

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 A
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

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/outourcing

- *Trends:* private companies providing public services, sending jobs overseas

3. Science and Technology Developments - Science and technology developments are advancements in both scientific research and applications of that research.

Megatrend: Bioengineering

- *Trends:* DNA, stem cell research, cloning, genetic engineering

Megatrend: Energy sources

- *Trends:* development of alternative energy sources

Megatrend: Privacy and security issues

- *Trends:* wireless tracking, identity theft, cyber terrorism

Megatrend: Electronic delivery of goods/services

- *Trends:* e-commerce, e-government

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

Megatrend: Globalization of trade

- *Trends:* outsourcing, offshoring, free trade agreements, prescription drug reimportation

Megatrend: Energy supply

- *Trends:* price increases, availability

Megatrend: Intellectual property

- *Trends:* standardization of local, state, national and international regulations

Megatrend: Retirement issues

- *Trends:* move away from defined benefit plans, pension shortfall, Social Security

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

Megatrend: Government involvement in social policy

- *Trends:* gay marriage, abortion, separation of church and state issues

Megatrend: Redefinition of family and role of family

- *Trends:* single-headed households, unmarried couples, home schooling

Megatrend: Redefinition of morality

- *Trends:* re-evaluating definition of indecency, censorship issues

Megatrend: Spirituality

- *Trends:* homeopathic medicine, spiritual beliefs may be different than religious beliefs

Megatrend: Assimilation

- *Trends:* shift from acculturation to maintaining ethnic identities

MEGATRENDS AND CHANGE DRIVERS

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

1. Aging of the Population

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

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

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

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

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

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

2. Immigration

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

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

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

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

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

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

3. Population Growth Patterns

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

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

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

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

4. Globalization

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

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

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

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

5. New Economy

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

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

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

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

6. Information Dissemination

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

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

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

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

7. Privacy and Security

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

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

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

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

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

8. Natural Resource Use and Protection

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

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

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

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

9. Polarization of Society

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

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

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

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

10. Role of Government

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

The changing level of government involvement is illustrated by changes in state economic development policy over the years. A few decades ago, states were almost totally reliant on industrial recruitment as an economic strategy. Some states then developed services for entrepreneurs and small businesses. This evolved into states serving as a broker between entrepreneurs and the private and nonprofit sources of business assistance they need.

Several states have experienced the conflict between what the public wants and what they're willing to pay. Citizen ballot initiatives have, in certain instances, created costly programs without providing revenue sources for them. When combined with a growing anti-tax sentiment, states will be hard pressed to adequately fund programs, which may lead them to carefully examine what they want to focus on.

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

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

ONGOING FORCES OF CHANGE – 2007 AND BEYOND

Demographics

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

Chasing the American Dream

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

Environmental Gluttony

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

Health Care: Paying More, Getting Less

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

Tech Revolution

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

Economic Transformation

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

Educating for Outcomes

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

Critical Infrastructure: Cracks in the Foundation

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

Balance of Power

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

America the Safe and Secure?

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

Disposable Society

A 2006 report published by the Center for Environment and Population characterizes the United States as a “super-size” nation, with lifestyles reflected in super-sized appetites for food, houses, land and resource consumption. The marketing and consumption of fast foods and

disposable products, coupled with a growing population, will strain states' waste management capacity and place citizens at increased risk for poor physical and financial health.

Changing Global Climate

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

SSL PROCESS

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

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

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

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

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

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

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

Docket ID#

Title

State/source

Bill/Act

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

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

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

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

SSL Committee Meeting: (A)(B)(C)

☐ Include in Volume

☐ Defer consideration:

☐ next task force mtg.

☐ next SSL mtg.

☐ next SSL cycle

☐ Reject

Comments/Note to staff:

*Item was deferred from the previous SSL cycle

SSL DOCKET CATEGORIES - 2004A and later

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

- (01) Conservation and the Environment
- (02) Hazardous Materials/Waste
- (03) Energy
- (04) Science and Technology
- (05) Public, Occupational and Consumer Health and Safety
- (06) Property, Land and Housing/Infrastructure, Development/Protection
- (07) Growth Management
- (08) Economic Development/Global Dynamics/Development
- (09) Business Regulation and Commercial Law
- (10) Public Finance and Taxation
- (11) Labor/Workforce Recruitment, Relations and Development
- (12) Public Utilities and Public Works
- (13) State and Local Government/Interstate Cooperation and Legal Development
- (14) Transportation
- (15) Communications/Telecommunications
- (16) Elections/Political Conditions
- (17) Criminal Justice, the Courts and Corrections/Public Safety and Justice
- (18) Public Assistance/Human Services
- (19) Domestic Relations/Demographic Shifts/Social and Cultural Shifts
- (20) Education
- (21) Health Care
- (22) Culture, the Arts and Recreation
- (23) Privacy
- (24) Agriculture
- (25) Consumer Protection
- (26) Miscellaneous

ITEM NO., TITLE OF ITEM UNDER CONSIDERATION (*) Indicates item is carried over from previous SSL cycle.	SOURCE	ACTION
(01) CONSERVATION AND THE ENVIRONMENT		
01-33A-01 Disclosure of Composition of Hydraulic Fracturing Fluids	TX	
01-33A-02 Community Forest Trusts	WA	
01-33A-03 Recycling Asphalt Roofing Shingles	IL	
(02) HAZARDOUS MATERIALS/WASTE		
02-33A-01 Motor Vehicle Brake Friction Materials	CA	
02-33A-02 Rechargeable Battery Recycling	NY	
(03) ENERGY		
*03-32A-01 New Energy Improvement District	CO	
*03-32B-01A Property Assessed Clean Energy	ME	
*03-32B-01B Property Assessed Clean Energy	MI	
03-33A-01A Green Jobs	NY	
03-33A-01B Green Jobs/Green Power Statement	NY	
(04) SCIENCE AND TECHNOLOGY		
(05) PUBLIC, OCCUPATIONAL AND CONSUMER HEALTH AND SAFETY		
(06) PROPERTY, LAND, HOUSING AND INFRASTRUCTURE, DEVELOPMENT/PROTECTION		
*06-32B-01 State Trust Land Exchanges	AZ	
06-33A-01 Uniform Partition of Heirs Property Act	NV	
06-33A-02 Mortgage Foreclosure Statement	HI	
06-33A-03 Deduction for Residence in Inventory	IN	
(07) GROWTH MANAGEMENT		
(08) ECONOMIC DEVELOPMENT/GLOBAL DYNAMICS/DEVELOPMENT		
08-33A-01 First Five Jobs Program	CT	
(09) BUSINESS REGULATION AND COMMERCIAL LAW		
*09-32B-08 Extraordinary Circumstances Affecting Credit and Insurance Rates	IA	
(32B-b) Add similar legislation from other states, if available, to the next docket.		
09-33A-01A Benefit Corporation	MD	
09-33A-01B Benefit Corporation	NJ	
09-33A-01C Benefit Corporation	VT	
09-33A-01D Sustainable Business Corporation	HI	
09-33A-02 Portable Electronics Insurance	KS	

09-33A-03 Veterans Benefits Appeal Services	IA
09-33A-04A Beneficiaries' Bill of Rights	KY
09-33A-04B Beneficiaries' Bill of Rights	RI
09-33A-05 Brew Pubs Statement	IL
09-33A-06A Issuing Accident and Health Insurance Policies Authorized in Other States	GA
09-33A-06B Health Insurance - Interstate Purchasing	WY
(10) PUBLIC FINANCE AND TAXATION	
10-33A-01A Sales and Use Taxes	AR
10-33A-01B Sales and Use Taxes	IL
10-33A-01C Sales and Use Taxes	SD
10-33A-01D Sales and Use Taxes	CA
(11) LABOR/WORKFORCE RECRUITMENT, RELATIONS AND DEVELOPMENT	
(12) PUBLIC UTILITIES AND PUBLIC WORKS	
12-33A-01 Freedom in Contracting	TN
12-33A-02 Capital Improvements for Renewable Energy	HI
12-33A-03 Renewable Energy Systems	HI
(13) STATE AND LOCAL GOVERNMENT/INTERSTATE COOPERATION AND LEGAL DEVELOPMENT	
*13-32B-04 Emergency Interim Successors for Legislators (32B-d) Add similar legislation from other states, if available, to the next docket.	WI
*13-32B-06 Fraud, Enforcement and Recovery (32B-e) Add similar legislation from other states, if available, to the next docket.	NY
13-33A-01A False Claims	MD
13-33A-01B False Claims	OR
13-33A-02 Local Government and School District Fiscal Accountability	MI
13-33A-03 Private Activity Bonds	WA
13-33A-04 Lean Government Principles	CO
13-33A-05 Surplus Lines Insurance Multi-State Compliance Compact	KY
13-33A-06 State Employees' Ideas That Improve State Government Operations	CO
(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-03 Universal Fare Card for Mass Transit	IL
14-33A-04 Alternative Fuel/Autonomous Vehicles	NV

(15) COMMUNICATIONS/TELECOMMUNICATIONS

*15-32B-02 Deregulating Telephone Companies Statement	OH
(32B-g) Add similar legislation from other states, if available, to the next docket.	
15-33A-01A Telecom Deregulation	MI
15-33A-01B Telecom Deregulation	TX
15-33A-01C Telecom Deregulation	VA
15-33A-01D Telecom Deregulation	WI
15-33A-01E Telecom Deregulation	NC
15-33A-02 Uniform Access, Competition, and Consumer Fairness	TN
15-33A-03 Interoperable Communications in Schools	CO
15-33A-04 Electronic Communications in Public Meetings	UT
15-33A-05 Municipal Broadband Systems	NC

(16) ELECTIONS/POLITICAL CONDITIONS

(17) CRIMINAL JUSTICE, THE COURTS AND
CORRECTIONS/PUBLIC SAFETY AND JUSTICE

*17-32B-02 Crimes against Children by People in Positions of Trust	DE
(32B-h) Add similar legislation from other states, if available, to the next docket.	
17-33A-01A Sexual Assault of Youths by Persons Standing in a Position of Power, Authority or Supervision	CT
17-33A-01B Prohibited Acts by a Person in a Position of Authority or Special Trust	KY
17-33A-01C Sexual Assault Against a Child by a Person in a Position of Trust	NY
17-33A-01D School Employees and Students	AL
17-33A-02 Tort Arbitration	UT
17-33A-03A Criminal Background Checks, Mental Illness, and Firearms	IA
17-33A-03B Criminal Background Checks, Mental Illness, and Firearms	KY
17-33A-04 Sexting and Cyberbullying	NV
17-33A-05 Blue Alert	VA
17-33A-06 Medical Parole for Severely Ill Inmates	RI
17-33A-07 Civil Actions Remedies and Procedures Reform	TX
17-33A-08 Justice Reinvestment	NC

(18) PUBLIC ASSISTANCE/HUMAN SERVICES

18-33A-01 Elder and Vulnerable Adult Placement Referrals	WA
18-33A-02 Volunteer Drivers Who Transport Seniors	IL

(19) DOMESTIC RELATIONS/DEMOGRAPHIC SHIFTS/SOCIAL
AND CULTURAL SHIFTS

19-33A-01 Disposing Remains of Members of the Armed Forces	AK
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19-33A-02 Gender Identity and Public Accommodations	NV
19-33A-03 Posthumous Children	IA
19-33A-04 Defrauding Prospective Adoptive Parents	AR
19-33A-05 Heirloom Birth Certificates	MI
19-33A-06 Next-of-Kin Registry	NJ
19-33A-07 Prohibiting Employers from Discriminating Against Domestic Violence Victims	HI
(20) EDUCATION	
20-33A-01 Positive Youth Development Grant Program	AR
20-33A-02 Fixed Tuition Rate	TX
20-33A-03 College Credits for Heroes	TX
20-33A-04 Teacher Excellence	AR
20-33A-05 School Reform (Teacher Tenure, Teacher Performance) Statement	IL
20-33A-06 Teacher Collective Bargaining	IN
20-33A-07 DREAM Act	IL
20-33A-08 Education Investment Board	OR
(21) HEALTH CARE	
*21-32B-01 Recording Radiation X-Rays Radiation Doses	CA
(32B-i) Add a bill to the next docket that makes some changes to this bill.	
21-33A-01 Radiation Control	CA
21-33A-02 Health Professions Disciplinary Process Transparency	WA
21-33A-03 Health Care Sharing Ministry	GA
21-33A-04 Medicaid Smart Card	NC
21-33A-05 Prenatal Nondiscrimination	AZ
21-33A-06 Informed Consent for Abortions	AZ
21-33A-07 Exclusive Provider Benefit Plans	TX
21-33A-08 Medicaid Community Service Pilot	UT
21-33A-09 Remote Automated Medication System	GA
21-33A-10 Diabetes Reporting	KY
21-33A-11 Health Insurance Rate Review	NM
21-33A-12 Authorizing Electronic Prescriptions	ND
(22) CULTURE, THE ARTS AND RECREATION	
22-33A-01 Creative Districts	CO
22-33A-02 Movable Soccer Goal Safety	IL
(23) PRIVACY	
(24) AGRICULTURE	
24-33A-01 Selective Vegetation Removal Standards	NC
(25) CONSUMER PROTECTION	
25-33A-01 Securities Fraud Reporting	UT
(26) MISCELLANEOUS	

According to a Texas legislative bill analysis, hydraulic fracturing, commonly called “fracking,” is a natural gas drilling method in which a well is drilled vertically more than a mile deep and then extended horizontally into the targeted rock formation. Fracturing fluids, consisting of water, sand, and chemical additives, are pumped at extremely high pressure down the wellbore. The fracturing fluids flow through perforated sections of the wellbore and into the surrounding formation, fracturing the rock and injecting sand into the cracks to hold them open. This process is repeated multiple times to reach maximum areas of the wellbore. The water pressure then is reduced and fluids are returned up the wellbore for disposal or for treatment and reuse, leaving the sand in place to prop open the cracks and allow the gas to flow and be collected at the surface. Increased use of hydraulic fracturing in shale gas production has corresponded with heightened concerns about potential groundwater contamination near shale gas fields.

This Act requires operators of wells undergoing hydraulic fracturing treatment to complete and post a form on a Hydraulic Fracturing Chemical Registry website of a Ground Water Protection Council and the Interstate Oil and Gas Compact Commission disclosing the the total volume of water used in the hydraulic fracturing treatment and each chemical ingredient used in it. However, the Act also addresses how some of that information can be protected from disclosure as trade secrets, and how people can challenge designating such information as trade secrets.

Submitted as:

Texas

[HB No. 3328 \(Enrolled version\)](#)

Status: Enacted into law in 2011.

Comment:

Disposition:

CSG policy task force recommendations to

The Committee on Suggested State

Legislation: 2013A

☐ Include in Volume

☐ Defer consideration to next task force meeting

☐ Reject

☐ No action

SSL Committee Meeting: 2013A

☐ Include in Volume

☐ Defer consideration

☐ next task force mtg.

☐ next SSL mtg.

☐ next SSL cycle

☐ Reject

Comments/Note to staff:

Comments/Note to staff:

This Act authorizes the state department of natural resources to create and manage a Community Forest Trust. A community forest trust must be a discrete category of non-fiduciary trust lands held by the department of natural resources and actively managed to generate financial support for the community forest trust and to sustain working forest conservation objectives.

The department of natural resources must identify goals for the community forest trust before identifying lands for inclusion into a community forest trust. These goals must include protecting in perpetuity working forest lands that are at a significant risk of conversion to another land use; securing financial and social viability through sound management plans and objectives that are consistent with the values of the local community; maintaining the land in a working status; generating revenue at levels that are, at a minimum, capable of reimbursing the department of natural resources for management costs; providing for ongoing, sustainable public recreational access; and providing educational opportunities for local communities about the benefits that working forests provide to the state economy, communities, environment, and quality of life.

The department of natural resources may acquire parcels for the community forest trust through purchase, gift, donation, grant, transfer, or other means other than eminent domain. If state trust lands are transferred into the community forest trust, then the value of that transfer must be provided to the beneficiaries of the trust.

The Act requires the department of natural resources to develop criteria to identify and prioritize forest land that is suitable for potential inclusion in the community forest trust. priority considerations are to be given to lands that meet certain values or conditions. These values and conditions include the active participation of community partners, risk of conversion, buffering of commercial forest lands from development, and enhancing the forest products manufacturing infrastructure.

The bill directs the department of natural resources to submit biennially to the state office of financial management and the legislature a prioritized list that identifies nominated parcels of state land or state forest land that are suitable for transfer into a community forest trust. The list of nominated parcels must reflect consideration of local nominations. Prior to actually acquiring land for a community forest trust, the department of natural resources must obtain a commitment from the local community to preserve the land as a working forest. This community commitment must be demonstrated by a financial contribution of at least 50 percent of parcel's value. Each parcel added to a community forest trust must be accompanied by a management plan developed in cooperation with a local advisory committee.

The department of natural resources is also directed to provide a decennial report reviewing the community forest trust program. As part of this review, the department of natural resources may recommend divestiture actions for non-performing parcels.

In addition to local advisory committees for individual parcels, the department of natural resources may establish a statewide advisory committee for the entire community forest trust program. Members to the advisory committee are not to be paid or be reimbursed for travel costs. also discretionary to the department of natural resources is the creation of local working forest districts. These districts would be partnerships with local governments in order to synchronize the management of community forest trust lands with other public and private lands located near one another to accomplish a common set of community goals.

The Act makes certain existing funds and accounting mechanisms available to the department of natural resources to handle community forest trust funds. These include a real

property replacement account, a park land trust revolving fund, and a resource management cost account.

Submitted as:

Washington

[Chapter 216 of 2011](#)

Status: Enacted into law in 2011.

Comment:

Disposition:

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

- ☐ Include in Volume
- ☐ Defer consideration to next task force meeting
- ☐ Reject
- ☐ No action

Comments/Note to staff:

SSL Committee Meeting: 2013A

- ☐ Include in Volume
- ☐ Defer consideration
 - ☐ next task force mtg.
 - ☐ next SSL mtg.
 - ☐ next SSL cycle
- ☐ Reject

Comments/Note to staff:

This Act provides incentives to owners and operators of waste facilities that accept construction and demolition debris to divert asphalt shingles to shingle recycling facilities approved by the state department of transportation. It requires the department of transportation's asphalt mix designs to allow using recycled shingles and requires the department to maximize using recycled materials in its asphalt paving projects.

Submitted as:

Illinois

[Public Act 097-0314](#)

Status: Enacted into law in 2011.

Comment:

Disposition:

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

- ☐ Include in Volume
- ☐ Defer consideration to next task force meeting
- ☐ Reject
- ☐ No action

Comments/Note to staff:

SSL Committee Meeting: 2013A

- ☐ Include in Volume
- ☐ Defer consideration
 - ☐ next task force mtg.
 - ☐ next SSL mtg.
 - ☐ next SSL cycle
- ☐ Reject

Comments/Note to staff:

This Act, commencing on January 1, 2014, prohibits the sale of any motor vehicle brake friction materials containing specified constituents in amounts that exceed certain concentrations. The bill allows, until December 31, 2023, motor vehicle manufacturers and distributors, wholesalers, or retailers of replacement brake friction materials to deplete their inventory of noncompliant materials. The bill, commencing on January 1, 2021, prohibits motor vehicle brake friction materials containing more than 5% copper by weight from being sold in the state, and, commencing on January 1, 2025, prohibits motor vehicle brake friction materials exceeding 0.5% copper by weight from being sold in the state.

Manufacturers who violate the Act's provisions are subject to a civil fine of up to \$10,000 per violation. The bill creates a Brake Friction Materials Water Pollution Fund in the State Treasury, and requires such fines be deposited in the fund. The money in the fund will be used to help implement the Act.

This Act establishes a process by which a manufacturer may apply to the state department of toxic substances control within the state environmental protection agency to extend the prohibition against selling motor vehicle brake friction materials containing more than 0.5% copper by weight, and creates an advisory committee to be involved in that process. The bill requires the state secretary for environmental protection to issue a decision regarding the extension. In making the determination whether to approve or disapprove the extension, the bill directs the secretary to rely upon certain recommendations made by the advisory committee. The bill requires the department to assess a fee for each extension application, and the department is authorized to expend those fees, upon appropriation by the Legislature, for reimbursement for the costs incurred in implementing this process.

The bill exempts brake friction materials used for certain motor vehicle classes from its requirements and exempts from certain prohibitions the sale of vehicles or brake friction materials manufactured prior to certain dates.

This Act requires vehicle brake friction material manufacturers to screen potential alternatives to copper using a Toxics Information Clearinghouse and to use an open source alternatives assessment or this screening analysis to select alternatives to copper that pose less potential hazard to public health and the environment. The vehicle brake friction material manufacturer or importers of such material must demonstrate to the department of toxic substances, upon request, the manner in which they chose alternatives.

The bill mandates all new motor vehicles offered for sale, on and after the specified compliance dates, to be equipped with brake friction materials meeting the requirements its requirements. It mandates all vehicle brake friction material manufacturers, on or after those compliance dates, to certify compliance with those requirements and mark proof of certification on all brake friction materials. The bill requires vehicle brake friction materials manufacturers to file copies of such certification with a testing certification agency.

This Act requires the department and the state water resources control board, by January 1, 2023, to submit a report to the Governor and the Legislature, on the implementation of the bill's requirements toward meeting the copper Total Maximum Daily Load allocations in the state.

Submitted as:

California

[Chapter 307 of 2010](#)

Status: Enacted into law in 2010.

Comment:

Disposition:

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

- ☐ Include in Volume
- ☐ Defer consideration to next task force meeting
- ☐ Reject
- ☐ No action

Comments/Note to staff:

SSL Committee Meeting: 2013A

- ☐ Include in Volume
- ☐ Defer consideration
 - ☐ next task force mtg.
 - ☐ next SSL mtg.
 - ☐ next SSL cycle
- ☐ Reject

Comments/Note to staff:

This Act bans disposing used, rechargeable, batteries as regular solid waste and requires rechargeable battery manufacturers to take back and recycle used, rechargeable, batteries.

Submitted as:

New York

[Chapter 562 of 2010](#)

Status: Enacted into law in 2010.

Comment:

Disposition:

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

- ☐ Include in Volume
- ☐ Defer consideration to next task force meeting
- ☐ Reject
- ☐ No action

Comments/Note to staff:

SSL Committee Meeting: 2013A

- ☐ Include in Volume
- ☐ Defer consideration
 - ☐ next task force mtg.
 - ☐ next SSL mtg.
 - ☐ next SSL cycle
- ☐ Reject

Comments/Note to staff:

This bill creates the Colorado New Energy Improvement District to administer and finance a New Energy Improvement Program for on-site energy efficiency and renewable energy improvements. The improvements will be financed by bonds issued by the district that are paid by special assessments levied on homes that choose to participate in the program. The total principal amount of bonds that can be issued by the district is limited to \$800 million and the duration of the bonds cannot exceed 20 years. Bonds are exempt from all taxation and assessments in the state, and do not constitute a debt or financial obligation to the state.

The amount of the assessment will be based on the cost of the home energy improvements to the district, including paying the contractors who make the energy improvements and district administrative costs. The amount of the assessment cannot exceed the value of the special benefit of the energy improvement made to the home, defined as any increase in market value of the property; any cost of completing the improvement defrayed by reimbursement; any reduction in energy bills resulting from completion of the improvement; and any value of the improvement to the property included in the program application.

The assessment can either be paid in full within 30 days of being levied or can be paid in installments, with interest, over a period not to exceed 20 years. The district's payment for an energy improvement, either to a homeowner or contractor, cannot exceed \$25,000, adjusted annually for inflation.

The New Energy Improvement District will include all residential properties that apply to and are accepted to join the district, and the district is authorized to charge program application fees. However, the program may be conducted only in counties where the board of county commissioners has explicitly authorized the program. The district will be a statutory public entity that is governed by a eleven-member board. It will not be an agency of state or local government or subject to administrative direction by any state or local government agency.

A utility can count the energy savings achieved resulting from its efforts with the district toward its demand side management targets or goals established with the Public Utilities Commission.

No later than June 30, 2014 and every 5 years thereafter, the bill requires the State Auditor's Office to conduct a performance audit of the district. The state auditor is required to prepare a report and present its findings to the Legislative Audit Committee. The bill is repealed, effective January 1, 2016, unless the district has issued bonds that have not been fully repaid as of that date.

The district is prohibited from accepting new applications for the program or issuing additional bonds on or after that date.

Finally, the bill creates a Clean Energy Improvement Debt Reserve Fund, to consist of up to \$10,000,000 of non-state money controlled by the Governor's Energy Office. Money in the fund is continuously appropriated to the State Treasurer in order to pay principal and interest on bonds issued by local improvement districts (LIDs). A LID that issues bonds payable with special assessments may rely on these moneys as a reserve for bonded debt in return for paying an annual fee to the State Treasurer. Such fees are considered to be part of the interest rate savings that the LID will realize from having the fund serve as a reserve. The bill also specifies conditions under which money will be expended from the fund to cover the bonds.

Submitted as:
Colorado
[HB 10-1328 \(Enrolled version\)](#)
Status: Enacted into law in 2010.

Comment:

Disposition:

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

- ☐ Include in Volume
- ☐ Defer consideration to next task force meeting
- ☐ Reject
- ☐ No action

Comments/Note to staff:

SSL Committee Meeting: 2013A

- ☐ Include in Volume
- ☐ Defer consideration
 - ☐ next task force mtg.
 - ☐ next SSL mtg.
 - ☐ next SSL cycle
- ☐ Reject

Comments/Note to staff:

(32A-a) Add Maine legislation about this issue to the next docket.

*03-32B-01A Property Assessed Clean Energy

ME

This bill establishes a Property Assessed Clean Energy (PACE) program to be administered by the Efficiency Maine Trust (EMT) for municipalities that adopt an enabling ordinance and choose to participate in the program. Under PACE agreements with municipalities, individual property owners can borrow to finance energy-saving improvements on qualifying property. All PACE agreements must comply with underwriting requirements established by the EMT. PACE agreements are to be administered by the EMT.

Submitted as:

Maine

[Public Law Chapter 591, 124th Legislature](#)

Status: Enacted into law in 2010.

Comment:

*03-32B-01B Property Assessed Clean Energy

MI

This Act authorizes local units of government to adopt Property Assessed Clean Energy programs and to create districts to promote the use of renewable energy systems and energy efficiency improvements by owners of certain real property. It provides for the financing of such programs through voluntary property assessments, commercial lending, and other means. It authorizes a local unit of government to issue bonds, notes, and other evidences of indebtedness and to pay the cost of renewable energy systems and energy efficiency improvements from the proceeds thereof. The Act provides for the repayment of bonds, notes, and other evidences of indebtedness; authorizes certain fees; and prescribes the powers and duties of certain governmental officers and entities; and to provide for remedies.

Submitted as:

Michigan

[Act 270 of 2010](#)

Status: Enacted into law in 2010.

Comment:

Per 32A-a, CSG staff did not find Maine legislation identical to Colorado HB 10-1328. However Maine Public Law Chapter 591, 124th Legislature helps property owners finance energy-savings improvements. This Maine law and Michigan Act 270 of 2010 are part of a trend among the states to enact Property Assessed Clean Energy (PACE) laws.

According to [PACENOW](#), the PACE Initiative:

“Is a bipartisan local government initiative that allows property owners to finance energy efficiency and renewable energy projects for their homes and commercial buildings. Interested property owners opt-in to receive financing for improvements that is repaid through an assessment on their property taxes for up to 20 years. PACE financing spreads the cost of energy improvements such as weather sealing, insulation, energy efficient boilers and cooling systems, new windows, and solar installations over the expected life of the measures and allows for the

repayment obligation to transfer automatically to the next property owner if the property is sold. PACE emerged in 2008 with a pilot program in California and quickly caught the attention of communities around the country.”

“PACE uses the same kind of land-secured financing districts that American cities and towns have used for over 100 years to pay for improvements in the public interest. Over 37,000 land secured districts already exist and are a safe and familiar tool of municipal finance for street paving, parks, open space, water and sewer systems, street lighting, and seismic strengthening, among others.”

“In just two years, PACE enabling legislation has been adopted in CA, CO, DC, FL, GA, IL, LA, MA, ME, MD, MI, MN, MO, NV, NH, NM, NY, NC, OH, OK, OR, TX, VT, VA, and WI.”

“Federal overreach, in a challenge to state and local government rights, has brought PACE to a standstill today despite its great promise. For over a century, municipalities have used property taxes and assessments to finance projects that achieve a broad range of public purposes established in laws enacted by our elected state and local representatives. Like all municipal assessments, PACE assessments in arrears have a senior lien to mortgage payments in the event of a default. Recognizing this, PACE advocates began a dialogue in 2008 with Fannie Mae, Freddie Mac, and their regulator, the Federal Housing Finance Agency (FHFA) to find ways to address their concerns. Broad safeguards were developed as program guidelines by a working group that included the U.S. Department of energy to ensure that PACE programs would be beneficial to building owners, municipalities, and mortgage lenders.”

“Notwithstanding these measures, on July 6, 2010, the FHFA issued a statement that directed Fannie Mae and Freddie Mac not to underwrite mortgages for properties with a PACE assessment. It further directed mortgage lenders to redline communities with PACE programs by tightening lending standards (which, ironically, has the effect of reducing property values in such communities, devaluing lenders’ collateral). FHFA based its action on two astonishing claims:

- PACE benefits, articulated and codified by state and local governments in 23 states, do not meet a valid public purpose; and
- PACE program defaults, estimated to be no more than \$200 per average home, raise concerns with regard to the safety and soundness of the mortgage industry.”

“PACE residential programs around the country were halted by the July 6, 2010 statements of the Federal Housing Financing Agency (FHFA) and the U.S. Treasury Department Office of the Comptroller of the Currency (OCC). It is likely that by late January, 2011, the Federal District Court for the Northern District of California will order the FHFA to commence a rulemaking process, which the agency failed to do before releasing its July 6, 2010 rules.”

Maine Chapter 591 and Michigan Act 270 of 2010 are recent examples of state PACE legislation. ERC staff says the Maine law is unique in that it assigns PACE loans junior lien status instead of senior lien status, meaning that in the case of foreclosure, it would not be paid back before the mortgage. Other state PACE laws include Connecticut and Ohio.

Section 22 of [Connecticut Public Act No. 07-242](#) allows:

(a) Any municipality may, by vote of its legislative body, establish an energy improvement district within such municipality. The affairs of any such district shall be administered by an Energy Improvement District Board. The chief elected official of the municipality shall appoint the members of any such board, who shall serve for such term as the legislative body may prescribe and until their successors are appointed and have qualified. The chief elected official shall fill any vacancy for the unexpired portion of the term. The members of each such board shall serve without compensation, except for necessary expenses.

(b) After a vote by a municipality to establish an energy improvement district, the chief elected official of the municipality shall notify by mail each property owner of record within said district of said action. An owner may record on the land records in the municipality its decision to participate in the energy improvement district pursuant to sections 21 to 36, inclusive, of this act. Any owner of record, including any new owner of record, may rescind said decision at any time.

Section 23 of Connecticut Public Act No. 07-242 states:

(a) An Energy Improvement District Board shall fund energy improvement district distributed resources in its district consistent with a comprehensive plan prepared for the district by said board for the development and financing of such resources, except on state or federally owned properties, with a view to increasing efficiency and reliability and the furtherance of commerce and industry in the energy improvement district, provided such district's plan shall be consistent with the state-wide procurement and deployment plan prepared and approved pursuant to section 54 of this act and the siting determinations of the Connecticut Siting Council. The board may lease or acquire office space and equip the same with suitable furniture and supplies for the performance of work of the board and may employ such personnel as may be necessary for such performance.

[Ohio SB 232 of 2010](#) says a special improvement district may be created within the boundaries of any one municipal corporation, any one township, or any combination of contiguous municipal corporations and townships for the purpose of developing and implementing plans for public improvements and public services that benefit the district. A district may be created by petition of the owners of real property within the proposed district, or by an existing qualified nonprofit corporation.

Special improvement districts can undertake “special energy improvement projects,” which mean any property, device, structure, or equipment necessary for the acquisition, installation, equipping, and improvement of any real or personal property used for the purpose of creating a solar photo voltaic photovoltaic project or, a solar thermal energy project, a geothermal energy project, a customer-generated energy project, or an energy efficiency improvement, whether such real or personal property is publicly or privately owned. “Energy efficiency improvement” means energy efficiency technologies, products, and activities that reduce or support the reduction of energy consumption, allow for the reduction in demand, or support the production of clean, renewable energy and that are or will be permanently fixed to real property.

Per 32A-a, there is also an [Energy Efficiency Trust Statement](#) about Maine Chapter 372 of 2009 in the 2011 *Suggested State Legislation* volume. That Maine law creates a trust to pay to weatherize all residential buildings and half of commercial buildings in the state by 2030, which is in line with the state’s greenhouse-gas reduction goals. The trust will also pay for programs to promote energy efficiency and increased use of alternative energy resources in the state. Alternative energy resources include nonfossil fuel energy resources, including, but not limited to, biomass, wood, wood pellets and solar, wind or geothermal resources.

Disposition: 03-32B-01A

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

- ☐ Include in Volume
- ☐ Defer consideration to next task force meeting
- ☐ Reject
- ☐ No action

Comments/Note to staff:

SSL Committee Meeting: 2013A

- ☐ Include in Volume
- ☐ Defer consideration
 - ☐ next task force mtg.
 - ☐ next SSL mtg.
 - ☐ next SSL cycle
- ☐ Reject

Comments/Note to staff:

Disposition: 03-32B-01B

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

- ☐ Include in Volume
- ☐ Defer consideration to next task force meeting
- ☐ Reject
- ☐ No action

Comments/Note to staff:

SSL Committee Meeting: 2013A

- ☐ Include in Volume
- ☐ Defer consideration
 - ☐ next task force mtg.
 - ☐ next SSL mtg.
 - ☐ next SSL cycle
- ☐ Reject

Comments/Note to staff:

This Act establishes an administrative authority, a funding mechanism, and a program to award grants to perform energy audits and retrofit energy efficient equipment on qualified residential properties, small businesses and non-profit organizations.

Submitted as:

New York

[Chapter 487 of 2009](#)

Status: Enacted into law in 2009.

Comment:

03-33A-01B Green Jobs/Green Power Statement

NY

New York A08510 creates a program to place a charge on utility bills to help homeowners pay for projects under the “Green Jobs/Green New York” program established by Chapter 487 of the laws of 2009. The bill clarifies that the rights and responsibilities of residential ratepayers who elect to accept such a charge. It generally limits the amount of such charge to no more than 5 percent of a customer’s utility bill, and it directs the state public service commission to work with utilities to collect payments of such charges.

The bill requires people or companies selling real estate that is subject to on-bill charge to provide prospective purchasers written notice detailing the property’s obligations to the program, the amount of the original charge, the payment schedule, remaining balance and description of energy efficiency service performed on the property. The notice must be provided by the seller prior to accepting a purchase offer.

The Act streamlines the decision-making process for issuing a certificate for constructing and operating new major electric generating twenty-five thousand kilowatts or more, and modified or repowered facilities. The law provides a pre-application process and hearings process, wherein an applicant must first submit an application to a seven member siting board, consisting of state agency officials and two ad hoc members who reside in the community and are appointed by the Legislature based on recommendations from local officials. The application must contain, among other things, information related to the facility’s environmental setting, potential environmental, health, and safety impacts, including a cumulative impact analysis of air quality based on projected emissions from the proposed facility, a comprehensive demographic, economic and physical description of the community within which the facility is to be located, an evaluation of reasonable alternative locations for the proposed facility, and measures to minimize significant environmental impacts. The applicant must also provide funds to support intervenor-participation in the siting process both at the pre-application and hearings phases of the proceeding.

After receipt of the application, the Board will commence a process to determine if the applicant should obtain a certificate to construct and operate the facility. The Board must first within 60-days determine if the application is complete, providing notice of completeness to the applicant, each municipality where the facility will be located, each member of the Board, and several state agencies and officials, including the Attorney General. Within a reasonable time thereafter, the Board must hold a public hearing to specify the issues and obtain stipulations as to matters not in dispute. Owners of facilities that wish to modify or repower such facilities may thereafter participate in a six-month expedited process if their modified or repowered facilities

meet stringent standards; e.g., if the future facility reduces its total net emissions based on a test that compares future potential emissions to annualized actual emissions over the last three years.

The Act allows several parties to participate in the siting proceeding before, a hearing examiner as of right, including the department of environmental conservation, department of economic development, department of health, a the municipality wherein the plant would be located, members of communities that live within the vicinity of the proposed facility site, and non-profit organizations formed in whole or in part to promote conservation, the environment, or consumer interest, or that represent commercial or industrial groups.

The Board will then make the final decision on an application upon the record of the presiding hearing examiner. The Board may not issue a certificate for the construction or operation of a major electric generating facility absent findings and determinations that, among other things, the facility will (i) beneficially add or substitute capacity in the State, (ii) minimize or avoid adverse environmental impacts, (iii) minimize or avoid adverse disproportionate impacts; and (iv) comply with all state and local laws and regulations unless such laws and regulations are found to be unreasonably burdensome with respect to the proposed project. The bill also provides a process for rehearing of the Board decision and judicial review.

Unless otherwise agreed to by the applicant, the Board must issue a decision within one year after the application has been deemed complete.

The Act expressly recognizes that any major electric generating facility seeking a siting certificate must comply with all federal and state applicable emission requirements. The state department of environmental conservation is also expressly authorized to promulgate regulations targeting reductions in carbon dioxide.

The Act directs state energy research and development authority, in consultation with the department of public service, to conduct a study with respect to increasing generation from photovoltaic devices in the state.

The bill requires a study about increasing photovoltaic energy generation in New York.

Submitted as:

New York

[A08510](#)

Status: Enacted into law in 2011.

Comment: This bill is not in the packet because it is 52 pages.

STATEMENT IN SUPPORT:

The Power NY Act of 2011 ("Power NY") will encourage private investment in clean power plants, improve public participation in power plant siting decisions, reduce disproportionate environmental impacts in overly burdened communities, and expand opportunities for energy efficiency investments. In doing so, Power NY will expand affordable, clean and reliable energy supply, reduce demand for energy, improve our environment, strengthen the security and reliability of the state's energy systems, create jobs and foster economic growth.

Power NY includes the following three parts:

1. On Hill Recovery Program to Encourage Energy Efficiency

The on-bill recovery mechanism is designed to allow customers to pay back loans for energy efficiency upgrades through a charge on their monthly utility bill. Loans Will be provided under the program such that the monthly bill payments will be less than the energy cost savings associated with the efficiency upgrades.

On bill recovery would help overcome some of the common barriers to energy efficiency, including up-front capital cost and the complexity of taking out a loan from a third-party lender that requires payment through a separate invoice. On-bill recovery allows the charge to stay with the meter upon transfer of the property, thus allowing home and business owners to pay for the efficiency measures over the useful life of the equipment, enabling them to pay for the cost of the loan through reductions in their energy bills. By using the utilities' billing relationships with their customers, significantly more New Yorkers are expected to invest in energy efficiency measures.

Energy efficiency retrofits are a cost-effective, economically productive means of substantially reducing the energy used and wasted in buildings, the cost of operating buildings, and pollution and other hazards associated with producing, transmitting and expanding the availability of electricity and fuels. Energy waste is an economic drain on New York, as dollars spent on fuel only produces between 1/2 and 1/3 as much economic activity as dollars spent on construction or consumer goods, and New York has some of the most energy-inefficient housing in the country and pays among the highest energy rates in the country.

Currently, small-scale on-bill financing programs in cities like Portland, Oregon and individual utilities like Midwest Energy in Kansas have reached hundreds of homeowners over the last several years; and some states, including New York, have provided partial on-bill financing programs reaching only small businesses, touching only one fuel, or requiring subsidies that make the programs unsustainable. All have served as crucial pilot programs.

Until now, no state has provided statewide access to on bill recovery for fuel-blind energy efficiency to residents. On bill recovery has the potential to trigger billions of dollars of investment in home and business energy retrofits, which is the scale of investment needed to revitalize the economy and address climate change.

On bill recovery will work in conjunction with GJ-GNY and New York's other energy efficiency programs, and will stimulate significant job creation in the energy retrofit industry.

2. New Energy Siting Law

An important element of increasing the availability of new power generation is enacting a simplified regulatory process to site new power plants. Power NY would reestablish the siting process under Public Service Law Article X, which expired on January 1, 2003. Under the expired siting law, facilities sized 80 MW or larger were handled by a multi-agency siting board that included public representatives. Currently, developers must deal with multiple levels of government, the jurisdiction of multiple agencies, and various protocols.

Since the expiration of Article X there have been various efforts to enact a power plant siting law. The new version of Article X streamlines the licensing process for the siting of energy sources 25 megawatts or larger in a manner that will meet the energy and reliability needs of the state's energy consumers. The revised law would provide for enhanced community input in siting decisions and provide additional studies related to environmental justice. It would also provide for the collection of more information than the prior-version of Article X while maintaining the 12-month application review period that existed under the prior law. The law would require that any new facility meet all applicable air emission requirements, and provides the department of environmental conservation with explicit authority to adopt regulations to target reductions in

carbon dioxide. A new 6-month application review is possible for modified or repowered facilities that reduce total annual emissions on-site.

Many parties would be entitled as of right to participate in the Article X site selection review process, including the applicant, several involved state agencies, the municipality where the facility is to be sited and other municipalities that may have an interest in the proceeding, any individual resident in such municipality, any not-for-profits organizations, including those that represent commercial and industrial groups, that are devoted to a number of interests, including protection of the environment and human health, and promotion of consumer interests. The new law, moreover, would provide a significant funding mechanism for local interested parties residing in the community that may want to participate in the proceeding but lack sufficient funds.

In sum, the new Article X would provide greater certainty to the regulated community by providing a time-certain review process by a multiagency board capable of granting all necessary permits, and would provide more meaningful input from those impacted by the siting of a facility.

3. Increase the Use of Solar Energy in New York

New York has the opportunity to become a leader in the emerging solar power industry. Other states, such as New Jersey, have established more aggressive goals than New York for the deployment of solar power. The cost of installing solar photovoltaic modules is declining. However, the State must develop a solar policy that is financially sound, especially for ratepayers. Therefore, Power NY would require the NYSERDA to prepare a study that analyzes ways to increase generation from photovoltaic devices in New York. The study will include an analysis of the net economic and job creation benefits of achieving further such development and the environmental benefits of achieving increased development and usage of photovoltaic cells.

Comment:

Disposition: 03-33A-01A

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

- ☐ Include in Volume
- ☐ Defer consideration to next task force meeting
- ☐ Reject
- ☐ No action

Comments/Note to staff:

SSL Committee Meeting: 2013A

- ☐ Include in Volume
- ☐ Defer consideration
 - ☐ next task force mtg.
 - ☐ next SSL mtg.
 - ☐ next SSL cycle
- ☐ Reject

Comments/Note to staff:

Disposition: 03-33A-01B

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

- ☐ Include in Volume
- ☐ Defer consideration to next task force meeting
- ☐ Reject
- ☐ No action

Comments/Note to staff:

SSL Committee Meeting: 2013A

- ☐ Include in Volume
- ☐ Defer consideration
 - ☐ next task force mtg.
 - ☐ next SSL mtg.
 - ☐ next SSL cycle
- ☐ Reject

Comments/Note to staff:

The enabling Act of the state set aside land to be held in trust for schools and other public institutions. There are approximately 9.3 million acres of state land held in trust. The State Land Department (SLD) acts as trustee for all state trust lands and the natural products derived from such land. The mission of the SLD is to manage trust lands and maximize revenues for the beneficiaries. The beneficiaries include schools, legislative and judicial buildings, the state hospital, the department of corrections, department of juvenile corrections, and certain colleges and universities.

This Act revises the process to review and evaluate proposed state trust land exchanges. The value of the respective parcels of land being exchanged must be substantially the same as determined by an appraisal to be made by a qualified appraiser appointed by the governing body of the political subdivision in control of the land that is being exchanged.

This Act generally allows state land to be exchanged for other land in the state to ensure such lands are properly managed and protected, to convert land to public use, or to preserve or protect military facilities. It allows exchanges to be made for land owned or administered by the United States or its agencies along with other state agencies, counties and municipalities. It requires an application for the exchange of state land to include the mailing address, telephone number and relevant affiliation, if any, of the applicant. The bill specifies that a report on a proposed exchange of state land be delivered to certain people after determining that the application for the exchange of state land is complete and correct, and includes payment of the required fees.

The law requires at least two independent analyses of a proposed exchange of state lands be conducted to determine the following:

- the income to the Trust from the lands before the exchange and the projected income to the Trust after the exchange;
- the fiscal impact of the exchange on each county, city or town and school district in which all the lands involved in the exchange are located, and
- the physical, economic and natural resource impacts of the proposed exchange on the surrounding or directly adjacent communities, military facilities, and local land uses and land use plans.

It requires the SLD to give a written 30-day notice to the following entities, in addition to specified political subdivisions and agencies, prior to public notice of a proposed exchange of state lands for other lands:

- the military affairs commission;
- each military facility at the address on record at the SLD, and
- leaseholders on state lands that are to be exchanged and on state lands that are adjacent to the lands to be exchanged.

The bill specifies that the SLD must publish notice of the proposed exchange of state lands after determining that the application is complete and correct and all required payments, appraisals and analyses have been completed.

It extends the time that the notice of the proposed exchange of state lands must be published from four to six consecutive weeks in a manner pursuant to current law.

It requires the SLD to schedule at least two public hearings on the exchange of state lands. It requires one hearing on the exchange of state lands be held at the state capital and another hearing be held in a location of general accessibility in the proximate vicinity of the state lands being exchanged.

It specifies that within 60 days after the conclusion of the last hearing on the exchange of state lands, the state must determine and issue a written finding recommending either that the exchange be denied or approved. If recommended for approval, the proposed exchange must then be submitted to a referendum for final approval at the next regular general election.

Submitted as:

Arizona

[Chapter 222 of 2010](#)

Status: Enacted into law in 2010.

Comment:

Disposition:

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

- ☐ Include in Volume
- ☐ Defer consideration to next task force meeting
- ☐ Reject
- ☐ No action

Comments/Note to staff:

SSL Committee Meeting: 2013A

- ☐ Include in Volume
- ☐ Defer consideration
 - ☐ next task force mtg.
 - ☐ next SSL mtg.
 - ☐ next SSL cycle
- ☐ Reject

Comments/Note to staff:

This uniform law has made the tenancy in common, a common ownership structure under which two or more cotenants own undivided interests in a parcel of property, the default ownership structure for two or more family members who inherit real property. In addition, the law presumes that two or more people who acquire undivided interests in real property by conveyance or devise take ownership to the property as tenants in common and not as joint tenants unless the intention to create a joint tenancy is very clear. However, certain key features of tenancy-in-common ownership can create serious problems for those seeking to maintain ownership of the property for themselves and their relatives. For example, any cotenant may sell his or her interest or convey it by gift during his or her lifetime without the consent of his or her cotenants, making it easy for non-family members – including real estate speculators – to acquire interests in family real estate. Or at a cotenant's death, his or her interest in the property may be transferred by will or pursuant to intestacy laws. Once someone acquires even a small interest in tenancy-in-common property, this new cotenant can initiate a partition action and request the court to order a forced sale of the entire property, called a partition by sale, even if all of the other cotenants do not consent and wish to retain ownership of the property.

Although a surprising number of relatively wealthy families face problems with tenancy-in-common ownership, low to moderate-income landowners experience particularly acute problems with such ownership, including problems with partition actions. Scholars and practitioners alike recognize that within this demographic, families own property at a high rate under the default rules of a tenancy in common. In many circumstances this is due to the fact that low to middle-income property owners transfer their property by intestate succession at a higher rate than by will. Further, these property owners are typically much less likely than wealthier families to have entered into a tenancy-in-common agreement or another private agreement governing the partition of the property. As a result of this pattern, within many communities across the country with a significant number of property owners of modest means, family property is owned under a tenancy-in-common ownership structure, and commonly referred to as “heirs property.” The number of cotenants often multiplies significantly under heirs property ownership, further destabilizing individual ownership interests given that any one of the cotenants can ask a court to order a partition by sale. Many who own heirs property have little to no understanding of the legal rules governing partition. Payment of property taxes, productive land use, residence, or a near consensus on maintaining ownership within the family will not secure a family's ownership, and their first exposure to the often counterintuitive rules governing partition often only occurs after an action has been filed and critical stages in the litigation have passed.

The Uniform Law Commission promulgated the Uniform Partition of Heirs Property Act (UPHPA) in 2010 to address issues specific to heirs property in partition actions. The Act does not limit or prohibit the filing of a partition action, and does not replace in any comprehensive way existing partition laws with respect to non-heirs property or property that has a binding agreement among cotenants on how to handle partition. It provides narrowly focused statutory procedures and a hierarchy of remedies for use in partition actions involving heirs property, and a systematic approach that will help protect holders of covered family-owned, ancestral property from real estate speculation and efforts to strip them of their real property and real property wealth without adequate recourse. Key highlights of the Act include:

- “Heirs property” is defined as real property that is held under a tenancy in common in which there is no binding agreement among the cotenants governing partition of the property. Additionally, one or more of the cotenants must have acquired title from a relative,

and either: 20% or more of the interests are held by cotenants who are relatives; 20% or more of the interests are held by an individual who acquired title from a relative; or 20% or more of the cotenants themselves are relatives.

- When an action for partition of real property is filed, the court must determine whether the property is heirs property – the Act will trump existing provisions in conflict, for heirs property.

- Any court-appointed commissioner may not have any interest or participation in the action.

- Under the Act, the court appoints a disinterested real estate appraiser to assess the fair market value of the property unless all the cotenants agree to a different valuation method or the court determines that the cost of the appraisal will outweigh its evidentiary value.

- After the value of the property is determined, the Act provides all of the cotenants who did not request partition by sale with a right to buy out all of the interests of those who have done so, at a price equal to the court-determined value of the property multiplied by the fractional interest of the cotenant that is bought out. The Act provides for procedures in the event multiple co-tenants wish to buy out those petitioning for sale. It also provides for cotenants absent from the action in a second buyout, which, in many circumstances, can help to make partition in kind of the property more feasible and to consolidate ownership of the property to facilitate its long term management.

- If all of the interests of those seeking partition by sale are not purchased by other cotenants, or if there is a cotenant remaining who seeks partition in kind after the court has concluded the operation of the Act's buyout provisions, then the court shall proceed with a partition in kind unless great or manifest prejudice to the cotenants as a group would result. The Act provides a list of economic and noneconomic factors which a court shall consider in determining whether great or manifest prejudice would occur if partition in kind were ordered.

- If the court does not order partition in kind, it shall order partition by sale unless none of the cotenants have requested partition by sale, in which case the court shall dismiss the action.

- A partition by sale, if ordered, must be an open-market sale unless a sale by sealed bid or an auction would be economically more advantageous and of greater benefit to the cotenants as a group. The parties may agree on a broker or a licensed one may be appointed by the court. The broker shall offer the property for sale in a commercially reasonable manner and shall list the property for sale at the court-determined value. If an offer at or above the court-determined value is received within a reasonable time, the broker may complete the sale according to state law after complying with the Act's reporting requirements. If no offer at or above the court-determined value is received within a reasonable time, the Act provides procedures and alternatives to effectuate the a fair sale with the goal of maximizing value to the extent possible.

For questions about the Uniform Partition of Heirs Property Act, please contact Kieran Marion or Katie Robinson at 312-450-6600.

Submitted as:

Nevada

[AB 244 \(Enrolled Version\)](#)

Status: Enacted into law in 2011.

Comment:

Disposition: 06-33A-01

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

- ☐ Include in Volume
- ☐ Defer consideration to next task force meeting
- ☐ Reject
- ☐ No action

Comments/Note to staff:

SSL Committee Meeting: 2013A

- ☐ Include in Volume
- ☐ Defer consideration
 - ☐ next task force mtg.
 - ☐ next SSL mtg.
 - ☐ next SSL cycle
- ☐ Reject

Comments/Note to staff:

This Act amends the foreclosure processes under state law to provide greater protection for homeowners. The Act requires certain large mortgage servicers to maintain an office in the state that is staffed by at least one agent to address consumer inquiries or complaints and to accept service of process. The Act voids future foreclosure actions taken by unlicensed, nonexempt mortgage servicers.

Hawaii law allows banks to foreclose on homes either non-judicially through a power-of-sale provision that is included in most mortgage agreements, or through the courts. This Act sets a moratorium on new certain nonjudicial foreclosures until July 1, 2012. It establishes a 3-year Mortgage Foreclosure Dispute Resolution Program for nonjudicial foreclosures of residential real property occupied by mortgagors who have been owner-occupants for at least 200 days immediately before the initiation of a foreclosure proceeding. The bill defines “dispute resolution” to mean a facilitated negotiation between a mortgagor and mortgagee for the purpose of reaching an agreement for mortgage loan modification or other agreement in an attempt to avoid foreclosure or to mitigate damages if foreclosure is unavoidable.

The bill directs the state judiciary, through its Center for Alternative Dispute Resolution, to work with the state department of commerce and consumer affairs to set up the program. It authorizes these entities to contract with a third party to run the program. The Act requires foreclosing mortgagees to provide to mortgagors specific information and notification about the program.

The Act directs that before a public sale may be conducted for a residential property that is occupied by an owner-occupant as a primary residence, the foreclosing mortgagee shall, at the election of the owner-occupant, participate in the mortgage foreclosure dispute resolution program. The Act imposes a stay of foreclosure proceedings on the affected property once the qualified owner-occupant elects to participate in the dispute resolution program.

Dispute resolution sessions are facilitated by a “neutral” person who is a dispute resolution specialist assigned to facilitate the dispute resolution process. The bill specifies that a dispute resolution session shall consist of at least one meeting lasting no more than three hours, which may be extended by the equivalent of one additional three-hour session on the same or a different day at the discretion of the facilitator. The bill generally requires both parties to a dispute to be physically present at the dispute resolution session. A dispute resolution process conducted pursuant to the Act should use the calculations, assumptions, and forms established by the Federal Deposit Insurance Corporation Loan Modification Program Guide as set out on the Federal Deposit Insurance Corporation’s publicly accessible website unless a different program or process is agreed to by both parties and the neutral facilitator.

The law requires neutral facilitators of dispute resolutions held under the program to file reports indicating whether the parties reached an agreement and whether either did not fully comply with the program’s provisions. The bill enables the neutral facilitator to impose fines and other sanctions on either party for not complying with dispute resolution process.

The bill requires parties in a dispute resolution session who reach an agreement to file a settlement agreement with the neutral facilitator and to file or record documents as necessary to enforce the agreement. It directs the neutral facilitator to file the settlement document with a closing report. The settlement document becomes a contract between the parties and is enforceable in a private contract action in a court of appropriate jurisdiction in the event of breach by either party. If the settlement document allows for foreclosure or other transfer of the subject property, any stay of foreclosure imposed by the Act on the disputed property shall be released upon filing or recording the settlement document with the appropriate court and state

agency. The Act also permits lifting a stay of foreclosure proceedings on property when the parties to a dispute resolution session do not reach an agreement.

The Act directs that the public sale of foreclosed properties must take place during business hours on a business day at certain state facilities that are not administered by the judiciary.

This legislation requires anyone who forecloses on a property within a planned community, a condominium apartment or unit, or an apartment in a cooperative housing project to notify, by way of registered, or certified mail, the board of directors of the planned community association, the association of owners of the condominium project, or the cooperative housing project in which the property to be foreclosed is located, of the foreclosure at the time foreclosure proceedings are begun. The notice, at a minimum, shall identify the property, condominium apartment or unit, or cooperative apartment that is the subject of the foreclosure and identify the name or names of the person or people bringing foreclosure unless the planned community association, condominium association of owners, or cooperative housing corporation is a party in a foreclosure action.

The law generally prohibits such associations from foreclosing on units in their properties for at least sixty days after a unit owner notifies the association of their intention to cure a default. It prohibits such associations from rejecting a “reasonable payment plan” to cure the default, provided that the plan requires the owner to pay at a minimum the current maintenance fee and some amount owed on a past due balance.

This Act establishes procedures to enable an owner-occupant of a residential property that is subject to nonjudicial foreclosure to convert the action to a judicial foreclosure. This starts when the own-occupant petitions a court. The bill describes the look and contents of notices to convert a nonjudicial foreclosure to a judicial disclosure.

The Act prohibits foreclosing mortgagees from engaging in any of the following practices:

- Holding a public sale on a date, at a time, or at a place other than that described in the public notice of the public sale or a properly noticed postponement;
- Specifying a fictitious place in the public notice of the public sale;
- Conducting a postponed public sale on a date other than the date described in the new public notice of the public sale;
- Delaying the delivery of the recorded, conformed copy of the conveyance document to a bona fide purchaser who purchases in good faith for more than forty-five days after the completion of the public sale;
- Completing nonjudicial foreclosure proceedings during short sale escrows with a bona fide purchaser if the short sale offer is at least five per cent greater than the public sale price; provided that escrow is opened within ten days and closed within forty-five days of the public sale; and provided further that a bona fide short sale purchaser shall have priority over any other purchaser;
- Completing nonjudicial foreclosure proceedings during bona fide loan modification negotiations with the mortgagor; or
- Completing nonjudicial foreclosure proceedings against a mortgagor who has been accepted or is being evaluated for consideration for entry into a federal loan modification program before obtaining a certificate or other documentation confirming that the mortgagor is no longer eligible or an active participant of that federal program.

This Act limits foreclosure actions by junior lienholders. It directs that any foreclosing mortgagee who violates the Act or related state law commits an unfair or deceptive act or

practice under state law. It prescribes how a mortgage servicer can voluntarily cease to do business in the state and give up its license.

Submitted as:

Hawaii

[Act 48 \(SB651, SD2 HD2, CD1\)](#)

Status: Enacted into law in 2011.

Comment: This bill is not in the packet because it is 102 pages.

HOUSE OF REPRESENTATIVES
STATE OF HAWAII
STATE CAPITOL
HONOLULU, HAWAII 96813

August 5, 2011

TO: Rep. Cindy Evans

FROM: Representative Robert N. Herkes, Chair, House Committee on Consumer Protection and Commerce

RE: Suggested State Legislation for the Council of State Government - Act 48 Relating to Mortgage Foreclosures.

I am writing in response to your June 3, 2011 memorandum requesting recommendations for the Suggested State Legislation Committee (SSL) of the Council of State Government (CSG). As Chair of the House Committee on Consumer Protection and Commerce, I believe the most significant piece of legislation that passed through this committee during the 2012 legislative session is ACT 48 (SB651 SD2 HD2 CDI) RELATING TO MORTGAGE FORECLOSURES.

Some commentators have referred to Act 48 as the nation's toughest foreclosure law. It passed with an overwhelming majority with bipartisan support. When signing the bill, Hawaii's governor, Neil Abercrombie, heralded the legislation as a "comprehensive, detailed, broadly-based, and extensively researched response."

Your memorandum lists several criteria that SSL considers in evaluating such legislation. In my opinion, Act 48 satisfies each of these factors, as follows:

I. Is the issue a significant one currently facing state governments?

The country is in a foreclosure crisis. As the economy continues to lag, the unemployment rate remains high and family incomes are significantly reduced. We can therefore expect little to no abatement of the foreclosure rate on residential homes. Repossessed homes are uninhabited and fall into disrepair. Property values decline. Neighborhoods and businesses suffer. The housing market – a chief driver of the economy, remains bleak. Foreclosures are breeding more foreclosures.

Although much of the regulation of the banking industry and securities trading occurs at the federal level, a lender must follow the respective states' laws to actually foreclose and acquire

possession of real estate. While foreclosure laws may vary widely from state to state, it is at the state level where the rubber meets the road when a family is forced from their home.

As effective as federal legislation may or may not be at addressing the foreclosure crisis, it appears that it is through the states' foreclosure laws where policy makers, who are seeking to protect consumers, have their last chance to help homeowners from wrongful or avoidable foreclosures.

II. Does the issue have national or regional significance?

While some states are more seriously impacted by the high foreclosure rate, the issue pervades across state lines.

As the lending industry developed over the decades, and as more exotic mortgage products were concocted and sold, fewer mortgages were originated and held onto by local banks. Gone are the days when a borrower can call their bank and talk to the same loan officer that gave them the mortgage. Blame for today's unscrupulous mortgage lending practices is therefore more appropriately attributable to the national banks. These banks do business with borrowers across the country.

There is increasing exposure by the media of the predatory practices and consumer abuses committed by the national banks in their mortgage lending and servicing. Such activities, unheard of when banks were more accountable, include sub-prime lending with adjustable rates, little to no down payment requirements, and liar loans. These banks were quick to lend, line their pockets, and hastily pass off the risks along with their responsibility after dressing these investments up as something more secure than they were.

As the appetite for mortgage-backed investments increased, along with the profit that could be made by creating them, banks not only made sloppy missteps, but also took illegal short-cuts when transferring loan documents into these investment vehicles. These activities simultaneously exploited borrowers and cheated unwary investors. The public and regulators are quickly gaining a greater understanding of how certain corrupt banking and investment trading practices have contributed to the breakdown of the economy. As is indicated in the developing case law in state and federal bankruptcy courts, judges across the country are wising up too.

Because it is the states' foreclosure laws that serve as the gate between being a homeowner, or homeless, this issue may most effectively be addressed at the state level.

III. Are fresh and innovative approaches available to address the issue?

Act 48 takes innovative approaches to addressing mortgage foreclosure in several ways.

Perhaps the most significant approach that Act 48 takes to curb wrongful or avoidable foreclosures is the mortgage foreclosure dispute resolution program outlined in section 1, (pages 1-25). It is modeled after a mortgage foreclosure mediation law enacted in the State of Nevada. Act 48, however, is regarded as having more teeth to prevent violations.

Some background is helpful. Hawaii law allows a bank to foreclose on a home either through the courts or non-judicially through a power-of-sale provision that is included in most mortgage agreements. In the last decade or so, title insurance became available to lenders foreclosing through the cheaper, faster non-judicial process. Therefore, immediately preceding Act 48, the vast majority of Hawaii's foreclosures have been conducted non-judicially.

The non-judicial statutes most utilized by lenders, however, had very few consumer protections written into them. In addition to overhauling the non-judicial statutes, Act 48 vastly

changed the landscape by requiring lenders to participate in dispute resolution at the election of an owner-occupant undergoing a non-judicial foreclosure.

The dispute resolution program involves the state's department of commerce and consumer affairs and its judiciary in its administration. Specially trained third party "neutrals" are hired to review mortgage documents and financial information and to facilitate an agreement between borrowers and lenders in a face-to-face meeting. The neutrals have an important role in determining whether a foreclosure is warranted or if alternative, mutually-acceptable solutions, such as a loan modification, or other arrangement are possible. Without third party intervention, these decisions were usually left up to mortgage servicing companies whose main financial incentive was to foreclose. For the servicers, modifying a loan often meant more work and less money because they could collect higher fees by foreclosing.

The dispute resolution program requires a lender to consider other relevant factors that help determine whether the costs of pursuing foreclosure makes financial sense for them - a step that appeared to be missing or rushed during borrower-initiated negotiations. The program also requires borrowers to engage in consumer credit or housing counseling to determine whether or not they have the ability to keep up with a modified payment plan that is acceptable to the lender.

If the third-party neutral is not satisfied with the efforts at negotiation made by the lender, the foreclosure will be blocked. If he or she determines that a foreclosure is the only viable solution, then the foreclosure will proceed. Sanctions may also be imposed on both parties.

Act 48 has clearly made a splash. Since its passage, Fannie Mae and Freddie Mac, who apparently own or insure most mortgages in the state, have announced that they have changed their strict policy from foreclosing non-judicially (which had been much faster, easier, and less expensive under Hawaii law before Act 48) to requiring that foreclosure actions for all their loans be filed in court.

This development may have revealed some significant problems with lenders' veracity¹ in their foreclosure paperwork, much like the fraudulent robo-signing practices that were exposed in the Fall of 2010.² One distinguishing characteristic of the dispute resolution program, which is apparently absent in other foreclosure laws, is the requirement that lenders wishing to foreclose non-judicially provide all the mortgage documents that prove they have the legal authority to do so (page 14, lines 6-17).

There is a widely held belief that the lender's failure to fulfill these documentation requirements, which would establish a lender's legal standing and right to foreclose, is driving lenders, such as those whose loans are guaranteed by Fannie and Freddie, to pursue their foreclosures through the courts. As a practical matter, a judge may not ask a lender to prove standing in a foreclosure action that is not challenged - a common occurrence given the burden and prohibitive expense it takes for a troubled homeowner to hire an attorney.

As with any major legislation, tweaks and improvements are necessary. We are studying Act 48's language and impact and are mindful of potential unintended consequences with an eye toward passing any amendments necessary to improve this landmark reform. For example, we are considering ways to transfer to the judicial system some of the consumer protections that were written into the non-judicial foreclosure statutes.

Other states should be aware that a chief criticism of Act 48 is of its strict requirements and harsh penalties. It has been suggested that the teeth in Act 48's non-judicial law is encouraging lenders to pursue their foreclosures through a more time-consuming and expensive process in court. They predict a flood of judicial actions that will overwhelm and overburden the courts. We are watching carefully and are poised to respond legislatively. We have also been told that in court, borrowers will be subject to deficiency judgments. Act 48 prohibits such judgments in non-judicial foreclosures. These potential unintended consequences may be unique features to

Hawaii because it allows foreclosures to be done judicially and non-judicially. Nevertheless, careful consideration should be given to the foreclosure avenues available in a given state.

Notwithstanding the issue on whether a lender can prove it has the legal right to foreclose, I believe the detailed provisions of Act 48's mortgage foreclosure dispute resolution program achieves a balance between borrowers and lenders where before, there had been no level-playing field. Its provisions are transferable from state to state as we have found in borrowing much of the language from Nevada's statutes. Should a state legislature seek to effectuate policies to protect the consumer from wrongful or avoidable foreclosure actions, this program would be a very strong step in that direction.

One major problem that scores of homeowners have complained about is the multiple parties with whom they are forced to communicate with in their efforts to negotiate loan modifications and avoid foreclosures. Too often, the lender's right hand does not know what the left hand is doing and homeowners receive conflicting instructions and mixed messages.

In many if not most cases, the bank who originated the loan has sold it to another lender, who has sold it again. Through securitization, many have ended up in a pool, fractions of which have been divided and sold to various investors. Upon default, the foreclosures are often pursued by banks acting as trustees for investors holding these mortgage-backed certificates. In this complicated process involving multiple sales, transfers, divisions, and assignments, it is often unclear who is actually owed the money and who has the authority to act on that entity's behalf. Moreover, those acting as foreclosing mortgagees hire outside companies to do their servicing and set the wheels of foreclosure in process. These mortgage servicers aren't the banks, but are the entities that do the chief communicating with borrowers.

With so many players involved, and the disturbing accounts of disorganization, mixed and/or crossed messages, mismanagement, and outright fraud - multiplied by a volume of foreclosures never experienced, the homeowner stands in the position to suffer the most. The consequence to borrowers for listening to the wrong party and/or following the wrong advice may be losing one's home.

To address this problem, Act 48 requires that foreclosing mortgagees file "affiliation statements" with our state bureau of conveyances. (See pages 41-42 of Act 48.) These statements should identify the agency or affiliate relationship and the authority conferred to any entity acting on a mortgagee's behalf. All foreclosure notices must reference the document number of the affiliate statement that is filed with the recording bureau. Otherwise, the foreclosure notice is invalid.

To further regulate activities of mortgage servicers, those required to be licensed in the State of Hawaii must also file affiliate statements with the state department of commerce and consumer affairs. Those statements must disclose the lenders or mortgagees for which the mortgage servicer provides services, along with a description of the authority held by that servicer through the affiliation. (See page 51 lines 13-19.)

Any action or communication with a borrower in connection with a foreclosure by any of the entities described in these affiliation statements will be binding on all others. (See page 42, lines 3-12.)

One of the strongest criticisms we've received on Act 48 regards the harsh penalties imposed by cross - references to Hawaii's Unfair or Deceptive Act or Practice law (UDAP), which mirrors consumer protection laws that are largely uniform across the states and similar to federal statutes. Act 48 explicitly states that a violation of Hawaii Revised Statutes' chapter on Mortgage Foreclosures will constitute a violation of UDAP. (See page 42 lines 13-16).

Although we will be looking at ways we might temper this provision, the strong opposition we've heard clearly highlights UDAP's utility. In general, it provides Hawaii's Offices

of Consumer Protection and the Attorney General the ability to pursue claims and collect civil penalties payable to the state. It also permits a consumer to seek treble damages and attorney's fees in a private claim.

Act 48 also outlines a list of prohibited conduct. (See pages 38-39.) Some of these may apply from state to state, such as: improperly or fraudulently noticing and conducting a public auction of a foreclosed property; delaying the delivery of a deed to a bona fide purchaser at a public auction; or foreclosing on a property while a borrower is contemporaneously engaged in bona fide short sale or loan modification negotiations, or actively participating in the HAMP program.

IV. Is the issue of sufficient complexity that a bill drafter would benefit from having a comprehensive draft available?

The problems associated with the mortgage foreclosure crisis are indeed complex. Just as this legislature drew great lessons from the statutes of Nevada, which had been improved over a few years of amendments, so may other states in looking at what we've done. The sections highlighted in this memo help focus on those areas that may be adopted more or less wholesale, and then tailored to an individual state.

V. Does the bill or Act represent a practical approach to the problem?

Act 48 has very detailed, specific provisions which compel explicit conduct by banks and mortgage servicers for the purpose of protecting consumers. In light of the abuses in the industry, this legislature found it necessary to expressly describe acceptable practices when foreclosing on someone's home. To the extent this bill is specific, it is practical.

VI. 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?

There are several provisions in Act 48 that are only relevant to Hawaii's laws. However, the aspects of Act 48 that may be the most transferable to the statutes of other states are described above, with page references.

VII. Is the structure of the bill or Act logically consistent?

Act 48 follows Hawaii's bill drafting conventions in that new material is provided first, then amendments to existing law, then material that has been repealed. The final sections refer to budgetary matters and effectiveness dates. Therefore, the most useful and relevant material insofar as they may be considered "Suggested State Legislation" is provided in the first 52 pages of the bill. Page references to specific provisions are also provided in the descriptions above. However, a technical review of the bill as it reads with existing law is advised.

VIII. Is the language and style of the bill or Act clear and unambiguous?

Perhaps the greatest impediment to fully comprehending the bill is its sheer length. That is why I've focused this memo only on certain aspects of the legislation. Although the problems that characterize the foreclosure crisis are complicated, I believe the provisions of Act 48 specifically discussed in this memo are clear and unambiguous.

¹ For a compelling report on some of the fraudulent activities committed by lenders and their mortgage servicers, please see the CBS 60 Minutes episodes aired in early April 2011, available at these links:

<http://www.cbsnews.com/video/watch/?id=7361572n&tag=related;photovideo;>

<http://www.cbsnews.com/video/watch/?id=7361576n&tag=segmentExtra5croller:housing>

² For a helpful explanation of the robo-signing and related issues, please view this report on PBS aired on May 17, 2011: <http://video.pbs.org/video/1934819092>

Disposition: 06-33A-02

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

- ☐ Include in Volume
- ☐ Defer consideration to next task force meeting
- ☐ Reject
- ☐ No action

Comments/Note to staff:

SSL Committee Meeting: 2013A

- ☐ Include in Volume
- ☐ Defer consideration
 - ☐ next task force mtg.
 - ☐ next SSL mtg.
 - ☐ next SSL cycle
- ☐ Reject

Comments/Note to staff:

This Act provides a 50% property tax deduction to a residential builder who builds a single family residence, townhouse, or condominium that has never been occupied. The bill specifies that the deduction terminates when title to the structure is transferred to the homeowner. It provides that the deduction applies for one assessment date for which the structure is assessed as partially completed and not more than three assessment dates for which the structure is assessed as fully completed. The Act provides that a residential builder may not claim deductions for more than three residences in Indiana per assessment date.

Submitted as:

Indiana

[House Enrolled Act No. 1046](#)

Status: Enacted into law in 2011.

Comment:

Disposition:

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

- ☐ Include in Volume
- ☐ Defer consideration to next task force meeting
- ☐ Reject
- ☐ No action

Comments/Note to staff:

SSL Committee Meeting: 2013A

- ☐ Include in Volume
- ☐ Defer consideration
 - ☐ next task force mtg.
 - ☐ next SSL mtg.
 - ☐ next SSL cycle
- ☐ Reject

Comments/Note to staff:

This Act authorizes “substantial financial assistance” under existing economic development programs for business development projects that can create jobs and invest funds within specified timeframes. The Act enables the state department of economic and community development commissioner to provide this assistance to no more than five businesses per year in FY 2012 and 2013, respectively. The bill allows the commissioner to provide the assistance only if the governor consents and it exempts such projects from having to obtain the legislature's approval.

Submitted as:

Connecticut

[File 631 \(Substitute Senate Bill No. 1001\)](#)

Status: Enacted into law in 2011.

Comment:

GOVERNOR MALLOY: BUSINESSES INTERESTED IN ‘FIRST FIVE’ PROGRAM SHOULD CONTACT OFFICE DIRECTLY

(HARTFORD, CT)

Last week, Governor Dannel P. Malloy announced the creation of his ‘First Five’ initiative—a new program that will provide incentives to the first five businesses that each bring a minimum of 200 new full-time jobs to the state within the next 24 months. Today, Governor Malloy announced that companies interested in the program should call his office directly to learn more.

“I’ve said from the beginning that I plan to be very involved in attracting new businesses to the state, and keeping the ones we already have,” said Governor Malloy. “The program takes our best job creation tools, like the Reinvestment Tax Credit, the Manufacturing Assistance Act and the Job Creation Tax Credit, and allows them to be combined so the benefits to businesses increase. Employers are also taking note of the way in which this budget gets our state’s fiscal house back in order—no gimmicks and no borrowing. I had to make a number of tough decisions in this budget, but the creation of a program like ‘First Five’ was a no-brainer.”

In addition to the incentives based on the creation of the first 200 new full-time jobs within Connecticut, businesses would continue to receive credits for each net new job created above 200, increasing the potential to thousands of jobs in the state. Before companies can be eligible for the First Five program, they must receive approval from the Department of Economic and Community Development. The Governor’s initiative has been introduced as Senate Bill 1001 – An Act Creating the First Five Program.

Businesses interested in this program should call Aaron Frankel at 860-524-7302 for more information.

For Immediate Release: February 22, 2011

Contact: Colleen Flanagan

Colleen.Flanagan@ct.gov

860-524-7308 (office)

860-770-8090 (cell)

Twitter: [@GovMalloyOffice](#)

Facebook: Office of Governor Dannel P. Malloy

Disposition: 08-33A-01

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

- ☐ Include in Volume
- ☐ Defer consideration to next task force meeting
- ☐ Reject
- ☐ No action

Comments/Note to staff:

SSL Committee Meeting: 2013A

- ☐ Include in Volume
- ☐ Defer consideration
 - ☐ next task force mtg.
 - ☐ next SSL mtg.
 - ☐ next SSL cycle
- ☐ Reject

Comments/Note to staff:

*09-32B-08 Extraordinary Circumstances Affecting Credit and Insurance Rates

IA

This Act directs an insurer that uses credit information to underwrite or rate risks for a personal insurance policy shall, on written request from a consumer, provide reasonable exceptions to the insurer's rates, rating classifications, company or tier placement, or underwriting rules or guidelines for a consumer who has experienced and whose credit information has been directly influenced by certain events. These events include:

- a catastrophic event, as declared by the federal or a state government;
- a serious illness or injury, or serious illness or injury to an immediate family member;
- death of a spouse, child, or parent;
- divorce or involuntary interruption of legally owed alimony or support payments.
- identity theft;
- temporary loss of employment for a period of three months or more, if such loss results from involuntary termination of employment;
- military deployment overseas, or
- other events as determined by the insurer.

Submitted as:

Iowa

[Senate File 2075 - Enrolled](#)

Status: Enacted into law in 2010.

Comment:

(32B-b) Add similar legislation from other states, if available, to the next docket.

Per 32-b, Iowa SF 2075 generally adopts Section 6 of the National Conference of Insurance Legislators' (NCOIL) --

MODEL ACT REGARDING USE OF CREDIT INFORMATION IN PERSONAL INSURANCE:

Section 6. Extraordinary Life Circumstances

A. Notwithstanding any other law or regulation, an insurer that uses credit information shall, on written request from an applicant for insurance coverage or an insured, provide reasonable exceptions to the insurer's rates, rating classifications, company or tier placement, or underwriting rules or guidelines for a consumer who has experienced and whose credit information has been directly influenced by any of the following events:

1. Catastrophic event, as declared by the federal or state government
2. Serious illness or injury, or serious illness or injury to an immediate family member
3. Death of a spouse, child, or parent
4. Divorce or involuntary interruption of legally-owed alimony or support payments
5. Identity theft
6. Temporary loss of employment for a period of 3 months or more, if it results from involuntary termination

7. Military deployment overseas
8. Other events, as determined by the insurer

B. If an applicant or insured submits a request for an exception as set forth in Section 6(A), an insurer may, in its sole discretion, but is not mandated to:

1. Require the consumer to provide reasonable written and independently verifiable documentation of the event.
2. Require the consumer to demonstrate that the event had direct and meaningful impact on the consumer's credit information.
3. Require such request be made no more than 60 days from the date of the application for insurance or the policy renewal.
4. Grant an exception despite the consumer not providing the initial request for an exception in writing.
5. Grant an exception where the consumer asks for consideration of repeated events or the insurer has considered this event previously.

C. An insurer is not out of compliance with any law or rule relating to underwriting, rating, or rate filing as a result of granting an exception under this section. Nothing in this section shall be construed to provide a consumer or other insured with a cause of action that does not exist in the absence of this section.

D. The insurer shall provide notice to consumers that reasonable exceptions are available and information about how the consumer may inquire further.

E. Within 30 days of the insurer's receipt of sufficient documentation of an event described in Section 6(A), the insurer shall inform the consumer of the outcome of their request for a reasonable exception. Such communication shall be in writing or provided to an applicant in the same medium as the request.

The Model Act was amended by the NCOIL Property-Casualty Insurance and Executive Committees on July 12, 2009, to expand on extraordinary life circumstances provisions.

See NCOIL table below:

NATIONAL CONFERENCE OF INSURANCE LEGISLATORS (NCOIL)
States That Have Included Extraordinary Life Circumstances Provisions
In NCOIL-Based Credit Scoring Legislation

STATE	BILL #	SECTION	YEAR ENACTED	NOTES*
COLORADO	SB 216	Sections 1(h)(VI) and (VII)	2004	Not a separate extraordinary life circumstances provision, but adds ID theft and credit info that was negatively impacted by a divorce/former spouse to the list of credit-related factors that an insurer shall not consider negatively
FLORIDA	SB 40A	Section 3(5)(e)	2003	Insurer must provide a means of appeal for a consumer whose credit info is unduly influenced by a catastrophic event. Insurer must complete its review of appeal within 10 business days after the consumer's request and after the submission of reasonable documentation requested by the insurer. If it grants an exception, an insurer either must treat the consumer's credit info as neutral or must exclude catastrophe-related data, whichever is more beneficial to the consumer.
LOUISIANA	HB 1448	Section 1487 (Exemptions from the Use of Credit Information)	2003	Provides that the insurance commissioner may deem an event (that is not specifically identified in the bill) to be catastrophic
MONTANA	SB 11	Section 5(2)	2005	Insurer may require reasonable, independently verifiable documentation before granting an exception, as well as verification re: the event's direct effect on the consumer's credit info Insurer does not have to consider extraordinary events for which it has previous granted exceptions
NEW MEXICO	SB 560	Section 5 (Exception Procedures)	2005	Provides that an extraordinary event must occur within previous 3 years. Requires detailed filings by insurers re: their extraordinary life circumstances policies and procedures, and allows that the insurance superintendent may disapprove such a filing. Insurer may require reasonable, independently verifiable documentation before granting an exception, as well as verification re: the event's direct effect on the consumer's credit info
TEXAS	SB 14	Section 5 (Effect of Extraordinary Events)	2003	When granting an exception, an insurer either shall consider only credit info not affected by the event, or shall assign a neutral credit score. Insurer may require reasonable, independently verifiable documentation before granting an exception, as well as verification re: the event's direct effect on the consumer's credit info
VIRGINIA	SB 1284	§38.2-2126 (F) — <i>residential property</i> §38.2-2234 (F) — <i>motor vehicle</i>	2003	Insurer <i>may</i> grant an extraordinary life circumstance exception if a consumer so requests, and may require reasonable documentation of the event prior to any exception

*All of the above bills provide that an insurer granting an extraordinary life circumstances exception is still in compliance with its filed rules and rates. The bills also allow an insurer to

grant exceptions for extraordinary events not specifically identified in the legislation. Typical examples of extraordinary events cited in law include, among others:

- Catastrophic illness or injury
- Death of a spouse, child, or parent
- Involuntary loss of employment
- Identity theft
- Divorce

© National Conference of Insurance Legislators (NCOIL)

FOR IMMEDIATE RELEASE

Philadelphia, Pennsylvania, July 16, 2009

Contact: Susan Nolan or Candace Thorson

NCOIL National Office 518-687-0178

NCOIL ADOPTS INSURANCE SCORING AMENDMENT, RECOGNIZES EXTRAORDINARY LIFE EVENTS

The National Conference of Insurance Legislators (NCOIL) responded to the widening financial crisis on July 12, when legislators here adopted an insurance scoring amendment that reaffirms and expands upon NCOIL support for extraordinary event victims. The amendment, which revises a 2002 NCOIL *Model Act Regarding Use of Credit Information in Personal Insurance*, moves an extraordinary life circumstances (ELCs) drafting note into the body of the model and broadens its provisions.

Committee Chair Rep. Charles Curtiss (TN) said after the vote, “Those who struggle with personal catastrophes not of their making—particularly in today’s economy—deserve legislation that understands their needs. Although our model already recognized illness, unemployment, identity theft, and other challenges, our amendment leaves no doubt that these are extraordinary events. Requiring that insurers grant exceptions gives NCOIL-based laws even greater strength.”

ELCs, under the amendment, include federal or state-declared catastrophes; serious illness or injury to a consumer or his/her immediate family; death of a spouse, child, or parent; divorce or involuntary interruption of legally owed alimony or support payments; identity theft; temporary and involuntary loss of employment for three months or more; and military deployment overseas, among other items.

The amendment allows an insurer to require written, verifiable proof of the extraordinary event and proof that the event harmed the consumer’s credit. The amendment also addresses methods and timeframes for requesting and granting ELC exemptions, granting multiple exemptions for the same event, and consumer disclosure.

Insurance company and agent representatives supported the revision. The American Insurance Association (AIA), National Association of Mutual Insurance Companies (NAMIC), and Property-Casualty Insurers Association of America (PCI) noted that a handful of states already have ELC exceptions.

The American Academy of Actuaries (AAA) also commented, expressing concern over possible cost-shifting between people who receive ELC exceptions and people who do not.

In general, the NCOIL insurance scoring model protects consumers in states that choose to allow the practice. The 26-state model requires disclosure and use of updated, accurate credit data; bans consideration of certain personal information; mandates filing of scoring models; and

prohibits data selling, among other things. The bill's provisions help young people with "thin" credit files, seniors without credit cards, low-income and minority citizens who use credit differently, and other constituencies.

The Property-Casualty Insurance Committee adopted the ELC amendment on July 12, followed by Executive Committee adoption later that day. The Summer Meeting was held from July 9 through 12.

NCOIL is an organization of state legislators whose main area of public policy interest is insurance legislation and regulation. Most legislators active in NCOIL either chair or are members of the committees responsible for insurance legislation in their respective state houses across the country. More information is available at <http://www.ncoil.org>.

Disposition: 09-32B-08

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

- ☐ Include in Volume
- ☐ Defer consideration to next task force meeting
- ☐ Reject
- ☐ No action

Comments/Note to staff:

SSL Committee Meeting: 2013A

- ☐ Include in Volume
- ☐ Defer consideration
 - ☐ next task force mtg.
 - ☐ next SSL mtg.
 - ☐ next SSL cycle
- ☐ Reject

Comments/Note to staff:

The bill defines a “general public benefit” to mean a material, positive impact on society and the environment, as measured by a third-party standard, through activities that promote a combination of specific public benefits. It defines a “specific public benefit” to mean providing individuals or communities with beneficial products or services; promoting economic opportunity for individuals or communities beyond the creation of jobs in the normal course of business; preserving the environment; improving human health; promoting the arts, sciences, or advancement of knowledge; increasing the flow of capital to entities with a public benefit purpose; or the accomplishment of any other particular benefit for society or the environment.

The bill allows a corporation to elect to be a benefit corporation by amending its charter, or by including a statement in the charter that the corporation is a benefit corporation. An amendment to be formed as a benefit corporation and the subsequent termination of benefit corporation status must be approved by the stockholders. Reference to the fact that a corporation is a benefit corporation must appear prominently at the head of the benefit corporation’s charter document, each subsequent charter document, and all outstanding stock certificates. The bill further allows a benefit corporation to identify and include one or more specific public benefits in its charter.

The bill requires a director of a benefit corporation to consider these factors when determining what actions are in the best interests of the benefit corporation: the impact on the benefit corporation’s stockholders; the impact on the benefit corporation’s employees and workforce, including the employees and workforce of subsidiaries and suppliers; the interests of customers as beneficiaries of the general or specific public benefit purposes of the benefit corporation; community and societal considerations, including those of any community in which offices or facilities of the benefit corporation or the benefit corporation’s subsidiaries or suppliers are located; and the local and global environment. The director may consider any other pertinent factors or the interests of any other group, as appropriate. In the reasonable performance of duties in accordance with the standard provided in the bill, a benefit corporation director retains standard personal immunity for their actions as a benefit corporation director.

The bill requires a benefit corporation to deliver an annual for-benefit report to all stockholders that includes the ways in which the benefit corporation pursued a general public benefit during the preceding year; the extent to which the general public benefit was created; the ways in which the benefit corporation pursued any specific public benefit included in its charter, and the extent to which that specific public benefit was created. The annual report must also discuss circumstances hindering the benefit corporation’s ability to create the public benefit and an assessment of the societal and environmental performance of the benefit corporation. The report must be delivered to stockholders within 120 days of the end of the benefit corporation’s fiscal year, and posted on the benefit corporation’s public web site, if any exists.

Submitted as:

Maryland

[Chapter 97 of 2010](#)

Status: Enacted into law in 2010.

Comment:

This bill provides for the creation of a benefit corporation. The purpose of a benefit corporation is to create a general public benefit, defined as a material positive impact on society and the environment, through activities that promote some combination of specific public benefits. This allows a benefit corporation, at the direction of its shareholders, to pursue a mission that goes beyond making a profit for owners and investors, while providing legal justification and protection for the actions of its officers and board members that consider social and environmental issues when making decisions on behalf of the corporation.

The bill allows a benefit corporation to identify one or more specific public benefits in addition to its stated purpose of creating a general public benefit. A specific public benefit includes providing low-income or underserved people or communities with beneficial products or services; promoting economic opportunity for people or communities beyond the creation of jobs in the normal course of business; preserving the environment; improving human health; promoting the arts, sciences or advancement of knowledge; and increasing the flow of capital to entities with a public benefit purpose.

The Act enables an existing corporation to become a benefit corporation by amending its certificate of incorporation to state that the corporation is a benefit corporation. The bill also enables a benefit corporation to terminate its status as a benefit corporation by amending its certificate of incorporation to delete the statement that the corporation is a benefit corporation. It defines the procedures and shareholder voting requirements to do either task.

The bill provides a standard of conduct for a benefit corporation's board of directors and officers. The bill also directs a benefit corporation to designate a "benefit director" and a "benefit officer." It is the duty of the benefit director to determine whether or not the benefit corporation has acted in accordance with its general, and any specific, public benefit purpose. The benefit officer is supposed to perform any duties in the management of the benefit corporation relating to the purpose of the corporation to create a general or specific public benefit.

The bill requires a benefit corporation to deliver an annual benefit report about the ways in which the corporation pursued any general and specific public benefit during the year; the extent to which the public benefit was created; any circumstances that hindered the creation of a public benefit; an assessment of the social and environmental performance of the corporation; the name of the benefit director and the benefit officer; the compensation paid by the corporation during the year to the benefit director; the name of each person that owns 5% or more of the outstanding shares of the benefit corporation; and a statement detailing whether, in the opinion of the benefit director, the benefit corporation acted in accordance with its general, and any specific, public benefit purpose. The bill requires that the annual benefit report be sent to each shareholder within 120 days following the end of the fiscal year of the benefit corporation. The benefit corporation must also post its most recent benefit report on the public portion of its website, except that any proprietary information and the compensation paid to directors may be omitted from the report. The bill requires a benefit corporation to deliver a copy of its benefit report to the state treasurer.

Submitted as:

New Jersey

[Chapter 30 of 2011](#)

Status: Enacted into law in 2011.

Comment:

09-33A-01C Benefit Corporation

VT

This Act authorizes for-profit corporations to elect treatment as a “benefit corporation.” Under the Act, a benefit corporation must have as part of its corporate purpose the creation of “general public benefit” and is further required to have at least one independent benefit director and issue an annual benefit report to its shareholders.

Submitted as:

Vermont

[Act 113](#)

Status: Enacted into law in 2010.

Comment:

09-33A-01D Sustainable Business Corporation

HI

This Act authorizes a designation and code of conduct for a business corporation to offer entrepreneurs and investors the option to build and invest in businesses that operate in a socially and environmentally sustainable manner. Enforcement of those responsibilities comes not from governmental oversight, but rather from new provisions on transparency and accountability included in the Act.

Submitted as:

Hawaii

[Act 209 of 2011](#)

Status: Enacted into law in 2011.

Comment:

Disposition: 09-33A-01A

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

- ☐ Include in Volume
- ☐ Defer consideration to next task force meeting
- ☐ Reject
- ☐ No action

Comments/Note to staff:

SSL Committee Meeting: 2013A

- ☐ Include in Volume
- ☐ Defer consideration
 - ☐ next task force mtg.
 - ☐ next SSL mtg.
 - ☐ next SSL cycle
- ☐ Reject

Comments/Note to staff:

Disposition: 09-33A-01B

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

- ☐ Include in Volume
- ☐ Defer consideration to next task force meeting
- ☐ Reject
- ☐ No action

Comments/Note to staff:

SSL Committee Meeting: 2013A

- ☐ Include in Volume
- ☐ Defer consideration
 - ☐ next task force mtg.
 - ☐ next SSL mtg.
 - ☐ next SSL cycle
- ☐ Reject

Comments/Note to staff:

Disposition: 09-33A-01C

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

- ☐ Include in Volume
- ☐ Defer consideration to next task force meeting
- ☐ Reject
- ☐ No action

Comments/Note to staff:

SSL Committee Meeting: 2013A

- ☐ Include in Volume
- ☐ Defer consideration
 - ☐ next task force mtg.
 - ☐ next SSL mtg.
 - ☐ next SSL cycle
- ☐ Reject

Comments/Note to staff:

Disposition: 09-33A-01D

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

- ☐ Include in Volume
- ☐ Defer consideration to next task force meeting
- ☐ Reject
- ☐ No action

Comments/Note to staff:

SSL Committee Meeting: 2013A

- ☐ Include in Volume
- ☐ Defer consideration
 - ☐ next task force mtg.
 - ☐ next SSL mtg.
 - ☐ next SSL cycle
- ☐ Reject

Comments/Note to staff:

This Act regulates licensing and selling insurance for portable electronic devices. The Act defines “portable electronics insurance” as “insurance providing coverage for the repair or replacement of portable electronics devices which may provide coverage for portable electronics devices against any one or more of the following causes of loss: loss, theft, are inoperable due to mechanical failure, malfunction, damage or other similar cause of loss.” The term does not include certain service contracts, any policy of insurance covering a seller’s or a manufacturer’s obligations under a warranty, or any homeowner’s, renter’s, private passenger automobile, commercial multiperil, or similar policy.

Under the Act, vendors must hold a limited lines license to sell policies for portable electronics insurance. They provide at the time of application and on a quarterly basis thereafter, a list to the state insurance commissioner of all locations in the state where the vendors offer coverage.

The Act requires vendors disclose to consumers that portable electronics insurance may duplicate coverage already provided by a customer’s homeowner’s insurance policy, renter’s insurance policy or other source of coverage and that consumers are not obligated to buy the insurance in order to buy the portable electronic device. They must also tell customers when the price of the insurance is built into the price of buying such a device.

Insurers must develop a training program for people who sell portable electronics insurance and the Act authorizes the state insurance commissioner to penalize vendors for unfair or deceptive acts or practices relative to selling such insurance.

The bill prohibits insurers from changing the terms and conditions of a policy of portable electronics insurance more than once in a six-month period and from terminating an individually enrolled customer based solely upon the age of such enrolled customer’s covered portable electronic device.

The Act contains provisions requiring insurers to notify customers about proposed termination of a customer’s policy.

Submitted as:

Kansas

[SB 170](#)

Status: Enacted into law in 2011.

Comment:

Disposition:

CSG policy task force recommendations to
The Committee on Suggested State

Legislation: 2013A

☐ Include in Volume

☐ Defer consideration to next task force
meeting

☐ Reject

☐ No action

SSL Committee Meeting: 2013A

☐ Include in Volume

☐ Defer consideration

☐ next task force mtg.

☐ next SSL mtg.

☐ next SSL cycle

☐ Reject

Comments/Note to staff:

Comments/Note to staff:

This Act defines “veterans benefits appeal services” as services which a veteran might reasonably require in order to appeal a denial of federal or state veterans benefits, including but not limited to denials of disability, limited-income, home loan, insurance, education and training, burial and memorial, and dependent and survivor benefits. It directs that such services put in their advertising a notice that similar appeals services are offered at no cost by counties or veterans affairs offices operated by the state.

Submitted as:

Iowa

[SF 399 \(Enrolled version\)](#)

Status: Enacted into law in 2011.

Comment:

Disposition:

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

- ☐ Include in Volume
- ☐ Defer consideration to next task force meeting
- ☐ Reject
- ☐ No action

Comments/Note to staff:

SSL Committee Meeting: 2013A

- ☐ Include in Volume
- ☐ Defer consideration
 - ☐ next task force mtg.
 - ☐ next SSL mtg.
 - ☐ next SSL cycle
- ☐ Reject

Comments/Note to staff:

This Act defines a "Retained Asset Account." It precludes insurers from using a retained asset account as the mode of settlement of payment to a life insurance beneficiary unless the insurer discloses the use of a retained asset account to the beneficiary or the beneficiary's legal representative prior to the transfer of life insurance proceeds to a retained asset account.

The bill requires insurers to inform a beneficiary about the right to receive a lump-sum payment of life insurance proceeds in the form of a bank check or similar other immediate full payment of benefits. It requires insurers to disclose all payment options available to beneficiaries, in written or electronic format, upon the distribution of anything other than a lump-sum payment of life insurance proceeds. The bill sets forth specific disclosure requirements upon the use of a retained asset account rather than a lump-sum payment.

It establishes annual insurer reporting requirements to the department of insurance about retained asset accounts. The legislation requires all marketing materials, disclosure statements, and supplemental contract forms used in connection with retained asset accounts to be filed with the department of insurance prior to their use. The Act authorizes the commissioner to disapprove any materials, statements, or forms that are inconsistent with the provisions of the section or are otherwise untrue, unfair, deceptive, false, or misleading.

The legislation requires insurers to return any balance held in a retained asset account to the beneficiary if no funds are withdrawn from the account, or if no affirmative directive has been provided to the insurer by the beneficiary, during any continuous 3 year period.

Submitted as:

Kentucky

[HB 309](#)

Status: Enacted into law in 2011.

Comment:

This Act requires complete and proper disclosure, transparency, and accountability relating to any method of payment for life insurance death benefits and require that beneficiaries are fully informed in bold type and in layman's language of their options.

The Act defines a "Retained Asset Account." It prohibits insurers from using a retained asset account as the mode of settlement unless the insurer discloses such option to the beneficiary or the beneficiary's legal representative prior to the transfer of the death benefit to a retained asset account. It requires a complete listing and clear explanation of all of the life insurance proceeds payment options available to the beneficiary in written or electronic format shall accompany a tender of other than a lump sum payment of a life insurance death benefit.

Submitted as:

Rhode Island

[Chapter 370 of 2011](#)

Status: Enacted into law in 2011.

Disposition: 09-33A-04A

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

- ☐ Include in Volume
- ☐ Defer consideration to next task force meeting
- ☐ Reject
- ☐ No action

Comments/Note to staff:

SSL Committee Meeting: 2013A

- ☐ Include in Volume
- ☐ Defer consideration
 - ☐ next task force mtg.
 - ☐ next SSL mtg.
 - ☐ next SSL cycle
- ☐ Reject

Comments/Note to staff:

Disposition: 09-33A-04B

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

- ☐ Include in Volume
- ☐ Defer consideration to next task force meeting
- ☐ Reject
- ☐ No action

Comments/Note to staff:

SSL Committee Meeting: 2013A

- ☐ 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 brew pub licensee may simultaneously hold a craft brewer license if they otherwise qualify for the craft brewer license and the craft brewer license is for a location separate from the brew pub's licensed premises. It defines "craft brewer." It provides for a manufacturer's license under the Act for a Class 10 Craft Brewer. The bill provides that a craft brewer's license, which may only be issued to a licensed brewer or licensed non-resident dealer, shall allow the manufacture of up to 465,000 gallons of beer per year. It provides that a craft brewer licensee may make sales and deliveries to importing distributors and distributors and to retail licensees if the licensee receives a self-distribution exemption from the state liquor commission.

The Act provides that a craft brewer licensee may make application to that commission for a self-distribution exemption to allow the sale of not more than 232,500 gallons of the exemption holder's beer to retail licensees per year. It provides that a self-distribution exemption holder is not prohibited from entering into or simultaneously having a distribution agreement with a licensed Illinois importing distributor or a distributor. The legislation provides that if a self-distribution exemption holder enters into a distribution agreement and has assigned distribution rights to an importing distributor or distributor, then the self-distribution exemption holder's distribution rights in the assigned territories shall cease in a reasonable time not to exceed 60 days.

This Act provides that a licensed brewer may make sales and deliveries of beer to importing distributors and distributors and as authorized under specified provisions of the Act. It directs that a brew pub license shall allow the licensee to make sales, with the approval of the liquor commission, of beer manufactured on another brew pub licensed premises that is substantially owned and operated by the same licensee.

The Act directs that a brew pub license shall permit a person who has received prior approval from the commission to annually transfer no more than a total of 50,000 gallons of beer manufactured on premises to all other licensed brew pubs that are substantially owned and operated by the same person. It sets forth provisions concerning applications for a self-distribution exemption, discipline, legislative intent, and fees for a craft brewer's license.

Submitted as:

Illinois

[Illinois Public Act 097-0005](#)

Status: Enacted into law in 2011.

Comment:

Disposition:

CSG policy task force recommendations to
The Committee on Suggested State

Legislation: 2013A

☐ Include in Volume

☐ Defer consideration to next task force
meeting

☐ Reject

☐ No action

Comments/Note to staff:

SSL Committee Meeting: 2013A

☐ Include in Volume

☐ Defer consideration

☐ next task force mtg.

☐ next SSL mtg.

☐ next SSL cycle

☐ Reject

Comments/Note to staff:

09-33A-06A Issuing Accident and Health Insurance Policies
Authorized in Other States

GA

This Act authorizes insurers to offer individual accident and sickness insurance policies in the state that have been approved for issuance in other states and provides for minimum standards for such policies.

Submitted as:

Georgia

[HB 47 \(Enrolled version\)](#)

Status: Enacted into law in 2011.

Comment:

09-33A-06B Health Insurance-Interstate Purchasing

WY

This Act directs the state insurance commissioner to enter into a consortium with at least five other states for the reciprocal interstate sale of health insurance policies. It requires one of the consortium states be designated as the primary state for purposes of regulation under that state's laws and regulations. It provides that a consortium state insurer is exempt from a secondary state's laws and regulations, except for premium taxes and assessments, registration requirements, unfair claims practices and judicial process. The bill also identifies matters to be considered by the commissioner in establishing rules of reciprocity, the types of policies eligible to be sold and the effect of interstate sales on regulation of domestic insurers.

Submitted as:

Wyoming

[HB 128 \(Enrolled Act 61\)](#)

Status: Enacted into law in 2010.

Comment:

Disposition: 09-33A-06A

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

- ☐ Include in Volume
- ☐ Defer consideration to next task force meeting
- ☐ Reject
- ☐ No action

Comments/Note to staff:

SSL Committee Meeting: 2013A

- ☐ Include in Volume
- ☐ Defer consideration
 - ☐ next task force mtg.
 - ☐ next SSL mtg.
 - ☐ next SSL cycle
- ☐ Reject

Comments/Note to staff:

Disposition: 09-33A-06B

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

- ☐ Include in Volume
- ☐ Defer consideration to next task force meeting
- ☐ Reject
- ☐ No action

Comments/Note to staff:

SSL Committee Meeting: 2013A

- ☐ Include in Volume
- ☐ Defer consideration
 - ☐ next task force mtg.
 - ☐ next SSL mtg.
 - ☐ next SSL cycle
- ☐ Reject

Comments/Note to staff:

10-33A-01A Sales and Use Taxes

AR

This Act transfers responsibility for collecting sales and use taxes to sellers engaging in the business of selling tangible personal property and services in certain circumstances.

Submitted as:

Arkansas

[Act 1001 of 2011](#)

Status: Enacted into law in 2011.

Comment:

10-33A-01B Sales and Use Taxes

IL

This Act amends the state Use Tax Act and the state Service Use Tax Act to expand the definitions of “retailer maintaining a place of business in this State” and “serviceman maintaining a place of business in this State” to include a retailer or serviceman who has a contract with a person located in the state under which the person refers potential customers to the retailer or serviceman by a link on the person's Internet website and a retailer or serviceman who has a contract with a person located in the state under which the retailer or serviceman sells the same or substantially similar line of products or services as the person located in the state and does so using an identical or substantially similar name as the person located in the state.

Submitted as:

Illinois

[Public Act 096-1544](#)

Status: Enacted into law in 2011.

Comment:

10-33A-01C Sales and Use Taxes

SD

This Act sets up certain notice requirements for retailers that do not have nexus in the state which are selling tangible personal property, services, or products transferred electronically for use in the state.

Submitted as:

South Dakota

[SB 146 \(Enrolled version\)](#)

Status: Enacted into law in 2011.

Comment:

Existing law imposes a sales tax on retailers measured by the gross receipts from the sale of tangible personal property sold at retail in this state, and a use tax on the storage, use, or other consumption in this state of tangible personal property purchased from a retailer for storage, use, or other consumption in this state, measured by sales price. That law requires every retailer engaged in business in this state, as defined, and making sales of tangible personal property for storage, use, or other consumption in this state to collect the tax from the purchaser. Existing law defines a “retailer engaged in business in this state” to include a retailer that has substantial nexus with this state and a retailer upon whom federal law permits the state to impose a use tax collection duty; a retailer entering into an agreement or agreements under which a person or persons in this state, for a commission or other consideration, directly or indirectly refer potential purchasers of tangible personal property to the retailer, whether by an Internet-based link or an Internet Web site, or otherwise, provided that 2 specified conditions are met, including the condition that the retailer, within the preceding 12 months, has total cumulative sales of tangible personal property to purchasers in this state in excess of \$500,000; and a retailer that is a member of a commonly controlled group, as defined under the Corporation Tax Law, and a member of a combined reporting group, as defined, that includes another member of the retailer’s commonly controlled group that, pursuant to an agreement with or in cooperation with the retailer, performs services in this state in connection with tangible personal property to be sold by the retailer.

This Act revises the definition of a “retailer engaged in business in this state” to temporarily eliminate the above-mentioned inclusions in that definition, and conditions the commencement of the operation of these inclusions upon the enactment of a certain federal law and the state’s election to implement that law. This bill, for purposes of one of those inclusions, revises the cumulative sales condition to increase the amount of total cumulative sales of tangible personal property to purchasers in this state to an amount in excess of \$1,000,000.

Submitted as:

California

[AB 155 \(Enrolled version\)](#)

Status: Awaiting governor’s signature as of 9/20/11.

Comment:

Disposition: 10-33A-01A

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

- ☐ Include in Volume
- ☐ Defer consideration to next task force meeting
- ☐ Reject
- ☐ No action

Comments/Note to staff:

SSL Committee Meeting: 2013A

- ☐ Include in Volume
- ☐ Defer consideration
 - ☐ next task force mtg.
 - ☐ next SSL mtg.
 - ☐ next SSL cycle
- ☐ Reject

Comments/Note to staff:

Disposition: 10-33A-01B

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

- ☐ Include in Volume
- ☐ Defer consideration to next task force meeting
- ☐ Reject
- ☐ No action

Comments/Note to staff:

SSL Committee Meeting: 2013A

- ☐ Include in Volume
- ☐ Defer consideration
 - ☐ next task force mtg.
 - ☐ next SSL mtg.
 - ☐ next SSL cycle
- ☐ Reject

Comments/Note to staff:

Disposition: 10-33A-01C

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

- ☐ Include in Volume
- ☐ Defer consideration to next task force meeting
- ☐ Reject
- ☐ No action

Comments/Note to staff:

SSL Committee Meeting: 2013A

- ☐ Include in Volume
- ☐ Defer consideration
 - ☐ next task force mtg.
 - ☐ next SSL mtg.
 - ☐ next SSL cycle
- ☐ Reject

Comments/Note to staff:

Disposition: 10-33A-01D

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

- ☐ Include in Volume
- ☐ Defer consideration to next task force meeting
- ☐ Reject
- ☐ No action

Comments/Note to staff:

SSL Committee Meeting: 2013A

- ☐ 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 and its political subdivisions, agencies and instrumentalities when engaged in procuring products or services or letting contracts for manufacture of public works, or overseeing such procurement, construction or manufacture to be funded with state funds, to ensure that no bid specifications, project agreements or other controlling documents, entered into, required or subject to approval by the state:

(1) Requires bidders, offerors, contractors or subcontractors to enter into any agreement with one or more labor organizations on the same or related projects;

(2) Discriminates against bidders, offerors, contractors or subcontractors for refusing to become or remain signatories or otherwise adhere to agreements with one or more labor organizations on the same or related construction projects; or

(3) Requires any bidder, offeror, contractor or subcontractor to enter into or enforce any agreement that requires its employees as a condition of employment to:

(A) Become members of or become affiliated with a labor organization or employee organization of any kind; or

(B) Pay dues or fees to a labor organization or employee organization, over an employee's objection, in excess of the employee's share of labor or employee organization costs relating to collective bargaining, contract administration or grievance adjustment; or

(4) Requires any bidder, offeror, contractor or subcontractor to pay wages that exceed the state's most current prevailing wage or a specific dollar amount for the provision of fringe benefits for employees.

The bill prohibits the state from issuing grants or entering into cooperative agreements for construction projects conditioned on a requirement that bid specifications, project agreements or other controlling documents pertaining to the grant or cooperative agreement contain any of the elements described above in (1)-(4). Similarly, this bill requires the state to preclude a grant recipient or party to a cooperative agreement from imposing any of the elements described above in (1)-(4).

Any interested party has standing to challenge any bid specification, project agreement, controlling document, grant or cooperative agreement that the party alleges has violated this Act. The party can be awarded costs and attorney's fees in the event that the challenge prevails.

Submitted as:

Tennessee

[Chapter 233 of 2011](#)

Status: Enacted into law in 2011.

Comment:

Disposition:

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

- ☐ Include in Volume
- ☐ Defer consideration to next task force meeting
- ☐ Reject
- ☐ No action

Comments/Note to staff:

SSL Committee Meeting: 2013A

- ☐ 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 public utilities commission to consider the need to reduce the state's reliance on fossil fuels through energy efficiency and increased renewable energy generation in exercising its authority and duties under state law. The Act directs that in making determinations of the reasonableness of the costs of utility system capital improvements and operations, the commission shall explicitly consider, quantitatively or qualitatively, the effect of the state's reliance on fossil fuels on price volatility, export of funds for fuel imports, fuel supply reliability risk, and greenhouse gas emissions. The commission may determine that short-term costs or direct costs that are higher than alternatives relying more heavily on fossil fuels are reasonable, considering the impacts resulting from the use of fossil fuels.

Submitted as:

Hawaii

[Act 109 of 2011](#)

Status: Enacted into law in 2011.

Comment:

Disposition:

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

- ☐ Include in Volume
- ☐ Defer consideration to next task force meeting
- ☐ Reject
- ☐ No action

Comments/Note to staff:

SSL Committee Meeting: 2013A

- ☐ Include in Volume
- ☐ Defer consideration
 - ☐ next task force mtg.
 - ☐ next SSL mtg.
 - ☐ next SSL cycle
- ☐ Reject

Comments/Note to staff:

This Act exempts certain third party owners and operators of on-site renewable energy systems from regulation as public utilities by the state public utilities commission.

Submitted as:

Hawaii

[Act 9 \(SB 704 SD2\)](#)

Status: Enacted into law in 2011.

Comment:

Disposition:

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

- ☐ Include in Volume
- ☐ Defer consideration to next task force meeting
- ☐ Reject
- ☐ No action

Comments/Note to staff:

SSL Committee Meeting: 2013A

- ☐ Include in Volume
- ☐ Defer consideration
 - ☐ next task force mtg.
 - ☐ next SSL mtg.
 - ☐ next SSL cycle
- ☐ Reject

Comments/Note to staff:

According to a Wisconsin Legislative Council memo, this Act provides a mechanism for choosing interim successors for legislators if specified criteria are met. The provision takes effect if there are nine or more vacancies in the Senate at the same time or if there are 25 or more vacancies in the Assembly at the same time. Under the provision for interim successors for Senators, the Senate leader of each political party for each vacant Senate seat that was last held by a member of their own party must request the state chairperson of that party to solicit nominations for an interim successor from county chairpeople of the party in each county that is at least partially within the Senate district. The Senate leader must request that the state chairperson select three to five potential interim successors from the nominees submitted by the county chairpeople and request that the state chairperson submit the names to the Senate leader of the party within seven days after the date on which the ninth Senate vacancy occurred. Within 14 days after the ninth vacancy occurred, the Senate leader of the political party must appoint an interim successor from the list of potential interim successors that is submitted by the state chairperson of the party. The Act lists the order in which people are determined to be the Senate leader for the majority party and for the minority party.

A similar procedure is specified for situations in which there are 25 or more vacancies in the Assembly at the same time.

The above procedures apply when the numerical threshold of vacancies is reached during an emergency resulting from enemy action. However, the Act would delete references to “enemy action” upon approval of an amendment to the Wisconsin Constitution that provides for temporary successors in other types of emergencies. Such an amendment to Article IV, Section 34 of the Wisconsin Constitution was approved by the Legislature on first consideration during the 2009-2010 Legislative Session. [2009 Assembly Joint Resolution 59; Enrolled Joint Resolution 14.] In order to take effect, the constitutional amendment would need to be approved by the Legislature on second consideration and by the electorate in a referendum.

The Senate and Assembly political party leaders may not appoint an interim successor who is unwilling, unable, or ineligible under the constitution and the statutes to serve as a legislator. Interim successors are required to take the oath of office immediately upon appointment, but may not be required, as a prerequisite to the exercise of the powers or discharge of the duties of a legislator, to comply with any other provision of the law relative to taking office. The chief clerk of each house or their deputy must notify the Secretary of State of all vacancies that are filled by interim successors. An interim successor must exercise the powers and discharge the duties of the office until the vacancy is filled by an election.

This Act permits each house of the Legislature, pursuant to its rules or joint rules, to issue a notice that the house and its committees are prevented from physically meeting at the seat of government due to a disaster or the imminent threat of a disaster. If a notice is issued, the house and any committee of the house may conduct a virtual meeting and transact business using any means of communication by which all of the following occur: (1) the identity of each participating member is verified and the actions of each participating member are authenticated; (2) all participating members are able to simultaneously hear or read the comments of members recognized to speak; (3) any document that is used by a member and that is accepted by the presiding officer or chairperson is immediately transmitted to the other participating members; and (4) the public has the opportunity to monitor the proceedings, within technological limits. In order for a joint committee of the Legislature to hold a virtual meeting in the manner described above, each house would have to issue a notice of emergency. Exceptions to public notice of

legislative proceedings or meetings and to public access are provided where the public welfare requires secrecy, as provided in Article IV, Section 10, of the Wisconsin Constitution.

Under the Act, a virtual meeting held in accordance with these requirements is considered to have occurred at the seat of government and all actions taken at a virtual meeting have the same legal effect as if the members were physically present at the seat of government. For purposes of determining the presence of a quorum to conduct business, any member participating in a virtual meeting is considered present in the same manner as if physically present at the seat of government.

The Act provides that in presiding over a virtual meeting of a house of the Legislature, the presiding officer must interpret and apply all rules of proceeding of that house which presume the physical presence of members in the house's chambers at the seat of government, in a manner so as to accomplish the same purposes for which the rules were adopted. The Act authorizes the Legislature to meet for up to one week per session by holding a virtual meeting, in order to practice meeting in that manner. Finally, the Act provides that the language authorizing virtual meetings does not limit the authority of either house to use teleconferencing for purposes of holding a committee meeting at the seat of government.

Under the statutes, whenever during a state of emergency it becomes imprudent, inexpedient, or impossible to conduct the affairs of state government at the state capital, the Governor is required to designate an emergency temporary location for the seat of government and to take such action and issue such orders as are necessary for an orderly transition of the affairs of state government to that location.

While the seat of government remains at a temporary location, all official acts required by law to be performed at the seat of government are as valid and binding when performed at the temporary location as if performed at the normal location.

This bill allows the Legislature, by joint rule, to provide a process for designating an emergency temporary seat of government for the Legislature that is different than the location designated by the Governor. Under the Act, whenever, as the result of a disaster or the imminent threat of a disaster, it becomes imprudent, inexpedient, or impossible to conduct the business of the Legislature at the state capital, the Legislature may meet either at the location designated by the Governor or the location designated by the Legislature itself. Information about this location is not subject to inspection or copying under the Open Records Law.

This Act enables the Legislature to meet for up to one week per session in a location other than the state capital or the temporary seat of government designated by the Governor, in order to practice meeting in a temporary location.

Submitted as:

Wisconsin

[2009 Wisconsin Act 363](#)

Status: Enacted into law in 2010.

Comment:

(32B-d) Add similar legislation from other states, if available, to the next docket.

Per 32B-d, CSG staff found references to emergency interim succession for public officials in the laws of Oklahoma, South Carolina, Texas, and West Virginia. But, staff did not find a comprehensive list of state laws about the topic or anything else as recent as Wisconsin Act 363. It seems states first enacted such laws in the late fifties, then updated such laws after 9/11.

Oklahoma -- Laws 1959, p. 214, § 11; Laws 1963, c. 270, § 11, emerg. eff. June 13, 1963.

§63-686.1. Citation.

This act shall be known as the "Emergency Management Interim Legislative Succession Act" and shall be cumulative to the Oklahoma Emergency Management Act of 2003.

Added by Laws 1959, p. 215, § 1, emerg. eff. June 5, 1959. Amended by Laws 1963, c. 340, § 1, emerg. eff. June 24, 1963; Laws 2003, c. 329, § 35, emerg. eff. May 29, 2003.

§63-686.2. Declarations.

The Legislature declares:

1. Because of existing possibilities of natural or man-made disasters or emergencies of unprecedented destructiveness, which may result in the death or inability to act of a large proportion of the membership of the Legislature; and

2. Because to conform in time of emergency or disaster to existing legal requirements pertaining to the Legislature would be impracticable, and would jeopardize continuity of operation of a legally constituted Legislature; it is therefore necessary to adopt special provisions as hereinafter set out for the effective operation of the Legislature during natural or man-made disasters or emergencies.

Added by Laws 1959, p. 215, § 2, emerg. eff. June 5, 1959. Amended by Laws 1963, c. 340, § 2, emerg. eff. June 24, 1963; Laws 2003, c. 329, § 36, emerg. eff. May 29, 2003.

§63-686.3. Definitions.

As used in this act:

1. "Emergency" means any occasion or instance for which, in the determination of the President of the United States or the Governor of the State of Oklahoma, federal or state assistance is needed to supplement state and local efforts and capabilities to save lives, protect property, public health and safety, or to lessen or avert threat of a catastrophe in any part of the state;

2. "Man-made disaster" means a disaster caused by acts of man including, but not limited to, an act of war, terrorism, chemical spill or release, or a power shortage that requires assistance from outside the local political subdivision; and

3. "Unavailable" means absent from the place of session, other than on official business of the Legislature, or unable, for physical, mental or legal reasons, to exercise the powers and discharge the duties of a legislator, whether or not such absence or inability would give rise to a vacancy under existing constitutional or statutory provisions.

Added by Laws 1959, p. 215, § 3, emerg. eff. June 5, 1959. Amended by Laws 1963, c. 340, § 3, emerg. eff. June 24, 1963; Laws 2003, c. 329, § 37, emerg. eff. May 29, 2003.

§63-686.4. Designation of emergency interim successor.

Each legislator shall designate not fewer than three nor more than seven emergency interim successors to his powers and duties and specify their order of succession. Each legislator shall review and, as necessary, promptly revise the designations of emergency interim successors to

his powers and duties to insure that at all times there are at least three such qualified emergency interim successors.

Laws 1959, p. 215, § 4; Laws 1963, c. 340, § 4, emerg. eff. June 24, 1963.

§63-686.5. Emergency interim successor defined - Qualification - Tenure.

An emergency interim successor is one who is designated for possible temporary succession to the powers and duties, but not the office, of a legislator. No person shall be designated or serve as an emergency interim successor unless he may, under the Constitution and statutes hold the office of the legislator to whose powers and duties he is designated to succeed, but no constitutional or statutory provision prohibiting a legislator from holding another office or prohibiting the holder of another office from being a legislator shall be applicable to an emergency interim successor. An emergency interim successor shall serve at the pleasure of the legislator designating him or of any subsequent incumbent of the legislative office.

Laws 1959, p. 215, § 5; Laws 1963, c. 340, § 5, emerg. eff. June 24, 1963.

§63-686.6. Maintaining minimum number of successors.

Prior to an emergency or disaster, if a legislator fails to designate the required minimum number of emergency interim successors within sixty (60) days following the effective date of this act or, after such period, if for any reason the number of emergency interim successors for any legislator falls below the required minimum and remains below such minimum for a period of sixty (60) days, then the floor leader of the same political party in the same house as such legislator shall, by and with the consent of the Speaker of the House of Representatives or President Pro Tempore of the Senate, promptly designate as many emergency interim successors as are required to achieve such minimum number, but the floor leader shall not assign to any designees a rank in order of succession higher than that of any remaining emergency interim successor previously designated by a legislator for succession to the legislator's own powers and duties. Each emergency interim successor designated by the floor leader shall serve at the pleasure of the designating person, but the legislator for whom the emergency successor is designated or any subsequent incumbent of the office may change the rank in order of succession or replace at the pleasure of the designating person any emergency interim successor so designated.

Added by Laws 1959, p. 215, § 6, emerg. eff. June 5, 1959. Amended by Laws 1963, c. 340, § 6, emerg. eff. June 24, 1963; Laws 2003, c. 329, § 38, emerg. eff. May 29, 2003.

§63-686.7. Effective date of designations and removals - Recording.

Each designation of an emergency interim successor shall become effective when the legislator or party floor leader making the designation files with the Secretary of State the successor's name, address and rank in order of succession. The removal of an emergency interim successor or change in order of succession shall become effective when the legislator or party floor leader, so acting, files this information with the Secretary of State. All such data shall be open to public inspection. The Secretary of State shall inform the Governor, the Oklahoma Department of Emergency Management, the journal clerk of the house concerned and all emergency interim successors, of all such designations, removals and changes in order of succession. The journal clerk of each house shall enter all information regarding emergency interim successors for the house in its public journal at the beginning of each legislative session and shall enter all changes in membership or order of succession as soon as possible after the occurrence.

Added by Laws 1959, p. 216, § 7, emerg. eff. June 5, 1959. Amended by Laws 1963, c. 340, § 7, emerg. eff. June 24, 1963; Laws 2003, c. 329, § 39, emerg. eff. May 29, 2003.

§63-686.8. Oaths.

Promptly after designation each emergency interim successor shall take the oaths required for the legislator to whose powers and duties he is designated to succeed. No other oath shall be required. The oath shall be administered (by the Speaker of the House of Representatives for the emergency interim successors designated for that house, and by the President Pro Tempore of the Senate for the emergency interim successors designated to serve for the Senate.)

Laws 1959, p. 216, § 8; Laws 1963, c. 340, § 8, emerg. eff. June 24, 1963.

§63-686.9. Successors to keep informed.

Each emergency interim successor shall keep himself generally informed as to the duties, procedures, practices and current business of the Legislature, and each legislator shall assist his emergency interim successors to keep themselves so informed.

Laws 1959, p. 216, § 9; Laws 1963, c. 340, § 9, emerg. eff. June 24, 1963.

§63-686.10. Changing place of session.

Whenever, in the event of an emergency or disaster or upon finding that an emergency or disaster may be imminent, the Governor deems the place of session then prescribed to be unsafe, the Governor may change it to any place within the state which the Governor deems safer and more convenient.

Added by Laws 1959, p. 216, § 10, emerg. eff. June 5, 1959. Amended by Laws 1963, c. 340, § 10, emerg. eff. June 24, 1963; Laws 2003, c. 329, § 40, emerg. eff. May 29, 2003.

§63-686.11. Calling of session - Limitations suspended.

In the event of an emergency or disaster, the Governor shall call the Legislature into session as soon as practicable, and in any case within thirty (30) days following the inception of the emergency or disaster. Each legislator and each emergency interim successor, unless the Governor is certain that the legislator to whose powers and duties the legislator is designated to succeed or any emergency interim successor higher in order of succession will not be unavailable, shall proceed to the place of session as expeditiously as practicable. At such session or at any session in operation at the inception of the emergency or disaster, and at any subsequent session, limitations on the length of session and on the subjects which may be acted upon shall be suspended.

Added by Laws 1959, p. 216, § 11, emerg. eff. June 5, 1959. Amended by Laws 1963, c. 340, § 11, emerg. eff. June 24, 1963; Laws 2003, c. 329, § 41, emerg. eff. May 29, 2003.

§63-686.12. Exercise of powers and duties by successors - Ouster provisions applicable.

If, in the event of an emergency or disaster a legislator is unavailable, the emergency interim successor highest in order of succession who is not unavailable shall, except for the power and duty to appoint emergency interim successors, exercise the powers and assume the duties of such legislator. An emergency interim successor shall exercise these powers and assume these duties until the incumbent legislator, an emergency interim successor higher in order of succession, or a legislator appointed or elected and legally qualified can act. Each house of the Legislature shall, in accordance with its own rules, determine who is entitled under the provisions of this act to exercise the powers and assume the duties of its members. All constitutional and statutory provisions pertaining to ouster of a legislator shall be applicable to an

emergency interim successor who is exercising the powers and assuming the duties of a legislator.

Added by Laws 1959, p. 216, § 12, emerg. eff. June 5, 1959. Amended by Laws 1963, c. 340, § 12, emerg. eff. June 24, 1963; Laws 2003, c. 329, § 42, emerg. eff. May 29, 2003.

§63-686.13. Privileges and immunities - Compensation and allowances.

When an emergency interim successor exercises the powers and assumes the duties of a legislator, the emergency interim successor shall be accorded the privileges and immunities, compensation, allowances and other perquisites of office to which a legislator is entitled. In the event of an emergency or disaster, each emergency interim successor, whether or not called upon to exercise the powers and assume the duties of a legislator, shall be accorded the privileges and immunities of a legislator while traveling to and from a place of session and shall be compensated for travel in the same manner and amount as a legislator. This section shall not in any way affect the privileges, immunities, compensation, allowances or other perquisites of office of an incumbent legislator.

Added by Laws 1959, p. 216, § 13, emerg. eff. June 5, 1959. Amended by Laws 1963, c. 340, § 13, emerg. eff. June 24, 1963; Laws 2003, c. 329, § 43, emerg. eff. May 29, 2003.

§63-686.14. Termination of authority.

The authority of emergency interim successors to succeed to the powers and duties of legislators, the operation of the provisions of this act relating to quorum, the number of affirmative votes required for legislative action, and limitations on the length of sessions and the subjects which may be acted upon shall expire two (2) years following the inception of an emergency or disaster, but nothing herein shall prevent the resumption before such time of the filling of legislative vacancies and the calling of elections for the Legislature in accordance with applicable constitutional and statutory provisions. The Governor, acting by proclamation, or the Legislature, acting by concurrent resolution, may from time to time extend or restore such authority or the operation of any of such provisions upon a finding that events render the extension or restoration necessary, but no extension or restoration shall be for a period of more than one (1) year.

Added by Laws 1959, p. 217, § 14, emerg. eff. June 5, 1959. Amended by Laws 1963, c. 340, § 14, emerg. eff. June 24, 1963; Laws 2003, c. 329, § 44, emerg. eff. May 29, 2003.

South Carolina -- South Carolina Code of Laws

Title 2 - General Assembly
CHAPTER 5.

EMERGENCY INTERIM LEGISLATIVE SUCCESSION ACT

SECTION 2-5-10. Short title. This chapter shall be known as the "Emergency Interim Legislative Succession Act."

SECTION 2-5-20. Definitions. As used in this chapter:

(a) "Attack" means any action or series of actions taken by an enemy of the United States resulting in substantial damage or injury to persons or property in this State whether through sabotage, bombs, missiles, shellfire, or atomic, radiological, chemical, bacteriological, or biological means or other weapons or methods.

(b) "Unavailable" means absent from the place of session (other than on official business of the General Assembly), or unable, for physical, mental or legal reasons, to exercise the powers and discharge the duties of a member of the General Assembly, whether or not such absence or inability would give rise to a vacancy under existing constitutional or statutory provisions.

SECTION 2-5-30. Designation of emergency interim successors. Each member of the General Assembly (hereinafter referred to as legislator) shall designate not fewer than three nor more than seven emergency interim successors to his powers and duties and specify their order of succession. Each legislator shall review and, as necessary, promptly revise the designations of emergency interim successors to his powers and duties to insure that at all times there are at least three such qualified emergency interim successors.

SECTION 2-5-40. Qualifications, powers and terms of successors. An emergency interim successor is one who is designated for possible temporary succession to the powers and duties, but not the office, of a legislator. No person shall be designated or serve as an emergency interim successor unless he may under the Constitution and statutes hold the office of the legislator to whose powers and duties he is designated to succeed, but no constitutional or statutory provision prohibiting a legislator from holding another office or prohibiting the holder of another office from being a legislator shall be applicable to an emergency interim successor. An emergency interim successor shall serve at the pleasure of the legislator designating him or of any subsequent incumbent of the legislative office.

SECTION 2-5-50. Designation of successors when legislator does not designate sufficient number. Prior to an attack, if a legislator fails to designate the required minimum number of emergency interim successors within thirty days following April 7, 1962, or, after such period, if for any reason the number of emergency interim successors for any legislator falls below the required minimum and remains below such minimum for a period of thirty days, then the presiding officer of the same house as such legislator shall promptly designate as many emergency interim successors as are required to achieve such minimum number, but the presiding officer shall not assign to any of his designees a rank in order of succession higher than that of any remaining emergency interim successor previously designated by a legislator for succession to his own powers and duties. Each emergency interim successor designated by the presiding officer shall serve at the pleasure of the person designating him, but the legislator for whom the emergency interim successor is designated or any subsequent incumbent of his office may change the rank in order of succession or replace at his pleasure any emergency interim successor so designated.

SECTION 2-5-60. Effective dates of designations, removals and changes in order of succession. Each designation of an emergency interim successor shall become effective when the legislator or presiding officer making the designation files with the Secretary of State the successor's name, address and rank in order of succession. The removal of an emergency interim successor or change in order of succession shall become effective when the legislator or presiding officer so acting files this information with the Secretary of State. All such data shall be open to public inspection. The Secretary of State shall inform the Governor, the State Office of Civil Defense, the clerk of the House concerned and all emergency interim successors, of all such designations, removals and changes in order of succession. The clerk of each House shall enter all information regarding emergency interim successors for the House in its public journal at the beginning of

each legislative session and shall enter all changes in membership or order of succession as soon as possible after their occurrence.

SECTION 2-5-70. Oath of successors. Promptly after designation each emergency interim successor shall take the oath required for the legislator to whose powers and duties he is designated to succeed. No other oath shall be required.

SECTION 2-5-80. Successor shall keep himself informed. Each emergency interim successor shall keep himself generally informed as to the duties, procedures, practices and current business of the General Assembly, and each legislator shall assist his emergency interim successors to keep themselves so informed.

SECTION 2-5-90. Change of place of session. Whenever in the event of an attack, or upon finding that an attack may be imminent, the Governor deems the place of session then prescribed to be unsafe, he may change it to any place within or without the State which he deems safer and convenient.

SECTION 2-5-100. Sessions after attack. In the event of an attack, the Governor shall call the General Assembly into session as soon as practicable, and in any case within ninety days following the inception of the attack. If the Governor fails to issue such call, the General Assembly shall, on the ninetieth day from the date of inception of the attack, automatically convene at the place where the Governor then has his office. Each legislator and each emergency interim successor, unless he is certain that the legislator to whose powers and duties he is designated to succeed or any emergency interim successor higher in order of succession will not be unavailable, shall proceed to the place of session as expeditiously as practicable. At each session or at any session in operation at the inception of the attack, and at any subsequent sessions, limitations on the length of session and on the subjects which may be acted upon shall be suspended.

SECTION 2-5-110. Exercise of powers and assumption of duties of legislator by successor. If in the event of an attack a legislator is unavailable, his emergency interim successor highest in order of succession who is not unavailable shall, except for the power and duty to appoint emergency interim successors, exercise the powers and assume the duties of such legislator. An emergency interim successor shall exercise these powers and assume these duties until the incumbent legislator, an emergency interim successor higher in order of succession, or a legislator appointed or elected and legally qualified can act. Each House of the General Assembly shall, in accordance with its own rules, determine who is entitled under the provisions of this chapter to exercise the powers and assume the duties of its members. All constitutional and statutory provisions pertaining to ouster of a legislator shall be applicable to an emergency interim successor who is exercising the powers and assuming the duties of a legislator.

SECTION 2-5-120. Privileges of office of successor. When an emergency interim successor exercises the powers and assumes the duties of a legislator, he shall be accorded the privileges and immunities, compensation, allowances and other perquisites of office to which a legislator is entitled. In the event of attack, each emergency interim successor, whether or not called upon to exercise the powers and assume the duties of a legislator, shall be accorded the privileges and immunities of a legislator while traveling to and from a place of session and shall be compensated for his travel in the same manner and amount as a legislator. This section shall not

in any way affect the privileges, immunities, compensation, allowances or other perquisites of office of an incumbent legislator.

SECTION 2-5-130. Quorum; necessary proportion of vote. In the event of an attack, (1) quorum requirements for the General Assembly shall be suspended, and (2) where the affirmative vote of a specified proportion of members for approval of a bill, resolution or other action would otherwise be required, the same proportion of those voting thereon shall be sufficient.

SECTION 2-5-140. Termination, extension or restoration of emergency procedure. The authority of emergency interim successors to succeed to the powers and duties of legislators, and the operation of the provisions of this chapter relating to quorum, the number of affirmative votes required for legislative action, and limitations on the length of sessions and the subjects which may be acted upon, shall expire two years following the inception of an attack, but nothing herein shall prevent the resumption before such time of the filling of legislative vacancies and the calling of elections for the General Assembly in accordance with applicable constitutional and statutory provisions. The Governor, acting by proclamation, or the General Assembly, acting by concurrent resolution, may from time to time extend or restore such authority or the operation of any of such provisions upon a finding that events render the extension or restoration necessary, but no extension or restoration shall be for a period of more than one year.

Texas - Chapter 304. Emergency Interim Legislative Succession -- Sec. 304.001. Short Title. This chapter may be cited as the Emergency Interim Legislative Succession Act. Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985.

West Virginia - West Virginia Code, Chapter 15. Public safety. Article 7. Emergency Interim Legislative Succession Act.

See also state Continuity of Government Plans - e.g., Delaware Title 29, State Government, Continuity of Government - CHAPTER 78. EMERGENCY INTERIM EXECUTIVE SUCCESSION ACT - § 7801. Short title. This chapter shall be known and may be cited as the "Emergency Interim Executive Succession Act" 29 Del. C. 1953, § 7801; 54 Del. Laws, c. 108.; and Chapter 22, Florida Statutes (Emergency Continuity of Government)

Disposition: 13-32B-04

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

SSL Committee Meeting: 2013A

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

Comments/Note to staff:

Comments/Note to staff:

This Act creates the first-in-the-nation state program to allow whistle-blowers to go after tax cheats that defraud the state of over \$350,000. This provision is aimed at illegal off-shore tax shelters. The Act requires contractors that defraud local governments to pay local governments triple damages plus civil penalties. It establishes anti-blacklisting protections against whistleblowers so companies cannot refuse to hire a qualified worker because they reported another company. The law bans employers from suing employees who provide evidence of fraud to law enforcement in a False Claims Act case.

Submitted as:

New York

[Chapter 379 of 2010](#)

Status: Enacted into law in 2010

Comment:

(32B-e) Add similar legislation from other states, if available, to the next docket.

Published on New York State Senate (<http://www.nysenate.gov>)

Home > Senator Eric. T. Schneiderman Shepherds Historic Anti-Fraud Taxpayer Protection Measure Through Legislature

Senator Eric. T. Schneiderman Shepherds Historic Anti-Fraud Taxpayer Protection Measure Through Legislature

By Eric T. Schneiderman

Created 07/01/2010 - 4:46pm

Posted by Eric T. Schneiderman [1] on Thursday, July 1st, 2010

Cities [2] Consumer Protection [3] Local Government [4]

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Schneiderman's leadership in cracking down on fraud is heralded by whistleblowers, local governments, school boards, labor, and taxpayer advocates

Makes New York's Anti-Fraud Whistle-Blower Law Strongest in Nation

New York's legislature passed Senator Schneiderman's Fraud, Enforcement & Recovery Act [5] ("FERA"), an historic bill to strengthen the state's powerful False Claims Act.

The New York False Claims Act, passed in 2007 and modeled after the then-existing United States False Claims Act, is New York's most powerful tool to fight fraud against the government, especially fraud by corrupt contractors. The law allows the Attorney General, a local government, or a whistleblower to bring a legal action against any party who makes or uses a false or fraudulent claim, record or statement to obtain government funds. Guilty parties must pay triple damages plus mandatory civil penalties.

Since its passage in 2007, the law has helped the State recover hundreds of millions of dollars. However, many of the terms of the False Claims Act have recently been misinterpreted by federal courts — including the Supreme Court — to create loopholes that make it harder for law enforcement and whistleblowers to fight fraud. To address these loopholes and court

decisions, President Barack Obama recently signed a series of amendments to the United States False Claims Act, heralded by anti-fraud groups and, among others, the New York Times.

In March, Senator Schneiderman [1] introduced the first bill in the legislature to adopt the Obama amendments into the New York False Claims Act. Indeed, Senator Schneiderman's bill went even further than those amendments in cracking down on corrupt contractors and protecting whistleblowers in significant ways.

The stronger provisions — a “false claims act on steroids” — include the following:

- Enacting triple damages and mandatory civil penalties for tax fraud;
- Creating the first-in-the-nation state program to allow whistle-blowers to go after millionaire tax cheats that defraud the state of over \$350,000. This provision is aimed at illegal off-shore tax shelters;
- Fixing a flaw in the New York State False Claims act so that corrupt contractors that defraud local governments must pay local governments triple damages plus civil penalties — instead of just triple damages. This will encourage local governments to use the False Claims Act to recover funds and keep property taxes low;
- Establishing anti-blacklisting protections against whistleblowers, so company “y” can not refuse to hire a qualified worker because he or she reported company “x” for fraud;
- Clarification that whistleblowers who use the freedom of information act are not barred from suing a contractor for fraud because he or she created a public disclosure of information; and
- The first-in-the-nation ban on employers from suing employees who provide evidence of fraud to law enforcement in a False Claims Act case.

Here's what leading voices are saying about Schneiderman's anti-fraud, taxpayer protection bill:

Jeb White, acting Executive Director of Taxpayers Against Fraud, a national public interest organization dedicated to combating fraud against federal, state, and local governments said, “With this latest round of amendments [to the False Claims Act], New York has the strongest set of fraud fighting tools in the nation. We are extremely pleased that, thanks to Eric Schneiderman's leadership, New York will now be able to recover millions of dollars that might otherwise have slipped through liability loopholes. In addition, New York should be eligible for millions of new Medicaid dollars thanks to incentives offered under federal legislation. With this strengthened law, New York will also be able to recover millions of dollars stolen by tax cheats. Because New York is a major financial center, we think the state will be a bellwether for the nation in the arena of tax recovery. Without a doubt, the New York law will be used as a cat's-paw to illuminate national tax fraud cases that have tentacles in New York.”

Harry Markopolos, author of “No One Would Listen,” and original whistle-blower in the Bernie Madoff Scandal said, “I congratulate Senator Schneiderman for his leadership in passing the New York Fraud, Enforcement and Recovery Act. This legislation sends a powerful deterrent message to government contractors to think twice before they try to rip off taxpayers. Passing this bill empowers and protects employees who go out of their way to safeguard the state's budget from fiscal predators that would otherwise get away with contract fraud. We cannot afford to enrich white collar fraudsters nor can we offer them any safe haven from detection and prosecution. I applaud Senator Schneiderman for his dedication that led to the passage of this bill. I am glad to see that New York is taking the lead in exceeding the federal standards in this important area.”

Denis Hughes, President of the New York State AFL-CIO, referring to the fact that Senator Schneiderman's bill will enhance the ability of workers to enforce prevailing and minimum wage laws, said, "The NYS AFL-CIO applauds Senator Schneiderman for passing this bill. Any tool we can use to help workers get the pay that they are lawfully entitled to is worth fighting for."

Russ Haven, Legislative Counsel for NYPIRG, said, "The New York Public Interest Research Group (NYPIRG) applauds Senator Schneiderman for his leadership in passing the Fraud Enforcement and Recovery Act. This will be an important tool for citizens seeking to root out public corruption in contractor fraud. Most important, it will correct the injustices worked by the courts on the similar federal law, which prevented cases developed through the use of the Freedom of Information Law (FOIL) from going forward. Now it is up to Governor Paterson to sign this legislation into law."

Stephen J. Acquario, executive director of the New York State Association of Counties [9] (NYSAC) said, "Counties commend Senator Schneiderman and the members of the New York State Senate for providing this incentive for local governments to protect taxpayers against corruption. The legislation enables 'whistle blowers' to bring claims against individuals who try to defraud counties. We must be vigilant at all times to protect the public and prevent fraud and abuse at all levels of government."

Lori Mithen, Counsel for the Association of Towns of the State of New York said, "The Association of Towns of the State of New York supports Senator Schneiderman's efforts to increase penalties for contractors that rip off local governments through the filing of false claims, and to increase the ability and incentive for local governments to protect taxpayers against corrupt contractors. In a time of tight budgets and concern about property taxes, we cannot be vigilant enough to protect local taxpayers from fraud and abuse."

Florence Johnson, Buffalo Board of Education and President of NYSSBA said, "On behalf of the school districts of New York State, NYSSBA is grateful to Senator Schneiderman for his dedication in this effort to allow school districts and other local governments to deter fraudulent practices and to recover civil penalties for fraudulent acts committed against our schools. This legislation strengthens provisions protecting school districts against acts of fraud in the making of false claims and provides appropriate civil penalties to encourage prosecution of fraud. Public funds must be protected, particularly in times of financial distress and our public schools are grateful for this additional means of ensuring the appropriate use of public money entrusted to us for the education of our state's children."

Thomas D. Thacher II, former Inspector General of the New York City School Construction Authority and current President and CEO of Thacher Associates LLC said, "As the former Inspector General of the New York City School Construction Authority, I completely support Senator Schneiderman's Fraud, Enforcement and Recovery Act. It would provide New York State with a powerful and needed tool for exposing and prosecuting those who steal public dollars. Without question, it represents state of the art legislation for fighting fraud against taxpayer dollars. I know first-hand that successfully

fighting school construction fraud leads to safer school buildings as well as saving tax dollars. Senator Schneiderman's bill, by further empowering whistleblowers to pursue citizen initiated cases, will step up that fight not only in the school construction area, but in all areas of fraud against state taxpayer funds. It is a great step forward in improving the False Claims Act to protect all our state public works projects from fraud and corruption."

This month Senator Schneiderman reintroduced his bill along with Assembly Speaker Sheldon Silver. The bill Wednesday passed both houses unanimously. Of over 24 states that have adopted False Claims Act, Senator Schneiderman's bill would, if signed, create the most powerful False Claims Act in the country.

In accordance with the now-amended Federal False Claims Act, Senator Schneiderman's bill would, among other things:

- Ensure that subcontractors that receive government funds continue to be liable under the False Claims Act for defrauding the state (as they have been since 1863 when Abraham Lincoln passed the original False Claims Act to address civil war era contracting fraud);
- Expand liability for conspiracies to defraud taxpayers;
- Crack down on those who defraud the government by using a false record or statement to avoid paying an obligation to the government;
- Protect and reward whistleblowers that provide useful information to law enforcement, even if they do not know the full extent of the fraudulent scheme;
- Expand protections against whistle-blowers from retaliation by employers.

In addition to cracking down on government fraud and corruption, by adopting these amendments, Senator Schneiderman helped ensure that the federal government does not penalize the state with a loss of Medicaid Funds for having a False Claims Act weaker than the federal government.

Related information

Senator:

Eric T. Schneiderman [1]

Authored by Senator

District:

District 31 [11]

Other information

Thu, 07/01/2010

This Act prohibits certain actions constituting false claims against a state health plan or a state health program. It provides certain penalties for making false claims against a state health plan or a state health program. The bill requires a court to consider and give special attention to certain factors in determining the amount of fines and penalties provided for in the Act.

This Act authorizes the state to file a civil action against a person who makes a false claim against a state health plan or a State health program under certain circumstances. It authorizes a person other than the state to file a civil action on behalf of the person and the state against a person who makes a false claim against a state health plan or a state health program and provides for the procedures to be followed in a civil action. The Act provide certain remedies under a civil action.

The bill requires the state to investigate a civil action alleging a false claim against a state health plan or a state health program. The Act requires the state make certain efforts to coordinate certain investigations and to establish certain objectives for the state. It authorizes the state to intervene and proceed with the action with or without the person who initiated the action. It authorizes the state to elect not to intervene and proceed with the action and authorize a court to limit the participation of the person who initiated the action under certain circumstances. The bill authorizes the State to intervene at a later time in proceedings or to pursue alternative remedies.

This law provides for certain damages and payments to a person who initiates an action under certain circumstances. It provides for certain payments to a person charged under certain circumstances if the person charged prevails. It provides certain limitations on civil actions filed under the Act.

The bill prohibits a person from taking retaliatory action against an employee, contractor, or agent under certain circumstances. It authorizes an employee, contractor, or agent to file a civil action against a person who takes retaliatory action against the employee, contractor, or agent under certain circumstances. It provide certain remedies for retaliatory action.

Submitted as:

Maryland

[Chapter 4 of 2010](#)

Status: Enacted into law in 2010.

Comment: Per notation 32B-e -- There is a federal False Claims Act and state derivatives. The federal [False Claims Act \(31 U.S.C. §§ 3729–3733\)](#) generally imposes liability on contractors who defraud the federal government. The law includes a “qui tam” provision that allows people who are not affiliated with the government to file actions on behalf of the government (informally called “whistleblowing”). People who file under the Act stand to receive a portion (usually about 15–25 percent) of any recovered damages.

Several sources report that many state false claims laws use language similar to the federal Act, but the state laws target entities doing business with state and local governments. Amendments to several other federal laws in recent years have also prompted states to modify their state false claims laws to more closely resemble the federal False Claims Act and to take advantage of a federal provision that enables approved states to keep a greater percentage of the money such states recover for Medicaid fraud.

Gibson, Dunn & Crutcher, LLC, notes in its *2010 Mid-Year False Claims Act Update*, dated, July 9, 2010, “Presently, *more than thirty states*, the District of Columbia, and a few cities

have some version of a false claims act. A majority of states (and the District of Columbia), but not all, have enacted false claims acts that contain qui tam provisions which enable private individuals to bring suit on behalf of the state and share in any recovery. Most states also have false claims acts which broadly apply to fraud in connection with any state-funded programs or contracts. Approximately ten states limit their false claims acts to Medicaid fraud.” And “*In the first half of 2010, Colorado and Maryland passed state false claims acts with qui tam enforcement mechanisms applicable to false claims submitted in connection with the Medicaid program. In 2009, North Carolina, Minnesota and Oregon passed broad state false claims acts modeled after the federal statute, all of which first became effective in 2010.*”

Taxpayers Against Fraud is updating in 2011 a model False Claims Act that would strengthen state laws and should also enable states that adopt the model Act to comply with federal language about false claims under the federal Fraud Enforcement and Recovery Act of 2009, the Patient Protection and Affordable Care Act, and the Dodd-Frank Wall Street Reform and Consumer Protection Act.

13-33A-01B False Claims

OR

This Act authorizes the state Attorney General to bring civil action against people who obtain or attempt to obtain money, property, services or benefits from public agency, or who obtain or attempts to obtain public money or publicly-funded property, services or benefits, based on false or fraudulent claim or behavior.

Submitted as:

Oregon

[Chapter 292 of 2009](#)

Status: Enacted into law in 2009.

Comment:

Disposition: 13-32B-06

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

- ☐ Include in Volume
- ☐ Defer consideration to next task force meeting
- ☐ Reject
- ☐ No action

Comments/Note to staff:

SSL Committee Meeting: 2013A

- ☐ Include in Volume
- ☐ Defer consideration
 - ☐ next task force mtg.
 - ☐ next SSL mtg.
 - ☐ next SSL cycle
- ☐ Reject

Comments/Note to staff:

Disposition: 13-33A-01B

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

- ☐ Include in Volume
- ☐ Defer consideration to next task force meeting
- ☐ Reject
- ☐ No action

Comments/Note to staff:

SSL Committee Meeting: 2013A

- ☐ Include in Volume
- ☐ Defer consideration
 - ☐ next task force mtg.
 - ☐ next SSL mtg.
 - ☐ next SSL cycle
- ☐ Reject

Comments/Note to staff:

Disposition: 13-33A-01A

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

- ☐ Include in Volume
- ☐ Defer consideration to next task force meeting
- ☐ Reject
- ☐ No action

Comments/Note to staff:

SSL Committee Meeting: 2013A

- ☐ Include in Volume
- ☐ Defer consideration
 - ☐ next task force mtg.
 - ☐ next SSL mtg.
 - ☐ next SSL cycle
- ☐ Reject

Comments/Note to staff:

This Act provides for the review, management, and control of the financial and other operations of a municipal government or a school district. The bill allows the state treasurer or superintendent of public instruction to conduct a preliminary review to determine the existence of a local government financial problem if certain events occurred.

It requires the governor to appoint a review team when a finding of probable financial stress is made. It requires the review team to report that the local government was not in financial stress, was in mild financial stress, or was in severe financial stress (and a consent agreement had or had not been adopted); or that a financial emergency existed. It authorizes the review team to sign a consent agreement with a local government's chief administrative officer, and provide that a consent agreement could include a continuing operations plan or a recovery plan, when a locality is found to be in financial distress.

The bill requires the governor to make a similar determination after receiving the review team's report and, following the opportunity for a hearing, confirm or revoke a determination that a financial emergency existed. It directs the governor to declare the local government in receivership and appoint an emergency manager, upon confirmation of a financial emergency.

The legislation requires the emergency manager to develop a financial and operating plan for the local government. It requires the plan to provide for, among other things, the modification, termination, or renegotiation of contracts, and, for school districts, an academic and educational plan. The Act authorizes an emergency manager to reject, modify, or terminate the terms of an existing contract or a collective bargaining agreement.

It allows an emergency manager to order millage elections.

The bill allows an emergency manager to take certain actions with respect to a municipal government's pension fund and board, if the fund was not actuarially funded at a level of 80% or more.

It authorizes an emergency manager to disincorporate or dissolve a municipal government with the approval of the governor or recommend consolidation with another municipal government.

The bill limits the authority of an emergency manager to sell assets valued at \$50,000 or more, or to sell a public utility. It requires an emergency manager to submit contracts valued at \$50,000 or more to competitive bidding, except as authorized by the state treasurer.

The Act eliminates the salary and benefits of the chief administrative officer and governing body members during a receivership, except as restored by the emergency manager. It prohibits a local governing body and chief administrative officer from exercising any of the powers of those offices during receivership.

The bill allows an emergency manager to recommend to the governor and the state treasurer that a local government be allowed to proceed under Federal bankruptcy law.

The bill exempts a local government in receivership from collective bargaining requirements for five years or until the receivership was terminated, whichever occurred first.

It requires an emergency manager to adopt a two-year budget for the local government before the receivership terminated.

It allows the state treasurer, in a consent agreement, to grant to local officials the powers prescribed for an emergency manager, except the power to reject, modify, or terminate CBAs.

The Act provides that a local government that entered into a consent agreement would not be subject to collective bargaining requirements during the remaining term of the agreement, unless the state treasurer determined otherwise.

It provides that emergency managers serve at the pleasure of the governor but are subject to impeachment by the Legislature as provided in the state Constitution.

Submitted as:

Michigan

[Public Act 4 of 2011](#)

Status: Enacted into law in 2011.

Comment:

Emergency manager legislation will give state early warning of impending trouble, help local governments

> [View the Emergency Manager Fact Sheet](#)

LANSING, MI –

With dozens of cities and school districts across the state struggling under the weight of unfunded liabilities and unsustainable cost structures, Governor Rick Snyder today signed legislation that will allow the state to assist earlier when local units of government are in financial distress instead of waiting until they are on the brink of bankruptcy. The move will ensure residents are not cut off from basic services and protect taxpayers from having to bailout municipalities that fail to take action.

At the bill signing, Snyder praised lawmakers for making tough decisions even in the face of vocal opposition from those in favor of keeping the status quo.

"For too long in this state we've avoided making the tough decisions. But waiting limits options and makes the solutions much more painful," Snyder said. "The goal is to allow the state to intervene at an earlier stage so that the need for an emergency manager can be avoided altogether. If, however, an emergency manager is needed, then they need the tools to properly address these challenges."

The six bills signed by Snyder will update Public Act 72 of 1990, also known as the Emergency Financial Manager act, by:

- Establishing more extensive criteria for review of a local government to indicate fiscal problems earlier and more clearly. There will be 18 triggers that can prompt a preliminary review, up from the current 14;
- Creating a process for reaching a consent agreement that would provide enhanced powers for current local unit administrators to deal more quickly with financial distress;
- Providing a 30-day window, at the beginning of the consent agreement, for collective bargaining to take place to deal with fiscal distress; and
- Granting broad powers to the emergency manager if a local government is in receivership.

A local government is removed from receivership when the financial conditions which brought about the financial emergency are corrected in a sustainable fashion.

House Bills 4214, 4216, 4217, 4218 and Senate Bills 157 and 158 are now Public Acts 4 through 9.

FACT SHEET

Emergency Manager

Background:

Under Public Act 72 of 1990, the state is authorized to intervene in units of local government that experience financial emergencies.

The House and Senate recently passed legislation that allows the state to intervene at an earlier stage. The new law also expands the power of emergency managers in order to better equip them with the tools needed to address a local unit's financial emergency.

Some are spreading misinformation about the legislation and trying to use this issue to provoke the kind of fighting seen in Wisconsin.

Half of all jobs lost in the entire United States over the past decade were lost in Michigan. Dozens of local units of government are experiencing serious financial challenges. We are in a crisis.

Setting the record straight:

- The Emergency Manager legislation is a proactive approach to preventing a local unit of government from experiencing a financial emergency.
- An Emergency Manager would be appointed only in the event of a municipal financial emergency.
- By allowing the state to intervene at an earlier stage, the need for an emergency manager can be avoided.
- Appointing an emergency manager would minimize the likelihood that a local unit of government would be unable to provide basic services to its citizens.

State intervention on local unit financial emergencies is not new, nor is only supported by Republicans:

- Michigan has had an emergency financial manager law on the books since 1988.
- The original law was signed by Democrat governor James Blanchard.
- An emergency financial manager has only been put in place a total of 10 times in more than 20 years. Emergency financial managers have been utilized by both Republican and Democrat governors.
- State Treasurer Andy Dillon, who previously served as the Democrat Speaker of the House, is leading the administration's effort to ensure emergency managers that may be necessary in the future are properly trained.

Despite the misinformation being spread by the media and on the Internet, the legislation does not give the governor the ability to remove elected officials at will. Claims that it does are simply not true.

- The legislation includes a series of triggers, one of which must occur before a review of a local unit's finances is even conducted, such as failure by the local unit of government to pay creditors or make timely pension contributions.
- Even if an emergency manager is put in place, local elected officials can only be removed from office if they refuse to provide information or assistance.
- The governor already has – and has had – the ability to put an emergency financial manager in place since 1988.
- The governor already has – and has had – the ability to remove elected officials for failing to do their duty or for corruption. This power was established in Michigan's 1963 constitution.

Former Democrat Governor Jennifer Granholm used this power to conduct removal hearings for Kwame Kilpatrick, the former Detroit mayor who stepped down from office and was then later convicted of corruption.

- An Emergency Manager can only be put in place if local elected officials fail to take the steps necessary to prevent a financial emergency.
- Emergency managers are accountable to both the governor and the Legislature, which in turn are both accountable to voters.
- The goal is to give emergency managers the tools they need to protect residents and address local government financial emergencies.
- Labor contracts make up the bulk of local government expenses. Because emergency financial managers do not currently have power to adequately address these issues, long-term financial problems are not solved.

This legislation does not eliminate collective bargaining:

- Although an emergency manager may void contracts to prevent the local unit of government from going into bankruptcy, new agreements still could come through the collective bargaining process.
- If the municipality was to enter bankruptcy, a judge would have sweeping powers to undo contracts. Bankruptcy is a much bigger threat to collective bargaining.
- The governor has repeatedly said he will work within the collective bargaining system.

For further reading:

Editorial: New state financial tools will help fix budgets, not bust unions (Detroit Free Press) For too long, Michigan has had too few tools to keep school districts and cities from wallowing in financial trouble.

Disposition: 13-33A-02

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

- ☐ Include in Volume
- ☐ Defer consideration to next task force meeting
- ☐ Reject
- ☐ No action

Comments/Note to staff:

SSL Committee Meeting: 2013A

- ☐ Include in Volume
- ☐ Defer consideration
 - ☐ next task force mtg.
 - ☐ next SSL mtg.
 - ☐ next SSL cycle
- ☐ Reject

Comments/Note to staff:

This Act requires an issuer of private activity bonds, formed or organized under the laws of another state and proposing to issue bonds for a project within the state, to provide specific information to the relevant statewide issuing authority and get approval to proceed to public hearing.

The following information must be received by the authority at least 120 days prior to the public hearing for the proposed bond issuance: a copy of the proposed notice of public hearing; the maximum stated principal amount of the bond; facility description and location; the finance plan; the bond issuer's name; the facility owner or principal user; how the project will meet the state's public policy objectives and requirements, and those of the authority; and payment of a project review fee established by the authority.

If the authority finds that the facility and information submitted are consistent with the state's laws, public policy and best interests, then the authority must authorize the relevant government unit in writing to proceed with the public hearing. If the authority finds the facility and information submitted inconsistent with the state's laws, public policy and best interests, the public hearing may not proceed and the bonds may not be issued by the out-of-state issuer.

The Act prohibits making an allocation of the state bond cap to a bond issuing authority formed or organized under the laws of another state.

Submitted as:

Washington

[Chapter 211, Laws of 2011](#)

Status: Enacted into law in 2011.

Comment:

According to a Washington state legislative staff report, three states – Wisconsin, Missouri, and Colorado – have laws allowing in-state bond issuing authorities to finance projects in all 50 states. The most recent is the Wisconsin Public Finance Authority (PFA), established in legislation enacted in 2010. The PFA is authorized to issue tax-exempt and taxable bonds for projects located within or outside Wisconsin and may apply to any unit of government, within or outside the state, for an allocation of the tax-exempt private activity bond cap. Before issuing bonds on any economic development or housing facilities in Wisconsin, the PFA must receive approval from the Wisconsin Housing and Economic Development Authority. Before issuing bonds on any health or education project in Wisconsin, the PFA must receive approval from the Wisconsin Health and Educational Facilities Authority. The Wisconsin law is silent on state-level approvals or requirements the PFA must seek or meet in other states in order to issue bonds. However, the law does prohibit the PFA from issuing bonds to finance a capital improvement project until a political subdivision within whose boundaries the project is to be located has approved the financing.

Disposition: 13-33A-03

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

- ☐ Include in Volume
- ☐ Defer consideration to next task force meeting
- ☐ Reject
- ☐ No action

Comments/Note to staff:

SSL Committee Meeting: 2013A

- ☐ Include in Volume
- ☐ Defer consideration
 - ☐ next task force mtg.
 - ☐ next SSL mtg.
 - ☐ next SSL cycle
- ☐ Reject

Comments/Note to staff:

This Act defines “lean government principles” as a continuous and rapid process improvement of state government by eliminating a department’s nonvalue-added processes and resources, providing feedback on process improvements that have the purpose of increasing a department’s efficiency and effectiveness, and measuring the outcomes of such improvements. Lean government principles may involve some or all of the following strategies:

- Developing maps describing the procedures by which departments produces value;
- Implementing planned rapid improvements in departmental processes that will increase value or decrease staff time, inventory, defects, overproduction, complexity, delays, or excessive movement;
- Developing timelines to make rapid process improvements and plans to reallocate or remove resources, reduce expenditures, or produce of greater value;
- Involving department employees at all levels in mapping a department’s processes and in making recommendations for departmental improvements,
- Documenting all recommendations made by department employees.
- Providing the means to measure and demonstrate the effectiveness of every process or process improvement; and
- Training department employees as experts in lean government principles, and developing a process to understand barriers to applying lean government principles.

The Act directs that state departments should incorporate lean government principles into the state budgeting process. It directs that department strategic plans should include a report about how lean government principles can be applied to the departments.

Submitted as:

Colorado

[HB11-1212 \(Enrolled version\)](#)

Status: Enacted into law in 2011.

Comment:

Disposition:

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

SSL Committee Meeting: 2013A
☐ Include in Volume
☐ Defer consideration
☐ next task force mtg.
☐ next SSL mtg.
☐ next SSL cycle
☐ Reject

Comments/Note to staff:

Comments/Note to staff:

This Act enacts the Surplus Lines Insurance Multi-State Compliance Compact (SLIMPACT) into state law.

The compact was created to do the following:

- Protect the premium tax revenues of the compacting states through facilitating the payment and collection of premium tax on non-admitted insurance;
- Protect the interests of the compacting states by supporting the continued availability of such insurance to consumers;
- Provide for allocation of premium tax for non-admitted insurance of multi-state risks among the states in accordance with uniform allocation formulas to be developed, adopted, and implemented by the compact's administrative commission;
- Streamline and improve the efficiency of the surplus lines market by eliminating duplicative and inconsistent tax and regulatory requirements among the states;
- Promote and protect the interest of surplus lines licensees who assist such insured's and surplus lines insurers, thereby ensuring the continued availability of surplus lines insurance to consumers;
- Streamline regulatory compliance with respect to non-admitted insurance placements by providing for exclusive single-state regulatory compliance for non-admitted insurance of multi-state risks, in accordance with rules to be adopted by the commission, thereby providing certainty regarding such compliance to all persons who have an interest in such transactions, including but not limited to insured's, regulators, surplus lines licensees, other insurance producers, and surplus lines insurers;
- Establish a clearinghouse to receive and disseminate premium tax and clearinghouse transaction data related to non-admitted insurance of multi-state risks, in accordance with rules to be adopted by the commission;
- Improve coordination of regulatory resources and expertise between state insurance departments and other state agencies, as well as state surplus lines stamping offices, with respect to non-admitted insurance;
- Adopt uniform rules to provide for premium tax payment, reporting, allocation, data collection and dissemination for non-admitted insurance of multi-state risks and single-state risks, in accordance with rules to be adopted by the commission, thereby promoting the overall efficiency of the non-admitted insurance market;
- Adopt uniform mandatory rules with respect to regulatory compliance requirements for foreign insurer eligibility requirements and surplus lines policyholder notices;
- Create a surplus lines insurance multi-state compliance compact commission, and
- Coordinate reporting clearinghouse transaction data.

Submitted as:

Kentucky

[HB 167](#)

Status: Enacted into law in 2011.

Comment: The bill is not in the packet because it is 48 pages.

The National Center for Interstate Compacts reports that nine states have enacted SLIMPACT: Alabama, Indiana, Kansas, Kentucky, New Mexico, North Dakota, Rhode Island, Tennessee and Vermont. The compact requires 10 states enact it into law for it to activate.

The Council of State Governments
National Center for Interstate Compacts
The Surplus Lines Insurance Multi-State Compliance Compact

Overview:

In July 2010 President Obama signed the *Dodd-Frank Wall Street Reform and Consumer Protection Act*. As part of the agreement, Congress incorporated the *Nonadmitted Insurance and Reinsurance Reform Act* (NRRA) as Title V, Subtitle B, Part I. In NRRA Congress insisted that states adopt uniform requirements, forms, and procedures to facilitate the reporting, payment, collection, and allocation of premium taxes for the surplus lines insurance industry.

Congress even suggested that interstate compacts might provide states a mechanism to ensure compliance with the requirements of NRRA. Currently there are two competing models available for consideration by the states. Each is designed to ensure compliance with NRRA. The Surplus Lines Insurance Multi-State Compliance Compact (SLIMPACT) was developed jointly by The Council of State Governments (CSG), the National Conference of Insurance Legislators (NCOIL), and a variety of industry stakeholders.

The agreement enjoys wide ranging support from state legislators, surplus lines insurance professionals, industry officials, and a variety of interested stakeholder groups. The Non-Admitted Insurance Multi-state Agreement, which was developed by National Association of Insurance Commissioners, serves as an alternative model to SLIMPACT. Although designed to function as an interstate compact, legal experts in the field have questioned if NIMA is capable of achieving the uniformity called for in the *NRRA* section of *Dodd Frank*.

Advantages of SLIMPACT:

SLIMPACT, if adopted, would bring states into compliance with the reforms mandated by the *Dodd Frank* bill, which in turn would significantly reduce the likelihood of federal intervention.

SLIMPACT functions as an interstate compact, providing comprehensive, uniform solutions to the current allocation of surplus lines insurance premiums. The compact would authorize member states to form a governing commission to establish allocation formulas, uniform payment methods and reporting requirements, insurer eligibility standards and a single policyholder notice to replace the various forms currently in use across the country. The compact would also streamline the taxation process and ensure each state receives its fair share of tax premiums. It would also allow member states to create a single tax rate for surplus lines insurance, charge their own rates on multi-state risks and choose among uniform payment dates.

Additionally SLIMPACT is sustainable and enforceable over time, while also providing sufficient flexibility to ensure member states are able to keep up with changes to insurance markets without having to amend the legislation.

SLIMPACT has received wide-spread endorsement from state legislative groups such as CSG, NCOIL, and the National Conference of State Legislatures.

Legal Obstacles to NIMA:

In its present form NIMA is not an interstate compact, but instead functions as a model state law. Actions taken under NIMA's authority are advisory in nature, serving primarily as recommendations. These actions are not binding on the member states, meaning the uniformity

insisted upon by Congress in the *Dodd Frank* reform bill is lost. Currently the language does not allow the joining states to form a joint regulatory body with the authority to promulgate rules, establish uniform payment methods and reporting requirements, and establish formulas governing the allocation of surplus lines premiums.

Additionally, NIMA allows for an Executive Branch official (e.g. s state's Insurance Commissioner) to join a state to the agreement without legislative consent or approval. There are no terms established in the agreement which pre-empt conflicting legislation or regulation in the member states and no state enactment is conditioned upon the adoption of the statute by other member states.

These factors leave open the possibility of either legal challenge or the likelihood that a state will be free to unilaterally repeal or amend the agreement without limitation or recourse of the other member states.

To learn more about the Surplus Lines Insurance Multi-state Compliance Compact please contact Crady deGolian at cdegolian@csg.org or by phone at 859-244-8068

Disposition: 13-33A-05

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

- ☐ Include in Volume
- ☐ Defer consideration to next task force meeting
- ☐ Reject
- ☐ No action

Comments/Note to staff:

SSL Committee Meeting: 2013A

- ☐ Include in Volume
- ☐ Defer consideration
 - ☐ next task force mtg.
 - ☐ next SSL mtg.
 - ☐ next SSL cycle
- ☐ Reject

Comments/Note to staff:

13-33A-06 State Employees' Ideas That Improve State
Government Operations

CO

This Act requires the state personnel director to create and make available to all state employees a process and an application to allow state workers to suggest ideas to improve state agency operations. The application must be posted on the department of personnel's website and the process must be advertised on state employee payroll statements. The Act directs the state personnel director to develop a method to evaluate employee suggestions.

State employees submit their suggestions to their agency directors. The Act requires the agency directors to respond to employee suggestions in a timely manner and to calculate the projected savings from employee suggestions before they decide to accept or reject an employee's suggestion.

The legislation requires agency directors calculate any savings their agencies realize from employee suggestions within 13 months after such suggestions are fully implemented. The directors must forward those calculations to the state auditor for review and verification. Within 120 days after receipt of the calculation, the state auditor must report their review and verification to the legislative audit committee. Agency directors must also identify any state laws or regulations that need to be changed to implement an approved employee suggestion and provide that information to the appropriate legislative committee.

The Act enables employees who submit suggestions to get up to \$5,000 of the savings realized from their suggestions to improve agency operations.

Submitted as:

Colorado

[Chapter 284 of 2010](#)

Status: Enacted into law in 2010.

Comment:

Disposition:

CSG policy task force recommendations to

The Committee on Suggested State

Legislation: 2013A

☐ Include in Volume

☐ Defer consideration to next task force meeting

☐ Reject

☐ No action

SSL Committee Meeting: 2013A

☐ Include in Volume

☐ Defer consideration

☐ next task force mtg.

☐ next SSL mtg.

☐ next SSL cycle

☐ Reject

Comments/Note to staff:

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 Act defines "personal vehicle sharing" as the use of a private passenger motor vehicle by persons other than the vehicle's registered owner in connection with a personal vehicle sharing program. It defines a "personal vehicle sharing program" as a legal entity qualified to do business in the state that is engaged in the business of facilitating the sharing of private passenger motor vehicles for noncommercial use by individuals within the state.

The Act directs that private passenger motor vehicle insured by the vehicle's registered owner under an owner's insurance policy may not be classified as a commercial motor vehicle, for-hire motor vehicle, permissive use motor vehicle or livery solely because the vehicle's registered owner allows the vehicle to be used for personal vehicle sharing if the personal vehicle sharing is conducted under a personal vehicle sharing program and the annual revenue received 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:

Disposition: 14-33A-01A

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

- ☐ Include in Volume
- ☐ Defer consideration to next task force meeting
- ☐ Reject
- ☐ No action

Comments/Note to staff:

SSL Committee Meeting: 2013A

- ☐ Include in Volume
- ☐ Defer consideration
 - ☐ next task force mtg.
 - ☐ next SSL mtg.
 - ☐ next SSL cycle
- ☐ Reject

Comments/Note to staff:

Disposition: 14-33A-01B

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

- ☐ Include in Volume
- ☐ Defer consideration to next task force meeting
- ☐ Reject
- ☐ No action

Comments/Note to staff:

SSL Committee Meeting: 2013A

- ☐ Include in Volume
- ☐ Defer consideration
 - ☐ next task force mtg.
 - ☐ next SSL mtg.
 - ☐ next SSL cycle
- ☐ Reject

Comments/Note to staff:

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:

Disposition:

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

- ☐ Include in Volume
- ☐ Defer consideration to next task force meeting
- ☐ Reject
- ☐ No action

Comments/Note to staff:

SSL Committee Meeting: 2013A

- ☐ Include in Volume
- ☐ Defer consideration
 - ☐ next task force mtg.
 - ☐ next SSL mtg.
 - ☐ next SSL cycle
- ☐ Reject

Comments/Note to staff:

This Act directs a regional transportation authority, in consultation with certain service boards and the general public, to develop a policy about transfer fares on all fixed-route public transportation services provided by the service boards. The Act sets forth the requirements for the policy. It directs that, by January 1, 2015, the authority must develop and implement a regional fare payment system. It requires that the payment system developed by the Authority allow consumers to use contactless credit cards, debit cards, and prepaid cards to pay for all fixed-route public transportation services. It requires that the authority submit a report to the governor and legislature about the feasibility of providing wireless Internet services on all fixed-route public transportation services. It directs a commuter rail board to conduct a study about installing and using of automated external defibrillators on passenger trains. It requires, under certain conditions, that the commuter rail board to provide wireless Internet service on all passenger trains that it owns or operates.

Submitted as:

Illinois

[Public Act No. 97-0085](#)

Status: Enacted into law in 2011.

Comment:

FOR IMMEDIATE RELEASE

July 7, 2011

Governor Quinn Signs Major Mass Transit Reform Legislation

Improvements Require Universal Fare System and Web-Based Tracking, Move Towards Free Wireless Internet and AEDs on Public Transportation

CHICAGO – July 7, 2011.

Governor Pat Quinn today signed legislation to reform mass transit in the Chicago region by creating a universal fare card for riders of the CTA, Metra and Pace, and taking the first step towards making free wireless internet available on buses and trains throughout the region. The new law also requires Metra to provide web-based, real-time train arrival information, and lays the groundwork for the installation of automated external defibrillators (AEDs) on Metra passenger trains.

“Millions of Illinoisans use buses and trains every day to get to work and school, or to enjoy everything the Chicago area has to offer,” said Governor Quinn. “These improvements will make public transit a more robust and convenient travel option, boosting economic development and increasing access to schools and universities throughout the region.”

House Bill 3597 requires the Regional Transportation Authority (RTA) to implement a universal fare card system for the CTA, Metra and Pace by 2015. A universal fare card would ensure fast and easy access to all forms of public transportation in the region by allowing seamless transfers between transit systems.

The legislation also takes an important first step towards making free wireless internet available to CTA, Metra, and Pace riders. Under the new law, the RTA will conduct a study to

determine the feasibility of providing free Wi-Fi for laptop and mobile device users on buses and trains throughout the Chicago region.

The new law requires the RTA to conduct a report on the feasibility of installing AEDs on Metra trains. User-friendly defibrillators can be used in the event of cardiac arrest and gives members of the public the ability to attempt to resuscitate a victim before responders are able to arrive.

Under the new law, all fixed-route transit in the Chicago area will be required to provide web-based, on-time arrival information by July 1, 2012. While the CTA currently provides this information, users of the other transit systems are often out of luck. The new law will ensure that riders of all of the region's transit systems will have access to critical on-time data that improves the ease of traveling by bus or rail.

The new law was sponsored by Chicago Alderman Will Burns during his time as state representative, and State Senator Kwame Raoul (D-Chicago).

"Reliable, robust and convenient public transportation is the key to many of our most important priorities, especially economic development and education," said Ald. Burns. "Everything we can do to have our transit systems work together to improve their service is a step towards a better quality of life for everyone."

House Bill 3597 passed the Illinois General Assembly unanimously and takes effect immediately."

Disposition:

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

- ☐ Include in Volume
- ☐ Defer consideration to next task force meeting
- ☐ Reject
- ☐ No action

Comments/Note to staff:

SSL Committee Meeting: 2013A

- ☐ 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.

Comment:

Disposition:

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

- ☐ Include in Volume
- ☐ Defer consideration to next task force meeting
- ☐ Reject
- ☐ No action

Comments/Note to staff:

SSL Committee Meeting: 2013A

- ☐ Include in Volume
- ☐ Defer consideration
 - ☐ next task force mtg.
 - ☐ next SSL mtg.
 - ☐ next SSL cycle
- ☐ Reject

Comments/Note to staff:

This Act revises state-policy objectives for the provision of telecommunications service and repeals the law governing alternative regulation of telephone companies and rescinds related Public Utilities Commission of Ohio (PUCO) rules. An Ohio legislative analysis outlines the Act's provisions as follows:

PUCO jurisdiction over telecommunications

This Act specifies that the PUCO, except as provided in the Act and federal law, has no authority over an interconnected voice over internet protocol-enabled service or a telecommunications service that is not commercially available on the Act's effective date and that employs technology that became available for commercial use after that date, unless the PUCO determines the exercise of authority is necessary for the protection, welfare, and safety of the public and adopts necessary regulations, and specifies that the Office of the Consumers' Counsel (OCC) has authority to assist and represent residential customers to the extent that the PUCO adopts those regulations.

The bill makes consumer purchases of telecommunications services not commercially available on the Act's effective date and that employ new technology subject to the Consumer Sales Practices Act (CSPA), notwithstanding any provision of the CSPA to the contrary, and only if the PUCO does not exercise jurisdiction over such services.

The bill provides that the PUCO does not have jurisdiction over wireless service, resellers of wireless service, or wireless service providers, except as pertaining to telecommunications relay service, 9-1-1 service, certain penalties, and carrier access policy and the creation and administration of mechanisms for carrier access reform, including high cost support.

Under the Act, the PUCO has authority over wireless service and wireless service providers as follows, but only to the extent authorized under federal law to the extent the PUCO carries out:

- rights and obligations under the federal Telecommunications Act of 1996;
- the authority to mediate and arbitrate disputes and approve agreements under the federal Act;
- administration of telephone numbers and number portability;
- certification of telecommunications carriers eligible for universal-service funding under applicable federal law;
- administration of customer proprietary network information in applicable federal law, and
- as provided under the new telecommunication provisions in the Act pertaining to registration of wireless service providers, compliance with applicable PUCO orders, directions, and requirements, and adjudication of disputes.

This law specifies that requirements regarding assessments supporting the PUCO and the OCC, as well as the filing of annual reports for assessments, apply to wireless service providers. It specifies that a number of statutes, many unchanged by the Act, do not apply to telephone companies, including statutes pertaining to PUCO jurisdiction, service discrimination, accounting requirements, charging tariffed rates, the issuance of stocks, bonds, and notes, uniform pricing, and other statutes, unless necessary, in some cases, for the PUCO to enforce the provisions of the Act.

The Act specifies that, with certain exceptions, the new telecommunications provisions in the Act do not prevent any public utility or railroad from granting property for public purposes. It

redefines “public utility” to exclude internet protocol-enabled services, including voice over internet protocol services, and providers of advanced services, broadband service, information service, and any telecommunications service that is not commercially available on the Act's effective date and that employs technology that became available for commercial use after the Act's effective date.

The bill provides that the PUCO has no authority over the quality of service and the service rates, terms, and conditions of telecommunications service provided to end users by a telephone company, except as provided in the Act. It permits the PUCO to adopt various rules that it finds necessary to carry out the provisions of the Act, including rules that address the removal from tariffs of services that were required to be filed in tariffs prior to the Act's effective date. It directs the PUCO to adopt any rules required under the Act no later than 120 days after the Act's effective date.

The Act vests the PUCO with the authority to perform federal obligations and carry out the acts of a state commission, including rights and obligations under the federal Telecommunications Act of 1996, arbitrating disputes and approving agreements under the federal Act, administering truth-in-billing, and other federal obligations and acts of a state commission.

Certification or registration in order to operate in Ohio

This legislation requires, as a condition of operating in Ohio, that a telephone company obtain a certificate from the PUCO and that a wireless service provider register with the PUCO. It requires a certificate application and registration to include the telephone company's or wireless service provider's name and address, a contact person's name and contact information, a service description, evidence of registration with the Secretary of State, evidence of notice of intent to provide telecommunication service to the Public Utilities Tax Division of the Department of Taxation, and with respect to certification only, evidence of financial, technical, and managerial ability to provide adequate service.

It exempts incumbent local exchange carriers (ILECs) from the certification requirements with respect to their geographic service areas as those areas existed before the Act's effective date.

The law permits the PUCO to suspend or reject a telephone company's certification application if it determines the applicant lacks financial, technical, or managerial ability sufficient to provide adequate service. It requires, if any of the application information changes, a telephone company to update its certification and to provide any necessary notice to customers and requires a wireless service provider to update its registration.

The Act requires the PUCO to adopt rules governing certification and registration update requirements.

Unfair or deceptive acts or practices

This bill prohibits telephone companies, but not wireless service providers, from committing certain unfair or deceptive acts or practices regarding the offer or provision of telecommunications service in Ohio. It states that a consumer purchase of wireless service is subject to the Consumer Sales Practices Act (CSPA) notwithstanding any provision of the CSPA to the contrary.

The Act makes failure to include the following in a telephone company solicitation, offer, contract, or other communication as provided in the Act an unfair or deceptive act or practice:

truthful, clear, conspicuous, and accurate disclosure of any material terms and conditions of service and any material exclusions or limitations and disclosure of the company's name and contact information.

This bill permits the PUCO to prescribe a review process to determine when disclosure of the above information is not practicable and therefore nondisclosure would not be an unfair or deceptive act or practice. It requires a telephone company to inform its customers of their rights and responsibilities regarding inside wire, repair and maintenance of customer-owned equipment, and use of a network interface device, and diagnostic visit charges, consistent with rules the PUCO adopts. The Act permits the PUCO to determine by rule or adjudication under the terms of the Act what constitutes an unfair or deceptive act or practice in connection with the offer or provision of telecommunications service in Ohio.

It requires the PUCO to notify telephone companies specifying the acts, practices, or omissions that the PUCO determines by rule or adjudication to be unfair or deceptive and states that such companies are not liable absent notice and adequate implementation time.

Service withdrawal/abandonment

This bill permits a telephone company, except for an ILEC providing basic local exchange service, to withdraw or abandon service upon 30-days notice to the PUCO and customers. It specifies that the Act's withdrawal and abandonment provisions do not apply to interconnection and resale agreements approved under the Telecommunications Act of 1996, pole attachments, and conduit occupancy. It prohibits, without PUCO approval, a telephone company from withdrawing any tariff filed with the PUCO for pole attachments or conduit occupancy under the continuing pole attachment and conduit occupancy law or abandoning service provided under that law.

Basic local exchange service

This Act requires telephone companies providing basic local exchange service to ensure available, adequate, and reliable service. It requires the PUCO to adopt rules prescribing the following standards for the provision of basic local exchange service:

- installation of service within five days of receipt of an application;
- outages fixed within 72 hours (and reasonable efforts made to repair outages within 24 hours) and automatic customer credits for all affected customers, of which the telephone company is aware, in the amount of one month's charges per customer for basic local exchange service if an outage is reported and not fixed in 72 hours, with no requirement to credit a customer who caused an outage;
- disconnection for nonpayment not earlier than 14 days after a bill due date;
- the establishment of a billing due date not earlier than 14 consecutive days after the date the bill is postmarked for basic local exchange service provided to end users;
- permitting a utility to require a deposit not to exceed 230% of a reasonable estimate of one month's service charges for the installation of service, and
- reconnection of customers with past-due charges one business day after receipt of the first payment under a payment plan or the full amount due.

The bill requires the PUCO to provide for a waiver of the standards prescribed in rule for basic local exchange service when the PUCO determines it appropriate. It requires an ILEC to provide basic local exchange service to all people or entities in its service area requesting that service, and to provide that service on a reasonable and nondiscriminatory basis, except for the

provision of basic local exchange service or any service to occupants of multitenant real estate in certain circumstances where a real estate owner takes action to benefit another service provider.

It permits an ILEC to apply to the PUCO for a waiver of the requirement to provide basic local exchange service to all people or entities in its service area requesting service and requires the PUCO to grant the waiver within 120 days if it finds it to be just, reasonable, not contrary to the public interest, and that the applicant demonstrates a financial hardship or unusual technical limitation, but after the carrier has notified affected people or entities in its service area and after the people or entities have been afforded a reasonable opportunity to comment, including a public hearing.

The bill permits an ILEC to alter rates for basic local exchange service based on 12-month intervals relating to when the last rate increase occurred and, in certain cases, depending on whether the ILEC's local exchange area qualified for alternative regulation under the PUCO rules. It prohibits banking of upward rate alterations. It permits ILECs owned and operated exclusively by and for their customers to alter basic local exchange service rates at any time by any amount.

Lifeline service

The Act requires an ILEC eligible for universal-service support to implement lifeline service for eligible customers, defined as either being at or below 150% of the federal poverty level or participating in any low-income assistance program that is specified in PUCO rules, and permits an ILEC to offer lifeline customers bundles and packages at prevailing rates less the lifeline discount.

It requires the PUCO to work with appropriate state agencies administering federal or state low-income assistance programs, and with carriers, to obtain information necessary for eligibility and automatic enrollment, requires the PUCO to establish requirements for the implementation of automatic enrollment, and requires ILECs to implement automatic enrollment in accordance with those requirements.

The legislation provides for situations in which an individual is determined ineligible or no longer eligible and provides opportunities to prove eligibility.

It provides that lifeline service must consist of flat-rate, monthly, primary access line service with touchtone service at a monthly discount, a waiver of all nonrecurring service order charges for establishing service, but not more than once per customer at a single address in a 12-month period, and free blocking of toll, 900, and 976 service.

The bill requires that ILECs offer special payment arrangements to lifeline customers with past-due bills with an initial payment not to exceed \$25 before the installation of service and the balance for regulated service charges to be paid over six monthly installments.

This Act provides that lifeline customers with past due toll service bills are to have toll-restricted service until the past due charges have been paid or until service is established with another toll service provider.

It requires every ILEC with 50,000 or more access lines that is required to provide lifeline service to establish an annual marketing budget for promoting, marketing, and performing outreach regarding lifeline service.

The law requires all funds in the lifeline marketing budget to be spent for promotion, marketing, and outreach of lifeline services, and prohibits their use for any administrative costs for lifeline implementation.

This Act creates a Lifeline Advisory Board composed of staff of the PUCO, the OCC, consumer groups representing low-income constituents, two representatives from the Ohio

Association of Community Action Agencies, and every ILEC with 50,000 or more access lines that is required to implement lifeline service to coordinate all activities relating to the promotion and marketing of and outreach regarding lifeline service, and permits the PUCO to review and approve, in accordance with PUCO rules, the decisions of the advisory board, including decisions on how lifeline promotion, marketing, and outreach services are implemented.

It prohibits ILECs required to implement lifeline service from recovering lifeline marketing, promotion, and outreach expenses from end users.

It permits ILECs required to implement lifeline service to recover from end users of the carriers' telecommunications service other than lifeline service customers, by a method approved by the PUCO, lifeline service discounts and any other lifeline service expenses (except for marketing, promotion, and outreach expenses) that the PUCO prescribes by rule and that are not recovered through federal or state funding, and requires a carrier seeking recovery of these discounts or expenses to apply to the PUCO, in accordance with PUCO rules, for approval of its method of recovery.

The law requires the PUCO, if an ILEC's method of recovery of lifeline discounts or expenses includes a customer billing surcharge, to prescribe how the surcharge is to be identified on customer bills.

It requires every ILEC required to implement lifeline service to file an annual report with the PUCO identifying how many customers receive the service.

Rates, terms, and conditions for certain services

This Act requires that the rates, terms, and conditions for 9-1-1 service provided by a telephone company or a telecommunications carrier, and for carrier access, N-1-1 services (other than 9-1-1 services), pole attachments and conduit occupancy, pay telephone access lines, toll presubscription, and telecommunications relay service, all provided by a telephone company, be approved and tariffed in the manner prescribed by PUCO rule, and be subject to the applicable laws, including PUCO and FCC rules, regulations, and orders.

It permits the PUCO to order changes in a telephone company's rates for carrier access, but specifies that if the PUCO reduces a telephone company's rates for carrier access that are in effect on the Act's effective date, the reduction must be on a revenue-neutral basis under terms and conditions established by the PUCO.

The bill prohibits the PUCO from establishing any requirements for the unbundling of network elements, for the resale of telecommunications service, or for network interconnection that exceed or are inconsistent with or prohibited by federal law. It prohibits the PUCO from establishing pricing for unbundled elements, resale, or interconnection that is not in compliance with federal law.

The law requires a telephone company, except with regard to rate alterations made under the Act's provisions where 30-days notice is required, and except, if applicable, with regard to the Community-voicemail Service Pilot Program, to provide at least 15-days advance notice to its affected customers of any material change in the rates, terms, and conditions of a service and any change in the company's operations "that are not transparent to customers and may impact service."

This Act requires telephone companies to inform customers of the PUCO's toll-free number and e-mail address on all bills and disconnection notices, and residential customers of the OCC's toll-free number and e-mail address on all residential bills and disconnection notices.

The law authorizes the PUCO to adopt rules requiring telephone companies that provide telephone toll service to offer discounts for operator-assisted and direct-dial services for people

with communication disabilities. It authorizes the PUCO to adopt rules regarding the rates, terms, and conditions of intrastate telecommunications service initiated from an inmate telephone instrument.

Investigations and adjudications

This Act permits the PUCO to investigate or examine the books, records, or practices of any telephone company. It permits any person to file with the PUCO, or the PUCO to initiate, a complaint alleging that any rate, practice, or service of a telephone company other than a wireless service provider is unjust, unreasonable, unjustly discriminatory, or in violation of or noncompliance with any of the Act's provisions or a PUCO rule or order.

The law permits any dispute between telephone companies, between telephone companies and wireless service providers, or between wireless service providers that is within the PUCO's jurisdiction under the Act's provisions, to be brought by a complaint filed under the Act's complaint procedure.

Various telecommunication and other changes

The bill requires every telephone company providing telephone exchange service to maintain access to 9-1-1 service on a residential customer's line for at least 14 days immediately following any disconnection for nonpayment of telephone exchange service.

It requires the PUCO to implement, in at least one urban area and one rural area, a two-year Community-voicemail Service Pilot Program, for those who have no traditional access to telephone service, through a competitive-bidding process for selection of vendors to implement the program, requires the imposition of an assessment on all local exchange carriers for the cost of providing the service, and authorizes forfeitures for carriers who do not comply with the assessment requirements.

The law requires, to the extent they are subject to the PUCO's jurisdiction under the Act's provisions, every telephone company, including every wireless service provider, every telecommunications carrier, and every provider of internet protocol-enabled services, including voice over internet protocol, to comply with every order, direction, and requirement of the PUCO made under authority of the Act's provisions.

It limits the information required in a telephone company's and wireless service provider's annual report to information necessary for the PUCO to calculate the PUCO assessment.

It eliminates authority for the PUCO to require a telephone company to file supplemental reports of each exchange area it owns or operates and eliminates the requirement that the PUCO require such supplemental report if 15% of the subscribers of an exchange request it.

It requires the PUCO to adopt rules that require a telephone company subject to continuing law governing pole attachments and conduit occupancy to include in its annual report information required by the PUCO to calculate pole attachment and conduit occupancy rates and any other information the PUCO determines necessary and requires by rule for the PUCO to fulfill its responsibility under the pole attachment law.

It requires that a telephone company's lines and facilities not unreasonably interfere with the practical uses of the property on which they are located and requires a telephone company to repair defective lines and facilities.

It alters the applicability of telephone law regarding electricity service and automatic package carriers.

It eliminates law that stated that unless otherwise ordered by the PUCO each telephone company must file a copy of any contract, agreement, note, bond, or other arrangement entered into with any telephone management, service or operating company.

The bill eliminates law that required every telephone company to carry a proper and adequate depreciation or deferred maintenance account.

It requires telephone companies to file rate schedules only for the following rates: charges for use of attachment of any wire, cable, facility, or apparatus to its poles, pedestals, or placement of attachments in conduit duct space, basic-local-exchange-service rate changes authorized under the Act, lifeline service, discounts for operator-assisted and direct-dial services for people with communication disabilities, carrier access and other services, inmate telephone instruments, and 911 service.

It establishes requirements regarding the approval of domestic telephone company mergers by the PUCO and provides for the enforcement of PUCO rule violations by the Attorney General and Ohio courts.

The law creates a Select Committee on Telecommunications Regulatory Reform to review the economic benefits of the Act and its impact on jobs, telephone company rates, telephone company quality of service, lifeline program customers, rural markets, rural broadband deployment, the Community-voicemail Service Pilot Program, and carrier access to private property, and requires the Committee to submit a written report of its findings and recommendations to the General Assembly and the Governor no later than four years after the effective date of the Act, at which time the Committee will cease to exist.

The bill requires the PUCO to cooperate with the Committee and provide reports and any other information the Committee requests, and permits the Committee to request assistance from the Legislative Service Commission.

It requires an offender-monitoring device to be designed for electronic monitoring and not be a converted wireless phone or tracking device not designed for this purpose and requires the device to provide a means of text-based or voice communication.

Submitted as:

Ohio

[SB 162 \(Enrolled version\)](#)

Status: Enacted into law in 2010.

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

FOR IMMEDIATE RELEASE

Thursday, June 3, 2010

Contact: Kim Wheeler

(614) 466-8150

BUEHRER'S TELECOM REFORM BILL HEADS TO THE GOVERNOR

Senate Bill 162 modernizes outdated telecom regulations to create more opportunities for high-tech jobs, while protecting Ohio consumers

COLUMBUS

Legislation sponsored by State Senator Steve Buehrer (R-Delta), which modernizes Ohio's regulation of the changing telecommunications industry, has passed the Ohio General

Assembly and now heads to the Governor for his signature. In Senate Bill 162, Senator Buehrer has worked to put forth a balanced bill that will encourage greater competition between telephone service providers to attract new investments and create jobs, while preserving important protections and services for Ohio consumers.

“Current Ohio law was written to regulate the telegraph and service for grandma’s old black phone on the hallway table, not to account for the hundreds of services available through today’s advanced communication devices. As a result, traditional telephone companies have been subject to rules that don’t apply to their competitors,” Buehrer said. “By leveling the playing field, this bill will encourage advancement and investment in Ohio, leading to new services and products for consumers, as well as a better infrastructure and more good-paying jobs.”

Senate Bill 162 works to revamp much of Ohio’s traditional telecom regulatory framework and moves to a more market-oriented, yet consumer-friendly approach. The bill would eliminate many rules at the Public Utilities Commission of Ohio (PUCO) that are no longer necessary or appropriate in a competitive environment, thereby bringing regulation of traditional telephone service providers more in line with wireless, cable and internet telecommunications companies. The PUCO, however, will continue to regulate basic dial tone telephone service, including access to 9-1-1, operator services and caller ID blocking. It will also maintain its authority over certification of new telephone companies, telephone number administration, local number portability and emergency outage reporting.

Under the bill, telephone services will now be held to standards that closely resemble the Ohio Consumer Sales Practices Act. The PUCO will retain oversight of complaints and investigations.

Also to protect consumers, SB 162 ensures that if a telephone company fails to respond to a customer’s report of an outage within 72 hours, that customer’s account would automatically be credited for one month of service.

To help ensure low-income Ohioans and those in transition have access to basic services, SB 162 would expand the enhanced Lifeline program to include all basic telephone service providers in Ohio. Lifeline helps reduce the cost of basic telephone rates for people at or below 150 percent of the federal poverty level. The bill will also establish a single Lifeline advisory board to handle the promotion, marketing and outreach to ensure increased awareness of those in need of these services.

SB162 also establishes a two-year community voicemail pilot program, administered by the PUCO, to help Ohioans in transition in both rural and urban areas.

“I am pleased that legislators could come together to agree on a regulatory framework that reflects the dramatic changes in technology, puts consumers first and better positions Ohio for economic investment and job creation in a growing field,” Buehrer said.

Upon the Governor’s signature, SB 162 will take effect in 90 days.

Disposition: 15-32B-02

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

- ☐ Include in Volume
- ☐ Defer consideration to next task force meeting
- ☐ Reject
- ☐ No action

Comments/Note to staff:

(32B-g) Add similar legislation from other states, if available, to the next docket.

SSL Committee Meeting: 2013A

- ☐ Include in Volume
- ☐ Defer consideration
 - ☐ next task force mtg.
 - ☐ next SSL mtg.
 - ☐ next SSL cycle
- ☐ Reject

Comments/Note to staff:

The Act limits the scope of the state Public Service Commission's (PSC's) rule-making authority and rescinds existing rules pertaining to privacy standards, billing standards, and service quality. The bill specifies that the PSC does not have authority over voice over internet protocol (VoIP). It allows a telecommunication provider to opt out of a requirement to file a schedule of rates, services, and conditions of service with the PSC. It establishes an expiration date of June 30, 2011, on certain service quality rules.

The Act requires the PSC to investigate complaints alleging violations of requirements related to a provider originating or forwarding an intrastate call that is terminated on the network of another provider and to assess a fine against a violator.

It allows a basic local exchange service provider with fewer than 10,000 Michigan end-users, rather than 15,000, to determine that its total-service, long-run, incremental-cost (TSLRIC) is the same as that of a provider with more than 250,000 end-users.

The bill prescribes emergency power requirements for a basic local exchange service provider. It allows a provider to discontinue service to an exchange only if an alternative basic local exchange provider offers a comparable service, rather than the same service, or if two alternative toll providers offer a comparable service.

The Act requires a telecommunication provider proposing to discontinue a regulated service to an exchange to notify each affected customer by mail or within the customer's bill. It gives a person affected by a discontinuance of service 30 rather than 60 days to apply to the PSC to determine if the discontinuance is authorized, and require the Commission issue a final order within 180 days.

The bill prohibits basic local exchange service providers, rather than telecommunication providers, from taking certain actions, and deletes some actions from the list of prohibitions.

Submitted as:

Michigan

[Act 58 of 2011](#)

Status: Enacted into law in 2011.

Comment:

This Act prohibits the state Public Utility Commission of Texas from requiring a telecommunications utility that is not a public utility, including a deregulated or transitioning company, to comply with a requirement or standard that is more burdensome than a requirement or standard the PUC imposes on a public utility. The bill generally prohibits a department, agency, or political subdivision of the state from regulating rates charged for, service or contract terms for, conditions for, or requirements for entry into the market for Voice over Internet Protocol services or other Internet Protocol enabled services.

The Act establishes tariff requirements relating to a telecommunications provider not subject to rate of return regulation and makes provisions governing a certificate of convenience and necessity, a certificate of operating authority, or a service provider certificate of operating authority applicable to a transitioning company under provisions relating to the deregulation of certain incumbent local exchange company markets. The bill prohibits the PUC, on or after September 1, 2011, from requiring a telecommunications provider to provide mandatory or

optional extended area service to additional metropolitan areas or calling areas or ordering an expansion of a toll-free local calling area.

The Act requires the PUC to adopt rules to ensure reasonable transparency and accountability in the administration of a Universal Service Fund and sets requirements for support from the Universal Service Fund that is available to deregulated markets. The bill changes the procedures for determining whether a market should be deregulated. Among other provisions, the bill requires a market that is deregulated as of September 1, 2011, to remain deregulated and prohibits the PUC from reregulating a market or company that has been deregulated. An incumbent local exchange company may petition the PUC to deregulate a market of the company that the PUC previously determined should remain regulated. Only the incumbent local exchange company is authorized to initiate a proceeding to deregulate one of the company's markets. The bill changes the conditions under which the PUC determines whether a market should remain regulated.

The bill revises provisions applicable to deregulated and transitioning companies and sets out provisions exempting a transitioning company from certain rate and price requirements. The bill requires the PUC to review and evaluate, through the initiation of one or more proceedings, whether the universal service fund accomplishes the fund's purposes and requires the PUC to complete each proceeding required under those provisions not later than November 1, 2012. The PUC must provide the legislature with a copy of its findings and any orders issued. The PUC is prohibited from initiating a proceeding to review the state High Cost Universal Service Plan before January 2, 2012. The bill makes provisions relating to the support available to deregulated markets, the inapplicability of certain rate and price requirements to a transitioning incumbent local exchange company, and a complaint relating to compliance filed by an affected person effective January 2, 2012.

Submitted as:

Texas

[SB980](#)

Status: Enacted into law in 2011.

Comment:

15-33A-01C Telecom Deregulation

VA

The law eliminates certain requirements applicable to competitive telecommunications services. The requirement that competitive services be offered for sale under a filed tariff is eliminated. The bill directs the state corporation commission to permit, but not mandate, the detariffing of any or all terms, conditions, or rates for retail telephone service not found prior to January 1, 2011, to be a basic local exchange telephone service. After July 1, 2013, that commission shall permit, but may not mandate, the detariffing of any or all terms, conditions, or rates for any or all retail telephone services.

In addition, the measure:

- eliminates the facility-building requirement of telephone companies in instances where a person has service available from one or more alternative providers of wireline or terrestrial wireless communications service at prevailing market rates;
- permits an incumbent provider to meet its obligation to furnish reasonably adequate service and facilities through the use of any and all wireline or terrestrial wireless technology, subject to a requirement that when a telephone company restores service to an

existing wireline customer, the company shall offer the option to furnish service using wireline facilities;

- provides that the Commission may conclude that competition can effectively ensure reasonably adequate retail services in competitive exchanges and may carry out its duty to ensure that a public utility is furnishing reasonably adequate retail service in its competitive exchanges by monitoring individual customer complaints and requiring appropriate responses to such complaints;

- amends the requirement of prior approval for the sale of all of the assets of a telephone company to provide that the Commission in such a proceeding shall consider only the financial, managerial, and technical resources to render local exchange telecommunications services of the person acquiring ownership or control;

- eliminates requirements associated with telegraph service that is no longer offered in the state;

- expands the definition of mail used for providing notice to customers to include electronic mail;

- provides that the prohibition on multiple rate increases within a 12-month period does not apply to competitive services;

- exempts telephone companies from provisions relating to energy and capital resource use conservation, standard units of products or service, and fuel purchases;

- eliminates provisions relating to the authority of the Commission to establish areas where a telephone company may provide mobile telephone service;

- deletes obsolete provisions applicable to the extension of telephone facilities into rural areas and to the rates of telephone companies set by municipal ordinances;

- allows the detariffing of interexchange service; and

- provides that requirements that telephone companies file reports, other than reports relating to the special revenue tax, will expire on December 31 of each year unless the commission extends the requirement after notice and an opportunity for a hearing.

Submitted as:

Virginia

[Chapter 738](#)

Status: Enacted into law in 2011.

Comment:

15-33A-01D Telecom Deregulation

WI

This Act:

- changes the authority of the Public Service Commission (PSC) over telecommunications utilities;

- imposes requirements on certain intrastate switched access rates;

- eliminates mandatory telecommunications tariffs except for intrastate switched access service;

- specifies the PSC's authority over interconnected voice over Internet protocol (interconnected VOIP) service;

- changes to the PSC's authority for ensuring universal access to telecommunications service;

- imposes requirements regarding the availability of basic voice service;
- makes changes to requirements for the use of another person's transmission equipment and property by public utilities and telecommunications providers; and
- makes other changes to telecommunications regulation.

The Act enables the PSC to impose requirements on Competitive Local Exchange Carriers (CLECs) that relate only to the following:

- submission of stockholder and other business management information;
- PSC examination of accounting and other business records;
- use of and connection to transmission equipment and property by other telecommunications providers;
- confidential treatment of records by the PSC;
- rates and costs of unbundled network elements;
- interconnection agreements and related requirements;
- telephone caller identification, pay-per-call, and toll-free services;
- PSC privacy rules; universal service and contributions to the state's universal service fund;
- access to telecommunications emergency services;
- restrictions on resale or sharing certain services, products, and facilities;
- violations of rules of the Department of Agriculture, Trade and Consumer Protection (DATCP) regarding advertising and sales and collection practices;
- transfer of local exchange customers to other telecommunications providers;
- PSC questionnaires and other information requests;
- changes to PSC orders and reopening PSC cases;
- PSC-required tests;
- conditional, emergency, and supplemental PSC orders;
- timing of effect of PSC orders;
- court review of PSC orders;
- injunction procedures;
- enforcement duties of the PSC, the attorney general, and district attorneys and related court venues;
- penalties related to information and record requests;
- forfeitures;
- abandonment or discontinuance of lines, services, and rights-of-way;
- assessments for reimbursement of PSC expenses;
- assessments for telephone relay service; and
- assessments for enforcement of certain consumer protection requirements by DATCP.

The Act exempts Incumbent Local Exchange Carriers (ILECs) from requirements relating to all of the following:

- PSC classification of public utility service;
- PSC authority regarding production of records, audits of accounts, service measurement standards, and test results;
- PSC authority to enter premises;
- PSC valuation of utility property;
- accounting requirements, including depreciation rates and new construction accounting;

- reporting of expenses, profit, and other items;
- PSC reports of utility property values and other financial data;
- filing of rates and PSC approval of rates;
- prohibition against unjust discrimination among customers;
- certain prohibitions regarding the provision of service to customers;
- construction, installation, or operation of new facilities;
- affiliated interest requirements;
- certain municipal authority to regulate public utilities;
- dissolution and reorganization;
- liability for treble damages;
- PSC enforcement of certain unfair trade practice orders;
- private causes of actions by persons injured by certain violations of law by ILECs; and
- alternate dispute resolution requirements of the PSC.

Except for wholesale telecommunications service, the bill also exempts ILECs from certain enforcement authority of the PSC.

The Act imposes requirements on intrastate switched access rates that depend on whether a telecommunications provider is a large or small ILEC, new nonincumbent, or large or small nonincumbent, as defined in the bill. The bill establishes a schedule for the various categories of telecommunications provider to reduce intrastate switched access rates over a five year period.

With certain exceptions, the bill provides that interconnected VOIP service is exempt from PSC regulation.

A provider of interconnected VOIP service must do the following, which apply to other telecommunications providers under current law: impose a monthly police and fire protection fee on its customers; pay assessments for DATCP enforcement of certain consumer protection requirements; and pay assessments for a statewide telecommunications relay service.

In addition, interconnected VOIP service is subject to the PSC's authority over interconnection agreements under current law. The bill also provides that, unless otherwise provided under federal law, an entity that provides interconnected VOIP service must pay intrastate switched access rates. Also, unless otherwise provided under federal law, if the entity provides intrastate switched access service in connection with the interconnected VOIP service, the entity is allowed to charge intrastate switched access rates for the service.

Submitted as:

Wisconsin

[Act 22 of 2011](#)

Status: Enacted into law in 2011.

Comment:

15-33A-01E Telecom Deregulation

NC

This Act provides an alternative form of regulation for certain telecommunications providers. The PCS makes technical changes to the description of the state mechanism to support universal service.

CURRENT LAW: S.L. 2009-238 (HB 1180) allowed incumbent telephone providers, designated in the statutes as local exchange providers (LECs), open to competition from competing local telephone providers (CLPs), and to the extent applicable CLPs, to elect to

participate in an alternative form of regulation. Companies that select this new form of regulation are currently referred to as "subsection (h) companies." Under the alternative form of regulation, subsection (h) companies are no longer required to file tariffs and certain reports, including service line, access line, and service quality reports with the Utilities Commission. LECs may not elect regulation under subsection (h) unless they commit to providing stand-alone basic service to rural customers at rates comparable to rates charged to urban customers. Once an LEC elects regulation under the plan, it may not increase the rates for stand-alone basic service by more than the GDP price index unless otherwise authorized by the Utilities Commission. For those LECs and CLPs that elect regulation under the plan, the Utilities Commission retains jurisdiction over certain federal requirements of providers, telecommunications relay services, Lifeline or Link Up programs, universal service programs, carrier of last resort obligations, and the authority to manage numbering resources. Electing regulation under the plan does not prevent a customer from seeking assistance from the Public Staff of the Utilities Commission and electing providers must inform customer complainants that the customer may contact the Public Staff.

Each LEC is the carrier of last resort for the area in which it was certified to operate on July 1, 1995. The carrier of last resort (COLR and also known as the universal service provider) must provide basic local exchange service in this area.

S.L. 2005-85 modified this requirement by providing that when a competing telecommunications provider enters into an agreement to provide local telephone service to a subdivision or area, and the right of way or access to deliver phone service is not made available to other telecommunications providers, the LEC is relieved of its carrier of last resort obligations and the telecommunication service provider that entered into the agreement is considered the carrier of last resort. The LEC must notify the appropriate State agency that it is no longer the carrier of last resort.¹ The appropriate State agency retains the authority to re-designate the LEC as the carrier of last resort if the telecommunications provider that entered into the agreement is no longer willing or able to provide adequate services to the subdivision or area.

S.L. 2009-202 allowed carriers of last resort the authority to meet COLR obligations using any available technology that allows access to the local switched network, including traditional phone service, wireless, and VoIP (Voice over internet protocol).

Under this Act, a provider also may be granted a waiver of its COLR responsibilities if it makes a showing to the appropriate state agency of all of the following:

- Providing service in the area would be inequitable or unduly burdensome.
- One or more alternative service providers exist.
- Granting the waiver is in the public interest.

Subsection (l) alternative form of regulation: Local telephone providers (LECs) open to competition from competing local telephone providers (CLPs) may elect to participate in a new alternative form of regulation. This differs from the subsection (h) treatment in the following ways:

- The LEC will no longer have carrier of last resort responsibilities.
- The LEC will not be eligible to receive funds from a state fund that may be established to support universal service.
- The LEC will not be required to provide stand-alone basic service to rural customers at rates comparable to rates charged to urban customers.

Subsection (l) also clarifies that election of the new alternative form of regulation will not affect the authority of the Utilities Commission under two existing provisions:

47 USC 241(e) – This section provides which carriers are eligible to receive federal universal service funds. This section also provides that if an area is unserved either the FCC or the Utilities Commission may designate a carrier to provide service to the area. The FCC designates the carrier for interstate service; the Utilities Commission designates the carrier for intrastate service.

Unbundled network elements and interconnection agreements – The Telecommunications Act of 1996 requires incumbent telephone providers to allow competing providers to interconnect to the unbundled network elements of the incumbent providers. Essentially these are the provisions that allow competing providers to provide service to individuals over the equipment of the incumbent providers. The price for access to the unbundled network elements is approved by the Utilities Commission. The agreements between the incumbent provider and the competing provider that allow access to the unbundled network elements are interconnection agreements. The Utilities Commission has the authority to arbitrate and enforce interconnection agreements.

Reports: Clarifies that reports required for providers that elect alternative subsection (h) treatment, or the subsection (l) treatment must file reports from the date the provider makes the election. Previously the reports were required from the date S.L. 2009-238 was enacted. The reports provide an analysis of telecommunications competition, customer satisfaction studies, and local exchange rates. Companies that elect alternative regulation under subsection (l) will only file reports for the first 3 years after electing the alternative regulation.

Regulatory Fee: Section 2 of the bill clarifies that revenues from service subject to the subsection (l) alternative form of regulation will remain subject to the utility regulatory fee.

Submitted as:

North Carolina

[SESSION LAW 2011-52](#)

Status: Enacted into law in 2011.

Disposition: 15-33-01A

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

- ☐ Include in Volume
- ☐ Defer consideration to next task force meeting
- ☐ Reject
- ☐ No action

Comments/Note to staff:

SSL Committee Meeting: 2013A

- ☐ Include in Volume
- ☐ Defer consideration
 - ☐ next task force mtg.
 - ☐ next SSL mtg.
 - ☐ next SSL cycle
- ☐ Reject

Comments/Note to staff:

Disposition: 15-33-01C

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

- ☐ Include in Volume
- ☐ Defer consideration to next task force meeting
- ☐ Reject
- ☐ No action

Comments/Note to staff:

SSL Committee Meeting: 2013A

- ☐ Include in Volume
- ☐ Defer consideration
 - ☐ next task force mtg.
 - ☐ next SSL mtg.
 - ☐ next SSL cycle
- ☐ Reject

Comments/Note to staff:

Disposition: 15-33-01B

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

- ☐ Include in Volume
- ☐ Defer consideration to next task force meeting
- ☐ Reject
- ☐ No action

Comments/Note to staff:

SSL Committee Meeting: 2013A

- ☐ Include in Volume
- ☐ Defer consideration
 - ☐ next task force mtg.
 - ☐ next SSL mtg.
 - ☐ next SSL cycle
- ☐ Reject

Comments/Note to staff:

Disposition: 15-33-01D

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

- ☐ Include in Volume
- ☐ Defer consideration to next task force meeting
- ☐ Reject
- ☐ No action

Comments/Note to staff:

SSL Committee Meeting: 2013A

- ☐ Include in Volume
- ☐ Defer consideration
 - ☐ next task force mtg.
 - ☐ next SSL mtg.
 - ☐ next SSL cycle
- ☐ Reject

Comments/Note to staff:

Disposition: 15-33-01E

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

- ☐ Include in Volume
- ☐ Defer consideration to next task force meeting
- ☐ Reject
- ☐ No action

Comments/Note to staff:

SSL Committee Meeting: 2013A

- ☐ Include in Volume
- ☐ Defer consideration
 - ☐ next task force mtg.
 - ☐ next SSL mtg.
 - ☐ next SSL cycle
- ☐ Reject

Comments/Note to staff:

This bill prohibits any public utility or telephone cooperative that provides switched access service for intrastate toll telecommunications services (referred to in the bill and this summary as an "entity") from imposing intrastate switched access charges that exceed the interstate switched access charges imposed by the entity. Such entity must utilize the same rate structure for the provision of intrastate switched access service that the entity uses for the provision of interstate switched access service.

However, until rules governing the funding of the state relay service have been promulgated and have taken effect, an entity may include in its intrastate switched access charges as a separate intrastate switched access rate element an additur established by the state regulatory authority to maintain the state relay service consistent with present law regarding the assistive telecommunications device distribution program. Such amount may not exceed the additur established as of the effective date of the Act.

The Act directs that any entity that, as of the effective date of the Act, is imposing intrastate switched access charges that, on an average per minute basis, are higher than the average per minute interstate switched access charges imposed by the entity, within 60 days after the effective date of the bill, must establish an intrastate switched access rate structure that is the same as its interstate switched access rate structure; and implement revised intrastate switched access charges to effectuate a reduction of at least 20 percent in the difference between the average per minute intrastate switched access rate in effect for the entity on the effective date of this bill and the average per minute interstate switched access rate in effect for the entity on the effective date of this Act. It requires any entity reducing its intrastate switched access rates as described above must implement the following reductions in intrastate switched access charges:

(A) By the first anniversary of the effective date of the bill, a reduction of at least 40 percent in the difference between the average per minute intrastate switched access rate in effect for the entity on the effective date of this bill and the average per minute interstate switched access rate in effect for the entity on the effective date of the bill;

(B) By the second anniversary of the effective date of the Act, a reduction of at least 60 percent in the difference between the average per minute intrastate switched access rate in effect for the entity on this bill's effective date and the average per minute interstate switched access rate in effect for the entity on the bill's effective date;

(C) By the third anniversary of the effective date of the Act, a reduction of at least 80 percent in the difference between the average per minute intrastate switched access rate in effect for the entity on the effective date of this bill and the average per minute interstate switched access rate in effect for the entity on the effective date of this act; and

(D) By the fourth anniversary of the effective date of this bill, the entity must implement revised intrastate switched access charges that do not exceed the interstate switched access charges imposed by the entity.

An entity that implements an increase in an intrastate switched access rate element between February 1, 2011, and 60 days after the effective date of the Act, and that is transitioning its intrastate access rates as described must reduce such intrastate switched access rate element to the rate in effect on January 31, 2011, within 60 days after the effective date of this Act. Such reductions must be effectuated using the average per minute intrastate switched access rate in effect for the entity on January 31, 2011, instead of the average per minute intrastate switched access rate in effect for the entity on the effective date of the Act.

A competing telecommunications service provider may provide by tariff that its intrastate switched access charges are the same as those of the incumbent local exchange telephone company for whose service area the competing provider is offering intrastate switched access service, and be deemed thereby to comply with the requirements of the bill.

This bill authorizes an entity that transitions its intrastate access rates and to adjust its retail rates each year to recover any revenue losses resulting from its revision of intrastate switched access rates and rate structure. The state regulatory authority may not review or regulate such retail rate adjustments.

To the extent the interstate switched access rates or rate structure of an entity change consistent with applicable federal law, then the entity would have 30 days to implement the same changes for its provision of intrastate switched access services.

Within 60 days of the effective date of the Act, any entity that is providing switched access service must file and thereafter maintain a tariff or price list with the state regulatory authority setting forth its intrastate switched access rates and rate structure.

Submitted as:

Tennessee

[Public Chapter 68 of 2011](#)

Status: Enacted into law in 2011.

Comment:

Disposition:

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

- ☐ Include in Volume
- ☐ Defer consideration to next task force meeting
- ☐ Reject
- ☐ No action

Comments/Note to staff:

SSL Committee Meeting: 2013A

- ☐ Include in Volume
- ☐ Defer consideration
 - ☐ next task force mtg.
 - ☐ next SSL mtg.
 - ☐ next SSL cycle
- ☐ Reject

Comments/Note to staff:

This Act clarifies the framework for school emergency incident preparedness and response, including communications between schools and state and local emergency personnel. The bill specifies the role of the fire safety division in the department of public safety in assessing a school's emergency response framework, and in providing technical assistance as needed. It encourages collaboration between a school safety resource center within the department of public safety and the state office of information technology.

Submitted as:

Colorado

[SB 173](#)

Status: Enacted into law in 2011.

Comment:

Disposition:

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

- ☐ Include in Volume
- ☐ Defer consideration to next task force meeting
- ☐ Reject
- ☐ No action

Comments/Note to staff:

SSL Committee Meeting: 2013A

- ☐ Include in Volume
- ☐ Defer consideration
 - ☐ next task force mtg.
 - ☐ next SSL mtg.
 - ☐ next SSL cycle
- ☐ Reject

Comments/Note to staff:

This bill allows a member of a public body to transmit an electronic message to other members of the public body when the public body is not convened in an open meeting.

Submitted as:

Utah

[HB 54](#)

Status: Enacted into law in 2011.

Comment:

Disposition:

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

- ☐ Include in Volume
- ☐ Defer consideration to next task force meeting
- ☐ Reject
- ☐ No action

Comments/Note to staff:

SSL Committee Meeting: 2013A

- ☐ Include in Volume
- ☐ Defer consideration
 - ☐ next task force mtg.
 - ☐ next SSL mtg.
 - ☐ next SSL cycle
- ☐ Reject

Comments/Note to staff:

This Act implements new regulatory, public information, and financial requirements for cities and joint agencies which provide communication services to the public for a fee. The new regulations require that municipal broadband systems:

- Comply with all state, local and federal laws and regulations adhered to by private communication companies.
- Establish separate enterprise funds for the communications service, and conduct annual audits.
- Limit the communication services to the jurisdictional boundaries of the city.
- Eliminate the practice of requiring individuals or developments subscribe to municipal broadband services.
- Provide other service providers with access to the city's rights-of-way, conduits, and other distribution facilities.
- Prohibit advertisements for municipal broadband on the public, education, and government channels of competing providers.
- Limit the revenue used to finance communication services to the income generated from the service.
- Price municipal communication services a rate equal to the cost of providing the service. The price should include adjustments for capital costs and taxes incurred in the private sector.

The new public information standards require that municipal broadband companies:

- Hold two public hearings prior to offering services.
- Provide notice for the public hearings in local newspaper and with the Utilities Commission.
- Provide the public with all feasibility studies, business plans, and surveys prior to the hearings.
- Allow private communications providers to participate in the hearing.

New financial standards require municipal broadband companies:

- Eliminate the practice of using certificates of participation to finance the construction of a system.
- Make payments in lieu of property taxes to the county/counties in which the services are contained.
- Remit to the state payments in lieu of taxes an amount set by the state department of revenue equivalent to the income, franchise, vehicle, motor fuel, and other taxes due if operating as a private enterprise.

The Act exempts four municipal broadband enterprises operating as of January 1, 2011.

Submitted as:

North Carolina

[Session Law 2011-84](#)

Status: Enacted into law in 2011.

Comment:

Disposition:

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

- ☐ Include in Volume
- ☐ Defer consideration to next task force meeting
- ☐ Reject
- ☐ No action

Comments/Note to staff:

SSL Committee Meeting: 2013A

- ☐ Include in Volume
- ☐ Defer consideration
 - ☐ next task force mtg.
 - ☐ next SSL mtg.
 - ☐ next SSL cycle
- ☐ Reject

Comments/Note to staff:

*17-32B-02 Crimes Against Children by People in Positions of
Trust

DE

This Act consolidates certain provisions in state law about rape and unlawful sexual conduct into a single crime known as “Sexual Abuse of a Child by a Person in a Position of Trust, Authority or Supervision.” The Act clarifies who is in a position of trust, authority or supervision over a child and is therefore subject to enhanced penalties associated with sexually abusing children. The Act further applies the position of trust classification to other acts of sexual abuse that do not currently have any enhancement when perpetrated by a person in a position of trust. Those include sexual extortion, sexual harassment, and indecent exposure.

Submitted as:

Delaware

[CH 318 of 2010](#)

Status: Enacted into law in 2010.

Comment:

(32B-h) Add similar legislation from other states, if available, to the next docket.

17-33A-01A Sexual Assault of Youths by Persons Standing
in a Position of Power, Authority or Supervision

CT

This Act includes within the offenses of sexual assault in the second degree and sexual assault in the fourth degree a police officer, firefighter or mentor who engages in sexual intercourse or sexual contact with a person under eighteen years of age whom he or she is supervising, instructing or mentoring.

Submitted as:

Connecticut

[Public Act 04-130](#)

Status: Enacted into law in 2004.

Comment:

17-33A-01B Prohibited Acts by a Person in a Position of Authority
or Special Trust

KY

This Act prohibits a person in a position of authority or special trust from engaging in the certain prohibited acts with a minor under the age of 18, and make these acts Class D or Class C felonies, depending on the age of the victim.

The bill prohibits any person who is 18 to 20 years old from subjecting another person who is less than 16 to sexual contact and create a defense when the accused and the other person are close in age and the sexual contact was otherwise consensual. It creates a defense when the accused is less than 18 years old, the other person is close in age to the accused, and the sexual contact was otherwise consensual.

Submitted as:

Kentucky

[Public Act 72 of 2008](#)

Status: Enacted into law in 2008.

Comment:

17-33A-01C Sexual Assault Against a Child by a Person in
a Position of Trust

NY

This bill establishes offenses of sexual assault against a child by a person in a position of trust for the subjection of a child to sexual contact by a person in a position of trust. It defines “person in position of trust” as a person charged with the duty or responsibility for health, education, welfare or supervision of a child; such offenses shall be violent felony offenses.

Submitted as:

New York

[A6858 \(Introduced version\)](#)

Status: 04/05/2011 referred to codes (did not pass legislature)

Comment:

17-33A-01D School Employees and Students

AL

This Act creates a separate crime for a school employee, defined as a teacher, school administrator, student teacher, safety or resource officers, coach and other school employee, to engage in a sex act, deviant sexual intercourse, or sexual contact with a student under the age of 19.

Submitted as:

Alabama

[Act 2010-497](#)

Status: Enacted into law in 2010.

Comment:

Colorado -- C.R.S. 18-3-405.3 Sexual assault on a child by one in a position of trust

(1) Any actor who knowingly subjects another not his or her spouse to any sexual contact commits sexual assault on a child by one in a position of trust if the victim is a child less than eighteen years of age and the actor committing the offense is one in a position of trust with respect to the victim.

(2) Sexual assault on a child by one in a position of trust is a class 3 felony if:

(a) The victim is less than fifteen years of age; or

(b) The actor commits the offense as a part of a pattern of sexual abuse as described in subsection (1) of this section. No specific date or time need be alleged for the pattern of sexual abuse; except that the acts constituting the pattern of sexual abuse whether charged in the information or indictment or committed prior to or at any time after the offense charged in the information or indictment, shall be subject to the provisions of section 16-5-401 (1) (a), C.R.S., concerning sex offenses against children. The offense charged in the information or indictment shall constitute one of the incidents of sexual contact involving a child necessary to form a pattern of sexual abuse as defined in section 18-3-401 (2.5).

(3) Sexual assault on a child by one in a position of trust is a class 4 felony if the victim is fifteen years of age or older but less than eighteen years of age and the offense is not committed as part of a pattern of sexual abuse, as described in paragraph (b) of subsection (2) of this section.

(4) If a defendant is convicted of the class 3 felony of sexual assault on a child pursuant to paragraph (b) of subsection (2) of this section, the court shall sentence the defendant in accordance with the provisions of section 18-1.3-406.

Disposition: 17-32B-02

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

- ☐ Include in Volume
- ☐ Defer consideration to next task force meeting
- ☐ Reject
- ☐ No action

Comments/Note to staff:

SSL Committee Meeting: 2013A

- ☐ Include in Volume
- ☐ Defer consideration
 - ☐ next task force mtg.
 - ☐ next SSL mtg.
 - ☐ next SSL cycle
- ☐ Reject

Comments/Note to staff:

Disposition: 17-33A-01B

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

- ☐ Include in Volume
- ☐ Defer consideration to next task force meeting
- ☐ Reject
- ☐ No action

Comments/Note to staff:

SSL Committee Meeting: 2013A

- ☐ Include in Volume
- ☐ Defer consideration
 - ☐ next task force mtg.
 - ☐ next SSL mtg.
 - ☐ next SSL cycle
- ☐ Reject

Comments/Note to staff:

Disposition: 17-33A-01A

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

- ☐ Include in Volume
- ☐ Defer consideration to next task force meeting
- ☐ Reject
- ☐ No action

Comments/Note to staff:

SSL Committee Meeting: 2013A

- ☐ Include in Volume
- ☐ Defer consideration
 - ☐ next task force mtg.
 - ☐ next SSL mtg.
 - ☐ next SSL cycle
- ☐ Reject

Comments/Note to staff:

Disposition: 17-33A-01C

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

- ☐ Include in Volume
- ☐ Defer consideration to next task force meeting
- ☐ Reject
- ☐ No action

Comments/Note to staff:

SSL Committee Meeting: 2013A

- ☐ Include in Volume
- ☐ Defer consideration
 - ☐ next task force mtg.
 - ☐ next SSL mtg.
 - ☐ next SSL cycle
- ☐ Reject

Comments/Note to staff:

Disposition: 17-33A-01D

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

- ☐ Include in Volume
- ☐ Defer consideration to next task force meeting
- ☐ Reject
- ☐ No action

Comments/Note to staff:

SSL Committee Meeting: 2013A

- ☐ Include in Volume
- ☐ Defer consideration
 - ☐ next task force mtg.
 - ☐ next SSL mtg.
 - ☐ next SSL cycle
- ☐ Reject

Comments/Note to staff:

This Act promotes using arbitration to decide actions for personal injury or property damage as a result of tortious conduct. The Act creates filing and notice limits. It prohibits claims for punitive damages. It sets guidelines for rescinding an arbitration election. The bill provides for the selection of a single arbitrator or panel of arbitrators. It states that decisions by arbitrators are final, but still allows for a trial de novo. It specifies payment obligations for parties and addresses pre- and postjudgment interest.

Submitted as:

Utah

[SB 52 \(Enrolled version\)](#)

Status: Enacted into law in 2011.

Comment:

Disposition:

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

- ☐ Include in Volume
- ☐ Defer consideration to next task force meeting
- ☐ Reject
- ☐ No action

Comments/Note to staff:

SSL Committee Meeting: 2013A

- ☐ Include in Volume
- ☐ Defer consideration
 - ☐ next task force mtg.
 - ☐ next SSL mtg.
 - ☐ next SSL cycle
- ☐ Reject

Comments/Note to staff:

17-33A-03A Criminal Background Checks, Mental Illness,
and Firearms

IA

This Act directs courts and the state department of public safety to send information about people with mental illnesses whom the court determines are also subject to 18 U.S.C. § 922(d)(4) and (g)(4) concerning firearms to the FBI to put in the national instant criminal background check system. The bill outlines how such people can appeal a court order to include such information in that database.

Submitted as:

Iowa

[SF 456](#)

Status: Enacted into law in 2011.

Comment:

17-33A-03B Criminal Background Checks, Mental Illness,
and Firearms

KY

This Act directs courts and the state department of public safety to send information about people with mental illnesses whom the court determines are also subject to 18 U.S.C. § 922(d)(4) and (g)(4) concerning firearms to the FBI to put the information in the national instant criminal background check system. The bill outlines how such people can appeal a court order to include such information in that database.

This Act also authorizes people to ask the state police to conduct a name-based or fingerprint-supported background check on them and to direct the police to release the results to other designated people.

Submitted as:

Kentucky

[HB 308](#)

Status: Enacted into law in 2011.

Comment:

Disposition: 17-33A-03A

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

- ☐ Include in Volume
- ☐ Defer consideration to next task force meeting
- ☐ Reject
- ☐ No action

Comments/Note to staff:

SSL Committee Meeting: 2013A

- ☐ Include in Volume
- ☐ Defer consideration
 - ☐ next task force mtg.
 - ☐ next SSL mtg.
 - ☐ next SSL cycle
- ☐ Reject

Comments/Note to staff:

Disposition: 17-33A-03B

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

- ☐ Include in Volume
- ☐ Defer consideration to next task force meeting
- ☐ Reject
- ☐ No action

Comments/Note to staff:

SSL Committee Meeting: 2013A

- ☐ Include in Volume
- ☐ Defer consideration
 - ☐ next task force mtg.
 - ☐ next SSL mtg.
 - ☐ next SSL cycle
- ☐ Reject

Comments/Note to staff:

This Act prohibits, under certain circumstances, minors from using an electronic communication device, such as a cell phone, to possess, transmit or distribute a sexual image of themselves or of another minor. A minor who uses an electronic communication device to transmit or distribute a sexual image of themselves is considered a child in need of supervision for the purposes of the laws governing juvenile justice for the first violation, and is considered to have committed a delinquent act for a second or subsequent violation. A minor who uses an electronic communication device to possess a sexual image of another minor is considered a child in need of supervision, while a minor who uses an electronic communication device to transmit or distribute a sexual image of another minor is considered to have committed a delinquent act.

The Act revises “cyber-bullying” in state law to clarify that the term includes the use of electronic communication to transmit or distribute a sexual image of a minor. This revised definition of “cyber-bullying” also applies to certain other provisions related to education. Specifically, the term applies to existing law which requires a Council to Establish Academic Standards for Public Schools to create standards of content and performance for courses of study in computer education and technology. Those standards must incorporate a policy for the ethical, safe and secure use of computers and other electronic devices which includes methods to prevent cyber-bullying.

The bill prohibits a person from using any means of oral, written or electronic communication, including the use of cyber-bullying, to knowingly threaten to cause bodily harm or death to a pupil or school employee with the intent to intimidate, frighten, alarm or distress the pupil or school employee; cause panic or civil unrest; or interfere with the operation of a public school.

Submitted as:

Nevada

[SB277 \(Enrolled version\)](#)

Status: Enacted into law in 2011.

Comment:

Disposition:

CSG policy task force recommendations to

The Committee on Suggested State

Legislation: 2013A

☐ Include in Volume

☐ Defer consideration to next task force meeting

☐ Reject

☐ No action

SSL Committee Meeting: 2013A

☐ Include in Volume

☐ Defer consideration

☐ next task force mtg.

☐ next SSL mtg.

☐ next SSL cycle

☐ Reject

Comments/Note to staff:

Comments/Note to staff:

This Act authorizes the state police to establish a Blue Alert Program and develop policies to implement it. The Blue Alert Program may be activated when a suspect for a crime involving the death or serious injury of a law-enforcement officer has not been apprehended and may be a serious threat to the public or when a law-enforcement officer is missing while in the line of duty under circumstances warranting concern for the law-enforcement officer's safety.

Submitted as:

Virginia

[Chapter 669](#)

Status: Enacted into law in 2011.

Comment:

Disposition:

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

- ☐ Include in Volume
- ☐ Defer consideration to next task force meeting
- ☐ Reject
- ☐ No action

Comments/Note to staff:

SSL Committee Meeting: 2013A

- ☐ Include in Volume
- ☐ Defer consideration
 - ☐ next task force mtg.
 - ☐ next SSL mtg.
 - ☐ next SSL cycle
- ☐ Reject

Comments/Note to staff:

This Act authorizes granting medical parole to for inmates who are severely ill because of humanitarian reasons and to alleviate exorbitant medical expenses associated with inmates whose chronic and incurable illness render their incarceration non-punitive and non-rehabilitative.

Submitted as
Rhode Island

[Chapter 300](#)

Status: Enacted into law in 2011.

Comment:

Disposition:

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

- ☐ Include in Volume
- ☐ Defer consideration to next task force meeting
- ☐ Reject
- ☐ No action

Comments/Note to staff:

SSL Committee Meeting: 2013A

- ☐ Include in Volume
- ☐ Defer consideration
 - ☐ next task force mtg.
 - ☐ next SSL mtg.
 - ☐ next SSL cycle
- ☐ Reject

Comments/Note to staff:

This Act require the state supreme court to adopt rules providing for the dismissal of causes of action, except for actions under the state Family Code, that have no basis in law or fact on motion and without evidence. The bill requires the supreme court to adopt rules to promote the prompt, efficient, and cost-effective resolution of civil actions in district courts, county courts at law, and statutory probate courts in which the amount in controversy does not exceed \$100,000 and requires those rules to address the need for lowering discovery costs and expediting civil actions.

The bill requires a court that hears a civil proceeding, on a motion to dismiss, to award costs and reasonable and necessary attorney's fees to the prevailing party, except in specified actions. It authorizes a trial court in a civil action that is not brought under the state Family Code, on a party's motion or on the court's own initiative, to permit, under the same conditions, an appeal from an order that is not appealable. The bill authorizes an appellate court to accept such an appeal if the appealing party files by a specified deadline an explanation of why the appeal is warranted.

Prior state law established that provisions relating to the settlement of claims are inapplicable to certain legal actions. This Act adds an action filed in a small claims court to the list of actions that are not subject to those settlement provisions.

This Act prohibits litigation costs that may be awarded to any party from being greater than the total amount that the claimant recovers or would recover before adding an award of litigation costs in favor of the claimant or subtracting as an offset an award of litigation costs in favor of the defendant. The bill also prohibits a defendant from designating a person as a responsible third party with respect to a claimant's cause of action after the applicable limitations period on the cause of action has expired with respect to the responsible third party if the defendant has failed to comply with any obligations to timely disclose that the person may be designated as a responsible third party under the state Rules of Civil Procedure.

Submitted as:

Texas

[HB 274](#)

Status: Enacted into law in 2011.

Comment: A governor's press release says:

Wednesday, July 27, 2011 – Houston, Texas

"Gov. Rick Perry today ceremonially signed House Bill 274, which brings important lawsuit reforms to Texas courts, including implementing a loser pays component for frivolous lawsuits in the state. The governor designated this issue as an emergency item for this legislative session. Gov. Perry was joined by Rep. Brandon Creighton and Sen. Joan Huffman for the signing ceremony at the Greater Houston Partnership.

"We started this legislative session with a simple goal - to balance our budget while strengthening the jobs-friendly climate we've fostered over the last decade that has allowed us to set the national pace for job creation," Gov. Perry said. "In recent years, we've taken major steps to reform our legal system, and thanks to the leadership of Rep. Creighton, Sen. Huffman and others, Texas passed HB 274 this session, which provides defendants and judges with a variety of tools that will cut down on frivolous claims and expedite justice for the deserving."

HB 274 implements several measures to streamline and lower the cost of litigation in Texas courts, allowing parties to resolve disputes more quickly, more fairly and less expensively.

This includes:

- Allowing a trial court to dismiss a frivolous lawsuit immediately if there is no basis in law or fact for the lawsuit;
- Allowing a trial judge to send a question of law directly to the appellate court without requiring all parties to agree if a ruling by a court of appeals could decide the case;
- Allowing plaintiffs seeking less than \$100,000 to request an expedited civil action; and
- Encouraging the timely settlement of disputes and helping prevent a party from extending litigation by seeking a “home run” if they have already been offered a fair settlement.

"House Bill 274 signifies a major landmark for tort reform in Texas," Rep. Creighton said. "I am pleased with the outcome and am positive that this bill will make litigation in Texas fair, expedient, and affordable - helping to create jobs, make plaintiffs whole and protect defendants from meritless cases."

Strengthening Texas' job creation environment remains a top priority for Gov. Perry. Keeping Texas employers in the workplace and out of the courtroom fighting frivolous lawsuits is a key part of maintaining the state's economic competitiveness. The lawsuit reforms passed this session build on tort reform measures championed by the governor in 2003 and 2005 to strengthen Texas' legal system.

"Texas remains a national leader of tort reform with the signing of HB 274. The legislation curtails the frivolous lawsuits that can harm individuals and small businesses and fosters a more efficient and accessible court system for all parties," Sen. Huffman said. "I was pleased to sponsor the bill in the Senate and thank my colleagues for supporting these important improvements to our legal climate."

Texas' economy continues to receive national and international recognition. Under Gov. Perry's leadership, Texas has been the nation's job creation capital, creating approximately half of America's net jobs in the past two years alone, and more private sector jobs in the last 10 years than any other state. Additionally, according to a USA Today examination of data released by the Bureau of Economic Analysis, Texas moved past New York over the past decade to become the nation's second-largest economy. Texas' unemployment rate has also remained well below the national average, and in June, Texas added 32,000 jobs, more than any other state."

Disposition: 17-33A-07

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

SSL Committee Meeting: 2013A
☐ Include in Volume
☐ Defer consideration
☐ next task force mtg.
☐ next SSL mtg.
☐ next SSL cycle
☐ Reject

Comments/Note to staff:

Comments/Note to staff:

This Act makes significant changes in the sentencing laws and correctional policies of the state. The intent of the Justice Reinvestment concept is to reduce spending on incarceration and to redirect the savings into community-based treatment alternatives that are proven to reduce criminality.

The Act generally broadens the authority of a Probation Officer to supervise offenders based on their risk of reoffending and their crime-producing needs. It changes the definitions of Community and Intermediate punishments under Structured Sentencing to allow a court to order a group of conditions in addition to the Regular and Special Conditions of Probation. These include electronic house arrest, split sentence, community service, substance abuse treatment, and short-term jail sentences not exceeding six days per month.

By adding these conditions to the set of options available to the court for both Community and Intermediate punishments, the bill also makes those available to supervising officers through Delegated Authority. Under a Delegated Authority statute, the probation officer can, unless expressly blocked by the judge, require a probationer to comply with a variety of additional conditions without returning to court for a modification. Thus, under this bill, probation officers will have a much more expansive array of options with which to respond to offender behavior. The most significant element of this expansion is the addition of jail confinement to the options available under Delegated Authority. The bill gives an offender the opportunity to waive a hearing and submit to short periods of jail confinement, not more than six days per month, rather than appear before a judge and face a complete revocation.

The bill requires the Department of Correction to assess each offender placed on probation, using a validated instrument, to determine the offender's risk of reoffending and crime-producing needs. It is the intent of the legislation that each offender's supervision level should be determined by objective risk assessment, rather than sentencing level. The bill modifies the caseload goals articulated by the legislature to establish a goal that offenders assessed at moderate to high risk of re-arrest should be supervised in caseloads not exceeding 60 offenders per officer.

Part of the Act is intended to reduce admissions to prison from probation revocation. Over half of all admissions to prison result from revocations, so any reduction to the number of probation revocations would have an impact on prison population. Of course, this also means that there would be a reduction in probation exits by way of revocation, so the Division of Community Corrections expects an increase in overall probation population. To achieve the caseload goals, sufficient resources must be present in the community to support the probation officer's expanded authority. The modified caseload goals and the requirement for universal risk assessment may also require additional probation officers. The addition of jail days to the list of responses available to the officer may mean more entries to jail. This utilization of jail days may put more offenders in jail for short periods, but conversely, it may mean that fewer offenders having been arrested will spend time in jail awaiting a violation hearing.

The Act requires post-release supervision for all felon offenders who serve an active sentence in prison. More specifically, the bill sets a period of twelve months of supervision for Class B1-E felons and nine months for Class F-I felons. It specifies that offenders who fail to comply with their conditions may be revoked for only three months unless they commit a new crime or they abscond.

The bill requires additional probation officers to supervise the substantial increase in entries to post-release supervision. Also, based on this increased supervised population, there is a significant increase in potential revocations to prison.

The Act redefines Habitual Felon and creates a new status offense for Habitual Breaking and Entering. If someone is convicted as a Habitual Felon, they are sentenced as a Class C felon, carrying a mandatory active sentence of at least five years.

The Act caps the time an offender can serve on a revocation of probation for strictly technical violations at 90 days. Neither commission of a new crime nor absconding from probation is considered a technical violation and thus can result in activation of the full sentence. These 90-day revocations would result in reductions in prison beds occupied by revoked probationers since they would not serve as long on a revocation as they currently do. However, since the offender would come out of prison with time remaining on the probation sentence, it is possible that the offender could serve more than one 90-day revocation term, thus increasing actual admissions.

The Act expands the population eligible for a deferred prosecution program for first-time drug possession offenders. Currently, only defendants charged with misdemeanor drug possession or felony possession of less than an ounce of cocaine may have their charges suspended by the judge and be placed on probation for a period of supervision and treatment. This bill adds all first-time felony drug possession defendants to the eligible population and requires the court to defer prosecution for all eligible defendants.

The bill creates a new program within the Department of Correction, called Advanced Supervised Release (ASR), to allow offenders with D-H class convictions to reduce their sentence, at the discretion of the court, by completing rehabilitative programming. In practice, a judge would select a rehabilitative program for the offender and set the ASR release date, the lowest mitigated sentence length for that conviction. If an offender successfully completes the rehabilitative program, they will be released at the shortened sentence length.

This Act establishes a new supplemental community corrections program called Treatment for Effective Community Supervision. The Department of Correction will contract with program providers at the county level to provide the services. The bill also creates an advisory board to assist the Department to help the department make funding decisions.

The bill modifies a current statute that assigns responsibility for housing misdemeanor offenders between the state and counties. Currently, offenders sentenced to less than 90 days active time serve their sentence in the custody of a county sheriff and those with 90 days or more serve their sentence in the state prison system. This bill raises the threshold to 180 days. Further, this section specifies that, in order to be placed in the custody of the Department of Correction, the offender must have over 180 days remaining to serve, net of any credit for time served.

Submitted as:

North Carolina

[Session Law 2011-192](#)

Status: Enacted into law in 2011.

Comment:

Justice Center, The Council of State Governments

Ohio and North Carolina Enact Laws Using Justice Reinvestment Strategies

Bipartisan Legislation Saves States Hundreds of Millions of Dollars and Increases Public Safety

Over a two-week period in June, state leaders from across the political spectrum in both North Carolina and Ohio came together in their respective states to enact comprehensive, data-

driven legislation resulting from justice reinvestment initiatives. The bills in both states will increase public safety and reduce crime by making probation more effective, ensuring, for example, that those people who are most likely to reoffend are not left unsupervised. Both bills increase sentence lengths for certain high-risk property offenders or the most serious and violent offenders, while expanding sentencing options for nonviolent and first-time felony offenders.

North Carolina

Since 1994, when it established a structured sentencing system, NC has long been considered a model state for its approach to managing the capacity of its prison system. Increasing numbers of probation revocations and various sentence enhancements have since increased the pressure on the prison system. Recently, the General Assembly received a projection forecasting a 10 percent growth in the prison population, or about 3,900 inmates, by 2020.

In 2009, the governor, chief justice and legislative leaders requested intensive technical assistance from the Council of State Governments Justice Center, in partnership with Pew Center on the States and Bureau of Justice Assistance. These policymakers sought to use a justice reinvestment approach to reduce spending on corrections and reinvest in strategies to increase public safety.

Detailed analyses conducted by the CSG Justice Center found that only 15 percent of people leaving prison were released to the community with supervision; most people completed their sentence while in prison and many high-risk offenders returned to the community unwatched. Furthermore, community-based treatment programs were not targeted towards the people who would most likely benefit from them, minimizing the public safety impact of these scarce resources.

With the guidance of an inter-branch working group established by the governor and state leaders, CSG Justice Center staff developed a set of policy options designed to address gaps in the state's sentencing, supervision and treatment systems. State legislators translated those options into House Bill 642, The Justice Reinvestment Act.

The proposed law created a new habitual breaking and entering offense and required post-release supervision for everyone convicted of a felony. Recognizing that HB 642 would place increased demands on probation, the bill also required supervision resources to be focused on high-risk individuals and empowered probation officers to implement swift and certain sanctions. In addition, the law closed a loophole that people used to serve short stints in prison so they could avoid community supervision altogether. It concentrated on reducing recidivism, focusing limited available treatment resources on people who would benefit the most from them. The legislation also provided incentives for offenders who participate in programs and expanded the existing felony drug diversion program.

The Justice Reinvestment Act passed with overwhelming, near-unanimous bipartisan support. Joined by enthusiastic supporters from local government, including sheriffs and other criminal justice stakeholders, Governor Bev Perdue signed the bill into law on June 23. As a result of the new law, the state expects not only to avert the projected increase in prison population, but also to save more than 3,600 beds by FY 2017. The reduction in the population translates into more than \$290 million saved over the next six years. These savings positioned the state to reinvest more than \$4 million annually to expand community-based treatment programs for people on supervision.

Ohio

Like North Carolina, Ohio's criminal justice system faced pressures that, in 2008, led a bipartisan group including the governor, chief justice, and legislative leaders to employ a justice reinvestment approach. With nearly 51,000 people locked up on any given day, the prisons were 33 percent over capacity. The state projected that the system would grow by another 3,000 people by 2015. Much of that could be traced to people convicted of property and drug offenses, who received short sentences and were subsequently released from prison with no supervision.

Outside the prison walls, Ohio's probation system—a patchwork of 187 independent agencies—had no consistent policies or minimum standards from one county to the next. No statewide probation data system existed. For example, it was not clear on any given day how many people in Ohio were on probation. The significant investment made by the state in community corrections programs was yielding little. Research conducted by the University of Cincinnati showed that some programs were increasing recidivism rates, because no criteria were used to filter out those participants who would not benefit from the intensive programs.

Over the course of 18 months, a bipartisan, inter-branch working group reviewed exhaustive analyses prepared by the CSG Justice Center, and, drawing on that information, designed a 13-point policy framework, which the group recommended to the General Assembly. The framework addressed three core issues. One set of provisions required first-time property and drug offenders to serve probation terms and attend treatment. A second set of provisions established statewide criteria for community correction programs, prioritizing placement of people who would benefit most from community supervision and treatment. The legislation also established statewide standards for probation, to ensure an even quality in community supervision from county to county.

The framework, along with a number of other policies championed by state lawmakers, was consolidated into one bill, House Bill 86, of which Sen. Bill Seitz (R-Cincinnati) was the lead sponsor. HB 86 incorporated legislative language that had been introduced before the justice reinvestment initiative was launched, which expanded earned credit provisions and made some reforms to the juvenile justice system.

The Ohio General Assembly approved the legislation with sweeping bipartisan majorities—30 to 3 in the Senate and 96 to 2 in the House. Governor John Kasich signed the bill into law on June 29. It is estimated that the new law will enable the state to avert all growth that had been projected in Ohio's prison population through 2015, thereby helping the state avoid an estimated half-billion dollars in spending. In addition, the new statute will ease prison crowding as the population gradually declines to levels last seen in 2007, generating \$46 million in savings by 2015. Most important, however, are the enhancements the law makes to public safety. Through the adoption of a common set of risk assessment instruments across the state's criminal justice system, community supervision and treatment resources will be consistently targeted toward offenders who need them the most. The state will also reinvest \$20 million over four years to improve felony probation supervision by providing incentive funding for agencies who reduce recidivism.

Looking Ahead

Work on these issues in Ohio and North Carolina does not stop with the enactment of these comprehensive statutes. Translating these policies into practice, and ensuring investments made realize the outcomes projected, will be challenging. Ohio and North Carolina have both applied to BJA for additional technical assistance and funding support, available through Phase II of the Justice Reinvestment Initiative.

States or counties interested in getting Phase I or II assistance through BJA's Justice Reinvestment Initiative can get more information at:

http://www.ojp.usdoj.gov/BJA/topics/justice_reinvestment.html

The CSG Justice Center's Justice Reinvestment Initiative to address corrections spending and public safety is a partnership with the Public Safety Performance Project of the Pew Center on the States and the Bureau of Justice Assistance, U.S. Department of Justice. These efforts have provided data-driven analyses and policy options to state leaders in 14 states.

The Council of State Governments Justice Center is a national nonprofit organization that serves policymakers at the local, state, and federal levels from all branches of government. The Justice Center provides practical, nonpartisan advice and consensus-driven strategies, informed by available evidence, to increase public safety and strengthen communities.

Ohio HB86 is not on the docket because it is 420 pages.

Disposition: 17-33A-08

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

- ☐ Include in Volume
- ☐ Defer consideration to next task force meeting
- ☐ Reject
- ☐ No action

Comments/Note to staff:

SSL Committee Meeting: 2013A

- ☐ Include in Volume
- ☐ Defer consideration
 - ☐ next task force mtg.
 - ☐ next SSL mtg.
 - ☐ next SSL cycle
- ☐ Reject

Comments/Note to staff:

This Act defines “elder placement referral agencies” (referral agencies) as businesses that receive a part of their income from people seeking placement in a senior housing setting or from a senior housing provider and that either offer to obtain senior services or senior housing for its clients, provide information regarding where senior services or senior housing may be obtained, or sell a list of senior service providers or names of persons or companies providing senior services or senior housing. Government entities are exempt from the definition of a referral agency. “Senior” housing means any type of housing for people 55 years or older, including nursing homes, boarding homes, adult family homes, and retirement communities. “Senior services” means any combination of services designed for allowing seniors to receive services and care at home, including in-home care and home health care.

The Act requires that after January 1, 2012, any person who operates a referral agency must be licensed by the state department of health. It is a misdemeanor to operate an unregistered referral agency. Referral agencies must comply with specific recordkeeping requirements of all services that have been provided to clients. Clients must receive copies of all contracts that they execute with the referral agency.

All contracts must contain identification and contact information regarding the referral agency and the client; an acknowledgment that the agency is acting as a representative of the client; a provision that states that the referral agency may not require or request clients to sign waivers of potential liability for the loss of personal property or injury; the amount of the fee to be charged to the client or provider or the method of calculating the fee and the time and method of payment; and a copy of referral agency laws.

Referral agencies must conduct a preliminary assessment of the client and develop a preliminary care plan before providing a referral or placement. The assessment must be performed by a qualified professional such as a nurse or a person with at least a bachelor's degree in social services, human services, or behavioral sciences. The preliminary care plan must address medical and behavioral health history; necessary and contraindicated medications; a licensed health professional's diagnosis; significant known behaviors or symptoms that may require special care; level of personal care needs; activities and service preferences; and preferences regarding other issues important to the client.

Referral agencies are prohibited from charging a fee from a client or senior housing provider unless the elder placement referral agency complies with the terms of the written contract, discloses the terms of the contract to the client and provider prior to the referral, and refers the client to a provider from which the housing is obtained. Referral agencies may not receive payment for referring an individual to a provider to furnish services provided by the state's medical assistance programs.

The department of health must register qualified referral agencies. To become registered, a referral agency must submit a fee and file a written application with the department containing contact information, a background check of the applicant, and financial disclosures regarding any person with more than a 20 percent interest in the company. The applicant must submit a copy of the form of contract and fee schedule to be used with clients, senior services providers, and senior housing providers. Registrations must be renewed annually. Referral agencies must provide evidence of having liability insurance of at least \$1 million. Employees of referral agencies must pass a criminal background check every two years.

The state secretary of health is authorized to establish fees, adopt rules, and issue registrations, and conduct investigations and serve as the disciplining authority for violations of the Act.

Submitted as:

Washington

[Chapter 357, Laws of 2011](#)

Status: Enacted into law in 2011.

Comment:

Disposition:

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

- ☐ Include in Volume
- ☐ Defer consideration to next task force meeting
- ☐ Reject
- ☐ No action

Comments/Note to staff:

SSL Committee Meeting: 2013A

- ☐ Include in Volume
- ☐ Defer consideration
 - ☐ next task force mtg.
 - ☐ next SSL mtg.
 - ☐ next SSL cycle
- ☐ Reject

Comments/Note to staff:

This Act defines a volunteer driver and prohibits an insurer from refusing to issue vehicle insurance to a person solely because the applicant is a volunteer driver. The Act prohibits an insurer from imposing a surcharge or otherwise increase the rate for a vehicle policy solely on the basis that the named insured or any member of the insured's household or a person who customarily operates the insured's vehicle is a volunteer driver.

Submitted as

Illinois

[Public Act 097-285](#)

Status: Enacted into law in 2011.

Comment:

8/29/2011 FOR IMMEDIATE RELEASE

August 9, 2011

Governor Quinn Signs Legislation to Protect Volunteer Drivers Who Transport Seniors

New Law Strengthens Transportation Options for Seniors

CHICAGO – AUGUST, 9, 2011.

Governor Pat Quinn today signed legislation to protect volunteer drivers from being denied auto coverage or paying extra for car insurance premiums simply because the driver is a volunteer driver. House Bill 1378 also prohibits insurers from imposing a surcharge on or increasing the rate for a vehicle policy solely due to the fact one or more of the vehicle's drivers is a volunteer driver.

"Many seniors rely on others when they need to go to the grocery store, pick up prescriptions or visit the doctor, and it is important that their volunteer drivers have the insurance coverage they need," said Governor Quinn. "This legislation clears hurdles for the volunteer drivers who are helping our seniors maintain their independence."

Illinois is home to more than 2 million adults ages 60 and older. Through the Department on Aging, the state administers programs to assist the most vulnerable seniors in remaining independent. With more seniors relying on transportation services to remain active and independent, a number of alternative transportation programs for seniors have been established in Illinois.

One such program is the Independent Transportation Network America (ITN), a public-private partnership with 16 affiliates in 12 states. The ITN service allows seniors who are unable or no longer wish to drive to donate their cars to ITN in exchange for rides from volunteers 24 hours a day, seven days a week. Many ITN volunteer drivers use their own vehicles to transport or run errands for seniors.

Volunteer drivers must verify that they hold the proper liability insurance, but differing policies among insurers have in some cases limited the number of available drivers; HB 1378 removes an impediment to the operation of nationally-affiliated transportation networks.

This legislation will help expand the pool of volunteer drivers for organizations operating in the City of Chicago and the counties of Bureau, Henderson, Henry, Knox, LaSalle, McDonough, Mercer, Putnam, Rock Island and Warren. While insurers in these areas may not refuse or impose a surcharge based solely upon volunteer driver status, HB 1378 does not prevent the insurer from considering factors other than volunteer status when issuing policies or setting rates for volunteer drivers.

House Bill 1378, sponsored by Rep. Joseph Lyons (D-Chicago) and Sen. Martin Sandoval (D-Cicero), goes into effect immediately.

Disposition:

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

- ☐ Include in Volume
- ☐ Defer consideration to next task force meeting
- ☐ Reject
- ☐ No action

Comments/Note to staff:

SSL Committee Meeting: 2013A

- ☐ Include in Volume
- ☐ Defer consideration
 - ☐ next task force mtg.
 - ☐ next SSL mtg.
 - ☐ next SSL cycle
- ☐ Reject

Comments/Note to staff:

19-33A-01 Disposing Remains of Members of the Armed Forces AK

This Act allows members of the armed forces to designate which of their family members will act as next of kin in the event of their death while on duty.

Submitted as:

Alaska

[SB 33 \(Enrolled version\)](#)

Status: Enacted into law in 2011.

Comment:

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Governor Parnell Signs First Bill of Session

March 11, 2011, Juneau, Alaska –

Governor Sean Parnell today signed Senate Bill 33 into law, the first bill of the 27th Legislature. SB 33, sponsored by Senator Bill Wielechowski, allows members of the armed forces to designate which of their family members will act as next of kin in the event of their death while in duty status. Representative Bill Thomas carried the companion bill in the House and became a co-sponsor.

“I appreciate the thoughtful work that went into this legislation,” Governor Parnell said. “Our service members deserve the utmost respect for the sacrifices they make in service to our nation.”

Alaska currently does not allow service members to choose which family members will handle their remains in the event of their death. This can be problematic when the service member would like someone other than the default next of kin, predetermined by the military, to administer the disposition of remains.

SB 33 places Alaska in alignment with U.S. armed forces procedures so that handling of remains will not be delayed.

A Fact Sheet about SB33 reports that twenty-one states have laws which comport with DOD rules on disposition. Three are pursuing laws which comport with DOD rules.

Disposition:

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

☐ Include in Volume

☐ Defer consideration to next task force
meeting

☐ Reject

☐ No action

SSL Committee Meeting: 2013A

☐ Include in Volume

☐ Defer consideration

☐ next task force mtg.

☐ next SSL mtg.

☐ next SSL cycle

☐ Reject

Comments/Note to staff:

Comments/Note to staff:

Nevada has declared as its public policy the right of all people to have access to places of public accommodation without discrimination based on race, religious creed, color, age, sex, disability, sexual orientation, national origin or ancestry. This bill extends that public policy to discrimination based on gender identity or expression. A person who withholds, denies or deprives any other person of this right, intimidates, threatens or coerces any other person for the purpose of interfering with this right or punishes any other person for exercising this right is guilty of a misdemeanor.

This Act provides that it is not unlawful or a ground for a civil action for any place of public accommodation to offer differential pricing, discounted pricing or special offers based on sex to promote or market the place of public accommodation.

Existing law authorizes the state equal rights commission to investigate practices of discrimination in places of public accommodation and authorizes a person who believes he or she has been discriminated against based on race, color, religion, national origin, disability or sexual orientation to file a complaint with the commission. This bill authorizes that commission to investigate practices of discrimination based on gender identity or expression.

The Act authorizes a person who believes they have been discriminated against based on sex or gender identity or expression to file a complaint with that commission.

That Act provides that it is not an unlawful discriminatory practice in public accommodations for any place of public accommodation to offer differential pricing, discounted pricing or special offers based on sex to promote or market the place of public accommodation.

Submitted as:

Nevada

[SB 331 \(Enrolled version\)](#)

Status: Enacted into law in 2011.

Comment:

Disposition:

CSG policy task force recommendations to

The Committee on Suggested State

Legislation: 2013A

☐ Include in Volume

☐ Defer consideration to next task force meeting

☐ Reject

☐ No action

Comments/Note to staff:

SSL Committee Meeting: 2013A

☐ Include in Volume

☐ Defer consideration

☐ next task force mtg.

☐ next SSL mtg.

☐ next SSL cycle

☐ Reject

Comments/Note to staff:

This Act addresses the status of posthumously conceived and born children in the context of legitimacy, inheritance, rights to claim an after-born child's share, and other rights.

Submitted as:

Iowa

[House File 245](#)

Status: Enacted into law in 2011.

Comment:

Disposition:

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

- ☐ Include in Volume
- ☐ Defer consideration to next task force meeting
- ☐ Reject
- ☐ No action

Comments/Note to staff:

SSL Committee Meeting: 2013A

- ☐ Include in Volume
- ☐ Defer consideration
 - ☐ next task force mtg.
 - ☐ next SSL mtg.
 - ☐ next SSL cycle
- ☐ Reject

Comments/Note to staff:

This Act makes it illegal to defraud prospective adoptive parents. A person commits the offense of defrauding a prospective adoptive parent if they knowingly obtains a financial benefit from a prospective adoptive parent or from an agent of a prospective adoptive parent with a purpose to defraud the prospective adoptive parent or the agent of the prospective adoptive parent of the financial benefit and does not consent to the adoption or complete the adoption process. The Act prescribes penalties based on the amount of the financial benefit received by the person who commits the offense.

Submitted as:

Arkansas

[Act 697](#)

Status: Enacted into law in 2011.

Comment:

Disposition:

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

- ☐ Include in Volume
- ☐ Defer consideration to next task force meeting
- ☐ Reject
- ☐ No action

Comments/Note to staff:

SSL Committee Meeting: 2013A

- ☐ 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 Registrar to issue heirloom birth certificates. These certificates must be designed to be suitable for display and can bear the state seal and the governor's signature. The bill requires the state department of community health to establish fees for heirloom birth certificates. The Act directs that part of the money from fees for heirloom certificates be deposited as gifts or donations into a fund for children.

The bill requires the State Registrar to establish procedures for buying a gift card or certificate that can be redeemed for an heirloom birth certificate. It requires the department of community health to market and promote heirloom birth certificates.

It specifies that heirloom birth certificates are not official records of birth and are not the active birth certificate of the people whose names appears on such documents.

Submitted as:

Michigan

[Act No. 28, Public Acts of 2011](#)

Status: Enacted into law in 2011.

Comment:

Disposition:

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

- ☐ Include in Volume
- ☐ Defer consideration to next task force meeting
- ☐ Reject
- ☐ No action

Comments/Note to staff:

SSL Committee Meeting: 2013A

- ☐ Include in Volume
- ☐ Defer consideration
 - ☐ next task force mtg.
 - ☐ next SSL mtg.
 - ☐ next SSL cycle
- ☐ Reject

Comments/Note to staff:

This Act directs the chief administrator of the state motor vehicle commission to develop an Internet Emergency Contact Information Registry Program. Under the program, the chief administrator shall establish and maintain an automated statewide Internet registry to be known as the “Next-of-Kin Registry,” to store emergency contact information that can be accessed by law enforcement officials to notify the next-of-kin when a motor vehicle accident results in serious bodily injury, death, or incapacitation of a driver or passenger.

The Act directs the the chief administrator to set up a process whereby the holder of any valid permit, probationary or basic driver’s license, or non-driver identification card, may electronically sign onto the state motor vehicle commission website using a number assigned to such documents. The permit holder, licensee, or card holder may then submit the name and telephone number of up to three emergency contacts to be stored in the Next-of-Kin Registry.

The bill defines “emergency contact person” as a person, eighteen years of age or older, whom the holder of any valid state permit, probationary or basic driver’s license, or non-driver identification card has designated to be contacted by law enforcement personnel when the holder is rendered unable to communicate due to involvement in a motor vehicle accident resulting in serious bodily injury, death, or incapacitation. The emergency contact person of a permit holder, licensee, or card holder who is under the age of eighteen and is not emancipated is required to be the holder’s parent or guardian.

A permit holder, licensee, or non-driver identification card holder who submits the name and telephone number of an emergency contact shall have the opportunity to revise or update the emergency contact information at any time.

The bill provides that information in the Next-of-Kin Registry shall be available for the exclusive use of law enforcement officials, and employees of the commission who are designated by the chief administrator, for the purposes of discharging their duties pursuant to the Act. Any emergency contact information submitted to the commission shall not be subject to public disclosure under the state Open Public Records Act or the common law concerning access to public records and shall not be discoverable as a public record by any person, entity, or governmental agency, except upon a subpoena issued by a grand jury or a court order in a criminal matter.

The bill also allows a person between 14 and 17 years of age or to receive non-driver identification card to use as identification.

Submitted as:

New Jersey

[Chapter 47 of 2011](#)

Status: Enacted into law in 2011.

Comment:

Disposition: 19-33A-06

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

- ☐ Include in Volume
- ☐ Defer consideration to next task force meeting
- ☐ Reject
- ☐ No action

Comments/Note to staff:

SSL Committee Meeting: 2013A

- ☐ Include in Volume
- ☐ Defer consideration
 - ☐ next task force mtg.
 - ☐ next SSL mtg.
 - ☐ next SSL cycle
- ☐ Reject

Comments/Note to staff:

19-33A-07 Prohibiting Employers from Discriminating
Against Domestic Violence Victims

HI

This Act prohibits employers from discriminating against victims of domestic or sexual violence in certain employment-related situations if the victim notifies the employer of such status or the employer has actual knowledge. It requires employers to make reasonable accommodations for employees who are victims of domestic or sexual violence and that doing so does not cause undue hardship to the operations of the employer. It allows employers to request verification of employees' continued status within specified time frames. The Act creates a civil remedy for employee-victims denied reasonable accommodations.

Submitted as:

Hawaii

[Act 206 of 2011](#)

Status: Enacted into law in 2011.

Comment:

Disposition:

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

- ☐ Include in Volume
- ☐ Defer consideration to next task force meeting
- ☐ Reject
- ☐ No action

Comments/Note to staff:

SSL Committee Meeting: 2013A

- ☐ Include in Volume
- ☐ Defer consideration
 - ☐ next task force mtg.
 - ☐ next SSL mtg.
 - ☐ next SSL cycle
- ☐ Reject

Comments/Note to staff:

This Act establishes a program to award grants to public school districts and licensed youth development programs to run school-based and school-linked after-school and summer programs for low income children. Such programs are aimed at providing safe, challenging, engaging, and supervised learning experiences that help children and youth develop their educational, social, emotional, and physical skills where the assets and strengths of youth are emphasized rather than problems or deficits.

Submitted as:

Arkansas

[Act 166 of 2011](#)

Status: Enacted into law in 2011.

Comment:

Disposition:

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

- ☐ Include in Volume
- ☐ Defer consideration to next task force meeting
- ☐ Reject
- ☐ No action

Comments/Note to staff:

SSL Committee Meeting: 2013A

- ☐ Include in Volume
- ☐ Defer consideration
 - ☐ next task force mtg.
 - ☐ next SSL mtg.
 - ☐ next SSL cycle
- ☐ Reject

Comments/Note to staff:

This Act authorizes a general academic teaching institution to develop a fixed tuition rate program for qualified students who agree to transfer to the institution within 12 months after successfully earning an associate degree at a lower-division institution of higher education. The bill establishes parameters for the tuition to be charged to a participating student in such a program during a period of at least 24 months after the student's initial enrollment in the general academic institution and requires an institution that develops such a program to prescribe eligibility requirements for participation and to notify applicants for transfer admission from lower-division institutions of higher education regarding the program.

The Act contains measures to facilitate the timely completion of degrees by students of public institutions of higher education.

Submitted as:

Texas

[HB 2999 \(enrolled version\)](#)

Status: Enacted into law in 2011.

Comment:

Disposition:

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

- ☐ Include in Volume
- ☐ Defer consideration to next task force meeting
- ☐ Reject
- ☐ No action

Comments/Note to staff:

SSL Committee Meeting: 2013A

- ☐ 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 workforce commission to establish a demonstration program to identify, develop, and support methods to maximize academic or workforce education credit awarded by institutions of higher education to veterans and military service members for military experience, education, and training obtained during military service in order to expedite the entry of veterans and military service members into the workforce. The bill sets out provisions relating to requiring the commission to work with other state agencies to accomplish the goals of the program.

Submitted as:

Texas

[SB 1736 \(enrolled version\)](#)

Status: Enacted into law in 2011.

Comment:

Disposition:

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

- ☐ Include in Volume
- ☐ Defer consideration to next task force meeting
- ☐ Reject
- ☐ No action

Comments/Note to staff:

SSL Committee Meeting: 2013A

- ☐ Include in Volume
- ☐ Defer consideration
 - ☐ next task force 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.

Comment:

Disposition:

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

☐ Include in Volume

☐ Defer consideration to next task force
meeting

☐ Reject

☐ No action

SSL Committee Meeting: 2013A

☐ Include in Volume

☐ Defer consideration

☐ next task force mtg.

☐ next SSL mtg.

☐ next SSL cycle

☐ Reject

Comments/Note to staff:

Comments/Note to staff:

On June 13, 2011, Illinois Gov. Pat Quinn signed SB 7 which establishes new standards for teacher tenure, empowers school districts to remove poor performing teachers from the classroom and updates regulations regarding teacher strikes.

Two major changes are the centerpiece of the reform: new tenure standards and the ability for school districts to remove underperforming teachers. The law states tenure can only be obtained after four years of service and a series of proficient reviews. However, the law allows for the top-rated educators to be put into a fast-track for tenure after three years without having to wait for the fourth year.

In addition, SB7 sets new guidelines that make teacher strikes more difficult. Suburban school districts and other state teacher unions outside Chicago along with their school boards are required to meet with a mediator to disclose their best offer prior to any strike. Strikes in Chicago schools will require a 120-day waiting period from the date the impasse moves to an advisory panel. The Chicago Teachers Union must also have support from at least 75 percent of its bargaining members and provide a minimum of a 10-day strike notice. Chicago Public Schools also now have powers to impose longer school days as well as lengthen the school calendar.

This bill is one of several enacted in 2011 that restrict teacher tenure and/or collective bargaining powers. Ohio's SB 5, Idaho's SB 1108, and Wisconsin's Act 10 are other examples of legislation reducing teacher's collective bargaining authority. Bills passed in Ohio and Idaho also reduce the role of seniority in layoffs, tie teacher evaluation to student achievement and place additional restrictions or conditions on teacher tenure.

Although Illinois' SB 7 includes similar provisions to legislation enacted in those states, some significant differences in the process exist. For one thing, the legislation in Illinois was enacted by a Democrat-controlled legislature and signed by a Democratic governor, unlike in Ohio, Idaho and Wisconsin. Perhaps a more important difference is that the Illinois bill passed with support from the state's three largest teachers unions, which helped to counteract opposition from the rank-and-file or other unions. Possibly the most telling description, as reported in The Huffington Post, was that unions "accepted a spanking in order to avoid a real beat-down." Having observed more stringent bills in Ohio and neighboring Wisconsin, teacher unions in Illinois and legislators successfully negotiated to enact legislation that significantly reforms teacher tenure laws without outlawing teacher unions or abolishing tenure entirely.

The Illinois law, however, has been held as a national model from U.S. Education Secretary Arne Duncan who stated, "Illinois has done something truly remarkable and every state committed to education reform should take notice." One significant difference in Illinois' SB 7 was a substantial degree of input in Illinois from teacher unions, business interests, and education advocacy groups.

Groups that participated in drafting and passing the reforms included the Illinois Education Association, the Illinois Federation of Teachers, the Chicago Teachers Union, Stand for Children, Advance Illinois, the Illinois School Management Alliance, Illinois Association of School Administrators, Illinois Association of School Boards, Large Urban District Association, ED-RED, Legislative Education Network of DuPage, Chicago and Illinois Principals Association, and the Illinois Business Roundtable. Two unions temporarily withdrew their support of SB 7 in May because of provisions that would have affected an ongoing lawsuit and made it harder for members to call a strike. However, both unions signed on again after a trailer bill amended those issues.

Submitted as:

Illinois

[Public Act 097-0008 \(SB 7\)](#)

Status: Enacted into law in 2011.

Comment:

A news release from Gov. Quinn stated, "The reforms are expected to improve education in Illinois through enhanced accountability and training for teachers, administrators and school board members. The historic measure sets clear standards for teacher evaluations and prioritizes performance evaluations above tenure for decisions on teacher hiring and dismissal. These reforms represent unprecedented statewide agreement on issues that have gone unresolved across the nation."

The actual legislation is not on the docket because it is 111 pages.

Disposition:

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

- ☐ Include in Volume
- ☐ Defer consideration to next task force meeting
- ☐ Reject
- ☐ No action

Comments/Note to staff:

SSL Committee Meeting: 2013A

- ☐ 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:

Disposition:

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

SSL Committee Meeting: 2013A

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

Comments/Note to staff:

Comments/Note to staff:

This Act directs that the State Treasurer's College Savings Pool be available to any individual with a valid social security number or taxpayer identification number for the benefit of any individual with a valid social security number or taxpayer identification number. With respect to a school service personnel certificate, it provides that professional development activities must address the needs of serving students who are the children of immigrants, including, if the certificate holder is employed as a counselor in a state public or state-operated secondary school, opportunities for higher education for students who are undocumented immigrants.

The bill requires the state student assistance commission to establish a DREAM Fund Commission. The Act directs the Commission to establish procedures to accept and evaluate applications for scholarships from the children of immigrants and to issue scholarships to selected student applicants. It sets forth student qualifications for a scholarship. It requires the state student assistance commission to establish a DREAM Fund to provide scholarships. It provides that the Fund shall be funded entirely from private contributions.

This Act provides that college savings programs established under state Higher Education Student Assistance Act must be available to any individual with a valid social security number or taxpayer identification number for the benefit of any individual with a valid social security number or taxpayer identification number.

Submitted as:

Illinois

[Public Act 097-0233](#)

Status: Enacted into law in 2011.

Comment: This bill is not in the packet because it is 37 pages.

FOR IMMEDIATE RELEASE

August 1, 2011

CHICAGO – August 1, 2011. Governor Pat Quinn today signed historic legislation to increase education opportunities to children of immigrants in Illinois. The Illinois DREAM Act creates a privately-funded scholarship program for high school graduates from immigrant families who wish to attend college.

“All children have the right to a first-class education,” Governor Quinn said. “The Illinois DREAM Act creates more opportunities for the children of immigrants to achieve a fulfilling career, brighter future and better life through higher education.”

Senate Bill 2185, sponsored by Senate President John Cullerton (D-Chicago) and Rep. Eddie Acevedo (D-Chicago), establishes a nine-member Illinois DREAM Fund Commission to manage the program, whose members are appointed by the Governor. The commission will help establish privately-funded scholarships for students who have resided with their parents while attending high school in Illinois, earned their high school diploma, attended school in Illinois for at least three years, and have at least one parent who immigrated to the United States.

In addition, the new law allows any person with a Social Security or taxpayer identification number to participate in a state-operated college savings pool. It also requires high school counselors to provide college information to all children of immigrants. Children of immigrants will have unprecedented opportunities to access higher education as a result of the Illinois Dream Act.

"We should be opening, not shutting doors of opportunity for young students regardless of how or why they are living in Illinois," said President Cullerton. "This new law moves the state beyond the rhetoric of equal opportunity by making the dream of a college education a reality for more of Illinois' outstanding students."

The new law was one of Governor Quinn's top priorities during the spring legislative session. The Governor recognized that it would ensure that Illinois continues to lead the nation in increasing access to top-quality education, which is critical to retaining our best and brightest students and ensuring our continued success in the competitive global economy.

Students, community leaders and elected officials from across the state joined Governor Quinn to celebrate the new law that brings more affordability and better access to higher education in Illinois.

"Immigrants are a driving force in our city's cultural and economic life, and opening the way for all Chicago students to earn an excellent higher education will make our city even stronger," said Chicago Mayor Rahm Emanuel. "I am proud that families and students across Illinois will now have a better shot at the American Dream — which starts with a great education."

With an estimated 65 percent of immigrant students coming from households earning below 200 percent of the poverty line, the financial barriers to higher education for academically qualified immigrant students are steep. Through the DREAM commission, Illinois leaders will now be able to raise private funds to help these students achieve their full potential.

"We thank Governor Quinn for his continuous support and his tireless work for the immigrant community," said Lawrence Benito, Deputy Director of the Illinois Coalition for Immigrant and Refugee Rights (ICIRR). "The signing of this bill into law is historic and it confirms that Illinois is not only an immigrant-friendly state but also a national leader on moving fair, humane, and practical solutions."

The DREAM Act passed with bipartisan legislative support and with the strong support of the education community. The commission will provide training to school service personnel and work with admission and financial aid officers and high school counselors across Illinois to help students utilize the wide array of higher education opportunities.

"The Illinois DREAM Act is a crucial step in the right direction, ensuring that worthy students are no longer denied the life-changing opportunity of college simply because their immigration status puts needed financial aid out of reach," said University of Illinois President Michael J. Hogan. "I'm grateful to our legislators and Governor Quinn for supporting the shared vision that bright minds are our most precious resource and must be cultivated, not thwarted by outdated immigration laws."

Disposition: 20-33A-07

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

SSL Committee Meeting: 2013A
☐ Include in Volume
☐ Defer consideration
☐ next task force mtg.
☐ next SSL mtg.
☐ next SSL cycle
☐ Reject

Comments/Note to staff:

Comments/Note to staff:

This Act establishes the Oregon Education Investment Board to oversee a unified public education system. It defines the board's membership, governance and duties. It establishes an Early Learning Council and the purposes of the Council. The bill establishes an Education Investment Fund in the State Treasury.

This Act requires the Early Learning Council to conduct analysis of plans to merge, redesign or improve coordination of early childhood services and to align childhood services with child-centered outcomes. The bill allows the board to file proposed legislative measures to carry out duties, merge or redesign state programs and services. It directs the board to provide, modify and maintain integrated, statewide student-based data system before June 30, 2012.

Submitted as:

Oregon

[Chapter 519 of 2011](#)

Status: Enacted into law in 2011.

Comment:

-- Governor Kitzhaber, Inaugural Speech, January 10, 2011

Creating a seamless birth-to-age 20 education system that delivers better results for students, more resources for teachers and more accountability for taxpayers.

"First we need to know where we are going...we need a destination. And here it is. By 2020, the end of this decade -- by the time the children entering kindergarten this year graduate from high school -- we should live in a state where our children are ready to learn before they get to school; where they have the resources and attention to learn and our teachers have the time and support to teach; where drop out rates are steadily falling and graduation rates are steadily rising; where all Oregon high school graduates are prepared to pursue a post-secondary education without remediation; and where 80 percent of them achieve at least two years of post-secondary education or training."

Where We Are Now

We passed the most ambitious education improvement package in two decades during the 2011 legislative session. The 14 bills have set us on a course to create a statewide public education system that can deliver better outcomes for students, more resources for educators, and a more prosperous future for Oregon. Among the major achievements are:

Integrating early childhood services with K-12 and post-secondary education and training under a new Oregon Education Investment Board. Establishing the board is the first step toward creating an efficient and accountable funding and governance system for "zero-to-20" education (from birth to age 20).

Creating the Early Learning Council, which will consolidate and streamline existing early childhood programs and funding streams to ensure kids are ready to learn when they enter kindergarten. Early childhood investment is the foundational element to achieving Oregon's long-term education and economic objectives.

SB 909 lays the groundwork for an efficient and accountable “zero-to-20” education system.

SB 242 increases autonomy for universities, encouraging innovation.

SB 552 redefines the role of the Superintendent of Public Instruction, enabling more accountability.

SB 250 allows school districts to opt out of Education Service Districts.

SB 248 requires school districts to provide full-day kindergarten.

SB 252 & 290 promote professional development and standards for educators and administrators.

Disposition:

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

- ☐ Include in Volume
- ☐ Defer consideration to next task force meeting
- ☐ Reject
- ☐ No action

Comments/Note to staff:

SSL Committee Meeting: 2013A

- ☐ Include in Volume
- ☐ Defer consideration
 - ☐ next task force mtg.
 - ☐ next SSL mtg.
 - ☐ next SSL cycle
- ☐ Reject

Comments/Note to staff:

This Act requires hospitals and certain health clinics which use Computed Tomography (CT) X-ray systems for human use to record the dose of radiation on every CT study produced during the administration of a CT examination. The Act requires such doses be verified annually by a medical physicist unless the facility is accredited. The Act directs that beginning July 1, 2013, facilities that furnish CT X-ray services must be accredited by an organization that is approved by the federal Centers for Medicare and Medicaid Services, the state medical board, or the state department of public health.

Submitted as:

California

[CH 521 of 2010](#)

Status: Enacted into law in 2010.

Comment:

(32B-i) Add a bill to the next docket that makes some changes to this bill.

The Conference of Radiation Control Program Directors (CRCPD), a non-profit professional organization for radiation professionals in state and local government that regulate the use of radiation resources, formally established a “Committee on Radiation Medical Events” to establish consistent, science-based standards for radiation recording and reporting. This group is working with the U.S. FDA, EPA and other agencies to fulfill the Committee’s official charges, which include overseeing the development and maintenance of a national database of radiation medical events; developing a definition of reportable radiation medical events from radiation producing machines; developing a format and mechanism for reporting radiation medical events; and reviewing reports for completeness and accuracy.

Disposition:

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

- ☐ Include in Volume
- ☐ Defer consideration to next task force meeting
- ☐ Reject
- ☐ No action

Comments/Note to staff:

SSL Committee Meeting: 2013A

- ☐ Include in Volume
- ☐ Defer consideration
 - ☐ next task force mtg.
 - ☐ next SSL mtg.
 - ☐ next SSL cycle
- ☐ Reject

Comments/Note to staff:

This Act delays the date of implementation 18 months, from January 1, 2011 to July 1, 2012 of Chapter 521 of 2010 (docket item 21-32B-01) and removes a requirement from that bill about reporting and compliance history.

Submitted as:

California

[Chapter 139 of 2011](#)

Status: Enacted into law in 2011.

Comment:

This bill was added to the docket per 32B-i.

Disposition:

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

- ☐ Include in Volume
- ☐ Defer consideration to next task force meeting
- ☐ Reject
- ☐ No action

Comments/Note to staff:

SSL Committee Meeting: 2013A

- ☐ Include in Volume
- ☐ Defer consideration
 - ☐ next task force mtg.
 - ☐ next SSL mtg.
 - ☐ next SSL cycle
- ☐ Reject

Comments/Note to staff:

21-33A-02 Health Professions Disciplinary Process Transparency WA

This Act requires a disciplining authority to allow a complainant in a disciplinary proceeding under the Uniform Disciplinary Act to supplement or amend the contents of his or her complaint or report; promptly respond to inquiries regarding the status of the complaint or report; provide a complainant or license holder with the file relating to the complaint; and inform the complainant on the final disposition of the complaint.

Submitted as:

Washington

[Chapter 157 of 2011](#)

Status: Enacted into law in 2011.

Comment:

Disposition:

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

- ☐ Include in Volume
- ☐ Defer consideration to next task force meeting
- ☐ Reject
- ☐ No action

Comments/Note to staff:

SSL Committee Meeting: 2013A

- ☐ Include in Volume
- ☐ Defer consideration
 - ☐ next task force mtg.
 - ☐ next SSL mtg.
 - ☐ next SSL cycle
- ☐ Reject

Comments/Note to staff:

This Act generally defines a health care sharing ministry as a faith-based, nonprofit organization that is tax exempt under the Internal Revenue Code which:

- Limits its participants to those who are of a similar faith;
- Acts as a facilitator among participants who have financial or medical needs and matches those participants with other participants with the present ability to assist those with financial or medical needs in accordance with criteria established by the health care sharing ministry;
- Provides for the financial or medical needs of a participant through contributions from one participant to another;
- Provides amounts that participants may contribute with no assumption of risk or promise to pay among the participants and no assumption of risk or promise to pay by the health care sharing ministry to the participants;
- Provides a written monthly statement to all participants that lists the total dollar amount of qualified needs submitted to the health care sharing ministry, as well as the amount actually published or assigned to participants for their contribution; and
- Provides a written disclaimer on or accompanying all applications and guidelines materials distributed by or on behalf of the organization.

The bill provides that a health care sharing ministry which enters into a health care cost sharing arrangement with its participants shall not be considered an insurance company, health maintenance organization, or health benefit plan of any class, kind, or character and shall not be subject to any laws related to such.

Submitted as:

Georgia

[House Bill 248 \(As Passed House and Senate\)](#)

Status: Enacted into law in 2011.

Comment:

Disposition:

CSG policy task force recommendations to

The Committee on Suggested State

Legislation: 2013A

☐ Include in Volume

☐ Defer consideration to next task force meeting

☐ Reject

☐ No action

SSL Committee Meeting: 2013A

☐ Include in Volume

☐ Defer consideration

☐ next task force mtg.

☐ next SSL mtg.

☐ next SSL cycle

☐ Reject

Comments/Note to staff:

Comments/Note to staff:

This Act establishes a pilot program to develop Medicaid smart cards. The pilot program shall be designed to do all of the following:

- Authenticate recipients at the onset and completion of each point of transaction in order to prevent card sharing and other forms of fraud.
- Deny ineligible persons at the point of transaction.
- Authenticate providers at the point of transaction to prevent phantom billing and other forms of provider fraud.
- Secure and protect the personal identity and information of recipients.
- Reduce the total amount of medical assistance expenditures by reducing the average cost per recipient.

The program may use the following technology:

- A secure Web-based information system to record and report authenticated transactions.
- A secure Web-based information system that interfaces with other state databases to determine eligibility of recipients.
- A system that gathers analytical information to be provided to data-mining companies in order to assist in data-mining processes.
- A smart card with the ability to store multiple recipients' information on one card.
- No requirement for pre-enrolling recipients.
- An image of the recipient stored on both the smart card and database.

Submitted as:

North Carolina

[Session Law 2011-117](#)

Status: Enacted into law in 2011.

Comment:

Disposition:

CSG policy task force recommendations to

The Committee on Suggested State

Legislation: 2013A

☐ Include in Volume

☐ Defer consideration to next task force meeting

☐ Reject

☐ No action

SSL Committee Meeting: 2013A

☐ Include in Volume

☐ Defer consideration

☐ next task force mtg.

☐ next SSL mtg.

☐ next SSL cycle

☐ Reject

Comments/Note to staff:

Comments/Note to staff:

This Act specifies that a person who knowingly does any of the following is guilty of a Class 3 felony:

- Performs an abortion knowing that the abortion is sought based on the sex or race of the child or the race of a parent of that child.
- Uses force or the threat of force to intentionally injure or intimidate any person for the purpose of coercing a sex-selection or race-selection abortion.
- Solicits or accepts monies to finance a sex-selection or race-selection abortion.

The Act allows the Attorney General or a County Attorney to bring an action in superior court to prohibit the activities outlined above.

The bill allows the father who is married to the mother or the maternal grandparents if the mother is not at least 18 at the time of the abortion to bring a civil action on behalf of the unborn child to obtain appropriate relief. It specifies that the court may award reasonable attorney fees as part of the costs. The Act provides that appropriate relief includes monetary damages for all injuries, whether psychological, physical or financial, including loss of companionship and support.

The bill states that a physician, physician's assistant, nurse, counselor or other medical or mental health professional who knowingly does not report known violations to appropriate law enforcement officials shall be subject to a civil fine of not more than \$10,000.

It provides that a woman on whom a sex or race selection abortion has been performed is not subject to criminal prosecution, civil liability or conspiracy.

The Act specifies that a person must not knowingly perform or induce an abortion before that person completes an affidavit that states the person making the affidavit is not aborting the child because of the child's sex or race and has no knowledge that the child to be aborted is being aborted because of the child's sex or race and is signed by the person performing or inducing the abortion.

Submitted as:

Arizona

[Chapter 9](#)

Status: Enacted into law in 2011.

Comment:

Disposition:

CSG policy task force recommendations to

The Committee on Suggested State

Legislation: 2013A

☐ Include in Volume

☐ Defer consideration to next task force meeting

☐ Reject

☐ No action

SSL Committee Meeting: 2013A

☐ Include in Volume

☐ Defer consideration

☐ next task force mtg.

☐ next SSL mtg.

☐ next SSL cycle

☐ Reject

Comments/Note to staff:

Comments/Note to staff:

The Act directs that a person may not perform an abortion on a pregnant unemancipated minor unless the physician has obtained written consent from one of the minor's parents, guardians or conservators, or unless a judge authorizes the physician to perform the abortion (judicial bypass). A minor may utilize the judicial bypass process to circumvent parental consent requirements by appearing before the superior court and demonstrating that she is mature and capable of giving informed consent.

The Act changes the definition of "abortion" to broaden the scope of the means by which the intent to terminate a woman's pregnancy is performed, rather than the "use of a surgical instrument or machine".

It requires rather than allows the court to appoint a guardian ad litem in court proceedings relating to an abortion for a pregnant minor.

The bill prohibits an abortion from being performed or induced without the voluntary and informed consent by the woman on whom the procedure is to be performed.

It specifies that consent to an abortion is voluntary and informed only if the following are true:

- At least one hour before the woman having an abortion, performed or induced, and before anesthesia or medication for the abortion is administered, the referring physician, or a qualified person working with the physician must:
 - Perform a fetal ultrasound imaging and auscultation of fetal heart tone services on the woman undergoing the abortion.
 - Offer to provide the woman with the opportunity to view the ultrasound image and hear the heartbeat of the unborn child if audible. The ultrasound image must be of a quality consistent with the standard medical practice in the community, contain the dimensions of the unborn child and accurately portray the presence of external and internal organs. The auscultation of fetal heart tone must be of quality consistent with the standard medical practice in the community.
 - Offer to provide the woman with a simultaneous explanation of what the ultrasound is depicting, including the presence and location of the unborn child in the uterus, the number of unborn children depicted, the dimensions of the unborn child and the presence of any external members and internal organs.
 - Offer to provide the patient with a physical picture of the ultrasound image of the unborn child.
 - The woman certifies in writing before the abortion that she has been given the opportunity to view the ultrasound image and hear the heartbeat of the unborn child, if audible, and that she decided to view or not view the ultrasound image and hear or not hear the heartbeat of the unborn child.

The bill states that a physician who violates this section commits an act of unprofessional conduct and is subject to license suspension or revocation under state law. It specifies that in addition to other remedies available under common or statutory law, any of the following may file a civil action to obtain relief for a violation of this section:

- A woman on whom an abortion was performed without her informed consent.
- The father of the unborn child if married to the mother at the time she received the abortion, unless the pregnancy resulted from the plaintiff's criminal conduct.
- The maternal grandparents of the unborn child if the mother was not at least eighteen years of age at the time of the abortion, unless the pregnancy resulted from the plaintiff's criminal conduct.

The bill requires that a civil action filed must be brought in the superior court in the county in which the woman resides and may be based on a claim that failure to obtain informed consent was a result of simple negligence, gross negligence, wantonness, willfulness, intention or any other legal standard of care relief and includes any of the following:

- Money damages for all psychological, emotional and physical injuries resulting from the violation.
- Statutory damages in an amount equal to \$5,000 or three times the cost of the abortion, whichever is greater.
- Reasonable attorney fees and costs.

It provides that a civil action brought must be initiated within six years after the violation occurred.

The Act stipulates that a health care provider must not use telemedicine to provide an abortion and a health care provider that violates this provision commits an act of unprofessional conduct and is subject to license suspension or revocation.

The Act defines the terms auscultation and ultrasound.

Submitted as:

Arizona

[HB 2416 \(Enrolled version\)](#)

Status: Enacted into law in 2011.

Comment:

PHOENIX – Governor Jan Brewer on Saturday signed HB 2416, legislation that ensures women considering an abortion receive critical information in advance of that decision. The bill also adds an important safeguard for the health of women by requiring that a physician be present for any abortion.

“Throughout my political career, I’ve had a consistent track record of support for pro-life legislation,” said Governor Brewer. “This bill sends a message that Arizonans continue to care deeply about protecting life and protecting families.” HB 2416 makes four important changes to protect the health and welfare of women seeking an abortion in Arizona. The measure:

- Provides every woman considering an abortion the opportunity to view her ultrasound and hear the heartbeat of the unborn child (if audible),
- Updates abortion clinic licensing statutes to include abortions by medication,
- Prohibits use of telemedicine for abortion, and
- Requires appointment of guardians ad litem for minors seeking abortion without parental consent.

Women deserve to have full and complete information before making a decision whether to have an abortion. It’s critical to provide them with as much information as possible, as abortion is a decision with lasting physical and emotional implications.

Among other provisions, this legislation requires a physician performing an abortion to complete an ultrasound of the preborn child and provide the mother an opportunity to view the ultrasound image and listen to the child’s heartbeat.

“I would like to thank Representative Kimberly Yee and Senator Nancy Barto for sponsoring this important legislation, and Cathi Herrod from the Center for Arizona Policy for helping spearhead this effort,” stated Brewer. “This measure provides critical safeguards for Arizona families.”

Disposition: 21-33A-06

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

- ☐ Include in Volume
- ☐ Defer consideration to next task force meeting
- ☐ Reject
- ☐ No action

Comments/Note to staff:

SSL Committee Meeting: 2013A

- ☐ Include in Volume
- ☐ Defer consideration
 - ☐ next task force mtg.
 - ☐ next SSL mtg.
 - ☐ next SSL cycle
- ☐ Reject

Comments/Note to staff:

This Act requires an insurer that offers an Exclusive Provider Benefit Plan to establish procedures to ensure that health care services are provided to insureds under reasonable standards of quality of care that are consistent with prevailing professionally recognized standards of care or practice. The bill specifies that these procedures must include:

- Availability, accessibility, quality, and continuity of care;
- A continuing quality improvement program to monitor and evaluate services;
- A method of recording formal proceedings of quality improvement program activities and maintaining documentation;
- A physician review panel to review medical guidelines or criteria;
- A patient record system that facilitates documentation and retrieval of clinical information;
- A process for the availability to the commissioner of the clinical records for examination and review, and
- A procedure for reporting of quality improvement program activities.

Submitted as:

Texas

[HB 1772](#)

Status: Enacted into law in 2011.

Comment:

Disposition:

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

- ☐ Include in Volume
- ☐ Defer consideration to next task force meeting
- ☐ Reject
- ☐ No action

Comments/Note to staff:

SSL Committee Meeting: 2013A

- ☐ 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 Medicaid Program to develop a pilot program to require people who are receiving Medicaid benefits to perform a certain number of hours of community service as a condition of receiving those benefits.

Submitted as:

Utah

[HB 211 \(enrolled version\)](#)

Status: Enacted into law in 2011.

Comment:

Disposition:

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

- ☐ Include in Volume
- ☐ Defer consideration to next task force meeting
- ☐ Reject
- ☐ No action

Comments/Note to staff:

SSL Committee Meeting: 2013A

- ☐ Include in Volume
- ☐ Defer consideration
 - ☐ next task force mtg.
 - ☐ next SSL mtg.
 - ☐ next SSL cycle
- ☐ Reject

Comments/Note to staff:

This Act generally authorizes licensed skilled nursing facilities and hospice facilities to use remote automated medication systems when such facilities don't have pharmacies on-site.

Submitted as:

Georgia

[HB 457 \(As Passed House and Senate\)](#)

Status: Enacted into law in 2011.

Comment:

Disposition:

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

- ☐ Include in Volume
- ☐ Defer consideration to next task force meeting
- ☐ Reject
- ☐ No action

Comments/Note to staff:

SSL Committee Meeting: 2013A

- ☐ 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 for Medicaid Services, the Department for Public Health, the Office of Health Policy, and the Personnel Cabinet to collaborate to identify goals and benchmarks to reduce the incidence of diabetes in Kentucky, improve diabetes care, and control complications associated with diabetes; require each to report on the impact of diabetes, programs and activities for controlling and preventing diabetes, action plans to address diabetes, and budget plans for programs addressing diabetes by January 10 of each odd-numbered year to the Legislative Research Commission.

More specifically, the bill:

- Requires state agencies and related entities that devote resources to battling diabetes to conduct biennial assessments of the impact diabetes is having on state programs. This assessment should be made public to the legislature and others on January 1 after the year of enactment while also identifying the number of lives with diabetes covered by the program, the number of lives with diabetes and family members impacted by prevention and control programs implemented by the entity, the financial toll or impact diabetes places on the program, and the financial toll or impact diabetes places on the program in comparison to other chronic diseases and conditions.
- Requires agencies and entities that devote resources to battling diabetes to conduct detailed biennial assessments of the benefits of implemented programs and activities. This assessment should also document the amount and source for any funding directed to the agency or entity for programs and activities aimed at reaching those with diabetes. This report should be made available to the legislature and public on January 1 after the year of enactment.
- Requires state agencies and entities that are charged with battling diabetes to develop and revise biennially detailed action plans for battling the disease. These plans should identify proposed action steps to reduce the impact of diabetes, pre-diabetes and related complications. The plans should be made available to the legislature and public on January 1 after the year of enactment.
- Requires state agencies and entities that are charged with battling diabetes to develop a detailed budget blueprint identifying needs, costs, and resources required to implement their biennial diabetes action plans. Like other components of the legislation, the budget blueprints should be made available to the legislature and public on January 1 after the year of enactment.

Submitted as:

Kentucky

[SB 63](#)

Status: Enacted into law in 2011.

Comment: A version of this bill recently passed and was signed into law in Texas and is getting ready to be filed in Michigan.

Disposition:

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

- ☐ Include in Volume
- ☐ Defer consideration to next task force meeting
- ☐ Reject
- ☐ No action

Comments/Note to staff:

SSL Committee Meeting: 2013A

- ☐ 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.

Comment:

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: 2013A
☐ Include in Volume
☐ Defer consideration to next task force
meeting
☐ Reject
☐ No action

SSL Committee Meeting: 2013A
☐ Include in Volume
☐ Defer consideration
☐ next task force mtg.
☐ next SSL mtg.
☐ next SSL cycle
☐ Reject

Comments/Note to staff:

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.

Comment:

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.”

Source: July 28, 2010 regulation as published in the Federal Register. Department of Health and Human Services 45 CFR Part 170 Health Information Technology: Initial Set of Standards, Implementation Specifications, and Certification Criteria for Electronic Health Record Technology; Final Rule <http://edocket.access.gpo.gov/2010/pdf/2010-17210.pdf>.

Disposition:

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

- ☐ Include in Volume
- ☐ Defer consideration to next task force meeting
- ☐ Reject
- ☐ No action

Comments/Note to staff:

SSL Committee Meeting: 2013A

- ☐ Include in Volume
- ☐ Defer consideration
 - ☐ next task force mtg.
 - ☐ next SSL mtg.
 - ☐ next SSL cycle
- ☐ Reject

Comments/Note to staff:

This Act authorizes local governments to designate a portion of their territory as a creative district subject to certification by the creative industries division within the state office of economic development. The bill defines a creative district as a well-recognized, designated mixed-use area of a community in which a high concentration of cultural facilities, creative businesses, or arts-related businesses serve as the anchor of attraction. In certain cases, multiple vacant properties in close proximity may exist within a community that would be suitable for redevelopment as a creative district. Creative districts may be found in all sizes of communities, from small and rural to large and urban. Creative districts may be home to both nonprofit and for-profit creative industries and organizations.

Submitted as:

Colorado

[HB 11-1031](#)

Status: Enacted into law in 2011.

Comment:

Disposition:

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

- ☐ Include in Volume
- ☐ Defer consideration to next task force meeting
- ☐ Reject
- ☐ No action

Comments/Note to staff:

SSL Committee Meeting: 2013A

- ☐ Include in Volume
- ☐ Defer consideration
 - ☐ next task force mtg.
 - ☐ next SSL mtg.
 - ☐ next SSL cycle
- ☐ Reject

Comments/Note to staff:

This Act requires soccer goals with inside measurements between 6.5 to 8-feet high and 18 to 24-feet wide to conform to tip-resistant standards set by the American Society for Testing and Materials. The Act requires the state department of public health to post soccer goal safety guidelines from the American Society for Testing and Materials and the Consumer Product Safety Commission on its website by June 2012.

Submitted as:

Illinois

[Public Act 097-0234](#)

Status: Enacted into law in 2011.

Comment: A governor's press release states:

FOR IMMEDIATE RELEASE

August 2, 2011

Governor Quinn Signs "Zach's Law" for Movable Soccer Goal Safety
Law Requires Soccer Goals be Designed to Resist Tipping

CHICAGO –

August 2, 2011. Governor Pat Quinn today signed "Zach's Law" requiring all movable soccer goals manufactured and sold in the state of Illinois to be tip-resistant. House Bill 1130, the Moveable Soccer Goal Safety Act, will also require organizations that own moveable soccer goals to create soccer goal safety and education policies.

"Improperly secured soccer goals present a serious threat to our athletes, especially children," Governor Quinn said. "Illinois is leading the nation in recognizing and preventing these types of safety concerns. I'm proud to sign "Zach's Law" today, and help improve soccer safety in Illinois."

On October 1, 2003, six-year-old Zachary Tran of Vernon Hills was at soccer practice when an improperly-secured 184-pound metal soccer goal fell, striking his head. He later died of his injuries. Zach's death was the 27th death reported in the United States from a falling goal post since 1979.

The legislation requires that soccer goals with inside measurements between 6.5 to 8-feet high and 18 to 24-feet wide must conform to tip-resistant standards set by the American Society for Testing and Materials. Additionally, the Illinois Department of Public Health will post soccer goal safety guidelines from the American Society for Testing and Materials and the Consumer Product Safety Commission on its website by June 2012.

Illinois is the first state to ban the manufacture and sale of soccer goals that do not meet new tip-resistant standards. This is the most recent in a series of public safety laws signed by Governor Quinn. In June, the Governor signed HB 219 requiring all passengers in a vehicle to wear a seatbelt, and last week signed HB 200 to protect Illinois' student-athletes from concussions and other brain injuries.

Zach's parents, Michelle and Jayson Tran, created the Zachary Tran Memorial Fund, as well the 'Anchored for Safety' initiative to educate parents and organizations on proper anchoring of movable soccer goals.

House Bill 1130, sponsored by Rep. Carol Sente (D-Vernon Hills) and Sen. Terry Link (D-Lake Bluff) goes into effect immediately. The ban on the manufacture or sale of non-tip-resistant movable soccer goals begins Aug. 2, 2012.”

Disposition:

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

- ☐ Include in Volume
- ☐ Defer consideration to next task force meeting
- ☐ Reject
- ☐ No action

Comments/Note to staff:

SSL Committee Meeting: 2013A

- ☐ Include in Volume
- ☐ Defer consideration
 - ☐ next task force mtg.
 - ☐ next SSL mtg.
 - ☐ next SSL cycle
- ☐ Reject

Comments/Note to staff:

This Act generally prohibits planting, cutting, trimming, removing, or pruning any tree, shrub, or underbrush in or on any right-of-way of a state road or highway without a written permit from the state department of transportation.

This bill specifies standards that apply to clearing vegetation around billboards, methods of clearing, and responsibility for damage. It provides that a willful failure to substantially comply with all the requirements specified in the selective vegetation removal permit results in a five-year moratorium on clearing, revocation of a billboard permit for violation of standards, payment of investigative costs, and forfeiture of any applicable performance bond.

Submitted as:

North Carolina

[Session Law 2011-397](#)

Status: Enacted into law in 2011.

Comment:

Disposition:

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

- ☐ Include in Volume
- ☐ Defer consideration to next task force meeting
- ☐ Reject
- ☐ No action

Comments/Note to staff:

SSL Committee Meeting: 2013A

- ☐ Include in Volume
- ☐ Defer consideration
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 - ☐ next SSL mtg.
 - ☐ next SSL cycle
- ☐ Reject

Comments/Note to staff:

This Act creates a Securities Fraud Reporting Program. It defines how someone can report information to the state securities commission or the securities division of the state department of commerce. It establishes protections against against adverse employment actions. The Act authorizes that commission to pay awards to people who provide original information to the commission or division which leads to the successful enforcement of a covered judicial or administrative action under the Act.

Submitted as:

Utah

[SB 100](#)

Status: Enacted into law in 2011.

Comment:

Disposition:

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

- ☐ Include in Volume
- ☐ Defer consideration to next task force meeting
- ☐ Reject
- ☐ No action

Comments/Note to staff:

SSL Committee Meeting: 2013A

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- ☐ Reject

Comments/Note to staff: