and administrative matters. The Act does not displace existing practices, such as closed circuit television and identity screens, nor does it seek to change a state’s defined age under which such procedures are available. Instead, the Act creates a common framework that integrates a state’s existing practices and alternative means of taking testimony and applies fair and predictable standards to that process. The Act does not apply to the taking or use of evidence obtained through discovery depositions or other discovery mechanisms authorized and regulated by the Rules of Civil or Criminal Procedure of the enacting jurisdiction.

First, the Act gives the presiding officer of a criminal or noncriminal proceeding the power to order a hearing, upon a motion by a party, child witness, or other individual determined to have standing, and with good cause shown, to determine whether to allow a child to testify by an alternative method. While this hearing must be conducted on the record after reasonable notice to all parties, the child’s presence is not required. The presiding officer is bound only by the rules of privilege and not by the other normal rules of evidence.

In a criminal proceeding, if the presiding officer finds, upon clear and convincing evidence, that the child would suffer serious emotional trauma which would substantially impair the child’s ability to communicate with the finder of fact, the officer may allow the child to testify other than: (1) in an open forum in the presence and full view of the finder of fact or (2) face-to-face with the defendant. This standard follows the holding of Maryland v. Craig (497 U.S. 836, 1990) and adopts the standard of proof set by a number of states and the persuasive holding of Reutter v. State, 886 P.2d 1298 (Alaska Ct. App. 1994).
In a noncriminal proceeding, if the presiding officer finds, upon a preponderance of the evidence, that allowing the child to testify by an alternative method is necessary to serve the best interests of the child or to enable the child to communicate with the trier of fact, the officer may allow the child to testify by an alternative method. The presiding officer is directed in this circumstance to consider the nature of the proceeding, age and maturity of the child, relationship of the child to the parties in the proceeding, nature and degree of emotional trauma the child may suffer in testifying, and any other relevant factor(s).

If either of the above standards are met, the Act directs the presiding officer to consider a number of additional factors, including the nature of the alternative means of testimony reasonably available, other alternatives for reducing emotional trauma to the child, nature of the case, relative rights of the parties, importance of the proposed testimony, nature and degree of emotional trauma the child may suffer if an alternative method is not used, and other related factor(s). After considering these factors, the court may issue an order which states the method(s) to be used, the parties allowed in or excluded from the child’s presence, any special conditions relative to a party’s right to examine or cross-examine the child, and conditions or limitations upon the participation of individuals present during the child’s testimony. The Act directs the presiding officer to employ an alternative method that is no more restrictive of the rights of the parties than is necessary under the circumstances to serve the purposes of the order and requires that the method chosen must permit a full and fair opportunity for cross-examination of the child witness by each party.

The Uniform Child Witness Testimony by Alternative Methods Act provides judges, administrative officers, and other presiding officers with a clear and legally sound means of protecting child witnesses from the emotional trauma associated with giving testimony, while at the same time protecting the 6th Amendment rights of defendants and respondents. It creates a sound procedural basis for the use of alternative methods of testimony, and clear standards for the use of these methods, without displacing an enacting state's existing mechanisms and means of addressing this issue.”

Submitted as:
New Mexico
HB 196

Status: Enacted into law in 2011.

GO TO TABLE OF CONTENTS
Comment: NCCUSL reports Idaho, Nevada, New Mexico, and Oklahoma have enacted this Uniform Law.

Disposition:

CSG policy task force recommendations to The Committee on Suggested State Legislation: 2013B
(  ) Include in Volume
(  ) Defer consideration to next task force meeting
(  )Reject
(  ) No action

SSL Committee Meeting: 2013B
(  ) Include in Volume
(  ) Defer consideration
(  ) next task force mtg.
(  ) next SSL mtg.
(  ) next SSL cycle
(  ) Reject

Comments/Note to staff:
This Act authorizes municipal and county courts to reduce fines on and set up special programs to try to reduce prostitution and human slavery among people who are arrested and charged with prostitution for the first time.

Submitted as:
Colorado
Senate Bill 11-085
Status: Enacted into law in 2011.

COMMENT:

Comment:

Disposition:

CSG policy task force recommendations to The Committee on Suggested State Legislation: 2013B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action

Comments/Note to staff:

SSL Committee Meeting: 2013B
( ) Include in Volume
( ) Defer consideration
   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject

Comments/Note to staff:
California law generally requires the court in a jury trial to admonish the jury that it is their duty not to converse with, or permit themselves to be addressed by, any other person on any subject of the trial. The court is required to provide the admonishment in a civil proceeding when the jurors are permitted to separate during the trial, and when the case is submitted to the jury, and, in a criminal proceeding, after the jury has been sworn and before the people’s opening address, at each adjournment of the court, and when the jurors are permitted by the court to separate after the case is submitted to the jury. An officer having the jury under his or her charge shall not permit any communication to be made to them, or make any himself or herself, as specified.

This Act expands those admonishments to include the conduct of research or dissemination of information on any subject of the trial. The bill requires the court, when admonishing the jury against conversation, research, or dissemination of information pursuant to these provisions, to clearly explain, as part of the admonishment, that the prohibition applies to all forms of electronic and wireless communication. It requires the officer in charge of a jury to prevent any form of electronic or wireless communication.

California law generally provides that certain acts or omissions in respect to a court of justice, or proceedings therein, are civil contempts of the authority of the court, including, among other things, disobedience of any lawful judgment, order, or process of the court. Existing law also specifies certain criminal contempts of court, punishable as a misdemeanor, including, among other things, resistance willfully offered by a person to the lawful order or process of a court.

This Act makes the willful disobedience by a juror of a court admonishment related to the prohibition on any form of communication or research about the case, including all forms of electronic or wireless communication or research, punishable as either a civil or criminal contempt of court pursuant to those provisions.

Submitted as:
California
Chapter 181
Status: Enacted into law in 2011.
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Comment: California is reported to be the first state to enact legislation on this subject. The National Center for State Courts notes “The incidence of juror use of advanced communications technologies to conduct independent research on trial-related issues and to communicate with others about the trial while it is underway is a source of increasing concern about the fairness of jury verdicts.”
Disposition:
CSG policy task force recommendations to The Committee on Suggested State Legislation: 2013B
( ) 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
( ) Reject
( ) No action
Comments/Note to staff:
Comments/Note to staff:
This Act directs that a person commits the offense of advertising commercial sexual abuse of a minor if the person knowingly publishes, disseminates, or displays or causes directly or indirectly to be published, disseminated, or displayed any advertisement for a commercial sex act that is to take place in the state and which includes the depiction of a minor.

It defines advertisement for a commercial sex act, commercial sex act, and depiction.

The Act makes it a defense, which the defendant must prove by a preponderance of the evidence, that the defendant made a reasonable bona fide attempt to ascertain the true age of the minor depicted in the advertisement by requiring, prior to publication, dissemination, or display of the advertisement, production of an identification card or paper of the minor depicted in the advertisement. In order to invoke the defense, the defendant must produce for inspection by law enforcement a record of the identification used to verify the age of the person depicted in the advertisement.

Advertising commercial sexual abuse of a minor is a class C felony, punishable by up to one year of confinement and/or a fine of up to $10,000.

A federal severability clause is added.
who would commit such crimes, but as long as there are, we will do everything in our power to give law enforcement the tools to bring these criminals to justice.”

Sen. Karen Fraser, D—Olympia, was the prime sponsor of SB 6255, which vacates sentences for underage victims. “Human trafficking, which is modern day slavery, is one of the great scourges of our time. The amount of money that is generated globally as result of this practice is tantamount to weapons trading,” she said. “I am proud that the people of our state care enough to take significant and historic action against a practice that destroys lives, and I am pleased that Washington remains a leading state in the nation that addresses this terrible trend.”

Human trafficking includes the recruitment, harboring, transportation, provision or obtaining of a person for labor, sex, organ transplants or services through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt, bondage or slavery.

The 12 bills signed into law include:

- SB 6251: Regulating online advertising of commercial sexual abuse of a minor (Sens. Jeanne Kohl-Welles, D-Seattle, Jerome Delvin, R-Richland)
- SB 6252: Addressing commercial sexual abuse of a minor and promoting prostitution in the first degree (Sens. Adam Kline, D-Seattle, Joseph Zarelli, R-Ridgefield)
- SB 6253: Concerning seizure and forfeiture of property in commercial sexual abuse of a minor and promoting prostitution in the first degree crimes (Sens. Tracey Eide, D-Federal Way, Adam Kline, D-Seattle)
- SB 6254: Compelling a person with a mental disability to engage in prostitution is promoting prostitution in the 1st degree, even absent the use of force (Sens. Jerome Delvin, R-Richland, Jim Hargrove, D-Hoquiam)
- SB 6255: Vacating sentences for underage victims (Sens. Karen Fraser, D-Olympia, Adam Kline, D-Seattle)
- SB 6256: Adding commercial sexual abuse of a minor to the list of criminal street gang-related offenses (Sens. Steve Conway, D-South Tacoma, Jerome Delvin, R-Richland)
- SB 6257: Addressing sexually explicit performance (Sens. Pam Roach, R-Auburn, Steve Conway, D-South Tacoma)
- SB 6258: Concerning unaccompanied persons (Sens. Val Stevens, R-Arlington, Mike Carrell, R-Lakewood)
- SB 6103: Removing the practice of reflexology from the exemptions from licensure for massage or massage therapy. Granting authority to the secretary of health to conduct inspections of massage business establishments (Sens. Karen Keiser, D-Kent, Karen Fraser, D-Olympia)
- House Bill 1983: Increasing fee assessments for prostitution crimes (Reps. Kevin Parker and Phyllis Gutierrez Kenney)
- House Bill 2177: Protecting children from sexual exploitation (Reps. Connie Ladenburg, D-Tacoma and Bruce Dammeier, R-Puyallup)
- HB 2692: Concerning the reduction of the commercial sale of sex (Reps. Tina Orwall and Katrina Asay)

Human trafficking is an epidemic not only in Washington, but across the nation and world. Kohl-Welles cited a recent New York Times story, “Where Pimps Peddle Their Goods,” as just one example of the horrors of child prostitution that occur every day.

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For more information: Alison Dempsey-Hall, Senate Democratic Communications, 360-786-7887

Disposition: 17-33B-05

CSG policy task force recommendations to The Committee on Suggested State Legislation: 2013B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action

Comments/Note to staff:

SSL Committee Meeting: 2013B
( ) Include in Volume
( ) Defer consideration
   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject

Comments/Note to staff:
This Act directs that a person commits the offense of predatory loitering if the person:
- was previously convicted of a predatory sexual offense or sexual abuse of children;
- purposely or knowingly loiters in the vicinity of a residence, school, church, or place of work of the person's previous victim or in the vicinity of any school, park, playground, church, bicycle or multiuse path, or other place frequented by minors of an age similar to the age of the victim of the previous sexual offense if the sexual offense concerned a minor; and
- has previously been requested by a person in authority to leave the area in which the person loiters or leave any area in which the person has loitered.

Proof of the offense of predatory loitering must also include proof that the person in authority has made a report of the request to the law enforcement agency with jurisdiction over the area, and the agency has documented the report.

A person convicted of the offense of predatory loitering may be fined not more than $500 or be imprisoned for not more than 6 months, or both. A person convicted of a second or subsequent offense of predatory loitering may be fined not more than $1,000 or be imprisoned for not more than 1 year, or both.

Submitted as:
Montana
SB 149
Status: Enacted as Chapter 274 in 2011.
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Comment:

Disposition:

CSG policy task force recommendations to The Committee on Suggested State Legislation:
2013B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action

Comments/Note to staff:

SSL Committee Meeting: 2013B
( ) Include in Volume
( ) Defer consideration
( ) next task force mtg.
( ) next SSL mtg.
( ) next SSL cycle
( ) Reject

Comments/Note to staff:

93
According to a Washington legislative report:

"Under the Community Protection Act of 1990, a sexually violent predator (SVP) may be civilly committed upon the expiration of that person's criminal sentence. An SVP is a person who has been convicted of, or charged with, a sexually violent offense and who suffers from a mental abnormality or personality disorder that makes the person likely to engage in predatory acts of sexual violence if not confined to a secure facility. When it appears that a person may meet the criteria of an SVP, the prosecuting attorney of the county where the person was convicted or charged or the Attorney General's Office, if so requested by the prosecuting attorney, may file a petition alleging that the person is an SVP. In preparation for a trial as to whether the person is an SVP, the court must direct that the person be evaluated by a professional as to whether the person is an SVP.

If a person is found at trial to be an SVP, the state is authorized by statute to involuntarily commit a person to a secure treatment facility. Civil commitment as an SVP is for an indefinite period. Once a person is committed, the Department of Social and Human Services (DSHS) must conduct annual reviews to determine whether the person's condition has so changed such that the person no longer meets the definition of an SVP or if conditional release to a less restrictive alternative (LRA) is in the best interest of the person and conditions can be imposed to protect the community. Even if DSHS's annual review does not result in a recommendation of any type of release, the person may nonetheless petition the court for a conditional release or unconditional discharge.

If a committed person petitions for a conditional release or unconditional discharge, the court must set a show cause hearing. The prosecuting agency must first show that the committed person continues to meet the definition of an SVP and that placement in an LRA is not appropriate. The committed person may then present evidence that the person has so changed that the person no longer meets commitment criteria or that conditional release to a less restrictive alternative is appropriate. If the court finds that the state has not met its prima facie case or that probable cause exists, the court must set a review hearing. In order to prevail, the state must once again prove beyond a reasonable doubt that the person meets the definition of a sexually violent predator or that conditional release is not appropriate. If the state does not meet its burden, the person must be released.

An indigent person is entitled to appointed counsel and an independent expert evaluation paid for by the state both at the original probable cause and commitment proceeding and in any review proceeding. Requests for the reimbursement of defense counsel and expert evaluators are submitted to DSHS for payment. Often, these invoices are already approved by the court and DSHS has little recourse but to pay them, even if expenses appear to be excessive or duplicative.

In 2011 the Legislature asked the Office of Public Defense (OPD) to develop a proposal to transfer statewide responsibility for indigent defense of sexually violent predator civil commitment cases from DSHS to OPD. In December 2011 OPD submitted its report to the Legislature, including several options for accomplishing this transfer. Those options included:

- continue the existing reimbursement process with hourly contracts, but transfer state agency responsibility from DSHS to OPD;
- allow OPD to contract with multiple attorneys or group practices statewide; or
- require OPD to hire state employees to provide defense services.
OPD estimates that the second and third options above could save the state between $700,000 and $1 million.

The Director of OPD administers all state-funded services for representation of indigent respondents qualified for appointed counsel in SVP civil commitment cases. In providing those services, the Director must:

- contract with attorneys or groups of attorneys for the provision of legal services;
- establish annual contract fees for payment of indigent defense services;
- ensure an indigent person has one contracted counsel unless the court finds good cause for additional counsel;
- establish procedures for the reimbursement of expert witnesses and other professional and investigative costs;
- make recommendations for appropriate caseload standards for SVP cases; and
- annually submit a report to the Chief Justice, the Governor, and the legislature on the operation of SVP indigent defense services.

The transfer of duties from DSHS to OPD occurs on July 1, 2012, but provisions are made for a transitional period during which time the director may continue existing counsel so as to avoid unnecessary trial continuances.

DSHS is no longer responsible for the cost of one expert or professional person to conduct an evaluation on the prosecuting agency's behalf. The prosecuting agency has a right to a current evaluation of the person by experts chosen by the state. The judge may require the person to complete procedures or tests requested by the evaluator including a clinical interview, psychological testing, plethysmograph testing, and polygraph testing. The state is responsible for the cost of the evaluation.

Indigent persons responding to an SVP petition for commitment and commitment review proceedings are entitled to appointed counsel contracted through OPD. Unless provided as part of the investigation and preparation for any hearing or trial under this chapter, the following activities are beyond the scope of representation of an attorney under contract with investigation or legal representation challenging the conditions of confinement at the SCC; investigation or legal representation for making requests under the Public Records Act; legal representation or advice in filing a grievance against DSHS; and other activities as may be excluded by policy or contract with OPD.

OPD is responsible for the cost of one expert or professional person conducting an evaluation on the indigent person's behalf. Expert evaluations are capped at $10,000; partial evaluations are capped at $5,500; and expert services apart from an evaluation, exclusive of testimony at trial or depositions, are capped at $6,000. OPD will pay the costs related to an additional examiner or in excess of the fee caps only upon a finding by the superior court that such appointment or extraordinary fees are for good cause.

DSHS and the courts are authorized to release records to OPD as needed to implement OPD's duties. OPD must maintain the confidentiality of confidential records. The inspection or copying of any nonexempt public record by persons residing in a civil commitment facility for SVPs may be enjoined utilizing the same procedures allowed for enjoining requests from persons serving a criminal sentence. In order to issue an injunction, the court must find that:

- the request was made to harass or intimidate the agency or its employees;
- fulfilling the request would likely threaten the security of correctional facilities;
- fulfilling the request would likely threaten the safety or security of staff, inmates, family members of staff, family members of other inmates, or any other person; or
- fulfilling the request may assist criminal activity.”
Submitted as:
Washington
SUBSTITUTE SENATE BILL 6493 (Enrolled version)
Status: Enacted into law in 2012.

GO TO TABLE OF CONTENTS

Comment:

Disposition:

CSG policy task force recommendations to The Committee on Suggested State Legislation: 2013B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action

Comments/Note to staff:

SSL Committee Meeting: 2013B
( ) Include in Volume
( ) Defer consideration
   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject

Comments/Note to staff:
This bill codifies a statewide automated victim information and notification system and establishes an automated victim notification system special fund.

Submitted as:
Hawaii
H.B. 2226, H.D. 2, S.D. 1

Status:
3/6/2012   H   Passed Third Reading as amended in HD 2 with none voting aye with reservations; none voting no (0) and none excused (0). Transmitted to Senate.
4/10/2012   S   Report adopted; Passed Third Reading, as amended (SD 2). Ayes, 24; Aye(s) with reservations: none . Noes, 1 (Senator(s) Slom). Excused, 0 (none). Transmitted to House.
4/10/2012   H   Returned from Senate (Sen. Com. No. 579) in amended form (SD 2).

Discretion:
CSG policy task force recommendations to The Committee on Suggested State Legislation:
2013B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action

Comments/Note to staff:

SSL Committee Meeting: 2013B
( ) Include in Volume
( ) Defer consideration
( ) next task force mtg.
( ) next SSL mtg.
( ) next SSL cycle
( ) Reject

Comments/Note to staff:
This Act expands collecting DNA samples from defendants convicted of crimes in the state to include, for the first time in the state and across the country, all felonies and all penal law misdemeanors. It enhances protections afforded to defendants to demonstrate their innocence by providing access in certain circumstances to DNA testing in post-plea contexts.

Submitted as:
New York
SB 6733
Status: Enacted into law in 2012.

Comment:

Andrew M. Cuomo - Governor
Governor Cuomo, Senate Majority, Leader Skelos, and Assembly Speaker Silver Announce Historic Agreement on Expansion of DNA Databank
Printer-friendly version
New Law Expands Access to DNA Testing and Discovery for Defendants
Albany, NY (March 14, 2012)

Governor Andrew M. Cuomo, Senate Majority Leader Dean Skelos, and Assembly Speaker Sheldon Silver today announced an historic agreement that will make New York State the first “all crimes DNA state in the nation, by requiring DNA samples be collected from anyone convicted of a felony or penal law misdemeanor. In addition, the bill also significantly expands defendants’ access to DNA testing and comparison both before and after conviction in appropriate circumstances, as well as to discovery after conviction to demonstrate their innocence.

Governor Cuomo introduced the DNA Databank legislation as a centerpiece of his 2012 legislative agenda.

"It is a proven fact: DNA helps solve crimes, prosecute the guilty, and protects the innocent," said Governor Cuomo. "This bill will greatly improve law enforcement's ability to keep New York communities safe and bring justice to victims of violent crimes, as well as those who have been wrongly convicted. For too long, a limiting factor to our ability to solve crimes through DNA was the fact the law did not encompass all crimes. This new law will right those wrongs. I commend Majority Leader Skelos and Speaker Silver for their leadership on this issue and thank the members of the Legislature for putting New Yorkers first."
Senate Majority Leader Dean G. Skelos said: “DNA is the 21st Century equivalent of a fingerprint and the most powerful law enforcement tool to catch and prosecute criminals and protect victims. The Senate fought to create the DNA Databank and I applaud the efforts of Governor Cuomo, the law enforcement community and victims' advocacy groups to expand it to include all crimes and make it even more effective.

Assembly Speaker Sheldon Silver said, "This legislation accomplishes two important objectives; it expands the DNA Databank to all crimes and it provides for more fair and equal access to DNA testing and the Databank for those who are wrongly charged with and convicted of crimes. When a person is wrongly convicted, the real perpetrator is allowed to remain free and potentially commit other crimes. Therefore, in addition to expanding the DNA Databank to help identify the true criminal, this legislation will, for the first time, provide wrongly convicted defendants with a fair opportunity to prove their innocence. Further, the expansion of the DNA Databank will help to make New York safer and provide an important tool for law enforcement. I thank Governor Cuomo for his leadership on this important issue."

Senator Steve Saland said, "Currently, not all misdemeanors and felonies require a DNA sample to be collected. The expansion is particularly critical when studies show that persons who commit serious crimes have also often committed other crimes including lower-level misdemeanors. This legislation will provide a powerful tool to bring closure to unsolved crimes and prevent further crimes from taking place, while providing a means by which a wrongfully convicted person can be exonerated, or a suspect eliminated. I appreciate the efforts of the Governor and the Assembly to achieve an agreement on this bill."

Assemblyman Joseph R. Lentol said, "Expanding the Databank will help solve more crimes. This bill, by authorizing the courts to allow greater access to DNA testing and databanks comparisons, should also help reduce instances of wrongful prosecution and wrongful conviction. The person who is wrongly convicted is unjustly punished. The victim is given a false sense of security and has to relive the crime a second time when the truth comes out. And we are all put at risk when the real perpetrator is left free to commit other crimes. This legislation takes important steps to help prevent wrongful convictions while also expanding the DNA Databank to help law enforcement keep criminals off our streets. I praise the Governor for his hard work."

Senator Martin Golden said, "This measure will significantly improve New York State's crime fighting abilities. Through the collection of DNA samples of all persons convicted of felony offenses, and certain misdemeanors, we will help to prevent and solve crimes. This will add a critical measure of security and safety for all New Yorkers."

The agreement includes the following reforms to the criminal justice system:

“All Crimes DNA Expansion: This legislation will make New York the first state in the country to expand its DNA Databank so dramatically, a reform that promises to solve thousands of crimes and prevent thousands of others. Since its launch in 1996, New York State's DNA Databank has been a powerful tool both for preventing and solving crimes- including more than 2,900 convictions- and for proving innocence, including countless suspects cleared early-on in investigations. DNA evidence has also helped exonerate 27 New Yorkers who were wrongfully convicted.

Previously, state law only permitted DNA to be collected from 48 percent of offenders convicted of a Penal Law crime. Among the exclusions were numerous crimes that statistics have shown to be precursors to violent offenses. As a result, New York State missed important opportunities to prevent needless suffering of crime victims and failed to use a powerful tool that could be used to exonerate the innocent.
Expanded Access for Certain Criminal Defendants to DNA Testing: This legislation will allow defendants in certain criminal cases to obtain DNA testing prior to trial to demonstrate their innocence. Further, under appropriate circumstances defendants convicted after a guilty plea will be allowed access to such testing. Together, these reforms will help to ensure that innocent defendants are not convicted or, if convicted after a plea, are able to demonstrate their actual innocence.

Expanded Access to Discovery for Certain Criminal Defendants After Trial: In limited circumstances, defendants will be able to seek discovery of property and other materials to demonstrate their actual innocence after their conviction. Such discovery will provide the court with the evidence necessary to reach a proper decision on a defendant’s motion for such relief.

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Stateline reports “Supported by law enforcement, judges, crime victims and scientists, Governor Andrew Cuomo signed into law the nation’s first “all crimes DNA” bill earlier this month, making New York the first state to require DNA samples from all offenders convicted of every felony or misdemeanor, excluding possession of small amounts of marijuana.”

Disposition: 17-33B-09

CSG policy task force recommendations to The Committee on Suggested State Legislation:
2013B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action

Comments/Note to staff:

SSL Committee Meeting: 2013B
( ) Include in Volume
( ) Defer consideration
( ) next task force mtg.
( ) next SSL mtg.
( ) next SSL cycle
( ) Reject

Comments/Note to staff:
This Sectional Analysis by the Alaska Department of Health and Social Services of Alaska CSSB86 states:

“An Act relating to the protection of property of persons under disability and minors; relating to the crime of violating a protective order concerning certain vulnerable persons; relating to aggravating factors at sentencing for offenses concerning a victim 65 years or older; relating to the protection of vulnerable adults; making conforming amendments; amending Rules 12(h) and 45(a), Alaska Rules of Criminal Procedure, Rule 77, Alaska Rules of Civil Procedure, Rule 17, Alaska Rules of Probate Procedure, and Rule 9, Alaska Rules of Administration; and providing for an effective date.”

Section 1 inserts “vulnerable adult” in place of “elder or disabled adult” in AS 08.29.200(b) concerning reporting of harm required by licensed professional counselors. This change will make the statute consistent with similar definitional changes made by the bill. The term “vulnerable adult” more accurately defines and describes the citizens subject to protection.

Section 2 inserts “vulnerable adult” in place of “elder or disabled adult” in AS 08.63.200(b) concerning reporting of harm required by marriage and family therapists. This change will make the statute consistent with similar definitional changes made by the bill. The term “vulnerable adult” more accurately defines and describes the citizens subject to protection.

Section 3 makes the knowing violation or attempted violation of a financial protective order (introduced in section 10 of this legislation to protect vulnerable adults and elders) a crime.

Section 4 amends AS 11.56.740(c), which defines “protective orders,” by including financial protective orders issued under issued under AS 13.26.207-13.26.209 to that definition. This change brings financial protective orders within the class of protective orders subject to sanction under the criminal code.

Section 5 amends AS 12.55.155(c) by adding a new paragraph (35) which makes the fact that a defendant knowingly directed criminal conduct at a person 65 years of age or older an aggravating factor at sentencing.

Section 6 amends AS 13.26.165(1) by substantively adding several new paragraphs and changes or additions in definitions to enhance protection of vulnerable persons in conservatorship proceedings as follows:

- amends AS 13.26.165 by deleting the words “make another” and inserting the words “issue another” regarding the authority of the court to issue a protection order for a protected person in conservatorship proceedings;
- creates new paragraph (A) to authorize the court to issue orders protecting a minor with money or property that needs protection or who otherwise needs protection and substitutes the word “that” for the word “which” in the authorizing language;
- creates a new paragraph (B) specifying that the authority of the court to issue protective orders extends to minors with business affairs that may be in jeopardy and substitutes the word “that” for the word “which” in the authorizing language;
- creates a new paragraph (C) ensuring that protection extends to any need to protect a minor’s funds or obtain funds for a minor and deletes the unnecessary use of the word “that” twice in the authorizing language;
- amends AS 13.26.165(2)(A) by adding the word “fraud” to the illustrative list of reasons why a person may be found to be unable to effectively manage their own affairs and therefore may be in need of a conservator.
Section 7 amends AS 13.16.180(a) by adding “a person’s attorney or other legal representative.” to the list of persons who may petition for a conservatorship and further adds “or caregiver, the Department of Health and Social Services” to that list. This change is necessary to broaden the list of specific persons authorized to petition for a conservatorship in aid of a vulnerable adult and specifically to ensure that the Department of Health and Social Services is authorized to do so when necessary.

Section 8 amends AS 13.26.180 by adding a new sub-section (c) to specifically authorize petitioners to request orders for temporary conservatorships upon showing that the person’s money or property will be wasted or dissipated during the pendency of normal conservatorship proceedings. This change is necessary to ensure that the courts have express statutory authority to entertain and grant temporary conservatorships in urgent cases involving financial exploitation.

Section 9 amends AS 13.26.185 to provide that that section does not apply to a petition or order for an ex parte protective order filed under AS 13.26.207 or a temporary protective order filed under AS 13.26.208.

Section 10 adds four new sections:

- New section AS 13.26.206 authorizes temporary conservatorships to provide immediate protection from imminent waste or dissipation of the person’s money or property while the normal conservatorship proceedings are underway. The court is required to impose only the least restrictive orders necessary to protect the money or property from waste or dissipation. The temporary conservatorship expires as a matter of law when the full conservatorship is ordered or when the petition for conservatorship is dismissed.

- New section AS 13.26.207 authorizes a person to apply for an ex parte protection order against financial exploitation without the need for a lawyer, very similar to the authority and procedure presently authorized for domestic violence, sexual assault and stalking protection orders. The new section authorizes a third-party to file a petition on behalf of another where, for example, the vulnerable adult is incapacitated and unable to file for her or himself. The new section requires that notice of the proceedings be provided to the vulnerable adult and for service of any order issued to third-parties, such as financial institutions, at the nearest place of business, or by registering the order with the Department of Public Safety. The new section also requires the Alaska Court System to create appropriate forms for use by the public in filing for such orders and exempts such applications from court filing fees.

- New section AS 13.26.208 specifies that a party may apply and the court may convert a protective order to a temporary order effective for up to six months upon proper application, notice and hearing. That section further provides that if the court finds by a preponderance of the evidence that the respondent has committed fraud against the victim that the court may convert the ex parte protective order to temporary protective order effective for up to six months.


Section 11 adds and defines “fraud” to the list of terms defined in AS 13.26.324. The definition used is taken from that currently in statute at AS 44.21.415.

Section 12 excludes the crime of violating a protective order from the list of crimes subject to warrantless arrest in AS 18.65.530(a).

Section 13 adds financial protective orders to registry of protective orders maintained by Public Safety in AS 18.65.540(a).
Section 14 adds financial protective orders to AS 18.65.540(b), which requires peace officers to take reasonable steps to ensure that a protective order is entered into to the registry within 24 hours after receipt.

Section 15 changes “theft and related offenses” to “offenses against property” in AS 44.21.415(g)(1)(B), which is part of the definition of “fraud” in the statutes governing the Office of Elder Fraud.

Section 16 adds undue influence to the list of reportable harms to a vulnerable adult. Employees of nursing homes, residential care or health care facilities and the staff of educational institutions are added to the list of mandated reporters in AS 47.24.010(a).

Section 17 requires a reporter to include the contact info of the vulnerable adult in AS 47.24.010(b).

Section 18 adds undue influence to the statute making a mandatory reporter who knowingly fails to report guilty of a class B misdemeanor (AS 47.24.010(c)).

Section 19 adds undue influence to the list of reportable harms and amends AS 47.24.010(d) to permit anyone to make a report of harm, including a mandatory reporter in the reporter’s nonoccupational capacity.

Section 20 add undue influence to the list of harms and amends AS 47.24.010(e) to require a public safety officer to report to APS w/in 24 hours of receiving a report of harm involving imminent risk of serious physical harm.

Section 21 adds undue influence and abandonment to the list of harms in AS 47.24.010(f), which states that a mandatory reporter’s report of harm to the long-term care ombudsman or the department regarding an adult in an out-of-home care facility satisfies that reporter’s duty to report under AS 47.24.010(a).

Section 22 adds two new subsections to AS 47.24.010: first, a mandatory reporter is not relieved of duty to report by reporting to supervisor. Second, if someone makes a reckless false report, that person is liable for actual damages suffered by the subject of the report.

Section 23 adds undue influence to AS 47.24.013(a), which requires the department to transfer a report of harm to the long-term care ombudsman if it involves a vulnerable adult aged 60 or older who has been allegedly harmed by a staff member or volunteer of an out-of-home care facility where the adult resides.

Section 24 adds undue influence to AS 47.24.013(b), which requires the department to investigate a report of harm involving a vulnerable adult who is younger than 60 years of age when the harm is alleged to have been committed by a staff member or volunteer of an out-of-home facility where the adult resides.

Section 25 changes the reference to “department” to “office of the department that handles adult protective services” in AS 47.24.013(c), which states what the long-term care ombudsman and the department must do when they receive a report of harm.

Section 26 adds undue influence to AS 47.24.013(d), which requires the long-term care ombudsman to give a report of harm and the result of the ombudsman’s investigation to the department’s central information and referral service when the report of harm involves an adult who resides in an out-of-home care facility.

Section 27 adds undue influence to the statute that requires the department to start an investigation once it receives a report of harm that is not transferred from the long-term care ombudsman’s office (AS 47.13.015(a)).

Section 28 adds undue influence to AS 47.24.015(c), which describes situations when the department must or must not terminate an investigation following a report of harm. Section 27 also changes the cross reference for the definition of fraud from AS 44.21.415 to AS 13.26.324.
Section 29 adds six new subsections to AS 47.24.015, which governs APS’s investigatory power:

- (h) gives the department subpoena power to support its investigative authority, including the power to conduct interviews and examine any health care or financial records related to a vulnerable adult.
- (i) prohibits individuals from interfering with APS’s investigation.
- (j) gives APS access to relevant records maintained by another division in DHSS.
- (k) allows APS to audio- or videotape an interview with a vulnerable adult if the adult has capacity and consents.
- (l) requires APS to train investigators of reports of harm.
- (m) defines “financial records.”

Section 30 updates AS 47.24.016(a) regarding surrogate decision makers by adding new fiduciaries who may serve in that capacity – specifically, conservator, trustee, and surrogate for health care decisions under AS 13.52. It also deletes the requirement that in order for a spouse to be a surrogate decision maker, the spouse and vulnerable adult may not be living in separate domiciles. Section 29 also adds legal separation as a factor that would prohibit a spouse from being a surrogate decision maker for that spouse’s vulnerable adult spouse.

Section 31 adds undue influence to the statute that sets out the exceptions to when a person listed in AS 47.24.016(a) may serve as a surrogate decision maker (AS 47.24.016(b)).

Section 32 adds a surrogate decision maker serving under AS 13.52.030 to AS 47.24.016(d), which describes when the department must cease providing protective service based on the consent of the surrogate decision maker.

Section 33 adds conservator, trustee, and surrogate for health care decisions under AS 13.52.030 as individuals who may consent to the provision of protective services to a vulnerable adult and adds undue influence to the list of potential reports of harm.

Section 34 allows the department under AS 47.24.019(c) to petition the superior court for an injunction restraining any person from interfering with the provision of protective services to a vulnerable adult.

Section 35 amends AS 47.24.050 to add “undue influence” to the types of harm contained in confidential reports. Trustee and conservator are added to the list of individuals who may consent to release a confidential report and they are also added to the list of individuals who may not receive copies of a report if they are the alleged perpetrator. “Undue influence” is also added to the list of harms that are contained in reports of verified harms that occur in an institution that cares for vulnerable adults or that were the result of actions or inactions of a public home care provider.

Section 36 clarifies that a person is not considered to be unduly influenced if they choose to consent to treatment by spiritual means only under AS 47.24.130.

Section 37 redefines “abuse” in AS 47.24.900(2) to include the knowing infliction of emotional distress or fear, including coercion and intimidation.

Section 38 redefines “caregiver” in AS 47.24.900(3) to include someone who provides some or all responsibility for the care of a vulnerable adult either voluntarily, by contract, by court order or as an employee of a business that provides care in an adult’s home.

Section 39 defines “informed decision” as a decision made free from undue influence within the definition of “decision making capacity” in AS 47.24.900(4).

Section 40 redefines “exploitation” in AS 47.24.900(7) to include acts by a person in a position of trust with a vulnerable adult who obtains profit or advantage through undue influence, deception, fraud, intimidation or breach of fiduciary duty.
Section 41 redefines neglect in AS 47.24.900(9) to include the knowing or reckless failure by a caregiver to provide access to services or to carry out a treatment plan necessary to the health of a recipient. “Essential care or services include food, clothing, shelter, medical care and supervision.

Section 42 expands the definition of protective services in AS 47.24.900(11) to include services that obtain basic health care needs, financial assistance services, and protection from abuse, obtaining basic food, shelter and clothing, among others. Undue influence is added to the list of types of harm that may result in the provision of these services.

Section 43 amends the definition of “unable to consent” in AS 47.24.900(15) by adding the concept of “undue influence” and that the inability to consent includes a person’s inability to perceive a loss of income or assets, eviction, and physical or mental harm.

Section 44 amends the definition of a vulnerable adult in AS 47.24.900(16) by more clearly defining what constitutes a physical or mental impairment.

Section 45 amends AS 47.24.900 by adding new paragraphs which contain definitions for the following terms:
- Deception
- Fiduciary duty
- Financial institution
- Person who stands in a position of trust or confidence
- Undue influence

Section 46 amends the uncodified law, Rule 12(h), Alaska Rules of Criminal Procedure. The court, when considering a motion for continuance of a trial date, shall consider the victim’s circumstances and the effect of a continuance on the victim, particularly a victim of advanced age or extreme youth. The court’s findings will be placed on the record.

Section 47 amends the uncodified law, Rule 45(a), Alaska Rules of Criminal Procedure. The courts, when considering a trial date, shall consider the victim’s circumstances, particularly a victim of advanced age or extreme youth, in setting the trial date.

Section 48 amends the uncodified law by making five indirect court rule amendments enacted by Section 10 of the bill:
- amending Rule 17, Alaska Rules of Probate Procedure, to allow ex parte orders to be issued to protect persons subject to protective proceedings from financial exploitation.
- amending Rule 9, Alaska Rules of Administration, by not requiring filing fees for an ex parte protective order.
- amending Rule 77, Alaska Rules of Civil Procedure, by requiring a hearing within 72 hours of the filing of a petition for the appointment of a temporary conservator.
- amending Rule 77, Alaska Rules of Civil Procedure, by providing for a hearing on an application for a temporary protective order on 10 days notice.
- amending Rule 77, Alaska Rules of Civil Procedure, by providing for a hearing on a request for modification of a protective order on 20 days notice and for modification of an ex parte protective order on 3 days notice.

Section 49 amends the uncodified law by indicating that Sections 3-5, 46, and 47 of the bill apply to offenses committed on or after the effective date.

Section 50 amends the uncodified law by adding revisor’s instructions to change the catch lines of AS 47.24.010 and AS 47.24.013.

Section 51 amends the uncodified law by adding a new section which indicates that the enactment of portions of Section 10 of the bill, having to do with ex parte orders, are contingent upon a two-thirds vote of each house on Section 48 of the bill, referencing court rule amendments.
Section 52 provides for an effective date of September 1, 2012 for sections 16 and 20 of the bill, the two sections that address mandatory reporters and the obligation of peace officers to report to the department within 24 hours.

Section 53 provides for an effective date of July 1, 2012.”

Submitted as:
Alaska
CS FOR SENATE BILL NO. 86(JUD)(efd am)
Status: Enacted into law in 2012.
GO TO TABLE OF CONTENTS
Comment:

Governor Welcomes Passage of Senate Bill 86

March 26, 2012, Juneau, Alaska – Governor Sean Parnell today welcomed the passage of Senate Bill 86, his legislation that will help vulnerable adults who are unable to protect their own interests. SB 86 strengthens laws against financial exploitation and allows expedited emergency protection orders for seniors.

“We must guard our elders and vulnerable adults from those who would target and prey upon them financially,” Governor Parnell said. “SB 86 will aid those investigating these crimes against our fellow Alaskans, and may prevent additional harm from occurring.”

Governor Parnell’s bill will protect victims who are targeted because of their age or the benefits they’re entitled to receive. This legislation will improve the ability of those investigating reports of harm, so they may obtain vital information in a timely manner. This will result in better services and safety for Alaska’s vulnerable adults, and shield them from abuse, neglect and exploitation.

Governor Parnell expressed his appreciation for those who testified in support of the bill.

Disposition: 17-33B-10
CSG policy task force recommendations to The Committee on Suggested State Legislation:
2013B
(   ) Include in Volume
(   ) Defer consideration to next task force meeting
(   ) Reject
(   ) No action

Comments/Note to staff:

SSL Committee Meeting: 2013B
(   ) Include in Volume
(   ) Defer consideration
(   ) next task force mtg.
(   ) next SSL mtg.
(   ) next SSL cycle
(   ) Reject

Comments/Note to staff:
This Act provides that a crime victim who is the owner of property in the custody of a law enforcement agency may request the agency for the return of their property through the Office of Victims’ Rights (OVR). It directs the OVR to file the request with the agency after conducting an investigation into the request to make an initial determination if the crime victim is entitled to return of the property being claimed, the crime victim provides satisfactory proof of ownership, and the party that objects to the return of the property fails to prove that the property must be retained by the agency for evidentiary purposes. Once the OVR makes such a determination, they will request on behalf of the crime victim that the agency return the property.

Within 10 days after receiving such a request, and following reasonable notice to the prosecution, defense and other interested parties, the agency must request a hearing before the court to determine if the property shall be released to the crime victim. The court of jurisdiction is identified in cases involving a pending criminal case and in situations where no criminal case is pending. If the court orders the return of the property to the crime victim, the court may impose reasonable conditions on the return to maintain the evidentiary integrity of the property.

Submitted as:
Alaska
SB 30 (Enrolled version)
Status: Enacted into law in 2012.

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Comment:

Disposition: 17-33B-11

CSG policy task force recommendations to The Committee on Suggested State Legislation:
2013B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action

Comments/Note to staff:

SSL Committee Meeting: 2013B
( ) Include in Volume
( ) Defer consideration
( ) next task force mtg.
( ) next SSL mtg.
( ) next SSL cycle
( ) Reject

Comments/Note to staff:
This Act enables every person convicted of prostitution, who committed the offense as a result of being a victim of trafficking, promoting prostitution in the first degree, or trafficking in persons under the state Trafficking Victims Protection Act, can apply to the sentencing court for vacation of the applicant’s record of conviction for the prostitution offense.

Submitted as:
Washington
SB 6255 (Enrolled version)
Status: Enacted into law in 2012.

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Comment:

Disposition:

CSG policy task force recommendations to The Committee on Suggested State Legislation: 2013B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action

Comments/Note to staff:

SSL Committee Meeting: 2013B
( ) Include in Volume
( ) Defer consideration
   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL mtg.
( ) Reject

Comments/Note to staff:
This Act enables a person to file a motion for forensic or scientific analysis if that person has been convicted of a criminal offense in a court of the commonwealth; is incarcerated in a state prison, house of correction, is on parole or probation or whose liberty has been otherwise restrained as the result of a conviction; and asserts factual innocence of the crime for which the person has been convicted.

Submitted as:
Massachusetts
Chapter 38, Acts of 2012
Status: Enacted into law in 2012.

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Comment:

Disposition:

CSG policy task force recommendations to The Committee on Suggested State Legislation: 2013B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action

Comments/Note to staff:

SSL Committee Meeting: 2013B
( ) 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 aging to factor data from an Elder Security Standard Index by the University of California, Los Angeles, Center for Health Policy Research when developing agency policies, plans and allocating program resources. The “Elder Economic Security Standard Index” is an index, available on the Internet, that quantifies the costs in the private market for meeting the basic needs of elders, including, but not limited to, the costs of essential household items, food, health care, shelter, transportation, and utilities for counties throughout the state. It is updated biennially using publicly available data sources on the costs to live in each county of the state.

Submitted as:
California
Chapter 668
Status: Enacted into law in 2011.

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Comment:

Disposition:

CSG policy task force recommendations to The Committee on Suggested State Legislation:
2013B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action

Comments/Note to staff:

SSL Committee Meeting: 2013B
( ) Include in Volume
( ) Defer consideration
   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject

Comments/Note to staff:
According to a Washington House Bill Report, in this Act:

"Elder and vulnerable adult referral agencies" (referral agencies) are defined as businesses or persons that receive a fee from either: (1) a vulnerable adult seeking a referral for supportive housing or care services providers (providers), or (2) a provider as a result of referral services provided to a vulnerable adult. "Supportive housing" is defined as any type of housing that includes services or care for residents who are vulnerable adults and includes nursing homes, boarding homes, adult family homes, and continuing care retirement communities. "Care services" are defined as any combination of services designed to allow vulnerable adults to receive care at home or in a home-like setting and includes home health agencies and inhome service agencies.

General Regulation.

As of January 1, 2012, any entity that operates a referral agency must comply with requirements related to fees and refunds, recordkeeping, disclosures, and intake forms. A violation of the regulations is an unfair or deceptive act in trade or commerce and an unfair method of competition under the Consumer Protection Act. These regulations do not apply to entities providing general information about providers without giving the person the names of specific providers.

Agencies are prohibited from establishing exclusivity agreements between the agency and a client or provider. Agencies may not provide the client with only names of providers in which the agency, its employees, or immediate family members have a financial interest. Agencies must maintain at least $1 million of general and professional liability insurance. Agencies are not liable for the acts or omissions of a provider.

Agency owners, operators, and employees who have contact with vulnerable adults must pass a criminal background check every two years and must not have been found to have abused, neglected, financially exploited, or abandoned a minor or vulnerable adult. Agency owners, operators, and employees are considered mandated reporters under the Vulnerable Adults Act.

Fees and Refunds.

Referral agencies must disclose fee and refund policies to clients and providers. Minimum requirements for referral agency refund policies are established for situations in which the vulnerable adult dies, is hospitalized, or is transferred to a setting with a more appropriate level of care within the first 30 days of admission. The refund must be a prorated portion of the agency's fees based upon a per diem calculation.

Recordkeeping Requirements.

Agencies must keep records of all services provided to the client for at least six years. Such records are covered by the state health information privacy regulations. The records must include:

- the name, address, and phone number of the client;
- the kind of supportive housing or care services that were sought;
- the location and probable duration of the care services or supportive housing;
- the monthly or unit cost of the supportive housing or care services;
- the amount of the agency's fee to the client or the provider;
- the dates and amounts of any refunds to the client and the reason;
- the client's disclosure and intake forms; and
- any contract or written agreement with a provider for services to the vulnerable adult.

Disclosure Statements.

Clients must be provided with a disclosure statement by the agency, and the client must acknowledge its receipt. If the vulnerable adult refuses to acknowledge receipt of the statement, the referral professional must document that refusal. A disclosure statement must include:
- the name and contact information of the referral agency;
- the name of the client;
- the amount of the fee to be received from the client or, if the fee is received from the provider, the method of computing the fee, and the time and method of payment;
- a description of the services that the referral agency generally provides and those to be provided specifically to the client;
- a provision that the referral agency may not request clients to sign waivers of potential liability;
- a provision that the referral agency works with both the client and the provider and that the client's authorization will be needed to disclose confidential health information;
- a statement regarding the frequency of agency tours of provider facilities and the most recent date of touring a provider that is the subject of a referral;
- a provision that the client may discontinue the relationship with the referral agency at any time;
- an explanation of the agency's refund policy;
- a statement that the client may file a complaint with the Office of the Attorney General; and
- if the agency, its employees, or immediate family members have a financial interest with a provider to which the client is being referred, a statement explaining that interest.

Intake Forms.

Referral agencies must use a standardized intake form for each vulnerable adult. Information gathered in the intake form is covered by state health care information confidentiality laws. The intake form must include at least the following information:
- recent medical history as relevant to the referral process;
- known medications and medication management needs;
- known diagnoses, health concerns, and the reason for seeking supportive housing or care services;
- behaviors or symptoms that may cause concern or require special care;
- mental illness, dementia, or developmental disabilities;
- assistance needed for daily living;
- cultural or language access needs and accommodations;
- activity preferences;
• sleeping habits;
• understanding of the clients financial situation and existence of long-term care insurance and financial assistance;
• the client's current living situation;
• geographic location preferences; and
• preferences regarding other issues that are important to the client.

Referral Process.

The referral agency must provide a referral to a client by either giving the names of specific providers who may meet the vulnerable adult's needs or submitting the name of the client to the provider. Before a referral agency makes a referral to a provider, the referral agency must obtain information from the provider including the type of license held by the provider; the provider’s authority to care for individuals with mental illness, dementia, or developmental disabilities; accepted payment sources; level of medication management services and personal care services provided; cultural accommodations; primary languages spoken; activities provided; behavioral conditions that cannot be met; and food preference accommodations. In addition, within 30 days of making a referral, the referral agency must also search the Department of Social and Health Services' website and the Department of Health's website to determine the existence of any enforcement actions against the provider.

Exclusions.

The regulations for referral agencies do not apply to: home health or hospice agencies providing counseling to patients on placement options; government entities providing information and assistance to vulnerable adults; professional guardians; providers who make referrals to other providers without charge; social workers, discharge planners or other social service workers helping vulnerable adults in their regular employment activities; or persons providing information to another person.

Work Groups.

The Department of Licensing is required to convene a work group of stakeholders to determine the feasibility of establishing a licensing program for elder and vulnerable adult referral agencies and provide recommendations to the Legislature by December 1, 2011. By January 1, 2012, the Department of Social and Health Services and the Department of Health must convene a work group of stakeholders to collaborate in the development of a uniform standard for elder and vulnerable adult referral agencies to collect information regarding the enforcement status of providers.

Submitted as:
Washington
Chapter 357, Laws of 2011
Status: Enacted into law in 2011.
Comment:

Disposition: 18-33B-02

CSG policy task force recommendations to The Committee on Suggested State Legislation: 2013B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action

Comments/Note to staff:

SSL Committee Meeting: 2013B
( ) Include in Volume
( ) Defer consideration
    ( ) next task force mtg.
    ( ) next SSL mtg.
    ( ) next SSL cycle
( ) Reject

Comments/Note to staff:
This bill provides that, to the extent allowed by federal law, no private child-placing agency shall be required to perform, assist, counsel, recommend, consent to, refer, or participate in any placement of a child for foster care or adoption when the proposed placement would violate the agency's written religious or moral convictions or policies. In addition, the bill provides that (i) the Commissioner of Social Services shall not deny an application for an initial license or renewal of a license, nor revoke a license, of any private child-placing agency and (ii) no state or local government entity shall deny a private child-placing agency any grant, contract, or participation in a government program because of the agency's objection to performing, assisting, counseling, recommending, consenting to, referring, or participating in a placement that violates the agency's written religious or moral convictions or policies. The bill provides that the refusal of a private child-placing agency to perform, assist, counsel, recommend, consent to, refer, or participate in a placement that violates its written moral or religious convictions or policies shall not form the basis of any claim for damages.

Submitted as:
Virginia
HB189 (Enrolled version)
Status:  Awaiting governor’s action as of 3/9/12.

GO TO TABLE OF CONTENTS

Comment:

Disposition:

CSG policy task force recommendations to The Committee on Suggested State Legislation: 2013B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action

Comments/Note to staff:

SSL Committee Meeting: 2013B
( ) Include in Volume
( ) Defer consideration
    ( ) next task force mtg.
    ( ) next SSL mtg.
    ( ) next SSL cycle
( ) Reject

Comments/Note to staff:
This Act authorizes marriage and civil union by proxy for people whose military service in a war or conflict prevents them from appearing in person to obtain the marriage or civil union license and participate in the ceremony.

Under the Act, a member of the United States Armed Forces or National Guard who is unable to appear for the licensure and solemnization of his marriage or civil union because he is stationed overseas and serving in a conflict or a war may enter into that marriage or civil union by the appearance of an attorney-in-fact, commissioned and empowered in writing for that purpose through a power of attorney. The attorney-in-fact must personally appear before the licensing officer with the person who is not serving overseas and present the original power of attorney, which must be signed by the party stationed overseas and acknowledged by a notary or witnessed by two officers of the United States Armed Forces or the National Guard.

The power of attorney would state that it is solely for the purpose of authorizing the attorney-in-fact to obtain a marriage or civil union license on the person's behalf and to participate in the solemnization of the marriage or civil union. The original power of attorney would be a part of the marriage or civil union certificate upon registration.

Submitted as:
New Jersey
Chapter 179
Status: Enacted into law in 2012.
GO TO TABLE OF CONTENTS
Comment:

Disposition:

CSG policy task force recommendations to The Committee on Suggested State Legislation:
2013B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action

Comments/Note to staff:

SSL Committee Meeting: 2013B
( ) Include in Volume
( ) Defer consideration
    ( ) next task force mtg.
    ( ) next SSL mtg.
    ( ) next SSL cycle
( ) Reject

Comments/Note to staff:
This Act provides that no religious entity, benevolent organization, not-for-profit corporation operated, supervised or controlled by a religious entity, or employee being managed, directed or supervised by any of the aforementioned entities shall be required to solemnize or celebrate a marriage, including marriages between same-sex couples, and such entity or employee would not be subject to legal or regulatory action by state or local governments for refusing to solemnize or celebrate a marriage.

Submitted as:
New York
Chapter 95 of 2011
Status: Enacted into law in 2011.

GO TO TABLE OF CONTENTS

Comment:

Disposition:

CSG policy task force recommendations to The Committee on Suggested State Legislation: 2013B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action

Comments/Note to staff:

SSL Committee Meeting: 2013B
( ) Include in Volume
( ) Defer consideration
   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject

Comments/Note to staff:
This Act restructures the current method of evaluating public school teachers. It establishes a Teacher Excellence and Support System with the following guidelines:

- Recognize that student learning is the foundation of teacher effectiveness and many factors impact student learning, not all of which are under the control of the teacher or the school, and that evidence of student learning includes trend data and is not limited to a single assessment;
- Provide that the goals of the system are quality assurance and teacher growth;
- Reflect evidence-based or proven practices that improve student learning;
- Use clear, concise, evidentiary data for teacher professional growth and development to improve student achievement;
- Recognize that evidence of student growth is a significant part of the Teacher Excellence and Support System;
- Ensure that student growth is analyzed at every level of the evaluation system to illustrate teacher effectiveness;
- Require annual evidence of student growth from artifacts and external assessment measures;
- Include clearly defined teacher evaluation categories, performance levels, and evaluation rubric descriptors for the evaluation framework;
- Include procedures for implementing each component of the Teacher Excellence and Support System, and
- Include professional development requirements for all superintendents, administrators, evaluators, and teachers.

Submitted as:
Arkansas
Act 1209 of 2011
Status: Enacted into law in 2011.
GO TO TABLE OF CONTENTS

Comment: This item was deferred to the policy task force meeting in LaQuinta, California.

Disposition:

CSG policy task force recommendations to The Committee on Suggested State Legislation: 2013B
( ) Include in Volume
( ) Defer consideration
( ) Include in Volume
defer consideration to next task force meeting
( ) Reject
( ) No action

SSL Committee Meeting: 2013B
( ) Include in Volume
( ) Defer consideration
( ) next task force mtg.
( ) next SSL mtg.
( ) next SSL cycle
( ) Reject

Comments/Note to staff:
This Act concerns teacher collective bargaining. It extends the use of temporary teacher contracts to hiring for positions funded by grants outside the school funding formula. It provides that wage payment arrangements may not contain terms beyond those permitted to be bargained. The bill provides that the statutory procedures for refusing to continue or canceling a teacher contract may not be modified by a collective bargaining agreement (agreement).

The bill limits the number of teachers the exclusive representative may appoint to serve on statutory or locally created district wide and school wide committees of a school corporation. It provides that an agreement may not include provisions that limit a school employer's ability to restructure schools that do not meet federal or state accountability standards, or that limit a school employer's ability to enter into programs that offer postsecondary credit or dual credits to students.

It provides that an agreement may not extend beyond December 31 of the year at the end of a state budget biennium. It prohibits certain subjects from being bargained collectively, and provides that prohibited subjects and items that lead to deficit financing may not be included in an agreement.

The bill removes certain items from the list of discussion subjects between a school employer and an exclusive representative. It provides that collective bargaining begins before August 1 in the first year of the state budget biennium. It provides that if a complaint that is filed alleging an unfair practice concerning a subject of discussion is found to be frivolous, the complaining party is liable for costs and attorney's fees. This Act modifies the mediation process and establishes a process for fact-finding.

The Act repeals provisions concerning minimum salary and salary increments for teachers, the definition of “submission date,” and a provision allowing the statutory procedures for refusing to continue or canceling a teacher contract to be modified by an agreement, certain provisions concerning mediation and fact-finding.

Submitted as:
Indiana
Senate Enrolled Act No. 575
Status: Enacted into law in 2011.
Comment: This item was deferred to the policy task force meeting in LaQuinta, California.
GO TO TABLE OF CONTENTS

Disposition:

CSG policy task force recommendations to The Committee on Suggested State Legislation: 2013B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action

SSL Committee Meeting: 2013B
( ) Include in Volume
( ) Defer consideration to next SSL mtg.
( ) Defer consideration to next SSL mtg.
( ) Defer consideration to next SSL cycle
( ) Reject
Comments/Note to staff:
This Act creates a framework to establish the first nonprofit online university in the state. That entity will offer online, competency-based degrees and provide enhanced access to postsecondary education for all students in the state, including dislocated workers and placebound students. It will be recognized as a baccalaureate degree-granting institution that is self-supporting and does not receive state funding.

Submitted as:
Washington
Chapter 146, Laws of 2011
Status: Enacted into law in 2011.

GO TO TABLE OF CONTENTS

Comment:

Disposition:

CSG policy task force recommendations to The Committee on Suggested State Legislation: 2013B
(  ) Include in Volume
(  ) Defer consideration to next task force meeting
(  ) Reject
(  ) No action

Comments/Note to staff:

SSL Committee Meeting: 2013B
(  ) Include in Volume
(  ) Defer consideration
(    ) next task force mtg.
(    ) next SSL mtg.
(    ) next SSL cycle
(  ) Reject

Comments/Note to staff:
This Act requires all public high schools in the state to work toward the goal of offering a sufficient number of dual credit courses to give students the opportunity to earn the equivalent of one year's worth of postsecondary credit and inform students and their families about these opportunities.

It requires institutions of higher education to develop a master list of postsecondary courses that can be fulfilled by achieving a qualifying score on proficiency exams or by meeting demonstrated competencies.

The Act requires each institution to publicize its own list of credits or courses and provide it to the Higher Education Coordinating Board and the State Board for Community and Technical Colleges in a form that the Office of Superintendent of Public Instruction can distribute to school districts.

It also requires the Higher Education Coordinating Board to annually publish on its website the agreed-upon list of high school courses qualifying for postsecondary credit and the exam scores and demonstrated competencies meeting postsecondary requirements.

Submitted as:
Washington
Chapter 77, Laws of 2011
Status: Enacted into law in 2011.

GO TO TABLE OF CONTENTS

Comments/Note to staff:

Disposition:
CSG policy task force recommendations to The Committee on Suggested State Legislation:
2013B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action

Comments/Note to staff:

SSL Committee Meeting: 2013B
( ) Include in Volume
( ) Defer consideration
( ) next task force mtg.
( ) next SSL mtg.
( ) next SSL cycle
( ) Reject

Comments/Note to staff:
This Act requires school districts to adopt a policy allowing an exception to specific course material based on a parent’s or legal guardian’s determination that the material is objectionable.

Submitted as:
New Hampshire
Chapter 271
Status: Enacted into law in 2011.

GO TO TABLE OF CONTENTS

Comment:

Disposition:
CSG policy task force recommendations to The Committee on Suggested State Legislation: 2013B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action

Comments/Note to staff:

SSL Committee Meeting: 2013B
( ) Include in Volume
( ) Defer consideration
   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject

Comments/Note to staff:
This Act allows and encourages local school boards to enter into interlocal agreements to create regional service centers to provide education related services. It requires a regional service center to be formed by an interlocal agreement to receive state funding and provides that an interlocal agreement may confirm or formalize a regional service center in operation before a certain date. The legislation requires the state board of education to make rules regarding regional service centers and it provides that a charter school may enter into a contract with an eligible regional service center to provide education related services to the charter school.

Submitted as:
Utah
HB 92 (Enrolled version)
Status: Enacted into law in 2011.

GO TO TABLE OF CONTENTS

Comment:

Disposition:
CSG policy task force recommendations to The Committee on Suggested State Legislation:
2013B
(   ) Include in Volume
(   ) Defer consideration to next task force meeting
(   ) Reject
(   ) No action

Comments/Note to staff:

SSL Committee Meeting: 2013B
(   ) Include in Volume
(   ) Defer consideration
     (   ) next task force mtg.
     (   ) next SSL mtg.
     (   ) next SSL cycle
(   ) Reject

Comments/Note to staff:
This Act directs revamping the commonwealth’s assessment and accountability system. The Act requires postsecondary institutions to plan and implement a process to develop core academic content standards for reading and mathematics for introductory courses.

The Act adds an arts education component to enable students to express their creative talents and interests in visual arts, music, dance and dramatic arts.

The Act revised the statewide assessment program. The change adds definitions for a variety of terms, including accelerated learning; criterion-referenced test; end-of-course examination; formative assessment; interim assessments; and national norm-referenced test.

This law requires that the Kentucky Department of Education (KDE), in collaboration with the Council on Postsecondary Education (CPE), plan and implement a comprehensive process for revising the academic content standards in all areas. Input from teachers, postsecondary faculty and others must be used in the revisions, and national standards (where available) must be considered. The new standards also must be aligned with entry-level college course requirements and be included in teacher preparation programs, so that teachers will know how to use them.

The legislation mandates revisions to the annual statewide assessment program. It provides that writing portfolios will be required as instructional tools, but removes the writing portfolio from being scored as part of the student assessment results and prohibits individual student scores from being included in the accountability system. Students will not be tested in arts & humanities and practical living/career studies as part of the state assessments after a certain date. The assessment program will consist of annual student assessments and state and local program reviews and audits in writing, practical living/career studies and arts & humanities.

The Act restates the purposes of the assessment and accountability system to include the subject areas tested; diagnostic information use; national comparisons; longitudinal student data; use of data by teachers; use for school accountability; and the system’s compliance with the federal No Child Left Behind (NCLB) Act.

The new system includes these types of tests:

- Criterion-Referenced Test -- an assessment that determines how well a student has learned a particular set of knowledge and skills, or standards.
- Norm-Referenced Test -- an assessment that enables comparisons of a student’s performance to the performance of other students.
- On-Demand -- an assessment in which students are presented with a “prompt” (a question or scenario), then asked to write about that.
- Multiple-Choice/Constructed Response -- an assessment that includes both multiple-choice and “short-answer” questions.
- Diagnostic Assessments -- used to determine the current level of knowledge and skill of students.
<table>
<thead>
<tr>
<th>TYPE OF TEST</th>
<th>SUBJECTS TESTED</th>
<th>GRADES TESTED</th>
<th>NOTES</th>
</tr>
</thead>
<tbody>
<tr>
<td>Criterion-Referenced</td>
<td>reading, language, mathematics</td>
<td>3-8</td>
<td>augmented with a customized or commercially available norm-referenced test</td>
</tr>
<tr>
<td>Criterion-Referenced</td>
<td>science, social studies</td>
<td>once each in elementary and middle school</td>
<td>augmented with a customized or commercially available norm-referenced test</td>
</tr>
<tr>
<td>On-Demand</td>
<td>writing</td>
<td>once in elementary; twice in middle; twice in high school</td>
<td></td>
</tr>
<tr>
<td>Multiple-Choice/Constructed</td>
<td>writing editing and mechanics</td>
<td>once each in elementary, middle and high</td>
<td></td>
</tr>
<tr>
<td>Response</td>
<td>mathematics, reading, science</td>
<td>once in high school</td>
<td></td>
</tr>
<tr>
<td>Criterion-Referenced</td>
<td>social studies</td>
<td>once in high school</td>
<td>augmented with a customized or commercially available norm-referenced test</td>
</tr>
<tr>
<td>High School Readiness</td>
<td>English, reading, mathematics, science</td>
<td>8 (with option to move to 9th grade)</td>
<td>Kentucky uses EXPLORE for this purpose.</td>
</tr>
<tr>
<td>College Readiness</td>
<td>English, reading, mathematics, science</td>
<td>10</td>
<td>Kentucky uses PLAN for this purpose.</td>
</tr>
<tr>
<td>ACT</td>
<td>English, reading, mathematics, science</td>
<td>11</td>
<td>Kentucky tests all public school juniors with ACT. Commercial products or locally produced products and procedures may be used.</td>
</tr>
<tr>
<td>Diagnostic Assessments</td>
<td>reading and mathematics readiness</td>
<td>elementary (P-2)</td>
<td></td>
</tr>
</tbody>
</table>

The Kentucky Board of Education (KBE) may use end-of-course assessments in the assessment program instead of criterion-referenced tests.

The new system also must include a technically sound longitudinal comparison of the assessment results for the same students and any other components necessary to comply with NCLB.

This Act describes program reviews in writing, practical living/career studies and arts & humanities. Writing portfolios are required to be a collection of students’ work samples, but the
school-based decision making council determines the writing program and adopts policies as specified in the legislation.

The Act:

- Changes the testing window to the last 14 days of a school district’s academic calendar and limits testing to five days;
- Requires the KBE to promulgate administrative regulations for test procedures including makeup testing;
- Requires reporting of assessment results to be no later than 75 days following the first day the assessment can be administered;
- Revises the administration code for the state assessment program to include prohibitions of inappropriate test preparation by school district employees charged with test administration and oversight, including but not limited to the issue of teachers being required to do test practice in lieu of regular classroom instruction and test practice outside the normal work day;
- Requires such revisions to include disciplinary sanctions that may be taken toward a school or individuals;
- Includes a provision that school districts may purchase and use commercial interim assessments or formative assessments or locally develop and use formative assessments accelerated learning for any student whose scores on any of the assessments indicated skill deficiency or strengths counseling for students who score high on college readiness exams to encourage enrollment in accelerated courses alignment of core content at all levels, including the alignment of high school academic core content with the expectations for postsecondary education study;
- Requires an individual report to parents on the achievement of their children compared to school, state and national results, including information that identifies strengths and academic deficiencies.

The Act requires a School, Curriculum, Assessment, and Accountability Council (SCAAC) to make recommendations concerning the commonwealth’s system for identifying academic skills and deficiencies of individual students.

The Act requires the KBE to determine how the results of the revised assessments that are administered in certain school years will be used in classifying schools. The KBE must revise the accountability system using the new assessments. The accountability system will include the use of program review results, students’ academic performance, school improvement results and other factors deemed appropriate by the board.

This Act requires reporting student performance data to local schools must be completed no later than 75 days from the first day the assessment may be administered.

The Act requires school councils to develop biennial targets for eliminating achievement gaps by October 1 each year. Data review and revisions to consolidated plans must be completed by October 1 of each year.

The law mandates that professional development programs must be made available to teachers based on their needs and may include, but are not limited to:

- strategies to reduce the achievement gaps among various groups of students and to provide continuous progress;
- curriculum content and methods of instruction for each content area including differentiated instruction;
- school-based decision making;
- assessment literacy;
• integration of performance-based student assessment into daily classroom instruction;
  • nongraded primary programs;
  • research-based;
  • instructional practices;
  • instructional uses of technology;
  • curriculum design to serve the needs of students with diverse learning styles and skills and of students of diverse cultures;
  • instruction in reading, including phonics, phonemic awareness, comprehension, fluency and vocabulary;
  • educational leadership, and
  • strategies to incorporate character education throughout the curriculum.

The Act adds a responsibility to the CPE for participating with the KDE, KBE and the postsecondary education institutions in the alignment of high school academic content standards with the academic content requirements for successful entry into postsecondary education. The section also adds training responsibility.

The law requires each postsecondary education institution to plan and implement a process to develop core academic content standards for reading and mathematics for introductory courses in the public postsecondary education institutions.

It describes the removal of the writing portfolio from the accountability index for certain school years and what is required during the transition period. It also requires school-based decision making councils to determine the writing program for schools and requires KDE to provide guidelines and Program Review requirements.

The Act requires that the Education Professional Standards Board and the Kentucky Department of Education take actions to improve teachers’ ability to teach writing. It also describes responsibilities for review of teacher preparation requirements and professional development opportunities and training for school administrators.

The bill sets forth the conditions during the transition period from the existing assessment and accountability system. It suspends the calculation of a state accountability index for three years and requires all necessary assessments and reporting be continued in order to comply with NCLB.

The bill requires the commonwealth department of education to develop and implement an interim program assessment process for writing, practical living/career studies and arts & humanities. It permits the use of test items based on the revised mathematics academic content standards to be field-tested and to administer an initial mathematics test based on the revised standards.

This Act sets forth the interim testing program for certain school years, which must include a criterion-referenced test, excluding tests for arts & humanities, practical living/career studies and writing portfolios. It requires, in addition to the criterion-referenced test, a new stand-alone norm-referenced test in reading and mathematics in grades 3 through 7. The bill requires the testing window for the criterion-referenced test be no more than seven days in certain school years and no more than six days during other school years, with additional make-up days as determined by KBE. It requires the KDE to provide each district with test booklets and scoring sheets during certain school years for arts & humanities and practical living/career studies that may be used by the school district for a local formative or summative evaluation. It requires a new stand-alone norm-referenced test in reading and mathematics in grades 3 through 7 be given one week before or one week after a certain testing window.
This Act requires the KDE and KBE to review how exceptional children’s needs are being met through the student assessment process and how student assessment requirements for exceptional children potentially hamper or enhance intellectual and emotional growth of individual students. The agencies shall assess how current assessment procedures for exceptional children and the reporting requirements affect school performance classifications and if changes are needed.

It directs the CPE, KBE and KDE to develop a unified strategy to reduce college remediation rates by at least 50 percent by 2014 from the 2010 rates and increase the college completion rates of students enrolled in one or more remedial classes by three percent annually from 2009-2014. In developing the plan, the agencies shall determine whether current requirements for assessing college readiness at the high school level are providing needed information and whether additional diagnostic assessment, particularly in mathematics, are needed.

The bill directs the KDE to communicate to schools and school districts that decisions about mathematics textbook purchases may be delayed until mathematics content standards are revised.

Submitted as:
Kentucky
SB 1 (Enrolled version)
Status: Enacted into law in 2009.

GO TO TABLE OF CONTENTS

Comment: CSG Education policy staff says KY SB1 is a national model. The bill is not in the packet because it is 76 pages.

Disposition:

CSG policy task force recommendations to The Committee on Suggested State Legislation:
2013B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action

Comments/Note to staff:

SSL Committee Meeting: 2013B
( ) Include in Volume
( ) Defer consideration
( ) next task force mtg.
( ) next SSL mtg.
( ) next SSL cycle
( ) Reject

Comments/Note to staff:
This Act authorizes the designation of three failing school districts as renaissance school districts. A “failing district” is defined in the bill as: (1) in the case of a school district located in a city of the first class, a school district in which at least 40% of the students scored in the partially proficient range in the language arts and mathematics sections of each state assessment administered in the 2009-2010 school year; and (2) in the case of a school district located in a city of the second class, a school district in which at least 45% of the students scored in the partially proficient range in the language arts and mathematics sections of each state assessment administered in the 2009-2010 school year.

The Act allows one or more nonprofit entities, with the approval of the school district, to apply to the commissioner to create up to a total of four renaissance school projects in a renaissance school district, provided that the application is submitted no later than three years following the effective date of the bill. A renaissance school project is defined as a newly-constructed school, or group of schools in a common campus setting, that provides an educational program for students enrolled in grades K through 12 or in a grade range less than K through 12, that is agreed to by the school district, and is operated and managed by a nonprofit entity in a renaissance school district.

This Act provides that the costs of a renaissance school project, including the costs of land acquisition, site remediation, site development, design, construction, and any other costs required to place into service the school facility or facilities constituting the renaissance school projects, would be the sole expense of the nonprofit entity. However, the nonprofit entity may use state funds to pay for a lease, debt service, or mortgage for any facility constructed or otherwise acquired.

Whenever a board of education determines that any tract of land is no longer desirable or necessary for school purposes it may authorize the conveyance, for a nominal consideration, to a renaissance school project. If the property ceases to be used for school purposes by the renaissance school project, the property would revert to the board of education.

The renaissance school district would pay annually to the nonprofit entity an amount per pupil equal to 95% of the district’s per pupil total expenditure. “Per pupil expenditure” is defined as the sum of the budget year equalization aid per pupil, budget year adjustment aid per pupil, and the prebudget year general fund tax levy per pupil inflated by the CPI rate most recent to the calculation. The renaissance school district would also pay to the renaissance school project the security categorical aid attributable to the student, a percentage of the district's special education categorical aid equal to the percentage of the district's special education students enrolled in the renaissance school project, and if applicable 100% of preschool education aid. The district would also pay directly to the renaissance school project any federal funds attributable to the student.

All principals, administrators, classroom teachers, and professional support staff must hold appropriate certifications.

The bill states that a renaissance school project is a public school. The bill further provides that nothing contained in the bill, however, would restrict a for-profit entity from constructing a renaissance school project, or a renaissance school project from being located on land owned by a for-profit entity. The bill also provides that the renaissance school project is authorized to retain any business entity whose primary purpose is the staffing, operation, and management of schools in the United States, except as it relates to instructional services.

Under the provisions of the bill, a nonprofit entity or any entity acting in cooperation with the renaissance school project is not subject to the public bidding requirements for goods and
services and any contract entered into by the nonprofit entity is deemed not to be a public contract or a public work. The bill states, however, that a contract entered into by the nonprofit entity or any entity acting in cooperation with the renaissance school project is a public work for the purposes of the state prevailing wage law and subject to the applicable provisions of that law.

A renaissance school project approved under the provisions of the bill would be initially authorized for 10 years, and renewed subsequently for five-year periods. The commissioner of education must annually assess whether each renaissance school project is meeting certain goals and improving student achievement. In order to facilitate this assessment, each renaissance school project, through its nonprofit entity, must submit an annual report to the commissioner. Five years following the date of the opening of the third renaissance school project, or 10 years after the opening of the first project, whichever occurs first, a review of the efficacy of the program must be conducted by an independent education researcher or research organization. The costs of the independent review will be borne by the department. The commissioner must report the results of the review. He must also report on the efficacy of the schools in educating students and whether additional renaissance school districts should be authorized and, if so, how many.

Submitted as:
New Jersey
P.L.2011, CHAPTER 176
Status: Enacted into law in 2012.

GO TO TABLE OF CONTENTS

Comment:

Disposition:

CSG policy task force recommendations to The Committee on Suggested State Legislation: 2013B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action

Comments/Note to staff:

SSL Committee Meeting: 2013B
( ) Include in Volume
( ) Defer consideration
( ) next task force mtg.
( ) next SSL mtg.
( ) next SSL cycle
( ) Reject

Comments/Note to staff:
This Act creates a Postsecondary Tiered Technical Education State Aid system. Beginning with FY 2012, and in each fiscal year thereafter, each community college and technical college and the Washburn Institute of Technology are eligible for postsecondary tiered technical education state aid from the State General Fund for credit hours approved by the State Board of Regents, using a credit hour cost calculation model, that would include all of the following concepts:

- Arrange into categories or tiers, technical education programs, recognizing cost differentials. (For example, programs with similar costs comprise one of six tiers.)
- Consider target industries critical to the Kansas economy.
- Respond to program growth.
- Consider local taxing authority for credit hours generated by in-district students.
- Include other factors and considerations determined necessary by the State Board of Regents.

The State Board of Regents will establish the rates to be used as the state's share in a given year, as well as in the actual distribution. The bill prohibits receipt of both tiered technical education state aid and non-tiered course state aid for any one credit hour. (A non-tiered course would be a general education course.)

The Act provides for fund accounting and management requirements related to state aid received under the Act. The bill authorizes the State Board of Regents to adopt policies necessary or desirable to implement and administer the Act.

It provides that each community college and technical college is eligible for a grant from the State General Fund, in an amount determined by the State Board of Regents for non-tiered course credit hours approved by the Board of Regents after dialogue with community college and technical college presidents.

The Act makes technical corrections and updates related to postsecondary technical education. It updates terminology, removes definitions for terms no longer used, eliminates vocational school references, adds individual institution specific references, updates and removes obsolete sections of identified statutes, and repeals statutes no longer needed.

Submitted as:

Kansas

SB 143 (Enrolled version)

Status: Enacted into law in 2011.

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Comment:
Disposition: 20-33B-07

CSG policy task force recommendations to The Committee on Suggested State Legislation: 2013B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action

Comments/Note to staff:

SSL Committee Meeting: 2013B
( ) Include in Volume
( ) Defer consideration
   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject

Comments/Note to staff:
This Act creates the “Digital Learning Now Act” and incorporates several elements identified in the 10 Elements of High Quality Digital Learning, such as, requiring high school students to take an online course, authorizing blended learning courses, increasing access to high quality digital providers, establishing metrics for evaluating the quality of content and instruction, and requiring administration of assessments online.

District Virtual Instruction Program

Beginning with the 2011-2012 school year, the bill expands the virtual instruction program by requiring each school district to provide multiple opportunities for part-time and full-time virtual instruction, including at least three virtual instruction program options. However, school districts eligible for the sparsity supplement pursuant to s. 1001.62(7), F.S., are required to provide only one option for participating in part-time and full-time virtual instruction. To increase utilization of virtual instruction, the bill requires school districts to directly notify parents of these options through an open enrollment period for full-time students of at least ninety days and not ending earlier than thirty days prior to the first day of the school year.

The Act expands the district virtual instruction program to include part-time virtual instruction in grades 9 through 12 for courses that are measured by an evaluation system developed by the Department of Education. The evaluations will include the percentage of students making learning gains, the percentage of students successfully passing any required end-of-course assessments, the percentage of students taking AP course exams, and the percentage of students scoring a three (3) or above on the AP course exam.

Before, school districts could fulfill the requirement for virtual instruction through contracts with the Florida Virtual School, contracts with approved providers, or through an agreement with another school district. The bill clarifies that school districts may fulfill this requirement through agreements with more than one school district and through multidistrict contractual arrangements, as well as through developing a school district operated virtual instruction program.

The Act also expands the criteria which the department uses to approve providers. The provider must demonstrate student performance improvements for each subject area and grade level and provide a detailed curriculum and student performance accountability plan. The courses and programs offered by the provider must meet the standards of the International Association for K-12 Online Learning and the Southern Regional Education Board. The instructional content of courses must be aligned with, and measure student attainment of, student proficiency in the Next Generation Sunshine State Standards. The provider must also publish information about each full-time and part-time program, school policies and procedures, certification status and physical location of all administrative and instructional personnel, student teacher ratios, student completion and promotion rates, and student, educator, and school performance accountability outcomes. Currently-approved providers must re-apply for approval to provide a part-time program for students in grades 9 through 12. A provider that has its contract terminated may not be an approved provider for a period of at least two years.

The Act also revises eligibility criteria for student participation in a school district operated virtual instruction program to include students entering kindergarten or first grade without the requirement for prior year enrollment and funding in a public school. The bill further clarifies that funding for students participating in a virtual instruction program shall be through the Florida Education Finance Program as provided in the General Appropriations Act, but
cannot include funding for class size requirements. School districts must expend the difference between the amount funded and the price paid for contracted services, on the district’s local instructional improvement system or other technological tools that are required to access electronic and digital instructional materials.

Virtual Charter Schools

Beginning with the 2011-2012 school year, this Act expands virtual instruction options by allowing a charter school to operate a virtual charter school to provide full-time online instruction to eligible kindergarten through grade 12 students in the district in which the student resides. The virtual charter school may contract with the Florida Virtual School or an approved provider. Students are eligible to attend a virtual charter school in the district in which the student resides if the student was:

- Enrolled in a public school and reported for funding in the FEFP in the prior school year;
- A dependent child of a member of the armed forces whose parent was transferred in the last 12 months;
- Enrolled in a school district operated virtual instruction program or K-8 virtual school program in the prior school year;
- A sibling of a student currently enrolled a virtual instruction program; or
- Eligible to enter kindergarten or first grade.

The funding for a virtual charter school shall be through the FEFP, however, no funds will be provided for class size requirements. The sponsor of a virtual charter school may withhold an administrative fee of up to 5 percent to cover the cost of services and for the school district’s local instructional improvement system or other technological tools required to access electronic and digital instructional materials.

Blended Learning Courses

The Act authorizes charter schools to offer blended learning courses to full-time students of the charter school who receive online instruction from the physical location of the charter school. The bill requires that blended learning courses be provided by part-time or full-time employees of the charter school or by contracted providers of the instructional service. The instructor must also be certified in the subject area of the course. Faculty members providing online instruction for blended courses may be in a remote location from the school. Blended learning courses are considered in the same manner as traditional courses for funding and accountability purposes.

Charter School Governing Boards

This Act requires each charter school’s governing board to appoint a representative to facilitate parental involvement, assist stakeholders, and resolve disputes. The representative must reside in the school district where the charter school is located and may be a governing board member, charter school employee, or individual contracted to provide representation. Additionally, the bill requires governing boards to hold at least two open public meetings annually in the district. This will increase stakeholder access and involvement in charter school affairs. The bill prohibits a sponsor from requiring governing board members to reside in the district if the governing board complies with these requirements.
Florida Virtual School

The Act allows the expansion of the Florida Virtual School (FLVS) to provide full-time online instruction to students in kindergarten through grade 12, and part-time instruction to students in grades 4-5. However, students receiving full-time instruction in grades 2 through 5 must meet the eligibility criteria applicable to other virtual instruction programs. In addition, part-time courses for 4th and 5th grade students are limited to public school students taking grade 6-8 courses for acceleration purposes. The FTE generated by the Florida Virtual School for fourth and fifth grade students must be part of the total FTE of 1.0 reported for the student for the fiscal year.

Elementary school principals are required to notify parents of students scoring level 4 or 5 on FCAT reading or math of the option for the student to take accelerated courses through the FLVS.

The Act requires public school students receiving full-time and part-time instruction from the FLVS to take statewide assessments – including FCAT and statewide end-of-course exams. The bill requires the FLVS to receive a school grade for students receiving full-time instruction.

Online Learning

This Act requires grade 9 students entering the 2011-2012 school year to take at least one online course before high school graduation. The requirement may be met by a course offered through the Florida Virtual School, through an online course offered by the high school, or through an online dual enrollment course offered pursuant to a district interinstitutional articulation agreement. This requirement can also be met by enrollment in a full-time or part-time virtual instruction program offered by the school district.

Online Assessments

The Act requires all statewide end-of-course assessments to be administered online by the 2014-2015 school year.

Adjunct Teaching Certificate

The Act revises the authority of school districts to issue adjunct certificates for part-time teaching positions. School districts would be able to utilize the expertise of individuals in this state to provide online instruction to Florida students. An adjunct teaching certificate is valid through the term of the annual contract between the adjunct teacher and the school district. An additional annual certification and annual contract may be awarded by the district at the district’s discretion if the adjunct teacher is rated effective or highly effective under state law.

Reports

This Act requires the Department of Education to identify and explain the best methods and strategies for assisting district school boards in acquiring digital learning and for implementing part-time virtual education for kindergarten through fifth grade. This explanation must be made in a report to the Governor, the Senate President, and the Speaker of the House of Representatives by December 1, 2011. The report must contain criteria to enable school districts to differentiate between the levels of service and pricing for digital learning. The criteria must
include such factors as the level of student support, the frequency of teacher-student communications, instructional accountability standards, and academic integrity.

Submitted as:
Florida
Chapter 2011-137
Status: Enacted into law in 2011.

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Comment:

6/27/2011 Orlando, Fla
Governor Scott Signs Legislation to Strengthen, Expand Charter and Virtual Schools

Keeping his promise to make Florida the state with the best-educated workforce, Governor Rick Scott today visited Hope Charter School in Ocoee to highlight education reforms that expand and strengthen charter and virtual schools and increase scholarship opportunities that empower parents to choose schools best suited to student needs. Later today, Governor Scott will visit St. Petersburg Christian School and charter school North Broward Academy of Excellence.

While visiting, Governor Scott discussed how parents best understand their children’s needs and should have the right to choose the schools that meet those needs. “One of the critical components of creating jobs and turning Florida’s economy around is to make sure our state has the best educated workforce, ready to work in our 21st century economy,” Governor Scott said. “The legislation I sign today moves our state closer to having world-class schools that graduate students ready for those jobs.”

Earlier this year, the first bill Governor Scott signed into law was the Student Success Act. It empowers principals to keep the best teachers and use merit pay to compensate them more, while also replacing low-performing teachers. “Florida will now be able to recruit and retain the best educators for our schools,” Governor Scott said. “Children should not be locked into going to a failing school just because of where they live, and families should have the right to choose an education best suited to their children.”

The bills Governor Scott highlighted today are as follows:

- Senate Bill 1546, Charter Schools – Charter schools will now have the opportunity to duplicate their success and grow to serve more students. Charter schools that earn an “A” twice in three years have the opportunity to earn a “high-performing” status, so they can increase enrollment and open more schools.
- House Bill 7197. Virtual Education – Expands the Florida Virtual School to offer full-time instruction to K-12 students and part-time for grades 4-12. District virtual schools will be able to offer part-time instruction in grades 9-12 to more students. Charter schools can also now offer online instruction, either as a virtual charter school, or combined with traditional classroom learning.
- House Bill 1331, Opportunity Scholarships – This bill empowers parents to choose a better school for their students assigned to chronically low-performing schools. It expands the definition of a failing school from those that earn an “F” two years in a row, to those that earn an “F” or a “D” in the current year and is a school that falls into certain low-performing categories.
• House Bill 1329, McKay Scholarships – Students with special learning needs will be eligible for McKay Scholarships to attend private schools. Parents with children who receive specialized instructional plans must be notified every year of each student’s options, including the McKay Scholarship.

• House Bill 965, Florida Tax Credit Scholarship Program – The tax credit scholarship program is updated to help encourage more businesses to participate in the program, thereby helping more students attend the school best suited to them.

Disposition: 20-33B-08

CSG policy task force recommendations to The Committee on Suggested State Legislation: 2013B

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

Comments/Note to staff:

SSL Committee Meeting: 2013B

( ) Include in Volume
( ) Defer consideration
( ) next task force mtg.
( ) next SSL mtg.
( ) next SSL cycle
( ) Reject

Comments/Note to staff:
This Act provides greater transparency and improves the health insurance rate review process by mandating specific factors the Superintendent of Insurance must consider when reviewing proposed rate increases from a health insurance company. It also clarifies the process for review and appeal of the Superintendent’s decision with respect to particular rate decisions.

The Act creates a non-discretionary deadline for the Superintendent of Insurance and a right of interlocutory appeal. No postponement may last more than 90 days, and if the Superintendent refuses to grant a hearing suspension or postponement, a party has 20 days to appeal that decision to the district court. This section also grants authority to the Superintendent to appoint a hearing examiner to preside over hearings on reconsideration. In such a hearing the hearing examiner shall provide recommended findings of fact and conclusions of law.

The Act clarifies state law so that “health care plan” is specifically made part of the state law. A “beneficiary or, in the public interest of the state, the attorney general” are added to “an insured” as persons who may request the insurer to review the manner in which its filing has been applied as to insurance or health care plan afforded to the insured the beneficiary or the Attorney General.

This Act removes the word “premium” as modifier of rates. It requires the Superintendent to approve any new rate filing on various grounds, viz., (1) compliance with federal law, (2) no deceptive or misleading language in the filing, (3) actuarial soundness, (4) the proposed rates or classification of risks is reasonable, not excessive or inadequate, and not discriminatory, and (5) administrative expenses comport with all applicable law.

The Act authorizes the Superintendent to require insurers to pool the experience of a closed block of business with all appropriate blocks of business that are not closed and prohibits the imposition of surcharges or penalties on members of the closed block. It defines “closed block of business” as a policy or group of policies that an insurer no longer markets or sells, or that has less than 500 contracts in force in the state, or for which enrollment has decreased by more than 12 percent since the last rate filing relating to that block of business. The Act defines “block of business” as a particular policy or pool that provides health insurance that an insurer issues to one or more individuals and that includes distinct benefits, services and terms.

Submitted as:
New Mexico
SB 208 (Enrolled version)
Status: Enacted into law in 2011.

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Comment: This item was deferred to the policy task force meeting in LaQuinta, California.

State of New Mexico
Office of the Governor
Susana Martinez
Governor
Contact: Scott Darnell
(505) 819-1398
scott.darnell@state.nm.us
For Immediate Release
April 7, 2011

GOVERNOR SUSANA MARTINEZ SIGNS HEALTH INSURANCE RATE REVIEW LEGISLATION

Governor Also Signs Underage Driver’s License Bill to Make Streets Safer

SANTA FE

Governor Susana Martinez today signed Senate Bill 208, legislation that requires more transparency and a stricter review process for health insurance companies seeking to increase rates on New Mexico consumers.

“This bill will help ensure that consumers are getting a fair deal when insurance companies seek to increase their rates,” said Governor Martinez. “It is important that the rate review process is as thorough and transparent as possible, especially during these difficult times when many families are cutting costs to make ends meet.”

The Governor also signed Senate Bill 9, placing restrictions on the ability of minors to obtain a driver’s license if they have committed certain violations, including traffic violations and buying or possessing alcohol.

“Young New Mexicans should demonstrate the responsibility required to get behind the wheel of a car,” said Governor Martinez. “These provisions will make our streets safer and communicate to minors that driving is a privilege, not a right.”

Governor Martinez also signed the following legislation into law:

• HB 199, Uniform Assignment of Rents Act
• HB 426, Inspection of Jails
• SB 283, Reconstructive Surgery Option Notification
• SB 290, Defining “Habitual Truant”
• SB 302, Registration Plate for Disabled Veterans
• SB 326, TRD Secretary Approve Certain Evidence
• SB 331, Amend Definitions in Ed. Tech Equipment Act
• SB 454, Economic Development Fund Project Reporting

Disposition:

CSG policy task force recommendations to The Committee on Suggested State Legislation: 2013B
( ) Include in Volume
( ) Defer consideration
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action

SSL Committee Meeting: 2013B
( ) Include in Volume
( ) Defer consideration
( ) next task force mtg.
( ) next SSL mtg.
( ) next SSL cycle
( ) Reject

Comments/Note to staff:
This Act directs that effective August 1, 2013, a drug prior authorization request must be accessible to a health care provider with the provider's electronic prescribing software system and must be accepted electronically, through a secure electronic transmission, by the payer, by the insurance company, or by the pharmacy benefit manager responsible for implementing or adjudicating or for implementing and adjudicating the authorization or denial of the prior authorization request.

Submitted as:
North Dakota
HB 1422
Status: Enacted into law in 2011.

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Comment: This item was deferred to the SSL Committee meeting in LaQuinta, California.

Health IT Standards and Certification Criteria for Medicare and Medicaid EHR Incentives

What standards have the feds set out for electronic health record technology?

On July 28, 2010, the Department of Health and Human Services (HHS) published a final rule setting forth the criteria electronic health record (EHR) technologies must have to qualify for the Medicare and Medicaid EHR Incentive Programs. The incentive programs make available grants to physicians and providers to adopt, implement and use EHRs.

What does it mean for a system to be “certified” for meaningful use?

Being “certified” means it counts as a system that a doctor or hospital can buy and then get access to the incentive payments being made available. Certification requirements include standards for Formulary and Benefit information, Medical History Transactions, and Fill Status of a prescription. Prior authorization standards are not included as part of the certification requirements.

Does the EHR Incentive rule set out all standards for EHR systems?

The July 2010 regulation sets forth the MINIMUM an EHR system must have to be certified. The rule says specifically:

“Minimum Code Set Standards. As previously discussed in the Interim Final Rule, we adopted several minimum code set standards. It is important to note that these code set standards set the floor, not the ceiling, for testing and certification.”

The rule continues and repeats several times:

“Nothing we adopt in this final rule precludes such a capability from being included in a Complete EHR or EHR Module.”
Would state requirements interfere with the federal rule?

- Nothing the bill does is in violation of federal standards
- The reg explicitly says it is a floor, not a ceiling. HHS expects these standards are the MINIMUM.
- HHS expects users in the field will move ahead with making electronic functionality of these systems better and easier for both physicians and patients.

Summary of federal rule:

“The Department of Health and Human Services (HHS) is issuing this final rule to complete the adoption of an initial set of standards, implementation specifications, and certification criteria, and to more closely align such standards, implementation specifications, and certification criteria with final meaningful use Stage 1 objectives and measures. Adopted certification criteria establish the required capabilities and specify the related standards and implementation specifications that certified electronic health record (EHR) technology will need to include to, at a minimum, support the achievement of meaningful use Stage 1 by eligible professionals, eligible hospitals, and/or critical access hospitals (hereafter, references to “eligible hospitals” in this final rule shall mean “eligible hospitals and/or critical access hospitals”) under the Medicare and Medicaid EHR Incentive Programs.”


Disposition:

CSG policy task force recommendations to The Committee on Suggested State Legislation: 2013B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action

Comments/Note to staff:

SSL Committee Meeting: 2013B
( ) 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 protect adult care home residents by increasing minimum continuing education, training, and competency evaluation requirements for adult care home medication aides, strengthening adult care home infection control requirements, and requiring the department of health and human services, division of health service regulation, to annually inspect adult care homes for compliance with safe infection control standards.

Submitted as:
North Carolina
Session Law 2011-99
Status: Enacted into law in 2011.

GO TO TABLE OF CONTENTS

Comment:

Disposition:
CSG policy task force recommendations to The Committee on Suggested State Legislation: 2013B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action

Comments/Note to staff:

SSL Committee Meeting: 2013B
( ) Include in Volume
( ) Defer consideration
  ( ) next task force mtg.
  ( ) next SSL mtg.
  ( ) next SSL cycle
( ) Reject

Comments/Note to staff:
This Act authorizes primary care providers to publish and post a schedule of certain charges for medical services offered to patients in a conspicuous place in their offices. It provides a minimum size for the posting. It requires these schedules to include certain information about medical services offered. It provides that the schedule may group the providers’ services by price levels and list the services in each price level. The Act provides an exemption from license fee and continuing education requirements for providers who publish and maintain a schedule of charges.

Submitted as:
Florida
CS/CS/HB 935 (Enrolled) – Chapter 2011-122
Status: Enacted into law in 2011.

Comment: A governor’s press release states, in part:

7/1/11 – MIAMI – Keeping his promise to reform Medicaid and limit frivolous lawsuits, Governor Rick Scott visited Jackson Memorial Hospital in Miami to highlight legislation that increases health care options and patient choice, improves quality of care, and protects taxpayers from skyrocketing Medicaid costs.

Governor Scott discussed the importance of legislation that will be especially helpful to uninsured patients who pay for health care costs out-of-pocket. House Bill 935, Health Care Price Transparency, requires urgent care centers to make information about the cost of medical services more accessible to patients.

Urgent care centers are now required to prominently display the costs of their 50 most frequently provided medical services. Equipped with information about the costs of medical care, uninsured patients who pay for health care costs out-of-pocket will be able to choose the most affordable provider. Primary care providers are encouraged to display the same information, and those who choose to do so receive an exemption from the professional license renewal fee and continuing education requirements.

Joining Governor Scott for the bill signing ceremony were Rep. Carlos Lopez Cantera, Rep. Frank Artiles, Rep. Daphne Campbell, Jackson Memorial Hospital CEO Carlos Migoya, and Donna Shalala, president of the University of Miami.”

Disposition: 21-33B-02

CSG policy task force recommendations to SSL Committee Meeting: 2013B
The Committee on Suggested State Legislation: 2013B
( ) Include in Volume
( ) Defer consideration
( ) Include in Volume
( ) next task force mtg.
( ) next SSL mtg.
( ) next SSL cycle
( ) Reject
( ) No action

Comments/Note to staff:

Comments/Note to staff:
21-33B-03A Retainer Medical Practices

This Act defines a medical retainer practice and sets criteria for becoming a certified medical retainer practice.

Submitted as:
Oregon
SB 86 (Enrolled)
Status: Enacted into law in 2011.

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Comment:

21-33B-03B Concierge Medicine

This Act finds the public policy of the state is to promote access to medical care for all citizens and encourage innovative arrangements between patients and providers that will help provide all citizens with a medical home.

It declares that the state needs a multipronged approach to provide adequate health care to many citizens who lack adequate access to it. It states that direct patient-provider practices, in which patients enter into a direct relationship with medical practitioners and pay a fixed amount directly to the health care provider for primary care services, represent an innovative, affordable option which could improve access to medical care, reduce the number of people who now lack such access, and cut down on emergency room use for primary care purposes, thereby freeing up emergency room facilities to treat true emergencies.

The Act provides that a “health care service contractor” does not include direct patient-provider primary care practices. It provides that direct practices must submit annual statements to the office of insurance commissioner specifying the number of providers in each practice, total number of patients being served, providers' names, and the business address for each direct practice. The form for the annual statement will be developed in a manner prescribed by the commissioner.

It directs the state insurance commissioner to submit a study of direct care practices to the appropriate committees of the senate and house of representatives. The study shall include an analysis of the extent to which direct care practices:

- Improve or reduce access to primary health care services by recipients of Medicare and Medicaid, individuals with private health insurance, and the uninsured;
- Provide adequate protection for consumers from practice bankruptcy, practice decisions to drop participants, or health conditions not covered by direct care practices;
- Increase premium costs for individuals who have health coverage through traditional health insurance;
- Have an impact on a health carrier’s ability to meet network adequacy standards set by the commissioner or state health purchasing agencies; and
- Cover a population that is different from individuals covered through traditional health insurance.

The bill requires the study to also examine the extent to which individuals and families participating in a direct care practice maintain health coverage for health conditions not covered by the direct care practice. It directs the commissioner to recommend to the legislature whether
the statutory authority for direct care practices to operate should be continued, modified, or repealed.

Submitted as:
Washington
Chapter 267, Laws of 2007
Status: Enacted into law in 2007.

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Comment:

Disposition: 21-33B-03A
CSG policy task force recommendations to The Committee on Suggested State Legislation: 2013B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action

Comments/Note to staff:

SSL Committee Meeting: 2013B
( ) Include in Volume
( ) Defer consideration
( ) next task force mtg.
( ) next SSL mtg.
( ) next SSL cycle
( ) Reject

Comments/Note to staff:
According to a summary by the Florida Senate Committee on Health Regulation:

“This bill provides a more comprehensive approach to address the epidemic of prescription drug abuse and the untimely deaths that result from such abuse in this state. The approach includes the regulation of activities by physicians, pain management clinics, pharmacies, and wholesale drug distributors. The bill also provides minor revisions to the prescription drug monitoring program.

Physicians Generally

On July 1, 2011, practitioners will no longer be authorized to dispense controlled substances. However, there are exceptions. These include dispensing:

- Complimentary or sample controlled substances.
- In the health care system of the Department of Corrections.
- In connection with certain surgical procedures within certain timeframes.
- Pursuant to participation in an approved clinical trial.
- Methadone in a licensed treatment program.
- For hospice patients.

On July 1, 2011, when this law goes into effect, the State Health Officer will declare a public health emergency concerning the possession of controlled substances for dispensing by practitioners who are no longer authorized to dispense controlled substances. Any controlled substance inventory that was acquired for dispensing that is still in the possession of a practitioner who will no longer be authorized to dispense controlled substances once this act goes into effect, must be disposed of by July 11, 2011. The drugs can be disposed of by returning them to the wholesale distributor or turning the inventory in to a local law enforcement agency and abandoning them. If this does not happen by August 2, the controlled substances are deemed contraband and are subject to seizure by law enforcement agencies.

Wholesale distributors are required to buy back the inventory of controlled substances listed in Schedule II or Schedule III which are in the manufacturer’s original packaging, unopened, and in date, in accordance with the established policies of the wholesale distributor or the contractual terms between the wholesale distributor and the physician concerning returns.

In addition, using actual purchasing records from wholesalers and other information, the Department of Health (department) will identify those practitioners who pose the greatest threat to the public health and risk that the controlled substances may not be disposed of in accordance with this act. Beginning on the 3rd day after this act goes into effect, law enforcement agencies will enter the business premises of the identified dispensing practitioners and quarantine the inventory on site. A $3 million appropriation is available for law enforcement for this effort, to maintain the security of the quarantined inventory until final disposition, and to investigate and prosecute crimes related to prescribed controlled substances.

Effective January 1, 2012, each medical physician, osteopathic physician, podiatrist, or dentist who prescribes controlled substances for the treatment of chronic nonmalignant pain must designate on his or her practitioner profile that he or she is a controlled substance prescribing practitioner.

The standards of practice for a controlled substance prescribing practitioner are spelled out in the law. These standards of practice do not supersede the level of care, skill, and treatment recognized in general law. The standards of practice in this bill include, among other things:
• A complete medical history and physical examination, the exact components of the exam are left to the judgment of the clinician;
• Development of a written individualized treatment plan for each patient, with objectives for treatment success and other treatment modalities;
• Discussion with the patient concerning the risks and benefits of the use of controlled substances;
• A written controlled substance agreement between the physician and the patient that includes reasons for which drug therapy may be discontinued and that controlled substances shall be prescribed by a single treating physician, unless otherwise authorized and documented in the medical record;
• Regular follow-up appointments at least every 3 months to assess the efficacy and appropriateness of treatment;
• Referrals to specialists when indicated; and
• Maintenance of accurate and complete records on each patient.

Certain specialists and surgeons are exempted from these standards of practice. Additional disciplinary or criminal sanctions are established for physicians who violate the controlled substances laws, including:
• Failing to comply with the controlled substance prescribing and dispensing requirements.

If a physician violates the standard of practice for prescribing or dispensing a controlled substance as set forth in the bill, then the physician will be suspended for at least 6 months and pay a fine of at least $10,000. Repeat offenses result in increased penalties.

The department will approve vendors of counterfeit-proof prescription pads. The approved vendors will report monthly to the department on the number of pads sold and the purchasers of the pads. The counterfeit-resistant prescription blanks must be used by practitioners for the purpose of prescribing any controlled substance.

Pain Management Clinics

The bill revises the criteria for required registration as a pain management clinic. Registration is required if the clinic advertises in any medium for any type of pain management services or where, in any month, a majority of patients are prescribed opioids, benzodiazepines, barbiturates, or carisoprodol for the treatment of chronic nonmalignant pain (pain unrelated to cancer or rheumatoid arthritis which persists beyond the usual period or more than 90 days after surgery). The bill includes additional exemptions from registration.

Physicians practicing in pain management clinics must:
• Notify the applicable board within 10 days after beginning or ending practice at a pain management clinic.
• Ensure compliance with facility and physical operations of the clinic, infection control requirements, and health and safety requirements.

The designated physician is also responsible for certain additional functions, including quality assurance requirements to evaluate the quality and appropriateness of patient care and reporting aggregated patient statistics.

Provisions and requirements under the regulation of pain management clinics do not supersede the level of care, skill, and treatment recognized in general law related to healthcare licensure.
The amendment authorizes a physician assistant or advanced registered nurse practitioner under both the medical practice act and the osteopathic practice act to perform the physician examination of a patient in a pain management clinic.

The amendment strikes the requirement that passed last year requiring physicians practicing in pain management clinics after July 1, 2012 to meet certain training and education requirements.

The laws pertaining to the regulation of pain management clinics are set to expire on January 1, 2016.

A pain management clinic which has been used on more than two occasions within a 6-month period as a site in which certain criminal violations occur may be declared a public nuisance.

**Pharmacies/Pharmacists**

Community pharmacies must be re-licensed under the provisions of this act and rules adopted thereunder by July 1, 2012. Additional licensure requirements are intended to prevent felons and other nefarious persons from owning or operating pharmacies. In addition, pharmacies will be required to develop policies and procedures to minimize dispensing based on fraudulent representations or invalid practitioner-patient relationships.

A pharmacist must report to a local law enforcement officer any person who obtains or attempts to obtain a controlled substance through fraudulent methods or representations. The failure to report is a misdemeanor of the first degree.

Principals associated with a pharmacy must undergo annual criminal background screening. The department must forward the results to wholesale distributors permitted under ch. 499, F.S., for purposes of complying with the requirements related to due diligence of purchasers.

The amendment includes additional requirements and disciplinary action related to activities in pharmacies and by pharmacists.

**Drug Wholesalers**

Licensed drug wholesalers are required to:

- Credential and understand the normal business transactions of their customers who purchase certain controlled substances.
- Report to the department on wholesale distributions of unusual quantities of controlled substances. Unusual purchasing levels for the purchasing entity’s clinical needs will be investigated by law enforcement.
- Abstain from distributing controlled substances to an entity if any person associated with that entity meets certain disqualifying conditions in the criminal history record check.

The department is required to identify the national average of distributions per pharmacy of certain controlled substances and report to the Governor and Legislature by November 1, 2012.

The amendment provides for stiffer criminal penalties and administrative sanctions for unlawfully distributing controlled substances or submitting false reports pertaining to controlled substance distributions.

**Prescription Drug Monitoring Program**
The bill reduces the timeframe for dispensers to report to the prescription drug monitoring program database from 15 days to 7 days. The bill also requires persons who have access to the database to submit fingerprints for background screening. Department staff are prohibited from having direct access to information in the database.

Funds provided by prescription drug manufacturers may not be used to implement the prescription drug monitoring program. References to the department and State Surgeon General are substituted for the Office of Drug Control and the director of the Office of Drug Control.

Other Provisions

The bill specifies that law enforcement officers may obtain access to or copy records that are required to be maintained under ch. 893, F.S., without a subpoena, court order, or search warrant.

Upon the discovery of the theft or significant loss of controlled substances, a manufacturer, importer, distributor, or dispenser must report the theft or significant loss to a law enforcement officer. The failure to report is a misdemeanor.

Fraudulently obtaining, attempting to obtain, or providing a prescription for a controlled substance by concealment of a material fact (the existence of another prescription for a controlled substance for the same time period) when the controlled substance is not medically necessary for the patient is a third degree felony.

The bill enhances criminal offenses relating to theft and burglary involving controlled substances.”

Submitted as:
Florida
Chapter 2011-141
Status: Enacted into law in 2011.

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Comment: This bill is not in the packet because it is 57 pages.

A governor’s press release states:

6/3/2011 Tallahassee, Fla – Governor Rick Scott signed HB 7095 into law, striking another major blow in the fight against the illegal distribution of prescription drugs.

“I am proud to sign this bill which cracks down on the criminal abuse of prescription drugs,” said Scott. “This legislation will save lives in our state and it marks the beginning of the end of Florida’s infamous role as the nation’s Pill Mill Capital.”

The new law is as tough on illegal distributors and unscrupulous doctors, as it is fair to law-abiding patients and industry professionals. It is a critical component in Governor Scott’s effort to combat Florida’s scourge of prescription drug abuse.

In March, with the help of Attorney General Pam Bondi, Florida Department of Law Enforcement Commissioner Gerald Bailey and state and local law enforcement, Governor Scott launched the Statewide Drug Strike Force to begin turning the tide against criminal drug trafficking in our state.
HB 7095 tackles illegal prescription drug distribution at the source in several ways. It increases penalties for overprescribing Oxycodone, requires tracking of the wholesale distribution of certain controlled substances, and provides $3 million to support the continued efforts of state and local law enforcement and state prosecutors.

The bill also bans doctors from dispensing these controlled drugs except under specific circumstances, and provides for the declaration of a public health emergency which triggers a mandatory buyback program for doctors to return controlled substances back to distributors.

Ninety-eight of the nation’s top 100 Oxycodone purchasing physicians are in the state of Florida. Drug overdoses are responsible for an alarming seven deaths a day in this state.

Disposition: 21-33B-04

CSG policy task force recommendations to The Committee on Suggested State Legislation: 2013B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action

Comments/Note to staff:

SSL Committee Meeting: 2013B
( ) Include in Volume
( ) Defer consideration
   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject

Comments/Note to staff:
Oregon enacted two bills to establish Coordinated Care Organizations (CCOs) to provide services to Medicaid recipients. These CCOs replace existing managed care organizations (MCOs), mental health organizations, and dental care organizations that previously provided such services.

HB 3650 creates the Oregon Integrated and Coordinated Health Care Delivery System (System) to be administered by the Oregon Health Authority (OHA). It:

- requires Coordinated Care Organizations (CCOs) be accountable for care management and provision of integrated and coordinated health care, managed within global budgets;
- requires the OHA to regularly report to the Oregon Health Policy Board, Governor and Legislative Assembly on progress of payment reform and delivery system change;
- describes qualification criteria for CCOs to be adopted by rule by OHA, including governance structure;
- requires the OHA to establish alternative payment methodologies;
- requires the OHA to develop standards for the utilization of patient centered primary care homes;
- stipulates the inclusion of individuals who are dually eligible for Medicaid and Medicare;
- requires the OHA to adopt by rule consumer and provider protections, and monitor and enforce protections;
- requires the OHA to identify outcome and quality measures, and benchmarks to be evaluated and reported;
- requires the OHA to develop CCO qualification criteria, global budgeting process and contract dispute process to be presented to the Legislative Assembly no later than February 1, 2012.
- describes provisions for transition to the System;
- requires the OHA, in consultation with the Department of Consumer and Business Services (DCBS), to propose recommendations regarding financial reporting requirements to the Legislative Assembly;
- requires the OHA to develop recommendations for remedies to contain health care costs that address defensive medicine, overutilization and medical malpractice;
- requires the OHA to apply for waivers necessary to obtain federal participation in System;
- requires the Home Care Commission to recruit, train, certify and refer community health workers and personal health navigators to be used by CCOs;
- describes the relationship between OHA, CCOs and county governments;
- describes contract requirements between OHA and CCOs, and
- specifies who is required to enroll in CCOs.

SB 1580 provides legislative approval of Oregon Health Authority (OHA) proposals for Coordinated Care Organizations (CCOs). It requires the authority to report quarterly to legislative committees on implementation of CCO model of health care delivery. It authorizes sharing and use of information between the Department of Consumer and Business Services and the authority for specified purposes. It prohibits discrimination against certain types of providers by CCOs and specified managed care organizations.
SB 1580/Coordinated Care Organizations

A more coordinated and affordable, patient-centered health care delivery system for Oregon

Coordinated Care Organizations: Oregon Health Plan’s Next Step Forward

CCOs are local health entities that will deliver health care and coverage for people eligible for Oregon Health Plan/Medicaid, including those also covered by Medicare. CCOs have be accountable for health outcomes of the population they serve. They will have one budget that grows at a fixed rate for mental, physical and ultimately dental care. CCOs will bring forward new models of care that are patient-centered and team-focused. They will have flexibility within the budget to deliver defined outcomes. And they will be governed by a partnership between health care providers, community members, and stakeholders in the health systems that have financial responsibility and risk.

Legislative Action Created Coordinated Care Organizations

In 2011, the Oregon Legislature created Coordinated Care Organizations through HB 3650, which passed with broad bipartisan support. The change was in response to escalating costs, due in large part to an inefficient health care system. Research shows that about 80 percent of health care costs come from 20 percent of patients, many of whom have chronic illnesses. Without coordinated care, many of these patients end up in hospitals or receiving acute care that could have been prevented. Coordinated Care Organizations replace today’s system of Managed Care Organizations, Mental Health Organizations, and Dental Care Organizations for Medicaid/OHP patients. Through CCOs, we can improve how care is delivered, with a focus on improved wellness, prevention, and integration of behavioral and physical health care.

Implementation Proposal

Section 13 of HB 3650 requires Oregon Health Authority to develop an implementation proposal for Coordinated Care Organizations that includes criteria for becoming a CCO, how the global budget would work, expectations for outcomes, quality, and efficiency, and how to best integrate people who are eligible for both Medicaid and Medicare into CCOs. To help create the proposal, over the past six months, more than 1,200 Oregonians provided input through eight
Reducing Costs While Improving Care

A third-party analysis found that by implementing CCOs, Oregon could save a significant portion of projected Medicaid costs in the short and long term. Savings would be more than $1 billion total fund dollars within three years and more than $3.1 billion total fund expenditures ($1.2 billion general fund) over the next five years.

Federal Partnership

Approximately 60 percent of Oregon Medicaid dollars are paid by the federal government, which governs many of the rules and policies in the state Medicaid program. Governor Kitzhaber and state officials are working with the U.S. Centers for Medicare and Medicaid Services on federal waivers that will allow CCOs the flexibility to manage care for the best health outcomes. The Governor is also discussing the possibility of financial investments through Coordinated Care Organizations from the federal government in anticipation of future cost reductions.

Key Elements of CCO Model for Reducing Costs and Improving Health

Currently, approximately 85 percent of OHP clients are served through one of 16 managed care organizations, 10 mental health organizations, and eight dental care organizations. The remaining OHP clients receive care through “fee-for-service” arrangements between the state and local providers. The CCO model would instead offer:

- One point of accountability
- Expected health outcomes
- Focus on prevention
- Integrating physical and behavioral health
- Reduced administrative overhead
- Community health workers
- Patient-centered primary care homes
- Electronic health records

Next Steps in 2012

The Oregon Legislature will vote on the following: the proposal for CCO implementation, to allow OHA and Department of Consumer and Business Services to share information so CCOs will not have to submit financial reports to both agencies; to continue current protections that prohibit discrimination of providers based solely on their license type in the CCO environment; and to require OHA to report quarterly on implementation of CCOs through 2017.

The Time is Now

Oregon is ready and moving forward to make changes that result in a healthier populace. CCOs give communities and health systems tools they need to come together in innovative and
unprecedented ways. Extensive public comment has shaped an improved model of care for better health and lower costs, and financial analyses show that the savings are substantial. With approval by the Oregon legislature, we will work closely with federal partners for flexibility and upfront investments that save money for both the state and the federal government, freeing up money for other important issues like education, children’s and senior services, and public safety.

If we don’t take action now, health care costs will continue to spiral out of control. That’s why lawmakers approved HB 3650 with overwhelming bipartisan support, and why implementing that bill through these next steps is so important for establishing a model that reins in waste and inefficiency, and promotes more efficient and effective care.

For more information, please visit http://governor.oregon.gov/Gov/priorities/healthy_oregon.shtml.

Disposition: 21-33B-05

CSG policy task force recommendations to The Committee on Suggested State Legislation: 2013B
(   ) Include in Volume
(   ) Defer consideration to next task force meeting
(   ) Reject
(   ) No action

Comments/Note to staff:

SSL Committee Meeting: 2013B
(   ) Include in Volume
(   ) Defer consideration
    (   ) next task force mtg.
    (   ) next SSL mtg.
    (   ) next SSL cycle
(   ) Reject

Comments/Note to staff:
This Act establishes a three-year Medicaid Accountable Care Organization (ACO) Demonstration Project (demonstration project) in the Department of Human Services (DHS).

Under the Act, participants in the demonstration project are to be nonprofit corporations organized and operated for the primary purpose of improving health outcomes and the quality and efficiency of care provided to Medicaid fee-for-service recipients residing in a “designated area” (defined as a municipality or defined geographic area in which no fewer than 5,000 Medicaid recipients reside). The bill also permits voluntary participation in the demonstration project by Medicaid managed care organizations for the membership they serve.

DHS, in consultation with the Department of Health and Senior Services (DHSS), is to certify applicants for participation in the demonstration project, and begin accepting applications for certification 60 days following the effective date of the bill.

A certified Medicaid ACO is eligible to receive and distribute gainsharing or cost savings payments in accordance with a gainsharing plan approved by DHS. DHS, with input from DHSS and the Rutgers Center for State Health Policy (CSHP), is to approve only those gainsharing plans that promote: improvements in health outcomes and quality of care, as measured by objective benchmarks as well as patient experience of care; expanded access to primary and behavioral health care services; and the reduction of unnecessary and inefficient costs associated with care rendered to Medicaid recipients residing in the designated area of the ACO. (An ACO may request approval of its gainsharing plan at the time of certification or at any time within one year of certification, and may seek to amend its gainsharing plan by submitting amendments to DHS for approval.)

The demonstration project is to allow nonprofit corporations, organized with the voluntary support and participation of local general hospitals, clinics, health centers, qualified primary care and behavioral health care providers, and public health and social services agencies, to apply for certification and participation in the project. DHS is to consult with DHSS with respect to establishment and oversight of the demonstration project.

DHS, in consultation with DHSS, may certify as many Medicaid ACOs for participation in the demonstration project as it determines appropriate, but is to certify no more than one Medicaid ACO for each designated area.

Prior to certification, an applicant is required to demonstrate that it meets the following minimum standards:

The applicant has been formed as a nonprofit corporation pursuant to the "New Jersey Nonprofit Corporation Act", P.L.1983, c.127 (C.15A:1-1 et seq.), for the purposes described in the Act.

Its governing board includes: (1) individuals representing the interests of: health care providers, patients, and other social service agencies or organizations located in the designated area; and (2) voting representation from at least two consumer organizations capable of advocating on behalf of patients residing within the designated area of the ACO;

The applicant’s application is supported by all of the general hospitals, at least 75% of the qualified primary care providers, and at least four qualified behavioral health care providers, located in the designated area served by the ACO;

The applicant has a process for receipt of gainsharing payments from DHS and any voluntarily participating Medicaid managed care organizations; and the subsequent distribution of these gainsharing payments is to be in accordance with a quality improvement and gainsharing plan approved by DHS, in consultation with DHSS, as described above;
The applicant has a process for engaging members of the community and receiving public comments with respect to its gainsharing plan;

The applicant has a commitment to become accountable for the health outcomes, quality, cost, and access to care of Medicaid recipients residing in the designated area for a period of at least three years following certification; and

The applicant has a commitment to ensure the use of electronic prescribing and electronic medical records by health care providers located in the designated area.

The specific criteria to be considered by DHS in approving the gainsharing plan of a Medicaid ACO include whether:

- the plan promotes: care coordination; expansion of the medical home and chronic care models; use of health information technology and sharing of health information; and use of open access scheduling in clinical and behavioral health care settings;
- the plan encourages services such as patient or family health education and health promotion, home-based services, telephonic communication, group care, and culturally and linguistically appropriate care;
- the gainsharing payment system is structured to reward quality and improved patient outcomes and experience of care;
- the plan funds interdisciplinary collaboration between behavioral health and primary care providers for patients with complex care needs likely to inappropriately access an emergency department and general hospital for preventable conditions;
- the plan funds improved access to dental services for high-risk patients likely to inappropriately access an emergency department and general hospital for untreated dental conditions; and
- the plan has been developed with community input and will be made available for inspection by members of the community served by the ACO.

The gainsharing plan is to include an appropriate proposed time period that ends before the demonstration project begins, which is to serve as the benchmark period against which cost savings can be measured on an annual basis going forward. The savings are to be calculated in accordance with a methodology that: (1) identifies expenditures, per recipient, by the Medicaid fee-for-service program during the benchmark period, which are to serve as the benchmark payment calculation; (2) compares the benchmark payment calculation to amounts paid by the Medicaid fee-for-service program for all such resident recipients during subsequent periods; and (3) provides that the benchmark payment calculation is to remain fixed for a period of three years following approval of the gainsharing plan.

The percentage of identified cost savings to be distributed to the Medicaid ACO, retained by any voluntarily participating Medicaid managed care organization, and retained by the State, is to be identified in the gainsharing plan and remain in effect for a period of three years following approval of the plan. The percentages are to be designed to ensure that: (1) Medicaid can achieve meaningful savings and support the ongoing operation of the demonstration project; and (2) the ACO receives a sufficient portion of the shared savings necessary to achieve its mission and expand its scope of activities.

DHS is prohibited from approving a gainsharing plan that provides direct or indirect financial incentives for the reduction or limitation of medically necessary and appropriate items or services provided to patients under a health care provider’s clinical care in violation of federal law.

Notwithstanding the provisions of the bill to the contrary, a gainsharing plan that provides for shared savings between general hospitals and physicians related to acute care admissions, utilizing the methodological component of the Physician Hospital Collaboration
Demonstration awarded by the federal Centers for Medicare and Medicaid Services to the New Jersey Care Consortium, does not require DHS approval;

DHS is to consider using a portion of any savings generated to expand the nursing, primary care, behavioral health care, and dental workforces in the area served by the ACO;

DHS is to remit payment of cost savings to a participating Medicaid ACO following its approval of the ACO’s gainsharing plan and identification of cost savings.

A managed care organization that has contracted with DHS may voluntarily seek participation in the demonstration project by notifying the Medicaid ACO of its desire to participate. The ACO is to submit a separate Medicaid managed care organization gainsharing plan for review and approval. The managed care organization gainsharing plan may be identical to the gainsharing plan approved for use in connection with the Medicaid fee-for-service program, or may differ, but the managed care organization gainsharing plan is not to affect the calculation or distribution of shared savings pursuant to the approved gainsharing plan applicable to the Medicaid fee-for-service program or the calculation or distribution of shared savings pursuant to any other approved gainsharing plan used by the ACO.

A Medicaid managed care organization may withdraw from participation in the demonstration project after one year by notifying DHS in writing of its desire to withdraw.

Nothing in the bill is to: (1) alter or limit the obligations of a Medicaid managed care organization participating in the demonstration project pursuant to an approved gainsharing plan to comply with State and federal law applicable to the organization; or (2) preclude a certified Medicaid ACO from expanding its operations to include participation with new providers located within the designated area of the ACO.

DHS, in consultation with DHSS, is to design and implement the application process for approval of participating ACOs in the demonstration project; collect data from participants in the demonstration project; and approve a methodology proposed by the Medicaid ACO applicant for calculation of cost savings and for monitoring of health outcomes and quality of care under the demonstration project.

DHS and DHSS are authorized to jointly seek public and private grants to implement and operate the demonstration project.

DHS, in consultation with DHSS, is to evaluate the demonstration project annually to assess whether cost savings, including, but not limited to, savings in administrative costs and savings from improved health outcomes, are achieved through implementation of the demonstration project. DHS, in consultation with DHSS and with the assistance of CSHP, is to evaluate the demonstration project to assess whether there is improvement in: the rates of health screening; the outcomes and hospitalization rates for persons with chronic illnesses; and the hospitalization and readmission rates for patients residing in the designated areas served by the ACOs.

The Commissioner of DHS is to apply for State plan amendments or waivers necessary to implement the provisions of the bill and to secure federal financial participation for State Medicaid expenditures; and take such additional steps as may be necessary to secure on behalf of participating ACOs such waivers, exemptions, or advisory opinions to ensure that the ACOs are in compliance with applicable provisions of State and federal laws related to fraud and abuse, including, but not limited to, anti-kickback, self-referral, false claims, and civil monetary penalties.

The Commissioners of DHSS and DHS may apply for participation in federal ACO demonstration projects that align with the goals of the bill.
Nothing in the bill is to be construed to limit the choice of a Medicaid recipient to access care for family planning services or any other type of health care services from a qualified health care provider who is not participating in the demonstration project.

Under the demonstration project, payment will continue to be made to providers of services and suppliers participating in the Medicaid ACO under the original Medicaid reimbursement methodology in the same manner as they would otherwise be made, except that the ACO is eligible to receive gainsharing payments. DHS, in consultation with DHSS, is to promulgate by regulation a methodology whereby a disproportionate share hospital participating in a Medicaid ACO receives a credit from available federal funds for its disproportionate share payments in an amount equal to the reduction in disproportionate share payments to the hospital resulting from its participation in the ACO, calculated on the basis of the reduction in inpatient hospitalizations during any year in which the hospital participates in the ACO, compared with the benchmark period.

Nothing in the bill is to be construed to authorize DHS or DHSS to waive or limit any provisions of federal or State law or reimbursement methodologies governing Medicaid reimbursement to federally qualified health centers providing services to Medicaid managed care recipients.

A certified Medicaid ACO is not required to obtain licensure or certification from the Department of Banking and Insurance as an organized delivery system when providing services to Medicaid recipients.

The Commissioners of DHS and DHSS are to report to the Governor and the Legislature on the demonstration project, upon its completion, and to include such recommendations as the commissioners deems appropriate. If, after three years following enactment of the bill, the commissioners find that the demonstration project was successful in reducing costs and improving the quality of care for Medicaid recipients, they are to recommend that the demonstration project be expanded to include additional communities in which Medicaid recipients reside and become a permanent program.

The Commissioner of DHS is to adopt within 180 days of the effective date of the bill, rules and regulations establishing the standards for gainsharing plans; and with input from the Commissioner of DHSS, rules and regulations governing the ongoing oversight and monitoring of the quality of care delivered to Medicaid recipients in the designated areas served by the ACOs, and such other requirements as the Commissioner of DHS deems necessary to carry out the provisions of the bill.

Submitted as:
New Jersey
Chapter 114 of 2011
Status: Enacted into law in 2011.

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Comment:
Disposition: 21-33B-06

CSG policy task force recommendations to The Committee on Suggested State Legislation: 2013B

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

Comments/Note to staff:

SSL Committee Meeting: 2013B
(   ) Include in Volume
(   ) Defer consideration
   (   ) next task force mtg.
   (   ) next SSL mtg.
   (   ) next SSL cycle
(   ) Reject

Comments/Note to staff:
According to a Maryland Legislature Fiscal Policy Note:

“The National Association of Insurance Commissioners created an American Health Benefit Exchange Model Act to establish standards for health benefit exchanges. This bill largely adopts the model act.

This Act establishes the governance, structure, and funding of the Maryland Health Benefit Exchange, a public corporation and independent unit of government created to (1) reduce the number of uninsured; (2) facilitate the purchase and sale of qualified health plans (QHPs) in the individual market; (3) assist qualified employers facilitating the enrollment of their employees in QHPs in the small group market and in accessing small business tax credits; (4) assist individuals in accessing public programs, premium tax credits, and cost-sharing reductions; and (5) supplement the individual and small group insurance markets outside of the exchange. The exchange will be governed by a Board of Trustees and funded through specified fees or assessments. The bill also establishes a Maryland Health Benefit Exchange Fund.

The exchange must study and report on specified functions and is prohibited from implementing those functions until the Governor and General Assembly enact additional legislation.

The primary function of the exchange will be to certify and make available QHPs to individuals and small businesses and to serve as a gateway to an expanded Medicaid program.

By January 1, 2014, the exchange must:

• make QHPs available to qualified individuals and employers;
• allow carriers to offer a qualified dental plan (QDP) that provides limited dental benefits with or separate from QHPs;
• implement QHP certification procedures;
• operate a toll-free telephone hotline;
• provide for enrollment periods;
• maintain a website with standardized, comparative information on QHPs and QDPs;
• assign ratings for and determine each QHP’s level of coverage;
• present QHPs in a standardized format;
• provide information and make eligibility determinations for Medicaid and the Maryland Children’s Health Program (MCHP);
• facilitate enrollment in Medicaid or MCHP;
• establish an electronic calculator to determine QHP and QDP costs after the application of any premium tax credit;
• establish a Small Business Health Options Program (SHOP) exchange through which qualified employers may access coverage for their employees and meet standards for the federal qualified employer tax credit;
• implement a certification process for individuals exempt from the individual responsibility requirement and penalty;
• implement a process to notify the federal government of individuals who are exempt from the individual responsibility requirement;
• provide notice to employers of employees who cease coverage under a QHP during a plan year;
- determine eligibility for premium tax credits, reduced cost-sharing, and individual responsibility exemptions;
- establish a Navigator Program for the individual and SHOP exchanges;
- establish a process for crediting the amount of free choice vouchers to premiums of QHPs and QDPs and collect the amount credited from employers;
- carry out a plan to provide assistance for consumers seeking to purchase products through the exchange; and
- carry out a public relations and advertising campaign to promote the exchange.

The exchange may not carry out any function that is not authorized by the federal Patient Protection and Affordable Care Act (ACA).

To offer a QHP, a carrier must be licensed and in good standing to offer health insurance; offer at least one QHP at both silver and gold levels outside the exchange if participating in the individual exchange; offer at least one QHP at both silver and gold levels in the small group market outside the exchange if participating in the SHOP exchange; and charge the same premiums for plans offered inside and outside the exchange. The exchange must certify health benefit plans as QHPs. To be certified, a plan must provide the essential benefits package required under ACA; obtain prior approval of premium rates and contract language from the Insurance Commissioner; provide at least a bronze level of coverage; and ensure that cost-sharing requirements do not exceed the limits established under ACA. A QHP is required to provide at least a bronze level of coverage if the QHP is certified as a qualified catastrophic plan.

A QDP must meet all QHP requirements except that dental plan carriers need not be licensed to offer other health benefits. Plans must be limited to dental/oral health benefits and include essential pediatric dental benefits and other dental benefits required by the Secretary of Health and Human Services or the exchange. Carriers may offer health and dental plans jointly under certain circumstances.

The exchange will be governed by a nine-member Board of Trustees of the Exchange (the board) consisting of the Secretary of Health and Mental Hygiene, the Insurance Commissioner, the Executive Director of the Maryland Health Care Commission, and six members appointed by the Governor with the advice and consent of the Senate. Appointed members serve four-year terms and may not serve more than two consecutive terms. Board members are entitled to reimbursement for expenses. Members of the board must disclose certain relationships and adhere strictly to conflict of interest provisions.

Among other powers and duties, the board may sue and be sued; adopt bylaws, rules, and policies; adopt regulations; maintain an office; enter into agreements, contracts, or memoranda of understanding; apply for and receive grants, contracts, or other funding; and enter into information-sharing agreements with federal and State agencies and other state health insurance exchanges. While not subject to most State procurement laws, the board must establish an open and transparent procurement process. The board must create and consult with advisory committees and appoint to the advisory committees representatives of specified organizations. The board must appoint an executive director of the exchange. The executive director serves at the pleasure of the board and is authorized to hire staff who are not subject to State actions governing compensation, including furloughs, pay cuts, or any other general fund cost savings measure.

The exchange is subject to numerous State laws including adoption of regulations under the Administrative Procedure Act, access to public records, open meetings, immunity and liability of State personnel, public ethics, procurement laws for minority business participation and policies for exempt units, and whistleblower and other provisions of State personnel law.
The exchange is exempt from State or local taxation and specified provisions of procurement and State personnel law.

Beginning January 1, 2014, the exchange may impose user fees, licensing, or other regulatory fees or assessments that do not exceed reasonable projections regarding the amount necessary to support the operations of the exchange or otherwise generate funding to support its operations. Any funding mechanisms must be transparent and broad based. Before imposing or altering any fee or assessment, the exchange must adopt regulations specifying who is subject to the fee or assessment, the amount of the fee or assessment, and the manner in which the fee or assessment will be collected. Funds collected must be deposited in the Maryland Health Benefit Exchange Fund. This special, nonlapsing fund will consist of any user fees or assessments, income from investments, interest income, and other specified sources. The exchange is prohibited from imposing fees or assessments that would provide a competitive disadvantage to health benefit plans outside of the exchange. The exchange must publish on its website the average amounts of any fees or assessments, the administrative costs of the exchange, and the amount of funds known to be lost through waste, fraud, and abuse.

The exchange must study and make recommendations regarding the feasibility and desirability of the exchange engaging in selective contracting and multistate or regional contracting; the rules under which health benefit plans should be offered inside and outside of the exchange; the design and operation of the exchange’s Navigator Program; the design and function of the Exchange; how the exchange can be self-sustaining by 2015; and how the exchange should conduct its public relations and advertising campaign. The exchange must submit its findings and recommendations to the Governor and the General Assembly by December 23, 2011.

By December 1, 2015, the exchange must conduct a study and report its findings and recommendations to the Governor and the General Assembly on whether the exchange should remain an independent public body or should become a nongovernmental, nonprofit entity. Uncodified language states that it is the intent of the General Assembly that the exchange should not take any action that would inhibit the potential transformation of the exchange into a nongovernmental, nonprofit or quasi-governmental entity.

By December 1 of each year, the exchange must submit an annual report to the Secretary of Health and Human Services, the Governor, and the General Assembly.

The Act prohibits the exchange from exercising the following powers, duties, and functions until it has submitted specified recommendations and the Governor and the General Assembly authorize the exercise of those powers, duties, and functions through legislation during the 2012 session:

- make QHPs available to qualified individuals and employers;
- assign ratings for and determine each QHP’s level of coverage;
- establish a SHOP exchange;
- establish a Navigator Program;
- carry out a plan to provide assistance for consumers seeking to purchase products through the exchange;
- carry out a public relations and advertising campaign to promote the exchange;
- certify health benefit plans as QHPs; and
- impose fees or other assessments to support the operations of the exchange.

It also prohibits the exchange from implementing any functions that require further guidance from the Secretary of Health and Human Services, until the guidance is received.”
Governor signs groundbreaking health benefit exchange bill

GOVERNOR O'MALLEY, SENATE PRESIDENT MILLER, SPEAKER BUSCH HOLD FIRST BILL SIGNING FOLLOWING 2011 SINE DIE

ANNAPOLIS, MD (April 12, 2011)

Governor Martin O’Malley today joined Senate President Thomas V. Mike Miller, Jr., House Speaker Michael E. Busch, and Lieutenant Governor Anthony G. Brown to sign important legislation aimed at advancing innovation and creating jobs in Maryland. Today, the Governor signed into law legislation creating a governance structure of a Health Benefit Exchange, becoming one of the first states to establish this framework establishing a new online marketplace to allow Marylanders a choice of plans, and information on rates, benefits and quality.

“As a global hub of innovation – a leader in science, security, health, discovery and information technology – Maryland is well-positioned to transform the challenges we face into jobs and opportunity,” said Governor O’Malley. “This legislative session, we found ways to work together to lead the way for other states by being a winner in this new economy and taking a significant step forward in generating capital for our businesses, expanding healthcare to more Marylanders, and creating jobs for our families as we fight for our economic future.”

The Health Benefit Exchange legislation was a recommendation of the Health Reform Coordinating Council, of which Lt. Governor Brown served as co-chair. “Maryland has a long tradition of health care innovation and leadership, and we are continuing our record of success by becoming one of first states in the nation to establish the framework for a health benefit exchange,” said Lt. Governor Brown. “When up and running, Maryland’s health benefit exchange will provide seamless, one-stop shopping for individuals and small businesses to find high quality health coverage at an affordable price. By bringing all stakeholders together, we have developed a national model for implementing federal health care reform in order to reduce costs, expand access, and improve the quality of care for all Marylanders.”

Implementation of the federal Affordable Care Act will extend health insurance to 350,000 Marylanders and save the state approximately $800 million over ten years. The O’Malley-Brown Administration proposed a package of legislation to move this effort forward in Maryland this year, and Lieutenant Governor Brown successfully shepherded this legislation through the General Assembly.
Disposition: 21-33B-07

CSG policy task force recommendations to The Committee on Suggested State Legislation: 2013B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action

Comments/Note to staff:

SSL Committee Meeting: 2013B
( ) 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 managed health care and the department of insurance to develop a standard form health care service plans and health insurers can use to authorize filling drug prescriptions. The Act requires health service plans and health insurers use such forms to authorize filling drug prescriptions for patients.

Submitted as:
California
Chapter 648 of 2011
Status: Enacted into law in 2011.

Comment: California is reported to be the first state to enact legislation addressing this issue. At least three states are considering similar legislation in 2012:

- Vermont - HB 603 (in committee of referral as of late January)
- Hawaii - HB 1741 (voted favorably out of committee of referral; now in Committee on Finance as of mid-February)
- Hawaii - SB 2436 (senate companion of HB 1741; voted favorably out of committee of referral plus passed 1st reading; now in Consumer Protections as of mid-March)
- Arizona - SB 1385 (introduced and assigned to committee review as of late January).

Disposition:

CSG policy task force recommendations to The Committee on Suggested State Legislation: 2013B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action

Comments/Note to staff:

SSL Committee Meeting: 2013B
( ) 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 mammography report provided to a patient shall include information about breast density, based on the Breast Imaging Reporting and Data System established by the American College of Radiology. Where applicable, such report shall include the following notice: “If your mammogram demonstrates that you have dense breast tissue, which could hide small abnormalities, you might benefit from supplementary screening tests, which can include a breast ultrasound screening or a breast MRI examination, or both, depending on your individual risk factors. A report of your mammography results, which contains information about your breast density, has been sent to your physician's office and you should contact your physician if you have any questions or concerns about this report.”

Submitted as:
Connecticut
Public Act No. 09-41
Status: Enacted into law in 2009.

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Comment: The Density Education National Survivors Effort reports similar legislation has been considered in California, Florida, Missouri, and Texas. The Illinois Department of Insurance reports Illinois law requires “If a routine mammogram reveals heterogeneous or dense breast tissue, coverage must provide for a comprehensive ultrasound screening of an entire breast or breasts, when determined to be medically necessary by a physician.” [215 ILCS 5/356g and 215 ILCS 125/4-6.1]

Disposition:

CSG policy task force recommendations to The Committee on Suggested State Legislation:
2013B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action

Comments/Note to staff:

SSL Committee Meeting: 2013B
( ) 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 commissioner of health and senior services to require each birthing facility licensed by the department of health and senior services to perform a pulse oximetry screening, a minimum of 24 hours after birth, on every newborn in its care.

Submitted as:
New Jersey
Chapter 74 of 2011
Status: Enacted into law in 2011.

Comment:
First-in-the-Nation New Jersey Newborn Heart Defect Screening Law Already Saving Lives

Trenton, NJ – Governor Chris Christie today toured Newton Medical Center and met with the Gordon family, whose two-month-old son, Dylan, is alive today because of detection and treatment resulting from New Jersey’s first-in-the-nation law requiring newborns to be screened for life-threatening heart defects before leaving the hospital.

On September 1, a day after the law mandating inclusion of pulse oximetry testing on newborns became effective, a hospital pediatrician informed Lisa and Bill Gordon of Newton that the test performed on their baby was abnormal and that he had a heart murmur. Dylan was rushed to Morristown Medical Center, where it was determined he needed specialized pediatric cardiac surgery. Dylan was transferred to Columbia University Medical Center, and several days later had the life-saving surgery correcting the abnormality discovered from the newly mandated newborn testing.

“As Governor, you sign a lot of bills into law, but it’s a rare day when you know a piece of legislation you signed saved a life,” said Governor Christie. “As a father of four children, I can just imagine the fear Lisa and Bill endured in those days after the diagnosis. But I can also imagine the relief and joy that overtook their fear when they realized Dylan would be fine. I’m proud to say that New Jersey has led the way in requiring this life-saving test, which demonstrates our commitment to early detection in children like Dylan.”

“It is because of your law that our son’s life was saved, and my husband and I are very grateful to you,” the Gordons wrote in a letter to the Governor last month. “We just can’t thank you enough for passing this law and we hope that other states will pass this law in the future. Our son Dylan is proof that the test is worth doing.” Mrs. Gordon said she hoped to bring greater attention to this important new law by speaking publicly about Dylan’s story.

“Congenital heart defects are not easily detected, but among birth defects, they are the leading cause of infant death, according to the federal Centers for Disease Control and Prevention (CDC),” said Health and Senior Services Commissioner Mary E. O’Dowd. Untreated, congenital birth defects may cause physical and mental disabilities, or even death. "This new requirement solidifies New Jersey’s position as a leader in early detection and treatment of children," said Commissioner O'Dowd. “More than 102,000 babies are born in New Jersey each year and we know this simple and inexpensive screening test will save other babies’ lives.”
Since Governor Christie signed the pulse oximetry law on June 2, U.S. Health and Human Services Secretary Katherine Sebelius last month added pulse oximetry to the list of nearly 60 recommended tests for newborns – a list states are not bound to follow but many do. Maryland and Indiana will implement pulse oximetry screening measures next year; other states currently considering legislation include New York, Pennsylvania, Missouri, Tennessee and Nebraska. Minnesota is operating a pulse oximetry screening pilot program at five hospitals in the state.

Dylan was released from Columbia University Medical Center on September 18 and requires a follow-up visit with his pediatric cardiologist every two months.

"Screening all newborns for pulse oximetry allows us the ability to better respond in delivering high-quality care to the most vulnerable of our patients," said Joseph DiPaolo, Director of Operations for Newton Medical Center. "With this simple, non-invasive test meaning the difference between tragedy or a healthy life for this little boy, there's no question that the law mandating pulse oximetry testing has already proved its necessity," said Sue Calvert, RN, the nurse in Newton Medical Center's Maternity Center who performed the test on Dylan. "Performing this test on each of our newborns simply makes sense."

Sponsors of the legislation in the Assembly include Assemblypersons Jason O'Donnell (D-Hudson), Connie Wagner (D-Bergen) and Ruben J. Ramos, Jr. (D-Hudson). Senate version sponsors are Senators Richard J. Codey (D-Essex) and Joseph F. Vitale (D—Middlesex).

Disposition: 21-33B-10

CSG policy task force recommendations to The Committee on Suggested State Legislation: 2013B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action

Comments/Note to staff:

SSL Committee Meeting: 2013B
( ) Include in Volume
( ) Defer consideration
   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject

Comments/Note to staff:
This Act specifies requirements for a health care sharing ministry and exempts a health care sharing ministry from requirements of state insurance law.

Submitted as:
Indiana

HOUSE ENROLLED ACT No. 1050
Status: Enacted into law in 2011.

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Disposition:

CSG policy task force recommendations to The Committee on Suggested State Legislation: 2013B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action

Comments/Note to staff:

SSL Committee Meeting: 2013B
( ) Include in Volume
( ) Defer consideration
    ( ) next task force mtg.
    ( ) next SSL mtg.
    ( ) next SSL cycle
( ) Reject

Comments/Note to staff:
This Act sets criteria to regulate zipline and canopy tours. It:

- establishes duties of zipline and canopy tour operators;
- addresses the liability of zipline and canopy tour operators and participants;
- authorizes the state division of labor to regulate ziplines and canopy tours, including requiring operators to get permits;
- authorizes the state division of labor to inspect operator facilities for safety and to hire contractors to do that;
- addresses notice about and investigating serious physical injuries or fatalities which occur at such facilities or on such tours, and
- addresses suspending the operations of zipline and canopy tours under certain conditions.

Submitted as:
West Virginia
Enrolled Committee Substitute For House Bill No. 2532
Status: Enacted into law in 2011.

GO TO TABLE OF CONTENTS

Comment:

Disposition:

CSG policy task force recommendations to The Committee on Suggested State Legislation: 2013B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action

Comments/Note to staff:

SSL Committee Meeting: 2013B
( ) Include in Volume
( ) Defer consideration
   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject

Comments/Note to staff:
This Act prohibits a commercial provider of a book service, as defined, from disclosing, or being compelled to disclose, any personal information relating to a user of the book service, subject to certain exceptions. The Act requires a provider to disclose personal information of a user only if a court order has been issued, as specified, and certain other conditions have been satisfied. It requires a provider to disclose a user’s personal information if the user has consented to the disclosure, and authorizes a provider to disclose a user’s personal information to a government entity, as defined, if an imminent danger of death or serious physical injury exists, as specified, or if the provider in good faith believes the information is directly relevant to a crime against the provider or user.

The Act requires a provider, upon request by a law enforcement entity, to preserve records and other evidence in its possession of a user’s personal information pending issuance of a court order or warrant. It imposes civil penalties on a provider of a book service for knowingly disclosing a user’s personal information to a government entity in violation of these provisions, except as otherwise provided. It requires a provider of a book service, except as specified, to prepare a specified report relating to demands for disclosure of personal information of users of the book service, and to publish that information in a searchable format on the Internet, or, if the provider does not have an Internet Web site, to either prominently post the report on its premises or send the report annually to the state Office of Privacy Protection. The Act specifies additional requirements for publishing the report for a provider that collects personally identifiable information through the Internet about individual consumers in the state.

Submitted as:
California
Chapter 424
Status: Enacted into law in 2011.

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Comment:

Disposition:

CSG policy task force recommendations to The Committee on Suggested State Legislation: 2013B
( ) 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:
This Act prohibits a person from posting on the Internet the home address, the telephone number, or personal identifying information of a domestic violence or stalking victim program participant or the program participant’s family members who are participating in the program, or a provider, employee, volunteer, or patient of a reproductive health facility or individual residing at the same address with the intent that another person imminently use that information to commit a crime involving violence or a threat of violence against the participant or the program participant’s family members who are participating in the program.

This Act specifies that a participant’s personal address may be revealed after termination of certification only if the participant’s termination resulted from the program manager determining that false information was used as a subterfuge to avoid detection of illegal or criminal activity or apprehension by law enforcement.

Submitted as:
California
Chapter 200
Status: Enacted into law in 2011.

GO TO TABLE OF CONTENTS

Comment:

Disposition:

CSG policy task force recommendations to The Committee on Suggested State Legislation: 2013B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action

Comments/Note to staff:

SSL Committee Meeting: 2013B
( ) Include in Volume
( ) Defer consideration
   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject

Comments/Note to staff:
This Act prohibits an employer from requesting or requiring that an employee or applicant disclose any user name, password, or other means for accessing a personal account or service through specified electronic communications devices; prohibiting an employer from taking, or threatening to take, specified disciplinary actions for an employee's refusal to disclose specified password and related information; prohibiting an employee from downloading specified information or data; etc.

Submitted as:
Maryland
SB 433
Status: Awaiting governor’s action as of 4/11/12.
Delaware has implemented a successful agricultural lands preservation program under which Preservation easements have been acquired to permanently protect over 100,000 acres or approximately 20% of Delaware’s available farmland. To carry on Delaware’s agricultural legacy and maintain agriculture as a leading component of Delaware’s economy there is a need to facilitate the acquisition of farmlands by Delaware’s younger generation of farmers. The loan program established by this legislation serves the dual purpose of permanently protecting farmland through Preservation easements and providing to younger farmers the much needed equity basis for obtaining commercial loans by providing favorable subordinated loans from the foundation to make the farmland purchases.

Submitted as:
Delaware
SB 117
Status: Enacted into law in 2011.

GO TO TABLE OF CONTENTS

Comment:

Disposition:

CSG policy task force recommendations to The Committee on Suggested State Legislation: 2013B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action

Comments/Note to staff:

SSL Committee Meeting: 2013B
( ) Include in Volume
( ) Defer consideration
   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject

Comments/Note to staff:
The Act creates an independent legal framework within which home service contracts are defined, may be sold and are regulated in this state. It declares home service contracts, as defined, are not insurance and not otherwise subject to the state Insurance Code. The bill requires simple registration, financial assurance options and enforcement by the state insurance commissioner.

Submitted as:
Oklahoma
SB 780 (Enrolled)
Status: Enacted into law in 2011.

GO TO TABLE OF CONTENTS

Comment:

Disposition:

CSG policy task force recommendations to The Committee on Suggested State Legislation: 2013B
( ) Include in Volume
( ) Defer consideration to next task force meeting
( ) Reject
( ) No action

Comments/Note to staff:

SSL Committee Meeting: 2013B
( ) Include in Volume
( ) Defer consideration
   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject

Comments/Note to staff: