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**CONNECTICUT
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the money back to the federal government and you get a bonus, we're still going to make you pay that back. Whether or not your department was even involved in that banking aspect, if it's a multi-company and you're on sales or something and you get a bonus because you've run that department well, doesn't make a difference. We're not going to distinguish. We're going to hit you all up because you're all no good. Even if -- since we're doing 2010, 2011 -- even if someone just got employed at one of these companies that got TARP money and came in 2010 and straightened out the whole department, turned them profitable, stopped what they were doing before and was congratulated by bringing the company back and allowing the company to pay the banks off and you did such a great job, we're going to tax them. We're going to tax them.

The logic is baffling, the lesson is not. The lesson is government has got to stay the heck out of the way. That's the lesson. And every time the government doesn't, we pay the price. And here we're getting involved again. I dare to say there's not another state that is doing this.

The federal government thought about it; right?

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I think it was Charlie Rangel, perhaps, who brought this up, and some other folks, to tax the TARP money. And even they pulled back realizing this was not the right thing to do.

And it isn't the right thing to do. This isn't going to change behavior. What do you think, you're punishing? You think they're little kids, you're sending them to your room? This isn't going to change behavior. You want to change behavior, we need to get a hold of those folks who represent us in Congress and tell them, change the behavior. Do it now. Should have done it yesterday. Do it now. That's how we're going to change behavior.

The white elephant is what's happening in Washington. The gorilla in the room that we're not talking about is what's happening in Washington, that's where the change is. But to say the State of Connecticut is going to on its own, unilaterally tax these TARP bonuses because we feel that we're the overseers of everybody and these people are going to pay, is dangerous, in my view, at best. At worst, it's ludicrous.

Mr. President, the problem is that this bill not only sends the wrong message about businesses, it says

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Connecticut will stop at nothing because we let ourselves -- and we did -- get into this economic crisis. We picked some scapegoat that we decided we're going to lay a tax on and say, those bad people, we need money, let's go after them. Because we didn't watch our coffers, we didn't cut spending, we still haven't cut spending, we still haven't fixed budgets, so we're going to look for somebody else, an easy target, easy for the general public not to come running to their side. We're going to look at those people and go after them and see what nickels and dimes we can drag out of their pocket.

Mr. President, this is very dangerous, very dangerous, because it's never happened. It's never happened before federally or statewide. In my mind, not a doubt this is unconstitutional. If this is not unconstitutional taxation, I don't know what is. I don't know what is.

Mr. President, this Chamber knows that -- that more likely than not, this Governor, when she reads this bill and looks at it -- has already made a statement months ago -- that this is not going to pass her signature. They know it. The majority party in this room knows it. And if you really want to do

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something for businesses, then let's do something to get rid of that 250 tax, because you know this is going to get vetoed. Governor told us months ago, six months ago, it was going to get vetoed.

And when I look back at the agenda put forward over the years by the same party who's putting this bill forward, you look back and you see in odd years -- let's take 2005 -- odd years, we talk about taxes, we talk about fair deal for Connecticut families. Even years, 2006, we talk about tax cuts. Odd years, 2007, we have spending programs over a billion dollars. Even years, we talk about cuts and credits to taxpayers, in 2008. In 2009, there was no real big bill that came out. In 2010, another even year, we're talking about another jobs' package. It switches. Switches. Even year, cuts, odd year, taxes.

We're in an even year; that is a problem, especially when you know that this bill is not going any further. I may add, Mr. President, that on the even years, a lot of these bills that were put forth as major agendas didn't even get a public hearing or vote, died on the Senate floors.

If there really is a notion that we're going to push a business package through, then let's do it.

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Let's do it. Getting rid of the 250 tax makes a lot of sense. Tying it to TARP is simply, and absolutely wrong.

Mr. President, we need to understand that Connecticut is a small state, and we need to understand that losing 100,000 jobs and tens-of-thousands-plus of businesses is critical to our state's future. Our ability to tax gets narrowly and narrowly defined as people lose our state -- leave our state. And we need to keep as many people as we can.

If you look at that list, that list of how many businesses are getting TARP -- TARP money, they may not be all located in the State of Connecticut, but their offices are. We're running them out. We're running them out. We have a major problem in this state.

Mr. President, obviously I am firmly against this bill. I certainly can count fairly well and I believe this bill, unfortunately, may make its way out of this chamber. In some hope that if it does get out of this chamber we can make it a little bit of a better bill, I would ask the clerk to call LCO 3618.

THE CHAIR:

Would the Clerk please call LCO 3618 --

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THE CLERK:

LCO --

THE CHAIR:

-- to be designated Senate B.

THE CLERK:

LCO 3618, which has been designated Senate
Amendment Schedule B. is offered by Senator Fasano of
the 34th District, et al.

THE CHAIR:

Senator Fasano.

SENATOR FASANO:

Thank you, Mr. President. ...

Mr. President, I move the amendment and I request
permission to summarize.

THE CHAIR:

The question before the chamber is the adoption
of Senate B.

Senator Fasano. Senator, was your LCO 3618?

SENATOR FASANO:

That's correct.

Thank you, Mr. President.

THE CHAIR:

Yes, you may proceed.

SENATOR FASANO:

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Thank you, Mr. President.

Mr. President, what this amendment does is it says that no bill without an appointed impact statement attended to -- appended to the bill can be brought up to the General Assembly. Basically, when we have a bill on our desk, there is a -- there is an employment impact statement that goes with that bill. We have one for municipalities. We have one for states. If we're talking jobs, we want to make sure that the bills that pass this General Assembly and understand the impact on jobs, and the employment world, why wouldn't we want to have that information at our fingertips? Why wouldn't we want to know whether the bill before us is good or bad with respect to employment issues here in the state? Never before could I think of a more critical time for us to look at bills to ensure of what their impact is upon the business world. Mr. President, I think that this impact statement is important. It should be part of our normal procedures, and I ask that it be adopted.

Thank you, Mr. President.

THE CHAIR:

Thank you, Senator.

Do you care to remark on the amendment?

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Senator Daily.

SENATOR DAILY:

Thank you, very much, Mr. President.

I rise in opposition to this amendment. This is an expertise that OFA doesn't have. It doesn't have the staffing to do it, and as the bill reads within available resources, it would then eliminate some other tasks already assigned to OFA. So whether -- putting the merits aside, it's not something we're able to do right at this time, and I urge its defeat.

THE CHAIR:

Thank you, Senator.

Senator Frantz.

SENATOR FRANTZ:

Thanks, Mr. President.

One of the most important things that any of us can have in life is -- is a job, and one of the most important things for the State of Connecticut is that we have a lot of jobs. It's the only way for people to be -- to be busy, to be occupied during the day, to feel a sense of purpose, to contribute to a greater good in so many different ways, not just revenues to the State of Connecticut but the greater good of Connecticut. There is no replacement for a thriving

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economy in a state throughout this country.

Connecticut has made it very clear that we're not as interested as we used to be 50 and 100 years ago in creating that kind of economic utopia that we used to have. Every day we tend to appear in this capitol, we tend to attack what has made us such a great state in the past. So I think the whole idea in Senator Fasano's amendment here, of an employment impact statement is of critical import to the process of understanding the law of unintended consequences.

We pass so many laws up here, and we always think we're doing the right thing for the betterment of society, for the betterment of the State of Connecticut. However, if in the process of passing these bills and putting them into law we end up losing jobs, we've not only destroyed what is so great about Connecticut and has been great about Connecticut in the past, we also take away the opportunity for individuals to become gainfully employed, to find an identity in life to, yes, make some money for their family and enjoy life to it's fullest benefit. So I do rise, Mr. President, in favor of this amendment.

Thank you.

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Thank you, Senator.

Do you care to remark further?

Senator Daily.

SENATOR DAILY:

Thank you very much, Mr. President.

When this amendment is voted on, I request a roll call vote.

THE CHAIR:

The lady has requested a roll call vote. When the vote is taken, it will be taken by roll.

Will you remark further on the amendment? Will you remark further? If not, the Chair would ask the Clerk to announce that a roll call vote is in progress in the Senate.

THE CLERK:

An immediate roll call vote has been ordered in the Senate. Will all Senators please return to the chamber. An immediate roll call vote has been ordered in the Senate. Will all Senators please return to the chamber.

THE CHAIR:

The machine is open. Will all Senators please check the roll call board to make certain that your vote has been properly recorded?

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If all Senators have voted, the machine will be locked, and the Clerk may announce the tally.

THE CLERK:

The question is on adoption of LCO Number 3618:

The Total Number voting	34
Those voting Yea	13
Those voting Nay	21
Absent and not voting	2

THE CHAIR:

Senate B is rejected.

Will you remark further on the bill as amended?

Senator Roraback. ...

SENATOR RORABACK:

Thank you, Mr. President.

As Senator Fasano said, all -- all of the signals from the Governor's Office are that she will veto this bill, and I would respectfully suggest that all of us as -- as a Chamber and the people of the State of Connecticut would be much better served if we were to pass something that would earn the Governor's support. And to that end, Mr. President, the Clerk has an amendment, which is LCO Number 4792. If the Clerk could please call the amendment, and if I might be permitted to summarize.

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THE CHAIR:

Would the Clerk please call LCO 4792, to be designated Senate C.

THE CLERK:

LCO 4792, which has been designated Senate Amendment Schedule C; it is offered by Senator Roraback of the 30th District, et al.

THE CHAIR:

Senator Roraback, would you move adoption?

SENATOR RORABACK:

I will. Thank you, Mr. President, I move adoption.

THE CHAIR:

The gentleman has also requested leave to summarize. Is there objection? Seeing none, you may proceed, Senator Roraback.

SENATOR RORABACK:

Thank you, Mr. President.

This amendment does a simple thing. It doesn't require any elaborate explanation. There's no razzle dazzle. It's something that each of us could go home and tell the people of our respective districts we have done for them. It repeals the Business Entity Tax.

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Mr. President, the underlying bill repeals the Business Entity Tax, maybe, if, perhaps, under certain conditions. And what I fear will happen is if the underlying bill were to become law, I don't think anyone would call us to say thank you for repealing the Business Entity Tax insofar as it applies to me. Instead I think our phones would ring from the guy who said I thought you had repealed the Business Entity Tax, I just got a bill, what's wrong?

Mr. President, we witnessed that phenomenon when we voted last week to reduce hunting license fees and fishing license fees. Not one person called me to say thanks for reducing my fishing license fee, but I got about 12 calls from people who said jeez, I just bought my license a week before you reduced the fees. What are you going to do for me now?

So, Mr. President, rather than slicing it thinly and saying you -- you're relieved from the Business Entity Tax if this and if that, and eight months and 50,000, this bill simply eliminates a tax which I think has been a priority for every caucus in this General Assembly at one time or another. And I would hope, Mr. President, that we could just this once do something that signals to entrepreneurs, small

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business people, we actually are listening and we care and we want to help.

So I move passage of the amendment and ask when the vote is taken that it be taken by roll.

Thank you, Mr. President.

THE CHAIR:

Thank you, Senator.

The question before the Chamber is the adoption of Senate Amendment Schedule B. Senator Roraback has requested a roll call vote -- I'm sorry -- adoption of Senate Amendment C is the question that's before the Chamber. Senator Roraback has requested a roll call vote, therefore, when the vote is taken, it will be taken by roll.

Would you care to remark further on the amendment?

Senator Daily.

SENATOR DAILY:

Thank you, very much, Mr. President.

And through you, Mr. President, I rise in opposition of this amendment and urge my colleagues to vote against it. As I stated earlier, we have been looking at a way to relieve this tax for those of whom it is a burden. But we cannot at this time afford the

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\$21 million in reduction to our debt service that this would call for. So while we work with this bill and while we struggle to relieve the Business Entity Tax, especially on the lowest wage earners, this is not the way to do it.

Thank you very much.

THE CHAIR:

Thank you, Senator.

Do you care to remark further? Do you care to remark further? If not, the Chair will ask the Clerk to announce that a roll call vote is in progress in the Senate, and the machine will be opened.

THE CLERK:

Immediate roll call vote has been ordered in the Senate. Will all Senators please return to the chamber. The Senate is now voting by roll call. Will all Senators please return to the chamber.

THE CHAIR:

Would all Senators please check the board to make certain that your vote is properly recorded? If all Senators have voted, the machine will be locked, and the Clerk may take a tally.

THE CLERK:

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Schedule C:

Total Number voting	35
Those voting Yea	12
Those voting Nay	23
Those absent and not voting	1

THE CHAIR:

Senate C is rejected.

Will you remark further on the bill as amended?

Will you remark further on the bill as amended?

Senator Fasano.

SENATOR FASANO:

Thank you, Mr. President.

Mr. President, I would like to pull up what I believe to be the last amendment with respect to this bill, which is LCO 4793.

THE CHAIR:

Mr. Clerk, would you please call LCO 4793, to be designated Senate D.

THE CLERK:

LCO 4793, which has been designated Senate Amendment Schedule D; it is offered by Senator Fasano of the 34th District.

THE CHAIR:

Senator Fasano.

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SENATOR FASANO:

Mr. President, I would move the amendment and request permission to summarize.

THE CHAIR:

The question is the adoption of Senate D. Senator Fasano has requested permission to summarize the amendment. Is there objection? Seeing none, please proceed, Senator Fasano.

SENATOR FASANO:

Thank you, Mr. President.

Mr. President, with respect to the TARP tax, you -- there's going to be some arguments that -- I'm sure we're going to hear that there is a certain amount of responsibility that these companies and these officials owe to, not only the State of Connecticut but to this nation and that, when it is believed that they abrogated those responsibilities such that we have a financial crisis that we saw, that is the rationale, that is the foundation, that is the basis for this tax on TARP. In other words, their inability to fiscally be responsible in their job resulted in an economic hardship which means we're going to charge them this tax.

Mr. President, let me tell you what this

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amendment does. This amendment uses that same policy theory; it applies it to this very Legislature. It says that if this Legislature does not by July 30th -- sorry -- by July 1st, have a budget in place, in accordance with our rules, on the 1st of July of each year, for the following year, a balanced budget, we will pay an additional tax based upon the difference between our base pay and what we get for our various commissions. So if you're a leader, you're going to get additional tax. If you're head of a committee, you're going to get additional tax, because if we don't balance a budget by July 1st, we have caused economic hardship to municipalities. They can't fix their budgets. They can't get in line. We have disorder, and we have done this on a number of occasions.

Well, if we believe people have fiscal responsibility, and put your money where your mouth is, well then we should too. We have an obligation by statute to the state which we breach every year without consequences. This, ladies and gentlemen, is a consequence. This lady and gentleman says if we're going to tell other people be fiscally responsible to people, it should start at home. This is nominal.

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When you look at the OFA note, it could result in a potential revenue gain of \$40,000. I would suggest we can count on that on most years, but, Mr. President, we should put this in and put us under the same obligations that we're asking and for the same reasons and the same policy arguments that we're asking the bill that this attaches to for TARP.

Thank you, Mr. President.

THE CHAIR:

Thank you, Senator.

Do you care to remark further?

Senator Boucher.

SENATOR BOUCHER:

Thank you, Mr. President.

Mr. President, I rise to support this amendment. Some may think that it probably doesn't have a good chance of passing, and our -- may speak to the fact that they may not feel that it's connected as it should be, but I would say that, in fact, it has a lot of relevance to the issue we're discussing today. I would venture to say that most of us have received a lot of e-mails and have heard a lot of reports about the general public being very angry about Washington, DC Legislators putting in legislation that does not

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apply to them and in fact, have proposed many suggestions and ideas that would require that any bill that is passed by Congress should apply to every Member of Congress and their staffs. And I -- quite frankly, that's become a very popular proposal throughout my district, for sure, and I've heard it mentioned throughout Connecticut as well.

This would apply the very same principles, that if we're going to punish those who have not only not been involved in certain malfeasance and, in fact, those that have borrowed money, many times money that they didn't wish to borrow in the first place but did it to help the government and help the underlying financial institutions and shore up our financial systems at a time of need, and then they get penalized as a result of not only doing that but also paying it all back with interest, I might add, and then we're going to target them further, then this -- this amendment makes a lot of sense. It really does. I think it's a -- it's a bill that would resonate very well with the general public. I think it would be very popular out there in our districts. So for that reason, I would definitely support this amendment.

Thank you, Mr. President.

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THE CHAIR:

Thank you, Senator.

Senator Daily.

SENATOR DAILY:

Thank you very much, Mr. President.

I rise to say I think this is just really a very, very good idea. And I think it's one we should consider fully when we address the whole issue of our compensation. So since we're not prepared to do that now, I stand in opposition to the amendment.

THE CHAIR:

Thank you, Senator.

Do you care to remark further on Senate D? Do you care to remark further?

Senator Fasano.

A VOICE:

(Inaudible.)

THE CHAIR:

Are there any further remarks to be made on Senate D? If not, the good Senator has requested a roll call vote on this amendment, therefore the Chair will ask the Clerk to announce that a roll call vote is in progress in the Senate, and the machine will be open. Senators may cast their vote.

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THE CLERK:

Immediate roll call has been ordered in the
Senate. Will all Senators please return to the
chamber. Immediate roll call has been ordered in the
Senate. Will all Senators please return to the
chamber.

THE CHAIR:

Members, please check the board to see if your
vote is properly recorded. If all members have voted,
the machine will be clocked -- will be closed. And
the Clerk may take a tally.

THE CLERK:

The Motion is on adoption of Senate Amendment
Schedule D:

Total Number Voting	35
Those voting Yea	12
Those voting Nay	23
Those absent and not voting	1

THE CHAIR:

Senate D is rejected.

Will you remark further on the bill as amended?

Senator McKinney.

SENATOR MCKINNEY:

Thank you, Mr. President.

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If I could, a few questions to the proponent of the bill before us.

THE CHAIR:

You may proceed with your question.

SENATOR MCKINNEY:

Thank you.

Mr. President, through you to Senator Daily, as I understand it, the cost to the elimination of the Business Entity Tax in this bill is approximately \$12 million. It is not determined what the estimate is for the TARP tax. I know that the Finance Committee passed a proposal for taxes on bonuses in excess of \$1 million, which was deemed to raise somewhere between, I believe, two-and-a-half and \$4.8 million.

It would seem unlikely that lowering the threshold to \$500,000 would more than double the amount. Therefore, I guess my question is through you, Mr. President, how, in given the fact that we still have a multi-hundred million dollar budget deficit for 2011, how are we going to make up for the lost revenue in this bill? Through you, Mr. President.

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Senator Daily.

SENATOR DAILY:

Thank you, very much, Mr. President.

It is certainly anticipated that lowering the threshold to \$500,000 will raise the amount that's needed. When you get below the million and it's the 500, as we have seen on our own Income Tax schedule, the number of taxpayers increases greatly.

THE CHAIR:

Senator McKinney.

SENATOR MCKINNEY:

Well then, through you, Mr. President, and I -- I obviously I understand that the good Senator is not the Office of Fiscal Analysis, although she works closely with them as do -- do we all, but in particular in her position as Chairwoman of the Finance Committee. If OFA was able to determine that there were roughly 100 individuals receiving the \$1 million bonus, how is it not possible for them to make an estimate at how many individuals would seek over 500,000 -- \$500,000?

It seems -- it seems intriguing that the estimate put forward in the Finance Committee fell way below what those in press releases had estimated we would

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gain, that the estimate from OFA given to the Finance Committee fell way below that needed to pay for the Business Entity Tax. And now we have a proposal before us and OFA says well, we just can't determine. Is there -- was OFA or did OFA give the Finance Committee and the Finance Committee Chairwoman a reason as to why they could determine who made over a million dollars, who couldn't -- they couldn't determine how many people made over 500,000, given Senator Daily's own answer that, well, we know there are a lot of people who make over 500,000? Through you, Mr. President.

THE CHAIR:

Senator Daily.

SENATOR DAILY:

Thank you very much, Mr. President.

And through you, Mr. President, I can't answer that specifically for OFA, but I can tell you that at the time they completed that estimate on the first draft, there wasn't the crush of business that there is today. And so I presume that with that added burden, they can't go into it, into the -- in the detail that we would like, you would like, I would like, all -- and they would like.

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SENATOR MCKINNEY:

Thank you, Senator Daily.

THE CHAIR:

Senator McKinney.

SENATOR MCKINNEY:

And, Mr. President, let me just -- before I ask other questions, let me just on that point. When this bill was in the Finance Committee with the tax on bonuses of a million dollars or more, the Office of Fiscal Analysis told us that fewer than 100 employees would receive that bonus and that they estimated that this tax would raise between 2.8 and 4.7 million dollars, well below the \$12 million to pay for the Business Entity Tax. It is, I think, in almost a certainty that we will not raise \$12 million, given OFA's own analysis done when they had lots of time and there was no crush of business, that we will not raise \$12 million. Therefore, we are on the precipice of passing a piece of legislation which will further increase our budget deficit.

Less than one week ago, we were informed by the majority party that we could not pass a budget piecemeal, that we could not deal with one branch of government, that we could not pass legislation to

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approve of nine new judges because we could not, in this economy, with a large deficit, pass a budget piecemeal. And here we are today, passing a bill which increases our budget deficit. Talk about political theater, facing the largest budget deficits in our history we're passing a bill that increases that budget deficit.

Mr. President, if I could, I have a series of other questions regarding who this would apply to, and specifically in Section 2 on the definition of TARP bonus, which is Lines 32 through 41. Specifically, Mr. President, I would bring Senator Daily's attention to the last phrase of that section, in Lines 40 and 41, which refers to a -- which says that TARP bonuses may include arrangements for future payments.

Through me -- through you, Mr. President, could Senator Daily please explain what arrangements for future payments are?

THE CHAIR:

Senator Daily.

SENATOR DAILY:

Thank you, very much, Mr. President.

And through you, Mr. President, I think that it's the plain language of arrangements for future

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payments, and I don't think it's uncommon in certain circles to say you have earned this money, and this money will be paid out next year or the year after.

SENATOR MCKINNEY:

Thank -- thank you, Mr. President.

THE CHAIR:

Senator McKinney.

SENATOR MCKINNEY:

So therefore if I could give Senator Daily I think what is a real-world example, were an individual to work for a financial institution that received a TARP bonus, that individual were to receive a three-year contract with a bonus schedule in each of the three years, said bonuses to be in excess of \$500,000. Is it my understanding that the bonuses in each of those three years would be taxable and taxable all in the initial tax year? Through you, Mr. President.

THE CHAIR:

Senator Daily.

SENATOR DAILY:

Thank you, very much, Mr. President.

And through you, Mr. President, they would be taxed when realized. They would be the receipts for

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2010 and 2011, when those monies were actually realized.

THE CHAIR:

Senator McKinney.

SENATOR MCKINNEY:

Thank you.

So then, through you, Mr. President, if someone had a ten-year contract with a bonus that would be paid in 2020, the tax on that bonus would not be payable until the 2020 tax year? Through you, Mr. President.

THE CHAIR:

Senator Daily.

SENATOR DAILY:

Through you, Mr. President, yes, sir, you're correct.

SENATOR MCKINNEY:

Thank you.

THE CHAIR:

Senator McKinney.

SENATOR MCKINNEY:

Thank you, very much, and I appreciate the gentle lady's response to that question. I'm not sure the language reads that way, but I think we've certainly

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clarified what legislative intent would be.

Mr. President, well, let me -- let me ask another question, through you, Mr. President. If someone were to be working in another state for a financial institution that received TARP bonus and that individual who received a bonus in excess of \$500,000 were to leave their job, move to Connecticut to work for another financial institution that did not receive TARP bonus, be in Connecticut long enough to establish residency and have to file taxes here, would that bonus they received as an employee for another company in another state be taxable in Connecticut? Through you, Mr. President.

THE CHAIR:

Senator Daily.

SENATOR DAILY:

Let me reconstruct that, Mr. President, through you, if I may. A person in the first year, for instance, earns money in New York in a firm that received a TARP bonus. What he receives in any kind of bonus is not our concern; he earned it in New York. He doesn't have any taxable presence until he moves to Connecticut, and then he's here, working for a firm that did not receive TARP money. So, no, he wouldn't

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be involved in this or shouldn't.

THE CHAIR:

Senator McKinney.

SENATOR MCKINNEY:

And -- and, through you, Mr. President, in -- in the -- in the other direction, if, for example, a Connecticut company that received TARP money were to recruit an individual who was with a financial firm that did not receive TARP bonus, received a bonus with that firm, would that individual's bonus be subject to this tax? Through you, Mr. President.

-- THE CHAIR:

Senator Daily.

SENATOR DAILY:

Thank you, very much, Mr. President.

And through you, Mr. President, if I may, if they received that money in the years that we have laid out in this legislation, 2010, 2011, as a Connecticut employee, yes, they would be subject to that bonus --

THE CHAIR:

Senator McKinney.

SENATOR DAILY:

-- that surplus.

SENATOR MCKINNEY:

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So -- I -- I really would like to clarify this then. So if someone works for bank A, that does not receive and did not receive TARP funds, they received a \$1 million bonus from bank A, they then quit bank A, and went to work for bank B who did receive TARP bonus, their million-dollar bonus from their employment with bank A is then taxable under this TARP tax, through you, Mr. President?

THE CHAIR:

Senator Daily.

SENATOR DAILY:

Thank you, very much, Mr. President.

That's not at all what I was saying. The money earned when you're not with a TARP company certainly is not part of this legislation. A bonus that's paid in either of these two years in employment with a firm that received TARP money, yes, that is subject to the surcharge.

THE CHAIR:

Senator McKinney.

SENATOR MCKINNEY:

Would -- so then, Mr. President, let me ask a different question. If someone were to receive a million-dollar salary and a million-dollar bonus

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working for a bank that received TARP funds, how would our Department of Revenue Services know to tax only \$1 million of \$2 million of taxable income? Through you, Mr. President.

THE CHAIR:

Senator Daily.

SENATOR DAILY:

Thank you, very much, Mr. President.

If they don't know, have anything in their forms for bonus, I think they're going to have to put that. But that's something that's yet to be worked out.

SENATOR MCKINNEY:

Thank you --

THE CHAIR:

Senator McKinney.

SENATOR MCKINNEY:

Thank you, Mr. President.

And as I understand the tax returns, there actually is a line for wages and income, and a separate line for bonuses. But in my previous hypothetical, you received a bonus which you would put down on your bonus line. Your employment would show your employment with a TARP company, but the money wasn't paid by the TARP company. So I don't know.

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I -- I raised that to say that I don't think there's any way DRS is going to be able to handle this, because people in the financial industry change jobs, move all the time.

So I -- I want to thank Senator Daily for -- for answering those questions, and I appreciate that.

Now, Mr. President, we are -- we are -- we have been told and we, I'm sure, will be told in the summation of this bill that tremendous greed on Wall Street has caused pain, to use Senator LeBeau's term, for people on Main Street all across America. And that's true. And that is true. There's no doubt about it that our regulators in the federal government were not watching what was going on, and weren't paying attention.

As Senator Fasano remarked earlier, the whole financial collapse started with Fannie Mae and Freddie Mac, and for years, for years, our Members of Congress kept a blind eye to what was happening down in Washington. Even when challenged -- even when challenged about the irresponsible financial policies of Fannie and Freddie, our members of Congress, Chairmen of the Banking Committee, like Barney Frank, said we don't have a problem. Things are okay.

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Chuck Schumer, there's no problem; you're attacking Fannie Mae and Freddie Mac because Franklin Raines was a member of a minority group. And then a year later, a collapse. And where was Chuck Schumer and Barney Frank? Blaming President Bush.

You know what? Every member of Congress, every single one of them, deserves blame for not watching what was going on. When President Obama was elected he said he was going to clean up Wall Street, he was going to pass regulatory reform, and we've been waiting for it. It was so important, we haven't done it yet.

But let's remember where these bonuses came from, because it's interesting that the people grandstanding on the bill don't want to grandstand on this issue. Senator Chris Dodd put a TARP bill in there and he said we're going to stop the bonuses. And you know what? Secretary Geitner, at the direction of President Obama, said no, you can't do that. Take it out. And then Chris Dodd got thrown under the bus by his own President, got blamed for the whole thing.

He wanted to stop the bonuses and the President and the Secretary said no you can't do it, in part because guess what? These were contractual

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obligations that Congress couldn't interfere with.

Wow; that's what happened. That's what happened. And then every member of Congress who voted for TARP, voted to let these bonuses happen. So should we be outraged? Yes. Where should we direct our outrage? At people who are living under contracts or the Members of Congress who let it happen?

Wait a minute; those Members of Congress are Democrats. We can't attack them, so let's attack the people that got the bonuses. That's what we're going to be told in a couple of minutes, when this bill is summed up. That's what we're going to be told. Where were our members of Congress? One of them, by the way, is the largest recipient of Goldman Sachs money in Congress. Well, that's something we should be proud of in Connecticut.

Goldman Sachs has got a great reputation now. How many people have they hurt on Main Street? So we're going to grandstand about how some people who got bonuses -- by the way, here's somebody else we're going to tax. We're going to tax the guy who was hired after the collapse, the person hired by AIG, and another bank, and another bank, brought in to protect and safeguard the federal loans.

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The federal government put people in at AIG and asked the guy running AIG, hey, what happened? They will tell you some of the new people they hired have saved taxpayers billions of dollars, and you know what we say in thank you to that individual? We're going to tax you more; thanks for coming in.

This bill also taxes people who got bonuses if you're a subsidiary of a company that got TARP. AIG runs an insurance business. That insurance business is still pretty good, had nothing to do with the financial collapse. Many people in that business work on a bonus system, but we're going to tax them too. Why? Because we want to stand up here and engage in political grandstanding and sound like we're for Main Street, against Wall Street.

The good Chairman from the Commerce Committee talked about how this is about fairness. Just the other day, he brought out a bill that said we need to give tax incentives, tax breaks to bring businesses into Connecticut. Why? Because business people are smart enough to understand they want to move where the tax structure is positive. But those same business people, we're told, aren't smart enough to leave a state where they're punished by the tax system.

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You've got to be kidding me. You decrease taxes, it brings them in. You increase taxes, they don't leave? The last time I checked, the hedge fund industry, the financial services industry was one of the single, if not the largest contributor to our revenue stream in Connecticut. They don't need a factory. They don't need a plant. They need a computer and a Internet connection, and they're in business. And they can be anywhere they want in our country or in our world, they've chosen Connecticut. They are hard-working people, and our deficits would be historic if they weren't here. The way we thank them is to kick them.

Now, it's one thing to be outraged; it's another thing to be stupid about it, because what we're doing is we're saying we're going to tax people here when no other state is going to do it.

New York is waving their hands, come on in. Come on in. New Jersey, they've got a bigger deficit than we -- they do. And they -- they'd welcome our financial services companies too.

There's a reason why law firms in Connecticut have opened branches in Florida. The law firm I once worked for, which had no connection in Florida,

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started in Stamford Connecticut over 100 years ago, has the largest law firm in Naples, Florida. Why? They do trust and estates' work for Connecticut citizens who moved down to Florida for better tax climates. These are extremely wealthy people; they don't need me to defend them. And some of the bonuses people got are disgusting. Real people can't understand somebody getting a check for 20 or \$30 million. It's grotesque.

But they had contractual obligations that were fulfilled. Congress said go ahead and do it, and now we're going to punish just the people in Connecticut, to make a political point, because this bill's not going to become law. So there you go. Good thing we limited the debate to two hours because it's only a two-hour waste of time rather than a five or six-hour waste of time.

But we need to be smarter about our tax policy, and you don't kill the goose that laid the golden egg. And the reality is in Connecticut the financial service industry is the goose laying those golden eggs. And you may not like it, and you may think the bonuses are gross -- and I agree -- but people had contracts, they earned them, and guess what? When we

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want to punish them, New Jersey, New York, Delaware, Florida, they're sitting there with open arms.

If we acknowledge that companies need tax breaks to come into the state, we must also acknowledge that increasing taxes on those individuals will chase them out of state. And actually, sorry, that's not a political argument; it's a fact, because we've lost population, as Senator Boucher said.

We used to have six Members of Congress; we now have five, not because we're growing but because we're losing population. And it is our tax policy and our regulatory scheme and the fact that this Legislature wants to punish people who've done well because they've worked hard, just because we can. Well guess what? These people say, thank you, I don't need to live here; I'll go somewhere else.

Mr. President, this is a bad bill, and we should vote against it.

THE CHAIR:

Will you remark further?

Senator Looney.

SENATOR LOONEY:

Thank you, Mr. President.

Mr. President, speaking in support of the bill, I

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believe this is a very good bill and we should vote for it. And there are, I think, a number of significant reasons. First of all, it recognizes that the surcharge on the tax, in this -- on the TARP bonuses is directed at a category of individuals who were employed by entities who in many cases acted recklessly during the financial crisis and therefore were, in effect, bailed out by the taxpayers with those TARP bonuses. So it is entirely equitable that we provide some relief for small businesses from the Business Entity Tax in Connecticut paid by struggling small businesses by modestly adding a surcharge on the tax of the -- those who've received windfall bonuses:

Now, the reality is that this tax is set at a level of 8.97 percent, about two-and-a-half percent above the other rate they -- they would normally pay. And the reason for that is that we would not be exceeding the maximum tax rate set in New York State. This is not accidental; this is, in effect, a provision to establish parity.

And that, I think, is important as well. Connecticut is not establishing a tax policy by enacting this provision that would be in any way punitive or would make us an outlier in terms of

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financial attractiveness to -- to financial firms operating at the levels of those taxed under this bill.

I think it's important to recognize that this is a way of bringing attention to those businesses who need help in Connecticut, and that is those small businesses who are creating the bulk of jobs in our state.

We are a very different state than we were a couple of decades ago when we were very heavily dependent upon a number of large employers. We know that Pratt & Whitney and -- and other divisions of United Technology employed far more people in Connecticut than they do now. We had Marlin. We had large employment at Winchester's, at US Repeating Arms. Many of those firms we know are no longer there or operating at reduced levels, so we do not have the employment base that we once had in terms of large manufacturers employing large numbers of people.

What we do have are many, small entrepreneurial businesses that employ 10, 15, 20, 30, 50 people. And that is the -- the sector that is growing, that has shift that has gone on for a number of years that a good part of our business development policy has not

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really recognized up until now, but we will be working on providing it incentives and assistance for, both in this bill and in other job related bills, that will come. That will come later.

The Business Entity Tax, we know, is -- is one that can be seen as burdensome for a small struggling business operating on a small margin, and this provision would provide some relief where it is most needed and also would be a sign of recognition that we value those businesses. We recognize that they are the segment of our economy that we need to depend on increasingly as we move forward.

And I would want to, at this point, commend all of those who've worked so hard on this, certainly beginning with our President Pro Tempore. Senator Williams, I think, helped shape this bill, recognizing the equity here, recognizing that it is important both as a way of -- of redirecting some revenue and some tax relief, but also acknowledging that there is one segment of our -- of our business universe that is small businesses that need assistance in a way that we can provide by redirecting some revenue by taxing those who work for employers who may in some ways have acted irresponsibly and been bailed out for it by the

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federal government.

In this difficult economy, we have to find ways of providing relief that do, in fact, pay for themselves. And that's exactly what's being done in this bill. It's important, it's -- it's a sign of keeping faith with small businesses in Connecticut, which is going to have to increasingly be our theme going forward. And I think that Senator Williams has -- has really been a -- a pathfinder in this and has highlighted the way to what has to be the way in which we approach business incentives and job development in the future.

Thank you, Mr. President.

THE CHAIR:

Thank you, Senator.

Senator Williams.

SENATOR WILLIAMS:

Thank you, Mr. President.

I rise to support the bill, to thank Senator Daily for her able description and detailed answers to the questions on the bill. Also to Senator Looney, thank you for your comments you made just now.

And to my friends on the Republican side of the aisle, those who have criticized the bill tonight, I

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would remind them what the bill does. This is a fairly simple and straightforward bill that would eliminate the business entity fee for approximately a third of all of the businesses that now pay it, somewhere between 50 and 60,000 small businesses throughout the state.

And we're not rewarding the shell corporations, the limited liability corporations that maybe someone set up; it's not a real business. We're talking about the real mom-and-pop, small businesses, folks struggling to get off the ground, to make it in a tough time. That's what we're doing here. We are providing the relief where it's needed.

Now it's true; we're not providing the relief to multi-national corporations and the largest of companies for which this relief of \$250 would be meaningless. We're providing the relief, again, to the small businesses that need it the most in these tough times, in this tough economy.

Let me also remind folks that this is a temporary step. We all anticipate over the next two years, the economy beginning to improve. So the way that we pay for this, with this surcharge on bonuses for individuals who work for the financial firms that were

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bailed out by the taxpayers; that also is a temporary surcharge for the next two years, not permanent, again, to provide that relief when it is needed in these tough times.

Now, some of the remarks of my Republican friends and colleagues talking about whether this bill is unconstitutional and tramples on the rights of these folks and is going to discourage them from being in Connecticut and drive them away, I might sympathize with those remarks if this bill were something else entirely. If, for example, it proposed, as some other proposals that we've seen in Washington and elsewhere have proposed, that it was a 90 percent surcharge or -- or a hundred percent surcharge on the bonuses, where you just come in and you -- you take all of it or you take the vast majority of it. Then I think there might be some validity to all of the passion in opposition to this.

But this is not a 90 percent surcharge, and that was a real proposal in Washington, DC. It's not a 50 percent surcharge, another proposal by Congress. This is a 3 percent or actually a two-and-a-half-to-3 percent surcharge. That's it, temporary. For folks who say this -- that's still, well, two-and-a-half;

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that's still more than nothing, it's -- and therefore it's terrible, and it's going to drive people out of state.

As Senator Daily reminded folks, if they want to go to the financial capital, New York State, in New York State folks will still be paying more under the New York State tax scheme than they would in Connecticut with our Income Tax and this two-and-a-half percent surcharge. They will be paying more in New York, so they're not going to leave Connecticut to go to New York and pay more. That's New York State. Now, if they go to New York City, they'll pay considerably more than in Connecticut, so let's keep that in mind. It's not a 90 percent surcharge, no. It's not a 50 percent surcharge, no. It's a two-and-a-half percent surcharge, temporary, and for the purpose of helping small businesses.

Again, some of my Republican colleagues were talking as if this were punishment. No, this is not punishment. Passing judgment? No, we're -- you know, some of the discussion, a lot of it revolved around what happened on Wall Street, who is to blame.

We're not going to figure out who's to blame in the circle here tonight. That's not our purpose. Our

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purpose is to help small business, the folks on Main Street who are still struggling, the men and women in Connecticut who are going to make a difference by staying in business and creating the jobs of the future. In Connecticut, 97 percent of all the jobs are provided by the small businesses, not the large corporations.

So let's be clear. This is not a punishment. This is not passing judgment. This is all about helping 50 to 60,000 small businesses in Connecticut that are struggling in these tough times and doing it in a very straightforward, sensible and logical way, asking a mere two-and-a-half percent surcharge on a temporary basis to help our economy get back on its feet.

Mr. President, that's the bill. Simple, straightforward, and directed to help small businessmen and women across this state; therefore, I support this bill and urge my colleagues to do the same.

Thank you, Mr. President.

THE CHAIR:

Thank you, Senator Williams.

Will you remark further? Will you remark

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further? If not, Mr. Clerk, please announce that a roll call vote is in progress in the Senate.

THE CLERK:

Immediate roll call has been ordered in the Senate. Will all Senators please return to the chamber? An immediate roll call has been ordered in the Senate. Will all Senators please return to the chamber.

THE CHAIR:

The machine is open. Senators, please check the board to make sure that your vote is properly recorded. If all Senators have voted, the machine will be locked, and the Clerk may take a tally.

THE CLERK:

Motion is on passage of Senate Bill 1:

Total Number voting	35
Those voting Yea	21
Those voting Nay	14
Those absent and not voting	1

THE CHAIR:

The bill as amended is passed.

Senator Looney.

SENATOR LOONEY:

Thank you, Mr. President.

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Mr. President, I believe the Clerk is in possession of Senate Agendas 2, 3, and 4.

THE CHAIR:

Mr. Clerk.

THE CLERK:

Mr. President, the Clerk is in possession of Senate Agendas Numbered 2, 3, and 4, dated Friday, April 30, 2010. Copies have been distributed.

THE CHAIR:

Senator Looney.

SENATOR LOONEY:

Yes, thank you, Mr. President.

Mr. President, I move all items on Senate Agendas Numbers 2, 3, and 4, dated Friday, April 30, 2010, to be acted upon as indicated that the agendas be incorporated by reference into the Senate Journal --

THE CHAIR:

One second, Senator Looney.

Would the Senate please be in order. Would the Senate please come to order.

Senator Looney, you have the floor.

SENATOR LOONEY:

Thank you, Mr. President.

Mr. President, I move all items on Senate Agendas

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Numbers 2, 3, and 4, dated Friday, April 30, 2010, to be acted upon as indicated and that the agendas be incorporated by reference into the Senate Journal and the Senate Transcript.

THE CHAIR:

Without objection, so ordered.

SENATOR LOONEY:

Yes, thank you, Mr. President.

Mr. President, we have two additional items to mark at this time. First is on Calendar page 14, Calendar 470, House Bill 5408, AN ACT CONCERNING PROBATE COURT OPERATIONS, and secondly, an item on Calendar page 7, Calendar 343, Senate Bill 476.

And also, Mr. President, I believe at this point we should have a vote on the -- on the consent calendar, which I -- I think may consist of only one bill. But it's certainly an important bill and we call for a vote on it at this time.

THE CHAIR:

Clerk, please call the consent calendar.

THE CLERK:

Immediate roll call has been ordered in the Senate on the consent calendar. Will all Senators please return to the chamber. Immediate roll call has

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been ordered in the Senate on the consent calendar.
Will all Senators please return to the chamber.

Mr. President, there is one item on today's
Consent Calendar Number 1; it's Calendar page 10,
Calendar Number 432, substitute for Senate Bill 25.

Mr. President, that is the only matter on the
consent calendar.

THE CHAIR:

The machine will be opened.

THE CLERK:

The Senate is now voting by roll call on the
consent calendar. Will all Senators please return to
the chamber. The Senate is now voting by roll on the
Consent Calendar. Will all Senators please return to
the chamber.

THE CHAIR:

Senators, please check the board to make certain
that your vote is properly recorded. If all Senators
have voted, the machine will be locked, and the Clerk
may take a tally.

THE CLERK:

Motion is on adoption of Consent Calendar Number
1:

Total Number voting 35

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Those voting Yea	35
Those voting Nay	0
Those absent and not voting	1

THE CHAIR:

Consent Calendar 1 is passed.

Senator Looney.

SENATOR LOONEY:

Thank you, Mr. President.

Mr. President, if the Clerk would call Calendar page 14, Calendar 470, House Bill 5408.

THE CHAIR:

Mr. Clerk.

THE CLERK:

Calendar page 14, Calendar Number 470, File Number 496, substitute for House Bill 5408, AN ACT CONCERNING PROBATE COURT OPERATIONS, favorable report of the Committee on Judiciary.

THE CHAIR:

Senator McDonald.

SENATOR McDONALD:

Thank you, Mr. President.

Mr. President, I move acceptance of the Joint Committee's favorable report and passage of the bill in concurrence with the House.

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THE CHAIR:

On acceptance and passage and concurrence, will you remark further?

SENATOR McDONALD:

Yeah, I -- yes, Mr. President.

Mr. President, just briefly, this bill is a -- as it indicates, a bill that deals with the operations of the Probate Courts and, in particular, addresses some of the issues that are an outgrowth of the landmark -- landmark reform that we passed last year.

Among other things, Mr. President, this legislation ensures that Probate Court judges who in -- who serve as childrens' court administrative judges or judges on three-judge panels would not receive any additional compensation past the highest rate that was paid -- that was available for Probate Court judges.

Additionally, Mr. President, it makes certain changes with respect to a -- deductions for judges' retirement and -- retirement fund contributions, makes changes and makes it clear that judges who maintain their court while serving as the Probate Court administrator don't receive any additional income from the court from which that individual was elected. It eliminates certain requirements relating to filing of

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several types of financial reports that are no longer necessary as a result of central financing operations of the -- of the Probate Court administrator, and it eliminates certain work-in-process provisions for judges who are in office by virtue of an election in January of 2011.

Thank you, Mr. President.

THE CHAIR:

Thank you, sir.

Senator Kissel.

SENATOR KISSEL:

Thank you very much, Mr. President, and you look fabulous up there.

THE CHAIR:

Thank you, sir.

SENATOR KISSEL:

Good evening.

I stand in strong support of this bill and urge my colleagues in the Senate to also vote in favor of it.

It's my understanding that this bill was voted out of the Judiciary Committee unanimously, and as Senator McDonald indicates, it clarifies that judges do not get extra compensation for acting as children

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court administrative judges or for membership on three-judge panels or as special assignment judge or probate administrator, and it conforms our laws to centralized accounting and pay statutes.

Again, one of the most far-reaching reforms in Connecticut government was the Probate Court reform that went through last year, and there's any number of bills that are moving through the Chambers this year to try to make sure that all the details are attended to and that everything moves smoothly going forward, and again, rise in support of this particular bill.

Thank you, Mr. President.

THE CHAIR:

Thank you, Senator.

Will you remark further? Do you care to remark further?

If not, Senator McDonald.

SENATOR McDONALD:

Mr. President, might the Chamber stand at ease for one moment?

THE CHAIR:

The Chamber may stand at ease.

(Chamber at ease.)

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THE CHAIR:

The Senate will be in order.

Senator McDonald.

SENATOR McDONALD:

Thank you, Mr. President.

Mr. President, if there's no objection, might
this item be placed on the consent calendar?

THE CHAIR:

Without objection, so ordered.

Senator Looney.

SENATOR LOONEY:

Yes, thank you, Mr. President.

Mr. President, the next item, I believe, is
Calendar page 7, Calendar 343, Senate Bill 426.

THE CHAIR:

Mr. Clerk.

THE CLERK:

Calendar page 7, Calendar Number 343, File
Number 518, substitute for Senate Bill 426, AN ACT
CONCERNING THE CONNECTICUT UNIFORM ADULT PROTECTIVE
PROCEEDINGS JURISDICTION ACT, favorable report of the
Committee on Judiciary.

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Senator McDonald.

SENATOR McDONALD:

Thank you, Mr. President.

Mr. President, I move acceptance of the Joint Committee's favorable report and passage of the bill.

THE CHAIR:

On acceptance and passage, do you care to remark further?

SENATOR McDONALD:

Thank you, Mr. President.

Mr. President, I believe the Clerk might be in possession of an amendment, and if he is, if he would be kind enough to be -- to call the amendment.

THE CLERK:

Mr. President, the Clerk is in possession of LCO 4830; it is offered by Senator McDonald, the 27th District, Senator Guglielmo of the 35th District, designated Senate Amendment Schedule A.

THE CHAIR:

Senator McDonald.

SENATOR McDONALD:

Thank you, Mr. President.

Mr. President, I move adoption of the amendment.

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The question before the Chamber is the adoption of Senate Amendment Schedule A, LCO 4380.

SENATOR McDONALD:

Thank you, Mr. President.

Mr. President, the -- I want to say with respect to this amendment, the amendment would make certain changes with respect to the Probate Court districts in the State of Connecticut and in particular would address an item that had been brought to my attention by Senator Guglielmo. I want to thank him for his work on this issue.

I do need to just mention that we have just launched a new effort at Probate Court districting in the State of Connecticut and though that has not yet taken place because of the -- the election won't be until later this year, Senator Guglielmo has identified a rather discreet problem that needs to be addressed, in my opinion at least. And I say that because I'm cautious about changing the Probate Court designations in the state until we have had an opportunity to see how this new system works. But in my opinion, at least, Mr. President, Senator Guglielmo made a very convincing case why the Town of Union should be assigned to a different probate district.

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And so, Mr. President, it is my pleasure to support this amendment.

THE CHAIR:

Thank you, Senator McDonald.

Will you remark further?

Senator Guglielmo.

SENATOR GUGLIELMO:

Yes, thank you, Mr. President.

I just wanted to thank Senator McDonald for his courtesy in this matter. And as he said, the Town of Union was inadvertently changed from the probate district that it's been in since 1754. The Town of Union is the smallest town in my district and indeed the smallest town in the State of Connecticut; 694 people are affected by this.

And just as a way of explaining, Union does not have its own bank. It does not have its own Post Office. It's in the same Zip Code as Stafford. They use the same telephone exchange that we do in Stafford. Their youngsters go to Stafford High School. They play in all the youth sports teams in Stafford, from when they're little -- little guys and gals, and they have just a, really a community of interest with Stafford.

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I think it was an inadvertent change, and I do want to thank the good Senator for -- for listening and -- and helping me move forward with this. Thank you.

Thank you, Mr. President.

THE CHAIR:

Thank you, Senator.

Will you remark further? Senate A is before the Chamber. Will you remark further on Senate A? If not, Chair will try your minds on the amendment. All those in favor of Senate Amendment Schedule A, please indicate by saying aye.

SENATORS: --

Aye.

THE CHAIR:

All those opposed, say nay.

The ayes have it.

Senate A is adopted.

Will you remark further on the bill as amended?

Senator McDonald.

SENATOR McDONALD:

Thank you, Mr. President.

Mr. President, that was a strike-all amendment, so the amendment becomes the bill. And if there's no

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further discussion or debate, might this item be placed on a consent calendar?

THE CHAIR:

Without objection, so ordered.

Senator Looney.

SENATOR LOONEY:

Yes, thank you, Mr. President.

Mr. President, if the -- the Clerk would call the second consent calendar.

THE CHAIR:

Would the Clerk please announce that a roll call vote is being ordered on a consent calendar.

THE CLERK:

Immediate roll call has been ordered on the second consent calendar. Will all Senators please return to the chamber. Immediate roll call has been ordered in the Senate on the second consent calendar. Will all Senators please return to the chamber.

Mr. President, those items placed on the second consent calendar begin on Calendar page 7, Calendar Number 343, substitute for Senate Bill 426, and Calendar page 14, Calendar 470, substitute for House Bill 5408.

Mr. President, that completes the items placed on

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the second consent calendar.

THE CHAIR:

The machine is open.

THE CLERK:

The Senate is now voting by roll call on the consent calendar. Will all Senators please return to the chamber. Immediate roll call has been ordered in the Senate on the second consent calendar. Will all Senators please return to the chamber.

THE CHAIR:

Senators, kindly check the board to make certain that your vote is properly recorded. If all Senators have voted, machine will be locked, and the Clerk may announce the tally.

THE CLERK:

Motion is on adoption of Consent Calendar

Number 2:

Total Number voting	34
Those voting Aye	34
Those voting Nay	0
Those absent and not voting	2

THE CHAIR:

Consent Calendar Number 2 is passed.

THE CHAIR:

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Senator Looney.

SENATOR LOONEY:

Thank you, Mr. President.

Mr. President, I would yield to any members who seek recognition for points of personal privilege or announcements.

THE CHAIR:

Thank you, Senator.

Are there any points of personal privilege or announcements? Any points of personal privilege or announcements?

Senator McKinney.

SENATOR MCKINNEY:

I'm sorry, Mr. President, I rise for the purpose of a Journal notation.

THE CHAIR:

Please proceed, sir.

SENATOR MCKINNEY:

Thank you.

Mr. President, I would like the Journal to note that Senator Fasano missed the last two votes and was out of chamber for his wife's birthday.

Thank you, Mr. President.

THE CHAIR:

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Oh, the Journal will so note.

Any further announcements or points or personal
privilege?

Senator Looney.

SENATOR LOONEY:

Yes, thank you, Mr. President.

Also for Journal notation.

THE CHAIR:

Yes, sir.

SENATOR LOONEY:

Thank -- Mr. President, Senator Slossberg was
absent today due to a family period of -- of mourning.

THE CHAIR:

Journal will so note.

SENATOR LOONEY:

Thank you, Mr. President.

Mr. President, would also move for suspension for
immediate transmittal to the House of Representatives
of any item acted upon today in our Senate session
that requires additional action by the House of
Representatives.

THE CHAIR:

Is there objection?

Without objection, so ordered.

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SENATOR LOONEY:

Thank you --

THE CHAIR:

Senator Looney.

SENATOR LOONEY:

-- Mr. President.

Mr. President, yes, that concludes our -- our business for this evening, Mr. President. It's our intention to begin the day tomorrow with a -- a Democratic Caucus at 11 a.m. to be followed immediately by a session.

So with that, Mr. President, I would move the Senate stand adjourned, subject to the call of the Chair.

THE CHAIR:

Motion is for the Senate to stand adjourned, subject to the call of the Chair.

Is there objection? Is there objection? Seeing none, so ordered. The Senate stands adjourned, subject to the call of the Chair.

On motion of Senator Looney, of the 11th, the Senate, at 7:17 p.m., adjourned, subject to the call of the Chair.

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THE CONNECTICUT GENERAL ASSEMBLY

SENATE

May 1, 2010

The Senate was called to order at 2:44 p.m. The President in Chair.

REV. BERNARD AUGER:

Let us pray. Almighty and eternal God, you have revealed your glory to all nations. God of power and might, wisdom and justice, through your authority is rightly administered, laws are enacted and judgment is decreed. We pray for our constitutional officers, the members of this Senate and all others who are entrusted to guard our political welfare. May they be enabled by your powerful protection to discharge their duties their duties with honesty and ability. We ask this in your name. Amen.

THE CHAIR:

Thank you, Bernie. At this time I'd like to ask Mary Lou Sanders to lead us in the pledge.

MARY LOU SANDERS:

I pledge allegiance to the Flag of the United

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States of America and to the Republic for which it stands, one Nation, under God, indivisible, with liberty and justice for all.

THE CHAIR:

At this time, I will entertain points of personal privileges or announcements. Okay. Senator Looney.

SENATOR LOONEY:

Afternoon, Mr. President.

THE CHAIR:

Good afternoon, sir.

SENATOR LOONEY:

Yes, this afternoon, Mr. President, the clerk is in possession of Senate Agendas 1 and 2 for today's session.

THE CHAIR:

Mr. Clerk.

THE CLERK:

Mr. President, clerk is in possession of Senate agendas numbered 1 and 2, dated Saturday, May 1, 2010, copies have been distributed.

THE CHAIR:

Senator Looney.

SENATOR LOONEY:

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Yes, thank you, Mr. President. Mr. President, I move all items on Senate Agendas Numbers 1 and 2, dated Saturday, May 1st, 2010 to be acted upon as indicated and that the agendas be incorporated by reference into the Senate journal and the Senate transcript.

THE CHAIR:

There is a motion on the floor to move all items on Senate agenda numero uno and number two.

Without objection, so ordered, sir.

SENATOR LOONEY:

Thank you, Mr. President. And Mr. President, for calendar markings we'll begin with two items to mark at this time and we'll then announce others thereafter.

The first of those, Mr. President, is calendar page 38, Calendar 349, Senate Bill 272 as first order of the day and the second item, Mr. President, is calendar page 14, Calendar 471, House Bill 5339.

THE CHAIR:

Thank you, sir. Mr. Clerk.

THE CLERK:

Calling from Senate Calendar from Saturday, May

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1, 2010; matters returned from committee, calendar page 38, matter marked order of the day, Calendar number 349, File Number 524, Senate Bill 272, AN ACT CONCERNING DRUNK BOATING, Favorable Reports, Committees on Environment and Judiciary and Public Safety.

THE CHAIR:

Senator Meyer.

SENATOR MEYER:

Good afternoon, Mr. President. I move acceptance of the Joint Committee's Favorable Report and passage of this bill, please.

THE CHAIR:

Acting on approval and passage, sir, would you like to remark further?

SENATOR MEYER:

I would, briefly. Colleagues, about two years ago, Susan Brandes and her husband were on their boat on the Connecticut River when a drunken boat driver hit the Brandes' boat, killed Mrs. Brandes and took off a hand of Mr. Brandes as he drove in a very drunk fashion. The perpetrator was given a sobriety test two hours and ten minutes after the incident and that

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sobriety test was rejected by the Superior Court because the law in Connecticut is that no sobriety test will be admitted in evidence unless it's given within two hours of the incident in question.

The fact is the science supports the validity and authenticity of a sobriety test more than two hours. So what this simple bill does is permits the taking of a sobriety test more than two hours upon a showing that -- a scientific showing that the test has validity, scientific validity. So that is the bill in question and I urge your support.

We do have an amendment. And may I kindly ask the Clerk to call LCO 4189, which I will then refer.

THE CHAIR:

Mr. Clerk.

THE CLERK:

LCO 4189, which will be designated Senate Amendment Schedule A and is offered by Senator Stillman of the 20th District.

THE CHAIR:

Senator Meyer.

SENATOR MEYER:

Mr. President, I move this amendment and seek

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leave to refer to Senator Stillman -- yield to Senator Stillman.

THE CHAIR:

There's a motion on the amendment. Without objection, Senator Stillman, do you accept the yield, ma'am?

SENATOR STILLMAN:

Yes, I do, sir. I do accept the yield, thank you.

THE CHAIR:

Please proceed.

SENATOR STILLMAN:

If I may, the amendment's been called. I would like to summarize the amendment. What this amendment does is it permits certain passenger for hire licensees to continue operating recreational charter fishing guide vessels. There are a number of folks who've been sort of caught up in this -- a concern that's been raised by the DEP and the DEP does support this amendment, to give people who meet the parameters of this amendment two years to rectify the situation, and I urge its adoption. Thank you.

THE CHAIR:

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There's a motion -- I'm sorry. Will you remark further on Senate A? Remark further on Senate A. If not, let me try your minds.

All those in favor, please signify by saying aye.

SENATE:

Aye.

THE CHAIR:

Opposed, nay. The ayes have it. Senate A is adopted.

Will you remark further on the bill as amended by Senate A?

Senator Prague.

SENATOR PRAGUE:

Thank you, Mr. President. For many years of my political career, I have spent a great deal of energy fighting drunk drivers. Drunk boaters are just as dangerous on the water as drunk drivers on the road. I fully support this piece of legislation and I certainly hope the rest of the Chamber will support it. Drunk boating, drunk driving threatens lives and we certainly want people to be more responsible and concerned about what they could do to others. Thank you.

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THE CHAIR:

Thank you, Senator Prague.

Will you remark further on the bill as amended?

Senator Stillman.

SENATOR STILLMAN:

Thank you, sir, yes. On -- in support of the bill that is in front of us, the underlying bill. This bill came through the Public Safety and Security Committee as well. It was a horrific accident which occurred in Old Saybrook. And there are many more accidents out there that happen because people are out on the water drinking and believing that they're not endangering anyone. This bill goes a long way towards rectifying this situation and making sure that people are aware of what they're doing and not putting other people in danger. And with that I do support the bill. Thank you.

THE CHAIR:

Thank you, ma'am.

Will you remark further?

Senator Meyer.

SENATOR MEYER:

Thank you, Mr. President. Mr. President, I

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believe that this bill can go by consent and I so
move.

THE CHAIR:

Thank you, sir. Will you remark further on
Senate Bill 272 as amended by A?

SENATOR MEYER:

Mr. President, I believe I'm asking that this
bill go by consent, please.

THE CHAIR:

There is a motion on the floor to place this item
on consent. Seeing no objection, so ordered.

Mr. Clerk, will you please call the second order
of the day?

THE CLERK:

Calendar page 14, under Favorable Reports,
Calendar number 471, matter marked second order of the
day, File Number 560, substitute for House Bill 5339,
AN ACT CONCERNING NOTIFICATION OF PEACE OFFICERS WHO
HAVE BEEN ASSAULTED PRIOR TO THE COURT SENTENCING OR
ACCEPTING A PLEA AGREEMENT OF THE DEFENDANT, Favorably
Reported, the Committee of Public Safety and
Judiciary.

THE CHAIR:

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Senator Stillman.

SENATOR STILLMAN:

Thank you; Mr. President. I move the Joint Committee's favorable report in concurrence with the House.

THE CHAIR:

Acting on approval and acceptance, ma'am, would you like to remark further?

SENATOR STILLMAN:

Yes, I would. Thank you, sir. This bill that's before us was modified, so to speak, in the Judiciary committee, but still addresses a most important issue for our public safety personnel.

What this bill does is it requires the court to ask on the record whether a police officer was personally notified as the bill provides. Under the bill, before the court could impose a sentence and before accepting a plea, the appropriate officials must personally notify the peace officer of the date, time and place of the original sentencing hearing and any judicial proceedings concerning the acceptance of a plea.

Now, this notification can be done in a manner

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that is -- one that we feel will not be onerous to the Department and I urge its adoption.

THE CHAIR:

Thank you, ma'am.

Will you remark further on the bill?

Senator Roraback.

SENATOR RORABACK:

Thank you, Mr. President and good afternoon.

THE CHAIR:

Good afternoon, sir.

SENATOR RORABACK:

My computer was a little bit slow firing up so I didn't completely follow Senator Stillman's explanation of what this bill does. And so, through you, Mr. President, to Senator Stillman.

THE CHAIR:

Sure.

Senator Stillman?

SENATOR RORABACK:

Because I'm trying to glean from what I heard, Senator Stillman said this bill has to do with sentencing on occasions where the defendant or the criminal has -- part of what he's charged with is

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harming a police officer or a peace officer, Mr.

President, through you to Senator Stillman?

THE CHAIR:

Senator Stillman.

SENATOR STILLMAN:

Through you, Mr. President. That is correct. We want to make sure that our peace officers are notified appropriately so they can be aware of what's going on if they've been assaulted.

THE CHAIR:

Senator Roraback.

SENATOR RORABACK:

Through you, Mr. Chair. So I'm guessing that there must have been occasions when people that were accused of assaulting a peace officer were sentenced or copped a plea and the officer who was assaulted didn't even know that that was happening. And if that were me, I would be upset not to be in the loop if the person who hurt me was being sentenced or getting a plea. I'd be particularly upset if I were a peace officer. Through you, Mr. President, is that what happened? Is that why we're doing this bill?

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Senator Stillman.

SENATOR STILLMAN:

Thank you. Through you, sir. You are correct,
Senator Roraback.

THE CHAIR:

Senator Roraback.

SENATOR RORABACK:

Thank you, Mr. President. I thank Senator
Stillman for the answers. To me, I'm surprised that
our victim's rights amendments, our constitutional
victims right amendment wouldn't already make sure
that this happens, but obviously, our peace officers
go above and beyond the call of duty for us and it's
not unreasonable for us to go above and beyond the
call of duty for them. Thank you, Mr. President.

THE CHAIR:

Thank you, sir. Will you remark further on the
bill? Will you remark further on the bill?

Senator Stillman.

SENATOR STILLMAN:

Thank you. If there aren't any other questions,
I'd like to ask that this, as well, be placed on the
consent calendar.

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THE CHAIR:

There is a motion on the floor to place this item
on the consent. Seeing no objection, so ordered.

Senator Looney.

SENATOR LOONEY:

Thank you, Mr. President. Mr. President, on Senate Agenda Number 2, previously adopted, there was an introduction to the Senate Joint Resolution, Senate Joint Resolution Number 47. If the clerk would call and then read that resolution.

THE CHAIR:

Mr. Clerk.

THE CLERK:

Calling from Senate Agenda Number 2, Senate Joint Resolution Number 47, RESOLUTION EXPRESSING SYMPATHY ON THE DEATH OF WILLIAM B. STANLEY OF NORWICH, was introduced by Senator Williams of the 29th District, Senator Looney of the 11th District, Senator Prague of the 19th District, Senator Stillman of the 20th District, Senator Maynard of the 18th District, Senator McKinney of the 28th District, Senator Fasano of the 34th District, Senator Roraback of the 30th District, et al.

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THE CHAIR:

Thank you, sir.

THE CLERK:

The resolution expressing sympathy on the death of William B. Stanley of Norwich, resolved by this Assembly:

Whereas, Sunday, April 18th, 2010, is a day of sadness for the state of Connecticut when former state Senator, William B., "Billy", Stanley died;

And whereas, he represented the 19th District in the State Senate from 1967 to 1971;

Whereas, he bravely served his country in the United States Marine Corps during the Korean conflict and he was honorably discharge with the rank of staff sergeant;

Whereas, prior to his retirement he was a stockbroker for Smith Barney company;

And whereas, he was a historian and a member of the Norwich historical society;

Whereas, he authored Once Upon A Time, a weekly column in the Norwich bulletin;

Whereas, he was an active member of the Norwich community;

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Wwhereas, on February 19th, 2010, he was honored by the Republican Town Community of Norwich with a community service award;

Whereas, he received the Norwich Rotary Club Paul Harris Fellowship award for distinguished service in 2009;

Whereas, the Chamber of Commerce of Eastern Connecticut named him citizen of the year in 1991;

Whereas, he was honored by Pope John the VI for his contributions to the Roman Catholic church and the community;

Whereas, he is survived by his wife of 57 years, Margaret "Peg" Stanley, by three children, William A. Stanley, Carol "Gigi" Little, and Mary Stanley and by their families.

Now, therefore, be it resolved that the Connecticut General Assembly expresses its sincere sympathy and heartfelt condolences on the passing of William B. Stanley, whose death is a profound loss to the General Assembly, his family and friends, the town of Norwich and the state of Connecticut.

Be it further resolved that the Clerks of the Senate and the House of Representatives cause a copy

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of this resolution to be sent to the family of William B. Stanley as a an expression of the high esteem and affection in which he was held.

THE CHAIR:

Thank you, sir.

Will you remark?

Senator Prague.

SENATOR PRAGUE:

Thank you, Mr. President. Mr. President, some people make such a difference in the lives of other people. Some people affect the community in which they live so that the community changes forever.

Bill Stanley was one of those people. His loss is a huge loss to the city of Norwich, to the historical society, to the whole community. He was revered to the extent that he was the Citizen of the Year not too long ago. He will be dramatically missed. His historical stories about Norwich, the people who lived there many, many years ago, the historical meaning of Benedict Arnold, of the Huntington House. He put things together so that in his book, which he distributed to every elementary student -- elementary school student in Norwich

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contains such valuable information. He was an unusual man. I was proud to call him a friend and thousands of people not only in Norwich, but around this state will miss him. Thank you, Mr. President.

THE CHAIR:

Thank you, Senator Prague. Senator Stillman.

SENATOR STILLMAN:

Thank you, Mr. President. I, too, rise to recognize the passing of Bill Stanley. He not only was "Mr. Norwich," he was really southeastern Connecticut's historian as well. And the fact that he was a lifelong Democrat and was still recognized by the Republican Democratic Town Committee in Norwich certainly says to people how well he was respected and revered by the community.

He wrote articles for the newspaper that people looked forward to every time they were published. He was an author, but he was a true face of southeastern Connecticut, but especially his beloved city of Norwich. He is truly missed. He will be through the years not only by the communities that he loved, but especially by his family that we also express sympathy to.

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It's hard to believe that he is no longer part of Norwich and southeastern Connecticut's community as time goes by, but he certainly has left a remarkable legacy and one that we will remember for years to come.

Thank you, sir.

THE CHAIR:

Thank you, ma'am. Senator LeBeau.

SENATOR LEBEAU:

Thank you, Mr. President. Bill Stanley was a great historian and a person who helped many. As a Senator here who was a great person with his constituents. I learned more about Norwich history from Bill Stanley than from anyone else that ever lived.

And I had an occasion to learn that because my wife is from Norwich. And she was Joann Sullivan LeBeau, and he was great to the Sullivan family, was great to the counselors there, the people who were involved in government, to his church, to all the civic institutions that were there. He was just a great man.

This is a tremendous loss. We can't live

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forever, but Bill Stanley is one of the people who's going to live for a long time in our memories because he was such a terrific human being. And one that, you know, he just rose above the normal course of life and I think it was an honor to have him in this Senate.

Thank you, Mr. President.

THE CHAIR:

Thank you, sir.

Will you remark further? If not, everyone please rise for a moment of silence.

Thank you.

We return to the call of the calendar. Senator Looney.

SENATOR LOONEY:

Mr. President.

THE CHAIR:

Yes, sir.

SENATOR LOONEY:

Yes, Mr. President, we'd move for immediate transmittal of Senate Joint Resolution Number 47 to the House of Representatives.

THE CHAIR:

Without objection.

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SENATOR LOONEY:

Mr. President, returning to calendar markings, Mr. President, we have seven items to mark at this time. The first of which, calendar page 7, Calendar 348, Senate Bill 250 is marked go.

Calendar page 23, Calendar 77, Senate Bill 262 is marked go.

Calendar page 28, Calendar 189, Senate Bill 248 is marked go.

Calendar page 31, Calendar 219, Senate Bill 402 is marked go.

Calendar page 35, Calendar 278, Senate Bill 400 is marked go.

Each of those five bills is from the Committee on Public Health, and I have two additional bills to mark go, Mr. President, bills from the General Law Committee. And the first of those is calendar page 23, Calendar 63, Senate Bill 185 and then calendar page 26, Calendar 141, Senate Bill 188. Both of those items are bills from the General Law committee.

And, Mr. President, one item to remove from the foot of the calendar and to mark PR, removing from the foot of the calendar, Mr. President, on calendar page

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44 on the foot of the calendar, Calendar 157, Senate Bill 121, we'd move to remove that item from the foot and mark it PR.

THE CHAIR:

Motion on the floor to remove from the foot.

Without objection, so ordered.

SENATOR LOONEY:

Thank you, Mr. President.

THE CHAIR:

Mr. Clerk.

THE CLERK:

Turning to calendar page 7, Calendar number 348, File 516, Senate Bill 250, AN ACT CONCERNING ANATOMICAL GIFTS, Favorable Reported, Committee on Public Health and Judiciary.

THE CHAIR:

Senator Harris.

SENATOR HARRIS:

Thank you, Mr. President. Good to see you on a Saturday.

THE CHAIR:

Good to see you, too, sir.

SENATOR HARRIS:

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Thank you, Mr. President. I move acceptance of the Joint Committee's Favorable Report and passage of the bill.

THE CHAIR:

Moving on acceptance and passage, sir. Would you like to remark further?

SENATOR HARRIS:

I will, sir, thank you.

Mr. President, this is a bill that actually passed the House last year and then the last day of the session we weren't able to get it called. It is very simple, it is bringing our anatomical gifts law into the 21st century, adopting a uniform act that is applied in most states.

Mr. President, the Clerk is in possession of LCO number 4847. I ask that it be called and be granted permission to summarize.

THE CHAIR:

Mr. Clerk.

THE CLERK:

LCO 4847 should be designated Senate Amendment, Schedule A. It is offered by Senator Harris of the 5th District, et al.

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THE CHAIR:

Senator Harris.

SENATOR HARRIS:

Thank you, Mr. President. Mr. President, this amendment

THE CHAIR:

Excuse me --

SENATOR HARRIS:

I'm so eager today.

THE CHAIR:

I understand. I'm eager to get out of here also.

SENATOR HARRIS:

Thank you, Mr. President. Mr. President, our office of fiscal analysis identified a potential fiscal note on this bill because it seemed to require the Department of Motor Vehicles to change their practice and provide information on a 24/7 basis. This clarifies that that change should not occur so there is no fiscal impact with this bill. I urge adoption.

THE CHAIR:

Thank you, sir. Will you remark? Will you remark further on Senate A? Will you remark further

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on Senate A?

If not, I will try your minds.

All those in favor please signify by saying aye.

SENATORS:

Aye.

THE CHAIR:

Opposed, nay.

The ayes have it. The amendment's adopted.

Senator Harris.

SENATOR HARRIS:

Thank you, Mr. President. If there's no objection, I'd ask that this matter be placed on the consent calendar.

THE CHAIR:

Any further remarks on Senate Bill 250 as amended by Senate A? There's a motion on the floor to place this item on consent. Seeing no objection, so ordered.

Mr. Clerk.

THE CLERK:

Calendar page 23, Calendar number 77, File Number 76, Senate Bill 262, AN ACT CONCERNING COLLABORATIVE DRUG THERAPY MANAGEMENT AGREEMENTS, Favorably

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Reported, Committee on Public Health and General Law.

THE CHAIR:

Senator Harris.

SENATOR HARRIS:

Thank you, Mr. President. I move acceptance of the Joint Committee's Favorable Report and passage of the bill.

THE CHAIR:

Acting on acceptance and approval of the bill, sir, would you like to remark further?

SENATOR HARRIS:

Thank you, Mr. President, I would.. Mr. President, this is a very interesting part of our changing health care environment. Under current law, pharmacists in the hospital context and in the nursing home context are allowed to enter into written protocols to manage patient's drug, collaborative drug therapy management, it's called. And what this bill does is it says that we're going to -- and it's also limited to certain conditions. What this bill does is say we're going to allow this collaborative drug therapy in any medical setting, in any health care setting and not tie it to specific conditions.

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Mr. President, the Clerk is in possession of an amendment, LCO number 4720. I ask that it be called and be granted permission to summarize.

THE CHAIR:

Mr. Clerk.

THE CLERK:

LCO 4720, which will be designated Senate Amendment Schedule A as offered by Senator Harris of the 5th district, et al.

THE CHAIR:

Senator Harris.

SENATOR HARRIS:

Thank you, Mr. President. This amendment really tightens up the bill --

THE CHAIR:

Excuse me, Senator, I'd ask you to move adoption.

SENATOR HARRIS:

Move adoption.

THE CHAIR:

Please proceed, sir.

SENATOR HARRIS:

Mr. President, I've been here for six years now and I was always good at moving adoption. I don't

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know what it is on my last few days.

THE CHAIR:

That's quite all right.

SENATOR HARRIS:

I apologize.

THE CHAIR:

Hopefully, you'll do a much better job downstairs. There you go.

SENATOR HARRIS:

Thank you, Mr. President. I appreciate that.
You, too.

THE CHAIR:

Thank you.

SENATOR HARRIS:

Mr. President, this bill, this amendment, actually, codifies an agreement reached so that we have everybody on board now. There are doctors, hospitals and pharmacists on board and I urge adoption of the amendment.

THE CHAIR:

Will you remark, remark further on Senate A?
Will you remark further on Senate A?

If not, let me try your minds.

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All those in favor, please signify by saying aye.

SENATORS:

Aye.

THE CHAIR:

Opposed, nay.

The ayes have it.

Senate "A" is adopted, Senator Harris.

Would anyone like to speak on the bill as amended?

Senator Fasano.

SENATOR FASANO:

Thank you, Mr. President. Mr. President, through you to Senator Harris. Senator Harris, this bill allows the physician and the pharmacist to enter into written collaborative drug therapy. How does the insurance provider, health care provider play into this relationship, if at all? Through you, Mr. President.

THE CHAIR:

Senator Harris.

SENATOR HARRIS:

Through you, Mr. President. Not directly, just as a payer they would pay for the services, the

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prescription drugs that were actually used under the plan, under the therapy management.

THE CHAIR: . . .

Senator Fasano.

SENATOR FASANO:

Thank you, Mr. President. And then in that regard should a physician and a pharmacist get together with respect to a plan for a patient and that plan required certain drugs for which coverage was not available. Let's say it was a name brand drug because the -- for whatever reason the generic drug was inapplicable, would -- who would be incumbent upon pressing with the medical carrier, the insurance medical carrier for the name brand drug to be used in that particular case? Through you, Mr. President.

THE CHAIR:

Senator Harris.

SENATOR HARRIS:

Through you, Mr. President. That would be handled the same way it is now, I would believe. Someone would have to advocate as you said, and I would imagine would be part of the agreement as to who would be going to bat. There are times pharmacists do

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that under current law, there are times physicians do
that under current law, so either/or or both.

THE CHAIR:

Senator Fasano.

SENATOR FASANO: Thank you, Mr. President. And then,
Mr. President, with respect to the ability -- and I
don't know if there is a catch-all law that we have on
our books, but with respect to a physician being able
to talk to a pharmacist, there's that HIPAA and
certain obligations and oaths that doctors have not to
discuss the treatment with other people or discuss
diseases of a particular patient with other people.
In this case, I gather this type of relationship would
be exempt from those, both federal and state law
prohibitions. Would that be an accurate statement?
Through you, Mr. President.

THE CHAIR:

Senator Harris.

SENATOR HARRIS:

Through you, Mr. President. It would be my
understanding that all of those other restrictions
would still be in place.

THE CHAIR:

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Senator Fasano.

SENATOR FASANO:

And then -- thank you, Mr. President. I gather the way it works now is that if you're sick and you have a cold or flu, the physician would meet with the patient, write the prescription, send it to the pharmacist, the pharmacist fills that prescription. In this I would gather -- maybe I'm in error, but I would gather that the written collaborative drug therapy management agreement with respect to the pharmacist would have to be some sort of give and take and understanding between the pharmacist and the physician as to what the goal of the treatment was by the doctor, what the ultimate -- well, first, what the ailment is, what the ultimate goal of the treatment is to reach, maybe levels for which each treatment would go. And it seems to me to get into that type of agreement such that the pharmacist is a partner to the deal of this patient. There'd have to be exchange of sensitive medical information in order to achieve that goal. And I just want to be sure that this doesn't run afoul of the federal or state law with respect to these oath practices that we have on physicians.

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Through you, Mr. President.

THE CHAIR:

Senator Harris.

SENATOR HARRIS:

Through you, Mr. President. It wouldn't, as I explained at the beginning. These types of collaborative drug therapy management agreements are already being used in the nursing home context and the hospital context. I am not aware, there was no testimony of any problems of any violations there.

And I would turn the good Senator's attention to lines 56 through 68 of the bill, which spells out some of the items that need to be included in a written protocol, including the specific drugs or drugs to be managed by the pharmacist, the terms and conditions under which drug therapy may be implemented, modified or discontinued, the conditions and events upon which the pharmacist is required to notify the physician. So these are fairly detailed agreements that give leverage, latitude to the pharmacist to monitor and manage the drug therapy, but it's not a wholesale turning over of the physician's role. And this is an agreement, this bill, between the pharmacist and the

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doctors. Through you, Mr. President.

THE CHAIR:

Senator Fasano.

SENATOR FASANO:

Thank you, Mr. President. Am I to understand that currently, this practice is sort of being done as a part of patient management today? And this is codifying that relationship or am I to be misunderstood?

THE CHAIR:

Senator Harris.

SENATOR HARRIS:

Through you, Mr. President. Under current law, it's allowed in the nursing home context between the pharmacist and the doctor and allowed in a hospital context. And it's also limited to certain conditions. This would say we're going to take that same type of practice of establishing a written protocol for the management and apply it throughout all health care settings and not just tie it to specific conditions. So it's an expansion of a current practice. Through you, Mr. President.

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Senator Fasano.

SENATOR FASANO:

And this new language under this bill adds that expansion as opposed to codifying existing, is that a fair statement? Through you, Mr. President.

THE CHAIR:

Senator Harris.

SENATOR HARRIS:

It's both, I mean, this practice is in existence, but it is expanding it to additional settings. And again, taking away some of the limits that now it's tied to under current law certain conditions, asthma and some other conditions.

THE CHAIR:

Senator Fasano.

SENATOR FASANO:

Thank you, Mr. President. I guess, I'm still in just a tad of a difficulty. Understand -- I understand the hospital setting because that's a team work effort on those files. In other words, that file for that patient belongs to that hospital. If you are an employee or licensed to be in that hospital, you probably have a right to look at patient records if

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you're treating that patient. So the drugs that are used on the floor of that hospital or in that institution would be property belonging, if you would, to the employees in that hospital, more particularly those associated with those patients. And I would gather that's probably the same at nursing homes. But if I was a private physician and I was treating a patient, would this enable me to get on the phone with the local pharmacist who -- at CVS, for example, and say, "Local pharmacist, this is what I'm doing with this patient. Here's the management treatment I'm looking at." Is that what we're talking about or we're talking about a much larger setting? Through you, Mr. President.

THE CHAIR:

Senator Harris.

SENATOR HARRIS:

Through you, Mr. President. If I understand Senator Fasano's question, it will allow physicians -- I'll just tell you what it does and maybe that will clarify.

Physicians in any health care setting to be able to enter these written protocols, which as I said,

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have specific limits to what is required to be within there, what can or cannot be done and to allow the agreement to be done not just in the nursing home setting and not just in the hospital setting so -- through you, Mr. President.

THE CHAIR:

Senator Fasano.

SENATOR FASANO:

Thank you, Mr. President and I thank Senator Harris for his answers.

One of the concerns I do have, and I don't know the answer to the question is I believe that in a hospital setting, in a nursing home setting, once again, as I said, that information is shared. If I'm a nurse and I am told to take care of patient A, I think I'm entitled to look at that file, being employed by that hospital, understand the patient's need, consult with the doctor, come up with a regiment plan that helps that patient out. And I also think that makes sense from a nursing home's perspective. And I don't think you're violating any particular doctor-patient or HIPAA rules because it is a collaborative institution where that patient is. And

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therefore, the information is accessible to all.

However, where you have a doctor who works in New Haven and a CVS in Bethany, allowing a collaborative agreement between the doctor and the pharmacist in Bethany would mean -- I gather in order to achieve those particular items, an understanding by the pharmacist of patient A, an understanding on the pharmacist, the ailments of patient A and what the regimen is to treat patient A. And although I agree with the principle, I think it's a good idea on a number of reasons, the drawback to it is I don't know how it violates HIPAA or attorney -- client-doctor relationship. So I think it's a great idea. I think maybe we may have to do something that's later on and I don't know exactly what but I like the practice.

And the other issue and then I'll sit down, I know Senator Harris wants to remark to what I said, but the other issue -- I wish there was a way that we could yank in the insurance companies to be a part of this so that when there's a regimen worked out with the patient, the pharmacist, the insurance companies are a necessary part of it so that we insure that that patient receives the medical services, that the doctor

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and the pharmacist believe are important to this patient to get him or her into good health. And I thank Senator Harris for bringing this bill. Thank you, Mr. President.

THE CHAIR:

Thank you, sir. Will you remark further on the bill? Senator Roraback.

SENATOR RORABACK:

Thank you, Mr. President. Through you, if I may, a couple of questions to Senator Harris.

THE CHAIR:

Senator Harris.

SENATOR RORABACK:

Thank you, Mr. President. I'm not on the Public Health committee so I need a bit of a primer or a primer on collaborative drug therapy management agreements, Mr. President. Through you, reading the bill, I'm just kind of drawing from my common sense. If an individual has asthma and they have a doctor and they have a pharmacist, what will a collaborative drug therapy management agreement enable the doctor and the pharmacist to do? Through you, Mr. President.

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Senator Harris.

SENATOR RORABACK:

What will passage of this bill enable them to do that they wouldn't otherwise be able to do today?

Through you, Mr. President to Senator Harris.

THE CHAIR:

Senator Harris.

SENATOR HARRIS:

Through you, Mr. President. Passage of this bill will do a couple things. First, there's a baseline. Your example, you didn't give it in the context of a hospital or a nursing home setting. So one, unless it was in that setting there could not be, under current law, a collaborative drug therapy agreement. That's one thing.

Secondly, again, within the specifications under current law -- and as you can see where I directed everyone before to lines 56 through 68, it would set down a series of conditions, parameters and instructions by which and within which the pharmacist would be able to manage that person's treatment of asthma. Perhaps switching from one drug, one type of inhaler to another type of inhaler. I don't know a

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lot about asthma myself, but perhaps the frequency of use or potency of the particular inhaler. But with what you're saying, Senator Roraback, and also kind of addressing Senator Fasano's situation, what he was raising, he raised some very good points, but I think was making it more complicated than it actually is. The bill is pretty clear on the fact that it specifies what has to be in these agreements and how they will be managed by both sides, the physician and the pharmacist. And again, this is something, this bill is an agreement between the physicians and the pharmacists so the people that really know how this works believe that this is workable and again, in my understanding, not a violation of HIPAA or any other federal or state law.

THE CHAIR:

Senator Roraback.

SENATOR RORABACK:

Thank you, Mr. President. I appreciate Senator Harris' answers. What I'm trying to get at, just kind of broadly speaking, it's not a criticism of this change, but just better to understand the change. At some level, could you characterize what we're doing as

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a delegation by the physician of his prescriptive authority to the pharmacist? Maybe under current law a pharmacy can't prescribe, but this would give the pharmacist the limited ability to prescribe provided it's done pursuant to one of these collaborative drug therapy management agreements? Through you, Mr. President to Senator Harris.

THE CHAIR:

Senator Harris.

SENATOR HARRIS:

Through you, Mr. President. I think that might be a way to describe it, Senator Roraback. It might be similar to what we do as a legislative body, where under our constitution we're given the power to make laws, but we're also allowed to peel off pieces of that power within certain parameters, as you and I know as members of the regulations review committee and entrust some of the details and the daily oversight of that law to the executive branch through the rule making process, the regulations. Maybe that's a way that you can look at it.

THE CHAIR:

Senator Roraback.

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SENATOR RORABACK: Thank you, Mr. President. And kind of speaking in the vernacular, I'm just kind of wondering who promotes this bill? It might well be the physicians would just as soon not spend their day answering the phone about whether they should change this dose or that dose or this drug or that drug. They'd be just as happy to spend their time dealing with more acute issues and this bill, passage of this bill will allow the delegation of kind of non-life threatening, minor variations in drug therapy to be handled by a pharmacist with whom the physician has an agreement. I can see this amendment says that docs can't enter into these agreements without knowing who the patient is, right? I mean, that's certainly a good thing because you don't want someone to show up at the pharmacy and the pharmacist to start practicing medicine under the auspices of one of these agreements when the physician has never even met the patient. Through you, Mr. President to Senator Harris, am I getting warmer in terms of understanding where this amendment came from?

THE CHAIR:

Senator Harris.

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SENATOR HARRIS:

Through you, Mr. President, you're getting much warmer. And again, this is -- this amendment, this bill is a collaboration as will these agreements be. And I think it's really recognizing the change that we've seen in our health care over the past few decades where we rely more on drug therapy to address illness and even in wellness and prevention settings. And who are the actual experts when it comes to drug therapies? Who knows about the huge number of drugs out there, brand name and generic, how they interact with one another? It's the pharmacist. And this is trying to readjust our health care patterns or at least allow the readjustment of our health care patterns to take advantage of that expertise so that pharmacists can do what they do best, doctors can do what they do best and most importantly, patients can receive the care that is right and that also saves our health care system dollars.

THE CHAIR:

Senator Roraback.

SENATOR RORABACK:

Thank you, Mr. President. Looking at the

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language of the amendment in particular, it says that there has to be a physician-patient relationship which is defined as a relationship based on the patient making a medical complaint, right, "something's wrong with me," to the patient providing a medical history so that presumably the patient has to give the doc some background on how they got to where they are.

And then three, since the patient is receiving a physical examination. And my question, through you, Mr. President, to Senator Harris, I'm guessing that the physical examination has to be conducted by the physician, right? A physician-patient relationships, we're not going to be delegating to the pharmacist the ability to take a patient history or to conduct a physical examination on behalf of a physician through this amendment, are we, Mr. President, through you to Senator Harris?

THE CHAIR:

Senator Harris.

SENATOR HARRIS:

Through you, Mr. President, no, we are not.

THE CHAIR:

Senator Roraback.

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SENATOR RORABACK:

Thank you, Mr. President. It is -- just a couple more questions to Senator Harris. I'm guessing that there were a lot of interested constituencies in terms of developing this bill and it took some time to bring together all those interests and achieve consensus as to the best way to fashion this advance in medical -- in collaborative drug therapy management agreements. And through you, Mr. President, to Senator Harris, does Senator Harris feel comfortable that the physician community, the pharmacist community, the public health community, the insurance community, that -- virtually all of those interest groups see this as the right way to go and have signed off on this bill? Through you, Mr. President, to Senator Harris.

THE CHAIR:

Senator Harris.

SENATOR HARRIS:

Through you, Mr. President. Yes, and not only that, but you'll see that on the LCO 4720, the amendment, it is a bipartisan amendment of the leadership of the Public Health Committee. We are comfortable.

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THE CHAIR:

Senator Roraback.

SENATOR RORABACK: That would be the very capable leadership on both sides of the aisle of the Public Health Committee.

One last question, if I may, Mr. President, through you to Senator Harris, I was wondering whether this passage of this bill would put Connecticut in the vanguard in terms of forward thinking around these issues or whether we're slow to the table in terms of how other states are addressing the relationship between physicians, pharmacists and patients? Through you, Mr. President to Senator Harris.

THE CHAIR:

Senator Harris.

SENATOR HARRIS:

Through you, Mr. President. On positive things I always like to think we are in the vanguard.

THE CHAIR:

Senator Roraback.

SENATOR RORABACK:

Thank you, Mr. President. I appreciate it. Again, I used to have the pleasure of serving on the

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Public Health Committee. I no longer am as -- because I don't now serve on the committee, I've fallen a little bit behind on some of the issue and I'm very grateful for the work that Senator Harris has put into this bill and for the time that the chamber has given me to have him answer my questions. And I look forward to supporting the bill as amended. Thank you, Mr. President.

THE CHAIR:

Thank you, sir. Will you remark further on Senate Bill 262 as amended by Senate A? Will you remark further on Senate Bill 262 as amended by A?

Senator Harris.

SENATOR HARRIS:

Thank you, Mr. President. I guess I would just conclude by saying, thanking Senator Roraback and Senator Fasano for their questions. They were very good and helpful, I think, for everyone to understand and one other point that's very important. One of the constituencies that really wanted this bill, not just pharmacists, but pharmacy students, pharmacists that are in school now learning. Because this is another piece of the future of pharmacy and by doing this -- I

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know we boil everything down to jobs nowadays, but the truth is it makes Connecticut a much more attractive place for these graduates to stay and practice their art in their pharmacies and the science, too, I might add.

If there's no objection, Mr. President, I'd ask that the matter be placed on consent.

THE CHAIR:

There is a motion on the floor to place this item on consent. Senator Kane, you're raising your hand, sir. Would you like permission to speak?

SENATOR KANE:

The only thing, Mr. President, and obviously, I can't speak for another member, but there was a member who voted against it in committee, so I don't know -- and that member is not in the chamber right now, I don't know if that makes a difference at all, but -

THE CHAIR:

There's a motion on the floor to place this item on consent. Is there objection? Seeing none, the item is placed on consent.

Mr. Clerk.

THE CLERK:

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Calendar page 28, Calendar Number 189, File
Number 246, substitute for Senate Bill 248, AN ACT
CONCERNING ADVERSE EVENTS AT HOSPITALS AND OUT PATIENT
SURGICAL FACILITIES, Favorably Reported, Committee on
Public Health and Judiciary.

THE CHAIR:

Senator Harris.

SENATOR HARRIS:

Thank you, Mr. President. I move acceptance of
the Joint Committee's Favorable Report and passage of
the bill.

THE CHAIR:

Acting on acceptance and approval, sir, will you
remark further?

SENATOR HARRIS:

Thank you, Mr. President. Mr. President, this
bill actually modifies a practice that we have here in
the state and have had since the early part of this
decade. And that is the reporting of so called
adverse events. When things occur at hospitals that
should not occur, the classic one that everyone has
heard of is leaving, say, a glove, inside somebody
during an operation. There are falls that sometimes

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occur in hospitals that should not occur. There are various infections that occur in hospitals that should not occur. Those are the types of events known as adverse events that we need information about. One, so that the hospitals can do what they can internally to prevent them from occurring in the future, and, two, so that consumers, our health care consumers can understand which hospitals are doing it appropriately, which, maybe, are doing it less appropriately.

Mr. President, one of the issues that came up in the wake of some recent incidents at hospitals, one in particular, is the fact that under the current law, these adverse events are only reported in the aggregate, by raw numbers. But we thought it would be helpful for the consumer to be able to have information that identifies specific hospitals so that it could be better used to make health care decisions by our citizens.

And that's what this bill seeks to do. Mr. President, the Clerk is in possession of an amendment, 4794. I ask that it be called and I be granted permission to summarize.

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Mr. Clerk.

THE CLERK:

SECO 4794, which will be designated Senate

Amendment Schedule A. It's offered by Senator Harris
of the 5th District, et al.

THE CHAIR:

Senator Harris.

SENATOR HARRIS:

Thank you, Mr. President. I move adoption.

THE CHAIR:

Please proceed, sir.

SENATOR HARRIS:

Thank you, Mr. President. Mr. President, where I just left off in describing this bill, we talked about consumers being able to use this information. And one of the things that we're trying to work on here is a balance. A balance so that we get information out that is actually useful, not information that causes undue fear. A balance so that we require hospitals to produce information and investigate so that they can improve internally and keep people safer, but not have a draconian reporting system that actually does the opposite, that gives incentive to hide and not

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disclose information.

One of the pieces, important pieces, which is in this amendment -- and this is also an agreement that has been put together by a lot of discussions -- Public Health Committee, legislators on both sides of the aisle, in the House and in the Senate, the Hospital Association, patient's advocates, trial lawyers -- so everybody has come to an agreement on this. One of the important parts is that there be some contextual information with respect to the particular adverse event. And, Mr. President, this amendment accomplishes that.

I'll give an example of contextual information so people can understand it. A fall. There's a difference in falls and we'll take one where you have a young, healthy person that, say, just had their arm mended and they're staying overnight at the hospital and they have to get up for whatever reason out of their bed and they trip over something. That's not a good thing to have happen, but did the hospital do anything wrong in that situation? The person didn't need to be restrained, didn't need to be watched. So there was probably no harm, no foul on the part of the

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hospital.

In another situation, an older, frailer person with Alzheimer's, gets up in the middle of the night and falls. In that case, the hospital probably didn't take the steps that were necessary to prevent that fall from happening. And we need some context to know the difference.

The other part is a quantitative analysis. It's one thing to say in a hospital with, say, a thousand patients that there were ten falls, but in a hospital where there were a hundred patients, there were five falls or seven falls. You've got to figure out the size of the hospital or the outpatient facility, the number of patient days, the number of surgical opportunities in an outpatient facility and to be able to put that event into context of the total amount of business, if you will, being done. This amendment does that.

The other thing that this amendment does is strike a penalty, which the way it was -- the way it was in the bill, appeared to maybe give an incentive or was described as maybe giving an incentive not to disclose, so we came to an agreement that we would

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monitor it and get rid of the penalty at this point.

So that's what this amendment does and I urge passage of the amendment.

THE CHAIR:

Thank you, sir.

Senator Roraback.

SENATOR RORABACK:

Thank you, Mr. President. And again, because I don't now serve on the Public Health Committee, I would -- I'm going to ask Senator Harris a couple of questions that will help to refresh my recollection.

Through you, Mr. President, to Senator Harris. Was Senator Harris here in the legislature when we passed the first adverse events reporting requirement? Through you, Mr. President, to Senator Harris.

THE CHAIR:

Senator Harris.

SENATOR HARRIS:

Through you, Mr. President. I was an attorney down in the House so I probably had more knowledge and more power then, but I was not a legislator.

THE CHAIR:

Touche.

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Senator Roraback.

SENATOR RORABACK:

Thank you, Mr. President. But the people you surrounded yourself with weren't of the same quality as they are today. Is that correct? Through you, Mr. President, to Senator Harris?

THE CHAIR:

Senator Harris.

SENATOR HARRIS:

Through you, Mr. President. If you say so, Senator Roraback.

THE CHAIR:

Senator Roraback.

SENATOR RORABACK:

Thank you, Mr. President. The reason I'm asking the question is that my recollection was that it was probably six or eight or ten years ago that we passed an adverse events reporting requirement and then when it kicked in if you went to the newspaper, you would see that hospital A in Hartford was reporting 64 adverse events in a month and hospital B was reporting 3 adverse events. So you either had to say, "Geez, hospital A is really bad and hospital B is really

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good," or else the hospitals are interpreting what they need to do in very different ways. And, through you, Mr. President, to Senator Harris, I don't know if he remembers that phenomenon or if it's me alone who was kind of taken aback when he saw what differences there were in the reporting. Through you, Mr. President, to Senator Harris.

THE CHAIR:

Senator Harris.

SENATOR HARRIS:

Through you, Mr. President. That was one of the issues. And again, since everything was just done in the aggregate, it was hard to actually cut through that information and get a useful read on it as a consumer, an advocate or whatever hat you might wearing.

THE CHAIR:

Senator Roraback.

SENATOR RORABACK:

Thank you, Mr. President. And through you, Mr. President. I would imagine there's a continuum from saying in hospital A, ten bad things happened this month as -- that's one end of the continuum, but it

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doesn't tell us much. What were the bad things? Who did they happen to? At the other end of the continuum would be at 11:47 on April 26th, Mrs. Jones fell down on her way to the ladies room and broke her hip. And, through you, Mr. President, to Senator Harris, would that kind of represent the other end of the continuum in terms of getting contextual information to the authorities, to the Department of Public Health and then, of course, to the public, those that want to educate themselves about what's going on in our hospitals? Through you, Mr. President, to Senator Harris.

THE CHAIR:

Senator Harris.

SENATOR HARRIS:

Through you, Mr. President. I would agree with that basic continuum.

THE CHAIR:

Senator Roraback.

SENATOR RORABACK:

And so those are two ends of the continuum, Mr. President. What I'm trying to understand is this bill moves us closer to the more information side of the

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continuum than the less information. side of the
continuum. Is that correct, Mr. President? Through
you, Mr. President, to Senator Harris.

THE CHAIR:

Senator Harris.

SENATOR HARRIS:

Through you, Mr. President. Yes, but with,
again, certain contextual information so that when you
get more information, you know how to accurately judge
its impact.

THE CHAIR:

Senator Roraback.

SENATOR RORABACK:

And so I heard Senator Harris say and I
understand that if Senator Harris or I fall after we
have an appendicitis operation in the hospital, that's
a different thing than if somebody who's supposed to
be under total supervision falls when they're in the
hospital. So through you, Mr. President, to Senator
Harris, is the bill going to require the Department of
Public Health to develop criteria so that we can more
-- so that we can better define the nature of the
adverse event or are we going to leave it to the

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hospitals to do that, Mr. President, through you to
Senator Harris -- or some other third party?

THE CHAIR: ~~SEN~~

Senator Harris.

SENATOR HARRIS:

Through you, Mr. President. The bill actually --
and you can see in the amendment -- where it's clear --
- actually helps to provide some of the definition of
the contextual information. How is it that you
actually quantify that, if you will. How you actually
describe that. There is also part -- in, I believe,
the existing law, for regs, too.

I'm looking through now.

Through you, Mr. President, I can keep looking if
he has another question, also.

THE CHAIR:

Senator Roraback.

SENATOR RORABACK:

And I'm reading the amendment and, again, I
apologize for no longer having the pleasure of serving
on Senator Harris' committee. But unless you lived
this stuff, you read the amendment and it's kind of
Greek to the lay person, which I would call myself

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these days. So through you to Senator Harris, I was just wondering if he could help give some context to what contextual information is? Through you, Mr. President, to Senator Harris.

THE CHAIR:

Senator Harris.

SENATOR HARRIS:

Through you, Mr. President, yes. One of the -- one of the pieces I actually described a little bit before. And I can go into more detail and you can see it in the amendment where it defines -- starting at line 60 -- "contextual information includes." The relationship between the number of adverse events and patient days in a hospital setting or in the outpatient setting, the total number of surgical encounters. So again, you're trying to say, how much business, essentially, is the facility doing compared to the number of adverse events.

There is also a part under B in line 24 -- information about the patient population. So giving kind of a flavor of who is at the particular facility, the hospital outpatient to be able to say -- because in some places, if you're taking care of people that

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might be more susceptible to bad things happening, you have to take that into account. Through you, Mr.

President.

THE CHAIR:

Senator Roraback.

SENATOR RORABACK:

Thank you, Mr. President. I appreciate Senator Harris' answer. As I'm reading the bill -- I guess I'm now trying to understand does this bill ask more of the hospitals or other medical settings or is it asking more of the Commissioner in terms of how he presents information so we as consumers in the annual report? Through you, Mr. President, the amendment seems to suggest that the Annual Report is now going to provide greater detail, not necessarily that the hospitals are going to be asked to report in a different way. It's just that the information that they report is going to be distilled and disseminated in a more complete way to the consuming public. And Mr. President, through you, to Senator Harris, I was just wondering whether anything changes in terms of a hospital's responsibility in connection with adverse events or whether it's just a change in the way the

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your superiors. When it's all happening at three in the morning on some floor how do we make sure that that information flows as it should ultimately to the Commissioner?

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And, through you, Mr. President, to Senator Harris, have there been any efforts in his committee to better understand compliance with the reporting requirements? Because the information the Commissioner gives can only be as good as the information he or she gets from reporting hospitals. Through you, Mr. President, to Senator Harris.

THE CHAIR:

Senator Harris.

SENATOR HARRIS:

Through you, Mr. President, one of the things I thought I heard Senator Roraback say is what constitutes an adverse event. They're pretty specific. The National Quality Forums list of serious reportable events, and also, under current law and consistent with this bill, the Commissioner may adopt regs to actually add further types of adverse events to that list. So there is a clear list that is already demarked. And there are other areas of health

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care that utilized these particular lists. And all that we're asking is that when one of these events happen and the hospitals do their internal investigation, and when they report what has occurred to DPH and DPH then reports it to the public, that it is done in a way that is user friendly, that will help the consumer.

THE CHAIR:

Senator Roraback.

SENATOR RORABACK:

Thank you, Mr. President. And I understand that. I appreciate Senator Harris' response, but, through you, Mr. President, the issue I'm trying to get at is it's one thing if Mrs. Jones falls and breaks her hip, it's hard to conceal that adverse event, right? "Oh, my gosh, my mom's hip was broken last night." "Well, what happened?" "She fell on her way to the bathroom." Well, if you don't report that that's going to be a big problem for the hospital. But what if Mrs. Jones falls on her way to the bathroom and doesn't break her hip? Thought you, Mr. President, to Senator Harris, how do we gain confidence that there's compliance on the floors with reporting adverse events

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which don't necessarily result in a visible -- or maybe, through you, Mr. President, to Senator Harris, is it only an adverse event if you get hurt? Through you, Mr. President, to Senator Harris, if you fall?

THE CHAIR:

Senator Harris.

SENATOR HARRIS:

Through you, Mr. President. There are a lot of different definitions of the adverse event. Any type of fall where there is some sort of injury is an adverse event. If somebody falls down and there's no -- nothing occurs, unless, I would say, that person needed to be restrained and in some ways wasn't, then there's no adverse event there. Through you, Mr. President.

THE CHAIR:

Senator Roraback.

SENATOR RORABACK:

Thank you and through you, Senator Harris, I mean, I understand that. There's no adverse event because, thankfully, nobody got hurt, but the conditions that give rise to the fall are still present and the fact that the person was lucky enough

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in this fall not to break their hip doesn't mean, in my opinion, that it should be swept under the rug. I still think -- and that goes to my concern about the uniformity of reporting between and among institutions and through you, Mr. President, to Senator Harris, I was just wondering whether the Public Health Committee this year had an opportunity to drill down a little bit deeper and better understanding the operation of adverse event reporting and any modifications to it that would capture the universe not just when someone gets hurt, but when something happens that shouldn't happen if appropriate protocols were in place? And I know that -- well, anyway -- through you, Mr. President, that's enough of a question that I would ask for Senator Harris to respond.

THE CHAIR:

Senator Harris.

SENATOR HARRIS:

Through you, Mr. President, this year, with the short session, our challenge was to deal with how best to report the information. We did not go through and -- I did read all of them several times and I can go back and give you some of the definitions of various

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adverse events, but we did not go through and try to take a look at each of the adverse events. That is something that has already been defined by this National Quality Forum and that we leave up to the Department of Public Health and the Commissioners through the regulatory process to further define. It could be a subject, though, in the future that this committee would like to undertake.

THE CHAIR:

Senator Roraback.

SENATOR RORABACK:

Thank you, Mr. President. I appreciate Senator Harris' answers, so I guess when I look at this really, what this bill is trying to do is to say if you have a 20-bed hospital, if you have a 20-bed hospital that has ten adverse events and you have a 200-bed hospital that has the same number of adverse events, unless you give people a barometer by which to evaluate intelligently the numbers, they could be left with the impression that hospital A is a more dangerous place than hospital B, when, in fact, on a patient population basis, hospital A has a much better track record than hospital b. So, through you, Mr.

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President, for purposes of clarification, that's really what lies at the heart of this bill, is a place to be comparing apples to apples, I guess, when it comes to adverse event reporting. Through you, Mr. President, to Senator Harris, is that kind of what this is about?

THE CHAIR:

Senator Harris.

SENATOR HARRIS:

Through you, Mr. President, yes, from that quantitative analysis that you described, Senator Roraback, also again, patient population. And in addition, this bill also will allow the facility to submit informational comments. So once there's an investigation done and there is information compiled by DPH, the facility will also be able to make comments on that, also to provide further context of what's going on. And part of this whole law -- and this is -- we're not talking about it because it's current law -- is for there to be an incentive and a report in taking corrective measures. This is not just about saying, "Okay, we need to know whether Mrs. Jones fell." This is "Mrs. Jones fell and this is

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why, let's put it into context, and oh, by the way, the facility at which she fell has taken steps A, B and C to make sure that Mrs. Smith doesn't fall next week."

THE CHAIR:

Senator Roraback.

SENATOR RORABACK:

Thank you, Mr. President. I will be supporting this bill and I just want to say I want to thank Senator Harris for his hard work on it. It is an important area.

And just one last point. My point about if Mrs. Jones falls and doesn't get hurt, that doesn't mean that we shouldn't take corrective actions to make sure that that doesn't happen again. So I guess my fear is that we may be under capturing -- we ought to perhaps, next year be looking at how we define adverse events because you don't want to wait until something bad happens before you take corrective measures if there are potentially dangerous things which are happening, we should know about them so we can put the corrective measures in place before the bad thing happens.

I thank you, Mr. President, for your patience as

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Senator Harris and I engaged in our conversation. I thank the distinguished chairman of the Public Health Committee for his answers. Thank you, Mr. President.

THE CHAIR:

Thank you, sir.

Will you remark further on Senate A? Senator Kane.

SENATOR KANE:

Thank you, Mr. President, good afternoon.

THE CHAIR:

Good afternoon, sir.

SENATOR KANE:

Unlike Senator Roraback who hasn't served on the Public Health Committee in awhile and unlike our distinguished chairman of the Public Health Committee, I'm new to the Public Health Committee this session. But actually enjoyed it very much, very diverse, going from pickles to town fairs to adverse events in hospitals. So I give the chair a lot of credit for running this committee.

In regards to this bill an this amémdment more specifically, I do have a few questions to the proponent of this amendment, through you, Mr.

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President.

THE CHAIR:

Senator Harris.

SENATOR KANE:

Thank you, Mr. President. The two of you, Senator Roraback and yourself were talking earlier about how this adverse event was legislated years ago. You, yourself, said you were a staff attorney in the House. Is this annual report that is mentioned in the amendment, is that from that long ago? Is that something that is typically done or always done? Through you, Mr. President.

THE CHAIR:

Senator Harris.

SENATOR HARRIS:

Through you, Mr. President. Yes, there is a reporting requirement under current law.

THE CHAIR:

Senator Kane.

SENATOR KANE:

Thank you and then the reporting requirement by the Commissioner to the Legislature, through you, Mr. President?

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THE CHAIR:

Senator Harris.

SENATOR HARRIS:

Through you, Mr. President. I believe it's just a report to the general public that is published. It's not something that's given to a committee of cognizance.

THE CHAIR:

Senator Kane.

SENATOR KANE:

Okay, good, thank you. I wanted to clear that up. I wasn't sure how that works.

And this report is published where? Through you, Mr. President.

THE CHAIR:

Senator Harris.

SENATOR HARRIS:

Through you, Mr. President. I'm looking, I thought this part was struck, it's not, it's here. Actually, under current law, it looks like under the file copy of 246, there is a report to the Public Health Committee.

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Senator Kane.

SENATOR KANE:

Okay, can you point, show me where that is?

Through you, Mr. President.

THE CHAIR:

Senator Harris.

SENATOR HARRIS:

Through you, Mr. President. Lines 32 through 35.

THE CHAIR:

Senator Kane.

SENATOR KANE:

Thank you, Mr. President. I'm glad we were able to clarify that part up.

The outpatient surgical facilities that are mentioned in here. It's not just hospitals, I guess, it's outpatient surgical facilities. Are those surgical facilities the same that are, let's say, through the hospital or can they be competitors of the hospital? For example -- I don't know if St. Francis or Hartford hospital has outpatient surgical facilities, I'm assuming they do. I know in our area, St. Mary's Hospital and Waterbury Hospital have the -- I think it's Naugatuck Valley Surgical Center. I

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think it's a division of -- although I think they may compete with them on some level, but, through you to Senator Harris, what does that cover when you talk about the outpatient surgical facilities?

THE CHAIR:

Senator Harris.

SENATOR HARRIS:

Through you, Mr. President. Exactly what you described, Senator Kane.

THE CHAIR:

Senator Kane.

SENATOR KANE:

Through you, Mr. President. Which is all of them or -- through you, Mr. President.

THE CHAIR:

Senator Harris.

SENATOR HARRIS:

Through you, Mr. President. If I'm understanding correctly, the typical outpatient surgical center is like Hartford Hospital does have one, say, at Blueback Square there is an outpatient facility. There are others, though, that might not be directly affiliated with hospitals to my understanding. I know there's

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certain surgeries that go on, colonoscopies, for example, in various doctor's offices, if you will.

But there is outpatient surgeries that are done in those contexts also. This would include any of those outpatient surgical facilities.

THE CHAIR:

Senator Kane.

SENATOR KANE:

Thank you, Mr. President. And some, I would imagine, like you mentioned Hartford Hospital or in West Hartford are probably busier than others. We're going to measure all of them? And that's kind of where I was getting to my questions is I think you were talking with Senator Roraback about the number of occurrences versus the number of actual procedures. And I'm just wondering how worthwhile it is? Is it every single one or do you need to reach a threshold? You know, just to that effect. Through you, Mr. President.

THE CHAIR:

Senator Harris.

SENATOR HARRIS:

Through you, Mr. President. If there is an

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adverse event at any of these facilities, it will have to be reported and that will be part of the annual report that the commissioner compiles and at least in this case, I think it's also when I was talking about the public website, you've seen it, you know, reported in the paper. And again, reported to the Public Health Committee.

THE CHAIR:

Senator Kane.

SENATOR KANE:

Thank you, Mr. President. I guess the reason I ask is because part of the bill talks about the relationship between the number of adverse events and patient days. And these outpatient facilities are that, they're outpatient. They're not -- to the opposite -- so there are no patient days. So that's why I'm wondering how we are able to measure them in this regard, because it has a relationship according to the bill. Through you, Mr. President.

THE CHAIR:

Senator Harris.

SENATOR HARRIS:

Through you, Mr. President. In the hospital it's

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patient days, you can see in the amendment I have one instance here in line 19 when it's an outpatient surgical facility, it's the total number of surgical encounters. So it's the total number of surgeries done. Again, as I described, the amount of business that is being done, essentially.

THE CHAIR:

Senator Kane.

SENATOR KANE:

Oh, good. Thank you, thank you, Mr. President. I'm glad for that clarification as well. Because I wanted to understand that relationship.

Just a couple more things that I have a couple questions on. It talks about the hospitals being able to provide comment in this report. And I'm wondering how that works. Are they -- have a -- is it based upon the actual occurrence, is it based on their annual reports, is it based on some type of calendar or is it based on a public hearing process? How does the hospital include their comments? Through you, Mr. President.

THE CHAIR:

Senator Harris.

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SENATOR HARRIS:

Through you, Mr. President. What the amendment says in lines 26 through 29 that in addition to the other contextual information, the hospital or outpatient surgical facility may provide informational comments relating to any adverse event reported to the commissioner pursuant to this section. So my understanding of the flow of work would be that there would be an adverse event reported, there'd be an investigation, and then once that investigation were compiled, the hospital or outpatient surgical facility would be allowed to comment on the results of that reporting of that investigation. So again, to try to provide some context to what occurred at that facility.

THE CHAIR:

Senator Kane.

SENATOR KANE:

Thank you, Mr. President. And just a couple more things.

It also mentions in here about the payer or case mix. Can you speak to that at all? Through you, Mr. President.

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THE CHAIR:

Senator Harris.

SENATOR HARRIS:

Through you, Mr. President. Again, what this is trying to do by providing contextual information is to give citizens, the health care consumers, the ability to judge an adverse event in context. And there might be a facility that has more people that are frail and therefore, just because of that, might be more susceptible to certain types of adverse events versus someone -- some place with a different type of mix. Here, it also might include different types of payments. What type, who's paying for the services might have an indication of the mix of the population in the particular facility. Just again, trying to come up with a way that there is context. A way to judge an event so we balance the reporting that we know needs to be done so people have the information, so that people can make appropriate decisions without just -- you know, making people afraid because they're hearing oh, all these bad things are happening, when it might not be as bad as it seems if you knew, as Paul Harvey said, the real story.

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THE CHAIR:

Senator Kane.

SENATOR KANE:

Thank you, Mr. President. I guess the reason for my question is I can understand what you're talking about when you talk about the case mix, because there are individuals that may be frail. But I don't see the correlation with the payer. You know, whether it's Medicaid or some type of private insurance, I don't understand how that has an effect on the actual adverse event. Through you, Mr. President.

THE CHAIR:

Senator Harris.

SENATOR HARRIS:

Through you, Mr. President. It might not have an effect on the actual adverse event, but it might provide you, again, with a little bit more of a picture about the facility. And that's what we're trying to get at here, as many ways as we can try to take a snapshot of that facility.

THE CHAIR:

Senator Kane.

SENATOR KANE:

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Thank you, Mr. President. So that is -- but that line of logic would make me assume that you can have more or less adverse events based on the type of insurance that is coming through your door? I don't understand that correlation. Because this hospital has more Medicaid patients, all of a sudden they have more adverse events? This hospital takes in more private insurance, they have less adverse events? I don't -- I fail to see that. Through you, Mr. President.

THE CHAIR:

Senator Harris.

SENATOR HARRIS:

Through you, Mr. President. It's just another perspective.

THE CHAIR:

Senator Kane.

SENATOR KANE:

Thank you, Mr. President, I guess. If that's -- I thought we'd kind of take those things out of the mix, you know. Trying to make assumptions or make -- I shouldn't say assumptions -- even categorize things based on a person's ability to pay, so I'm curious as

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to why that would still be in there.

My last question to you, I think you mentioned about the fines and I think you said that that part of it was taken out. Is that true? Through you, Mr. President.

THE CHAIR:

Senator Harris.

SENATOR HARRIS:

Through you, Mr. President. Yes, the penalty, it was taken out by the amendment.

THE CHAIR:

Senator Kane.

SENATOR KANE:

Great. Thank you, Mr. President. And I thank Senator Harris for answering my questions. I know that I did vote for this bill in the Public Health Committee and I just wanted to make sure we were able to clarify these number of changes that are here and I will be supporting the bill. Thank you, Mr. President.

THE CHAIR:

Thank you, sir.

Will you remark further on Senate A? Senator

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Prague.

SENATOR PRAGUE:

Thank you, Mr. President. Through you a question to Senator Harris.

THE CHAIR:

Senator Harris.

SENATOR PRAGUE:

Senator Harris, when these reports of adverse events are reported to the Department of Public Health --

THE CHAIR:

Senator Harris.

SENATOR PRAGUE: - would a family member of somebody who suffered from an adverse event have access to that report?

THE CHAIR:

Senator Harris.

SENATOR HARRIS:

Through you, Mr. President. It's my understanding that once the investigation is completed, that adverse event reporting is public information and it can be given to anybody, not just the family.

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THE CHAIR:

Senator Prague.

SENATOR PRAGUE:

Through you, Mr. President. Senator Harris,
would the details of that report be public
information?

THE CHAIR:

Senator Harris.

SENATOR HARRIS:

Through you, Mr. President. Yes.

THE CHAIR:

Senator Prague.

SENATOR PRAGUE:

Okay. Through you, thank you, Senator Harris,
for those answers.

THE CHAIR:

Will you remark further on Senate A? Senator
Boucher.

SENATOR BOUCHER:

Thank you, Mr. President. Mr. President, I rise
on a -- for some inquiry into this bill, since some of
us have not had the fortune of being on this committee
when the bill was being discussed and moved through.

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Apparently it has received a few changes, and, I also -- I know that we're on the amendment at this point ~~and~~ not the bill so I would ask, if I could, through you, the proponent of the bill -- the amendment goes to line 8 and again, I apologize if this questions was already asked by other Senators prior to my entering the chamber, but it does ask that we insert the words, "on reflective of evidence-based best practice and that." Could I please ask the proponent to, again, define the evidence-based best practices, as best as he could? Through you, Mr. President.

THE CHAIR:

- Senator Harris.

SENATOR HARRIS:

Through you, Mr. President. I believe that that's self explanatory. Evidence-based is the compilation of information, evidence. Best practices is a term of art not only used in health care, as we all know, but throughout many contexts, which is what's been proven to work. So evidence-based, best practice is, "I have information showing that it works."

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Senator Boucher.

SENATOR BOUCHER:

Thank you for the answer, Mr. President.

I guess he is referring to, then, ways in which to reduce, if that's what I understand it to be, to reduce these serious instances at hospitals. If that's what his particular statement is referring to? Through you, Mr. President.

THE CHAIR:

Senator Harris.

SENATOR HARRIS:

Through you, Mr. President. Yes.

THE CHAIR:

Senator Boucher.

SENATOR BOUCHER:

Thank you very much.

Also on this amendment, in lines 15 it references relevant contextual information, if I'm not mistaken, and for this section, contextual information "includes but not limited to" and it goes on between line 16 to 24 to explain this in a manner that may not be very clear. So if I could impose upon the good Senator to clarify and explain lines 16 through 24. Through you,

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Mr. President.

THE CHAIR:

Senator Harris. ~~2:52~~

SENATOR HARRIS:

Sure, Mr. President. If -- through you, with indulgence for the third time, I'll explain it. That what this is is trying to get an accurate picture of the adverse events, of putting them in the context and this particular section that Senator Boucher refers to is trying to put it in a quantifiable context. So as I had said several times, Senator Roraback said, there's a difference between ten falls at a hospital where there are a thousand patient days and nine or eight falls at a hospital where there are a hundred patient days. While if you just saw the nine and the ten you might think the ten was worse but because you know the number of patient days, the place with ten falls actually is probably doing a better job than the one with fewer falls, with nine falls.

THE CHAIR:

Senator Boucher.

SENATOR BOUCHER:

Thank you, Mr. President. That's a very good

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distinction and very important clarification for this kind of reporting. There's no question that there is a concern that ~~been~~ expressed by others regarding the way in which this data could be used, particularly as was stated that it could be made public, that it can be very misleading and possibly create a wrong impression of a particular health care institution.

It goes on to say that including information about the outpatient surgical facilities payer or PACE mix as well. And that is important, through you, Mr. President, to explain why having that information of the facility's payer or PACE mix also plays into the proper reporting of this data and not misleading the public. Because this is a pretty important data that hospitals and surgical would be exposed to to the general public. Through you, Mr. President.

THE CHAIR:

Senator Harris.

SENATOR HARRIS:

Through you, Mr. President. Case mix is important, again, to get that picture, the perspective. Is it a place that tends to have people that are more frail, that are more sick? There could

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be more of a chance, for instance, to be exposed or get an infection if you are, say, have more elderly there. People on Medicare, that's where I didn't get into the details with Senator Kane, but, say, more Medicare patients means that you have an older population in your facility. So it's to try, again, to put it into context and make it meaningful.

THE CHAIR:

Senator Boucher.

SENATOR BOUCHER:

Thank you, Mr. President. Mr. President, the question I had that came before us is the rationale for this particular bill in that I was under the impression that many hospitals do already keep some records of this or could the proponent please explain why this would be new data that would have to be collected that is not normally kept at the hospital? Thank you, Mr. President.

THE CHAIR:

Senator Harris.

SENATOR HARRIS:

Through you, Mr. President. It's not about data collection, really. This bill focuses on data

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reporting, what the public gets and that's what we're changing under this bill is what needs to be reported, the level of detail and how it's expressed so it's meaningful.

THE CHAIR:

Senator Boucher.

SENATOR BOUCHER:

Yes, thank you, Mr. President, for that information. The reason that I ask this is because we know that our hospitals, many of them, are working under some pretty strenuous situations. Many of them are burdened with high cost and low reimbursement rates, and growing populations. So that it was important to distinguish if this refers to data that they already keep and, in fact, maybe already reporting to other associations, national boards or hospital associations, but they already keep it so it would not be that far of a stretch in the use of manpower should they need to just gather that information and send it to a different agency, such as our Department of Public Health here at the state level. So my inquiry had to do with just how much are we adding to the burden to an individual hospital or

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health care facility? Is this information readily available as far as we know at this time, Mr.

President? Thank you, through you.

THE CHAIR:

Senator Harris.

SENATOR HARRIS:

Through you, Mr. President. Information of this sort is kept by hospitals all the time. Again, this is about reporting. One of the things that hospitals do, should do, and if they don't we need to know when they don't, is compile this information because part of the purpose of the reporting in this law is about corrective action and, so hospitals from the testimony that we received in the meetings pay close attention to these types of adverse events, not just so they can be reported, but because they want to prevent them. One, because they are in the business of care, and, two, because there are liability issues. So the more that they can prevent in their self interest even, bad things occurring, the better off they are.

THE CHAIR:

Senator Boucher.

SENATOR BOUCHER:

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Yes, thank you, Mr. President. I concur with the good Senator with regards to that statement. There is no question that hospitals do keep a close watch on this. From the standpoint of quality of care, most importantly, but there's also a liability exposure and a risk management exposure to these particular instances, and oftentimes -- and I don't know if the chamber members availed themselves to some of the national publications that oftentimes rank hospitals as far as putting out reports of the best hospitals in America rankings. It's very similar to publications when they do the top private and public universities.

There is a wonderful publication that also talks about the very best hospitals in the country with regards to not only generally overall, but also individual specialties that they're renowned for. And there's a series of parameters that they are judged on and I would presume that this would be one of those very important parameters that would put them at the top levels. We're very fortunate in this country to have so many outstanding hospitals, one, by the way, that gets a hundred percent rating over the last ten or fifteen years that I've been following that

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publication.

So certainly, keeping track of this and the reduction of this not only helps the public, but it also helps the institution with regards to how it's regarded. It also helps them to attract individuals from not just this country, but from all over the world. So I do -- I think this is a good idea. I would hope that it, again, is information readily available. I'm also hopeful that the information, should it become publicly available, not only helps the public, but also would help the individual health care facilities to have another evaluation. And you know how we have that incentive when we do a lot of testing on our schools throughout Connecticut and we compare them to their different economic reference groups to see how well they're doing in each and every category, that hospitals will focus on this because -- and how they do with their peers throughout Connecticut as a way to increase the quality throughout Connecticut.

So, Mr. President, I thank the Senator for his answers to this. I hope this does go a long way to improving quality. Particularly in a very fast

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growing field, where we do have an aging populations
and the prospects for something like this to occur
might increase.

Thank you, Mr. President.

(Senator Coleman in the Chair.)

THE CHAIR:

Thank you, Senator.

Do you care to remark further? Senator Fasano.

SENATOR FASANO:

Thank you, Mr. President. Mr. President, to the
proponent of the bill. If I can, Senator Harris, on
line 89 through 93, it's just for legislative intent.
For violations, speaking of line 90, if I may, each
violation shall be a separate and distinct offense and
in the case of continuing violation, each day of the
continuance thereof shall be deemed a separate and
distinct offense. If we're looking at death or
serious injury with respect to an adverse event, which
is a blood product, which is, as I understand it to
be, a transfusion, let's say. And that is one of the
issues. And that transfusion is an order that's

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wrong, it's carried out wrong, it's given to the wrong patient and injury results, assume that for this hypothetical. Every time that transfusion is given, even though it's under the same instruction, would that be considered an adverse event each and every time it is given with respect to this? Through you, Mr. President.

THE CHAIR:

Senator Fasano, let me first inquire. We're on Senate Amendment Schedule A. Is your question referring to the amendment or to the bill?

SENATOR FASANO:

Thank you, Mr. President. I will hold that question for the bill. Yes, thank you, Mr. President.

THE CHAIR:

Thank you, sir. Are there further comments? Are there further remarks regarding Senate Amendment, Schedule A?

If there are no further remarks to be made on the amendment, Chair will try your minds regarding the Amendment. All those in favor of the amendment please indicate by saying aye.

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Aye.

THE CHAIR:

All those opposed say nay.

The ayes have it, Senate A is adopted.

Will you remark further on the bill as amended?

Senator Fasano.

SENATOR FASANO:

Thank you, Mr. President. So back to my hypothetical that I did a little earlier through you, Mr. President, to Senator Harris. Rather than repeat the hypothetical, perhaps, with the indulgence of Mr. President, maybe Senator Harris can answer the question, through you.

THE CHAIR:

Senator Harris, did you appreciate Senator Fasano's question?

SENATOR HARRIS:

Through you, Mr. President. I do, but the simple answer is lines 89 through 93 are struck by the amendment, they are no longer part of the bill.

SENATOR FASANO:

Okay.

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Senator Fasano.

SENATOR FASANO:

Thank you, Mr. President. Through you, Mr. ~~President~~
President. Is there a penalty clause therefore in the
bill or has that been completely removed? Through
you, Mr. President.

THE CHAIR:

Senator Harris.

SENATOR HARRIS:

Through you, Mr. President. No more penalty
clause.

THE CHAIR:

Senator Fasano.

SENATOR FASANO:

Thank you, Mr. President. And what would be the
penalty -- if there isn't penalty clause -- this is
just reporting without the punitive nature of a
violation? Through you, Mr. President.

THE CHAIR:

Senator Harris.

THE CHAIR:

Through you, Mr. President. Yes, this is a
reporting bill. Besides other powers that the

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Department of Public Health might have under other areas of the statute, we do not add a penalty here.

~~the~~ The reason for that was trying to strike that balance between giving incentives for full reporting and not taking certain actions where some might say a penalty would actually chill the hospital from reporting, would actually provide a disincentive to full reporting.

THE CHAIR:

Senator Fasano.

SENATOR FASANO:

Thank you, Mr. President. And, Mr. President, therefore in line 63 through 68 of the original bill, did the amendment leave that language as is or was that removed, Mr. President, for the purpose of letting Senator Harris know what I'm referring to, that would be the discharge or refusal to hire or retaliate against any employee who apparently makes the complaint over an adverse event? Through you, Mr. President.

THE CHAIR:

Senator Harris.

SENATOR HARRIS:

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Through you, Mr. President. That whistle blower language was not struck by the amendment, it is still part of the bill.

THE CHAIR:

Senator Fasano.

SENATOR FASANO:

Thank you, Mr. President and to the extent that those lines are still in the bill, when I initially read it, I read the punitive penalty that has been removed, the civil penalty as applying to these lines. Understanding that that has been removed, would the employee, for legislative purposes, be entitled to their own civil recourse, then, by virtue of this language? Through you, Mr. President.

THE CHAIR:

Senator Harris.

SENATOR HARRIS:

Through you, Mr. President. Yes, through this and existing statutory and case law.

THE CHAIR:

Senator Fasano.

SENATOR FASANO:

Thank you, Mr. President. That is to say that

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the whistle blowing philosophy or policy has case law to it that supports any legal claims that can be brought by the employee. Is that the import of the answer from Senator Harris?

THE CHAIR:

Senator Harris.

SENATOR HARRIS:

Through you, Mr. President. Yes, although I have not done this for a very long time, I seem to remember a case, Sheets against Teddy's Frozen Food. Many, many years ago, a couple decades ago, which actually established whistle blower law in case law here in the great state of Connecticut.

THE CHAIR:

Senator Fasano.

SENATOR FASANO:

I am now trumped by that, Mr. President. So I will move on.

Mr. President, through you. It's my understanding that one of the adverse events that can take place is a patient death or serious disability due to spinal manipulation therapy. Is that Senator Harris' understanding of one of the adverse events

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that can take place? Through you, Mr. President.

THE CHAIR:

Senator Harris.

SENATOR HARRIS:

Through you, Mr. President. If the good senator could repeat the question?

THE CHAIR:

Senator Fasano.

SENATOR FASANO:

It's my understanding that one of the adverse events that require reporting is the patient death or serious disability due to spinal manipulative therapy. Would that be Senator Harris' understanding? Is that one of the events?

THE CHAIR:

Senator Harris.

SENATOR HARRIS:

Through you, Mr. President. I don't have the list out in front of me, but that does ring a bell.

THE CHAIR:

Senator Fasano.

SENATOR FASANO:

Thank you, Mr. President. Mr. President, for

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the purposes of my question previous, I'm reading from the State of Connecticut, Department of Public Health legislative report to the General Assembly with respect to adverse events reporting, which lists a number of adverse events over several pages and one of the adverse events listed in 4G is a patient death or serious disability due to spinal manipulative therapy, and I guess my question to Senator Harris is it's my understanding, based upon that information that a manipulation causing serious injury -- or a disability, I should say or death, serious disability or death would be considered a very serious consequences by virtue of it being listed as one of those items. Would that be -- would the good Senator agree or disagree with that statement?

THE CHAIR:

Senator Harris.

SENATOR HARRIS:

Through you, Mr. President. The fact that it is reported would indicate to me that it reaches a certain level of seriousness, yes.

THE CHAIR:

Senator Fasano.

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SENATOR FASANO:

And that -- thank you, Mr. President. And that degree of seriousness is such that not only do we have it listed as an adverse event over the number that one could choose from, this was listed as an adverse event and now we feel it's even more important that we identify all the particularities that this bill does to show where that may have happened -- along with others, but where that may have happened, who was in the room, the time, et cetera, so in reviewing this, we've kept this adverse event and, in fact, added that we need more details. Would that be correct? Through you, Mr. President.

THE CHAIR:

Senator Harris.

SENATOR HARRIS:

Through you, Mr. President. Yes, that's correct. We don't just want a number, we also want to have some information reported to give some shape and context to the event.

THE CHAIR:

Senator Fasano.

SENATOR FASANO:

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Thank you, Mr. President. I thank Senator Harris for his answers. Mr. President, I point that out only because I believe that manipulation of the neck, if that results in serious disability is an issue. And I bring that out because there's been -- there's some issues that float around this chamber and I push that issue and the seriousness of it and I just want to be clear that it is considered an adverse event for the purposes of hospitals, it's considered an adverse event with the way the state views those issues and I just felt I'd take this opportunity. I thank you, Mr. President.

THE CHAIR:

Thank you, sir.

Senator McDonald.

SENATOR MCDONALD:

Thank you, Mr. President. Mr. President, I believe the clerk is in possession of LCO Number 3698. I ask that it be called and I be granted leave to summarize.

THE CHAIR:

Will the clerk please call LCO 3698 to be designated Senate B.

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THE CLERK:

LCO 3698, which will be designated Senate
Amendment Schedule B. It is offered by Senator
McDonald of the 27th District.

THE CHAIR:

If you would move adoption, Senator McDonald.

SENATOR MCDONALD:

Yes, Mr. President. I move adoption.

THE CHAIR:

The gentleman has also requested leave to
summarize the amendment. Is there objection to
summarization? Seeing none, please proceed, Senator
McDonald.

SENATOR MCDONALD:

Thank you, Mr. President. Mr. President and
members of the circle, this amendment is in sum and
substance the content of a piece of legislation that
we passed last year, I believe it was unanimously in
this circle. But for reasons that are still murky, it
never found time in the floor of the House to seek
final passage. And it would allow, Mr. President,
individuals who have filed complaints with the
Department of Public Health regarding the professional

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competence or negligence or fraud of a medical professional to have a meaningful opportunity to participate in any administrative hearing process undertaken by the Department of Public Health. In particular, Mr. President, it would allow a individual who had filed such a complaint to have the status of a party during the proceeding with the rights attendant to that status.

Mr. President, we have learned all too frequently that the Department of Public Health in undertaking its review of such claims, talks extensively with the medical professional involved, but really doesn't involve or incorporate into that analysis or investigation any ongoing dialog with the complainant. So this legislation would cease that process and allow the individual to participate and review records in the Department of Public Health.

It is true that under this legislation the complainant would not have a right to copy or remove from the Department of Public Health those records, but would have an opportunity to comment before any consent order was entered into and if there was probable cause found by the department, would have an

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opportunity to supplement information and provide
context to any response filed by the medical
professional.

In addition, Mr. President, there is a second component of this legislation that is the result of a very collaborative effort between the Connecticut State Medical Society and the Connecticut Trial Lawyers Association with respect to medical malpractice cases. One of the things that we have been trying to encourage in this state is litigation avoidance strategies. And under this legislation, Mr. President, any time there is a medical malpractice case filed, there would be an obligation to have that case refereed to a mandatory mediation session conducted by a judge of the Superior Court. If at the end of that mediation process before the judge, there was a mediation or settlement achieved, it could be entered as a judgment of the court at that time. If, however, at the end of that process there was not a successful mediation, but the parties think that it would be useful, then the case could be referred to an attorney for further mediation efforts.

Mr. President, this legislation would hopefully

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encourage a relatively small group of attorneys with specialized expertise in medical malpractice cases to serve as those mediators so that individuals with expertise not only in the law and the risks of mediation, but also in the substantive areas of medical practice would be able to facilitate and hopefully reach a resolution of those claims. So I want to commend the parties who have participated in the negotiation of this. I want to thank Senator Harris for his involvement and his support of this amendment, and I believe that this will be yet another effort in our ongoing efforts to alleviate or reduce the amount of needless litigation, particularly in the area of medical malpractice. Thank you, Mr. President.

THE CHAIR:

Thank you, sir.

The Senate is considering Senate Amendment Schedule B. Do you care to remark further?

Senator Boucher.

SENATOR BOUCHER:

Thank you, Mr. President. Very briefly, any time we have a colleague that stands before us and says

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that this was a great amendment that was negotiated between the trial lawyers and the medical societies of Connecticut it is an occasion for a celebration, I might say. I think that is quite an accomplishment given the many years, I know, of angst and discussions that many of us have been involved in in trying to mediate between the two sides, where much has been said about Connecticut's hostile -- oftentimes hostile legal environment with regards to practicing medicine in Connecticut, particularly for some very difficult specialties in the area of obstetrics and neurosurgery and so on. So I am here to heartily endorse this particular amendment and hope it gets a unanimous approval. Thank you, Mr. President.

THE CHAIR:

Thank you, Senator.

Senator Kissel -- I'm sorry.

SENATOR KISSEL:

Thank you, Mr. President. It's great to see you there this Saturday afternoon.

THE CHAIR:

Always a pleasure to see you, sir.

SENATOR KISSEL:

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And you know, I think the people of the state of Connecticut are well served knowing that their legislature is hard at work on a sunny, 85 degree, April Saturday afternoon.

Just very briefly, just a couple or two quick questions just to clarify -- because I know that one of our colleagues definitely would like to vote on this particular bill and I'd like to accommodate our friends.

Regarding the aspect of the bill in section 12 regarding an ability to go and -- actually, it's -- yeah, it's in section 12 regarding the ability to review the information when there's a complaint filed. I note that it says that one can go in there and review the file and the documents, but one may not copy those documents. To me, if you're able to sit there and review them all, if you're going to use anything in there, I don't understand why you can't copy portions. But to make it even more clear in the legislative history, since one is afforded and opportunity to sit, go to the -- with ten days written notice -- go to the Department of Public Health, sit there, review the file, can one bring in a pad and

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paper and write down information from the review?

Through you, Mr. President.

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Thank you, Mr. President. Through you to Senator Kissel, there would be nothing that would prohibit an individual from making notations while reviewing the file. But the limitation on the copying was because there could be information relating to pending litigation that would otherwise not be publicly disclosable, but there's nothing in the legislation that would prevent an individual from taking personal notes.

I should also mention, as long as I have the floor -- I should have said this earlier, this legislation would only apply to complaints filed on or after October 1st of 2010. and I just -- though it says it in the legislation, I did want to make it clear for legislative intent purposes, that it would only apply to claims filed on or after that date.

THE CHAIR:

Senator Kissel.

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SENATOR KISSEL:

Thank you very much and I appreciate that response because I can definitely see an individual in charge of facilitating this in the Department of Public Health perhaps being overly cautious and saying, "Listen, you can review the documents but we're not going to even allow you to take down notes because it says in there you cannot copy the documents." And clearly that's not the intention of this legislation. One can take individualized notes on these matters and there is nothing that would allow the Department of Public Health to prohibit that.

The other part -- and believe me, I could go on for an hour on this particular amendment, but I won't. But I won't. But I did have an awful lot of questions in the second part as far as the formalized procedures. Because it does allow for a 120 procedure, but I did note in the statutory framework that at every turn there's also -- and that's 120 calendar days -- but then, at every turn there is allowed for the assignment, again, to the judge in the first instance and then to the attorney in the second instance, 20 business days, which actually would have

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the effect of gobbling up half the time period that had been allowed at the outset to conduct this. So there really might only turn out to be a fairly limited window in order to move forward with this, but the very precise second question that I have is that on the second referral -- the first referral are the mandatory mediation goes to the presiding judge and/or his or her appointee in the judicial system. The second referral goes to an attorney. And I understand that attorney would have experience in the field of medical malpractice, but would only necessarily have to have been admitted before the Bar for just five years, which, A, seems to me, not a lot of time to build up expertise, especially in an area as nuanced as medical malpractice, but also, I'm just wondering where or who's charged and where would there be found a list of the potential attorneys that could be used to draw from at that next referral period? And what I mean by that is this. What I'm driving to is this. Where that attorney gained his or her experience may have a major impact on how that attorney views the case. If that attorney's wealth of medical malpractice experience came from the defense bar, that

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may raise certain concerns by a plaintiff's attorney. If that individual's wealth of experience came from the trial bar in pursuing medical malpractice cases, that may affect how a defense counsel looks at that particular mediator. And I'm just wondering if it would be the court's responsibility, since in the last section of this amendment they are charged -- they are given authority to adopt such rules as they deem necessary for the conduct of the mediation -- if it would be the court's responsibility to come up with a list of attorneys and then it would be up to the plaintiffs and the defendants to sit down and together pick out a name or is it contemplating that it's like picking a name out of a hat? I just don't know how -- there's nothing in here that tells me how that process might unfold and I can see that as having a tremendous impact, not only on the results of the mediation process, but how it's really sort of -- I'd like to see this process embraced by both sides going forward and I'd like to make sure that we set it off on a good trajectory. Through you, Mr. President.

THE CHAIR:

Senator McDonald.

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SENATOR MCDONALD:

Thank you, Mr. President and through you to ~~the~~ Senator Kissel, the legislation contemplates that ~~the~~ the presiding judge would make such a referral. It's not unlike a situation where judges already can appoint special masters to facilitate particular cases. Sometimes that is to facilitate complex discovery disputes, to be, in essence, an extension of the court outside of the court room. And oftentimes, that falls to very seasoned attorneys, though this legislation only requires that such an attorney have practiced for at least five years, it doesn't mean that it is necessarily be somebody who's only practiced for five years. And in my experience, when judges make referrals to special masters or attorneys such as this they are individuals who are highly respected in the legal community by all sides. The reality is that there won't be buy-in into the mediation process unless both parties have faith in that process.

And under this legislation there's nothing that compels continued mediation. So that if either party feels that the process is not productive, that it is not fair and even to every party, they can discontinue

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it and resume the litigation. Through you, Mr. President.

THE CHAIR:

Senator Kissel.

SENATOR KISSEL:

Thank you very much. Just as a final follow up to that last statement by Senator McDonald, there would not -- it's not anticipated that if an individual felt that they had a problem with the appointed attorney mediator that they could perhaps object and ask for a different one, it's simply that they would just say, "I don't feel that this is productive." They would fall out of the mediation program and then continue along with the litigation? Through you, Mr. President.

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Thank you, Mr. President. Through you to Senator Kissel, this legislation doesn't get into that level of detail. Again, in my experience, most litigants would seek to suggest a name. Most judges would ask the litigants, "Do you have a name of an attorney you

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can both agree on? And if you don't have a name then I would, as a judge, give you a name." So given the opportunity, most litigants pick their own name so that they can be in charge of the process, at least to some extent.

I should also say finally, if that informal process isn't sufficient, the legislation does allow the judges of the Superior Court the ability to adopt rules under Section 51-14 to implement the mediation process. Through you, Mr. President.

THE CHAIR:

.. Senator Kissel.

SENATOR KISSEL:

Thank you very much and I appreciate the colloquy with Senator McDonald. I didn't want to delay this for any extended period of time.

I think this is an important step, again, as Senator Boucher so eloquently put it, any time that the lions sleep with the lambs on any given day you can choose who is the lion and who is the lamb, but if the trial lawyers and the medical society can sit down and hammer out a forum where they can iron things out, I can only hope that Republicans and Democrats can do

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the same in the next five days of our legislative sessions.

So with that, I'm happy to support this amendment. Thank you, Mr. President.

THE CHAIR:

Thank you, Senator.

Do you care to remark further on Senate B? Do you care to remark further?

If not, the Chair will try your minds. The question before the Chamber is the adoption of Senate B. All those in favor please indicate by saying aye.

SENATORS:

Aye.

THE CHAIR:

All those opposed say nay.

The ayes have it. Senate B is adopted.

Will you remark further on the bill as amended?

Will you remark further on the bill as amended?

Senator Harris.

SENATOR HARRIS:

Thank you, Mr. President. If there's no objection, I request this matter be placed on the consent calendar.

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THE CHAIR:

Is there objection? Is there objection? Seeing
none, so ordered. 1/5/10

Mr. Clerk.

THE CLERK:

Calendar page 31.

SENATOR LOONEY:

Mr. President.

THE CHAIR:

Senator Looney.

SENATOR LOONEY:

Thank you, Mr. President. Mr. President, we'd
call for a vote on the consent calendar at this time.

THE CHAIR:

Would the clerk please call the consent calendar
and make the appropriate announcement.

THE CLERK:

An immediate roll call has been ordered in the
Senate on the consent calendar. Will all Senators
please return to the chamber? An immediate roll call
has been ordered in the Senate on the consent
calendar. Will all Senators please return to the
chamber?

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Mr. President, the items placed on the first consent calendar beginning on calendar page 7, Calendar Number 348, Senate Bill 250. Calendar page 14, Calendar 471, substitute for House Bill 5339.

Calendar page 23, Calendar number 77, Senate Bill 262.

Calendar page 28, Calendar 189, substitute for Senate Bill 248. And Calendar page 38, Calendar number 349, Senate Bill 272.

Mr. President, that completes the items placed on the first consent calendar.

THE CHAIR:

The machine is open.

THE CLERK:

The Senate is voting by roll on the consent calendar. Will all Senators please return to the chamber? The Senate is voting by roll on the consent calendar. Will all Senators please return to the chamber?

THE CHAIR:

Would all Senators please check the roll call board to make certain that your vote has been properly recorded.

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If all Senators have voted and all votes are properly recorded, the machine will be locked and would the clerk please announce the tally.

THE CLERK:

The motion is on adoption of Consent Calendar Number 1.

Total number Voting	34
Those voting Yea	34
Those voting Nay	0
Those absent and not voting	2

THE CHAIR:

Consent calendar 1 is adopted.

Mr. Clerk. Senator Looney.

SENATOR LOONEY:

Yes, Mr. President, if the clerk would continue with the call of the calendar. I believe calendar page 31, Calendar 219.

THE CHAIR:

Mr. Clerk.

THE CLERK:

Calendar page 31, Calendar 219, File Number 304, Substitute for senate Bill 402, AN ACT CONCERNING THE BEHAVIORAL HEALTH PARTNERSHIP,

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Favorably Reported, Committee on Public Health.

THE CHAIR:

Senator Harris.

SENATOR HARRIS:

Thank you, Mr. President. How are you
today?

THE CHAIR:

Very well, thank you. How are you?

SENATOR HARRIS:

Good, you're looking good.

Mr. President, move acceptance of the Joint
Committee's Favorable Report and passage of the
bill.

THE CHAIR:

The question before the chamber is the
acceptance and passage of the bill.

Will you remark further?

SENATOR HARRIS:

Thank you, Mr. President, I will.

Mr. President, this bill makes a number of
changes which are primarily technical to add the
Department of Mental Health and Addiction
Services, DMHAS, to the Connecticut Behavioral

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Health Partnership. Currently, the Connecticut Behavioral Health Partnership consists of the Department of Social Services and the Department of Children and Families. When it was first established and they thought about having DMHAS be a part of it, DMHAS was left alone because at that point DMHAS was not servicing the Medicaid population. And the Behavioral Health Partnership was a Medicaid based setup.

Since then, as we all know, under DMHAS, our SAGA recipients are going to be moved towards Medicaid and the unmanaged Aid to Blind and Disabled, which were under fee for service, also will be a part now of Medicaid and managed care. So it makes sense to move DMHAS here. And, Mr. President, the clerk is in possession of LCO Number 4842, I ask that it be called and I be granted permission to summarize.

THE CHAIR:

Would the clerk please call LCO 4842 to be designated Senate A?

THE CLERK:

LCO 4842, which has been designated Senate

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Amendment Schedule A. It's offered by Senator

Harris of the 5th District, et al.

THE CHAIR:

Would you move adoption, please, Senator Harris.

SENATOR HARRIS:

I move adoption, Mr. President.

THE CHAIR:

The question before the Chamber is the adoption of Senate A. Senator Harris has requested permission to summarize the amendment. Is there objection?

Seeing none, you may proceed, Senator Harris.

SENATOR HARRIS:

Thank you, Mr. President. Mr. President, this is an important amendment because it adds some details to the underlying file. Some of it's technical changes, nomenclature and other things. But it adds some important parts to make sure that not only is DMHAS added to the Behavioral Health Partnership, but that the oversight council contains members that reflect DMHAS' clients.

I believe in this amendment also it is clarified that DMHAS will still have the clinical control cover their clients.

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I urge passage of the amendment.

THE CHAIR:

Thank you, sir.

Would you remark further on Senate A? Would you remark further? Seeing none, the Chair will try your minds. The question before the chamber is the adoption of Senate A.

All in favor, please indicate by saying aye.

SENATORS:

Aye.

THE CHAIR:

All opposed, say nay.

The ayes have it. Senate A is adopted.

Do you care to remark further on the bill as amended? Senator Debicella.

SENATOR DEBICELLA:

Thank you, Mr. President. Through you, Mr. President, just one quick question to the proponent of the bill.

THE CHAIR:

Please proceed with your question.

SENATOR DEBICELLA:

Mr. President, for purposes of legislative

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intent, the fiscal note underlying this is kind of indeterminate because it depends on the extent to which the partnership actually expands coverage. The intention of this, I think, is exactly what Senator Harris just said, which is that this bill is largely technical in nature, adding DMHAS into an already existing rubric and program. And is not meant to, as the fiscal note says, actually even bring up the possibility of further incursion of costs. So, through you, Mr. President, to Senator Harris, just to make sure my understanding of that is correct.

THE CHAIR:

Senator Harris.

SENATOR HARRIS:

Through you, Mr. President. Yes.

THE CHAIR:

Senator Debicella.

SENATOR DEBICELLA:

Thank you, Mr. President. With that, I thank Senator Harris and I rise in support of this bill, adding DMHAS to the Behavioral Health Partnership makes complete sense to try to make sure that we are bringing all the departments of the state of

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Connecticut to the table to make sure that we are providing this important service to some of our neediest citizens. Thank you, Mr. President.

THE CHAIR:

Thank you, sir.

Do you care to remark further?

Senator Roraback.

SENATOR RORABACK:

Thank you, Mr. President. If I may, through you, a few questions to Senator Harris

THE CHAIR:

You may frame your questions.

SENATOR RORABACK:

Thank you, Mr. President. And I'm trying to remember the history of the Behavioral Health Partnership, and, through you, Mr. President, to Senator Harris, can he give me a brief synopsis of how we got to where we are today in terms of the Behavioral Health Partnership? And I'm asking those questions because where we're going from today with passage of this bill, I think, is better understood if we know the context of how we started and how we got to where we are today. Through you, Mr. President.

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THE CHAIR:

Thank you. Senator Harris

SENATOR HARRIS:

Through you, Mr. President. Yes, I can give a brief synopsis, not having been around but from what I've been able to piece together.

We all know that behavioral health issues, psychiatric issues, substance abuse issues not only are unfortunately widespread throughout our communities, but they also have a large impact on our health care costs, both in treatment of those actual behavioral health issues, and because behavioral health issues are linked to a series of physical ailments. So a while back when we embarked on this bold experiment of managed care for some of our citizens it was determined that creating a partnership would be the best way to give behavioral health services, to provide them in a cost effective way. So that people get the services, but we don't overburden our tax payers. And initially it was thought about, if you look back at the history, to have DMHAS, DSS and DCF under the Behavioral Health Partnership Oversight Council as a part of this partnership.

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It was determined back then that since the DMHAS clients were not under managed care, it wouldn't fit in to the mix. And so the managed care clients, our HUSKY A and B clients, some of the voluntary service clients under the Department of Children and Families, that behavioral health has been given through this partnership. And I will say the partnership has been very, very successful. And the Behavioral Health Partnership Oversight Council -- and I'm not saying it since I recently took over as one of the co-chairs -- it was well before I had that honor of that duty -- it was doing an excellent job of making sure that our citizens, our friends, families and neighbors get the behavioral health services that they need.

The change has come recently -- and we've been talking about this for a while -- because now the people that DMHAS services, those under SAGA, state general assistance and our aged, blind and disabled population, which was under Medicaid fee-for-service, they are now moving into the realm of managed care as a result of things that we've done in this state and as a result of federal health care reform. So now to be more cost effective, to use this model which has

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worked, we're going to move those people over and underneath the Behavioral Health Partnership. But DMHAS has also been very successful in its GABHP, General Assistance Behavior Health -- and so we are not trying to take over the good work that DMHAS has done, and that's why this bill, as amended, will clarify that the clinical services will still be provided by DMHAS.

THE CHAIR:

Senator Roraback.

SENATOR RORABACK:

Thank you, Mr. President. So through you to Senator Harris, I guess I'm trying to -- the time has come then for integration of our Behavioral Health Partnership to -- we need to change the partnership to reflect the policy changes that this Legislature has adopted in terms of shifting out SAGA population into Medicaid. If we're going to be trying to bring the same efficiencies to bear on the SAGA population now that they're in Medicaid, which the Medicaid population has had the benefit of, through the Behavioral Health Partnership, it makes sense to have DMHAS there to bring their expertise as we transition

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this population. Through you, Mr. President, is that the intent of the bill?

THE CHAIR:

Senator Harris.

SENATOR HARRIS:

Through you, Mr. President, yes and in part -- DMHAS is actually already participated on the Behavioral Health Oversight Council. So we've been taking advantage of that expertise already on the clinical side. But again, as a way of managing the care since these patients, these people are moving into managed care, it makes sense. And you know, we always talk about the perfect storm, the convergence of elements. Perhaps here we have the perfect sunny day. So between what we've done effectively here in the Legislature to help these people, what federal health care reform will be doing to help these people and the good works that have been proven on the Behavioral Health Partnership side and on the DMHAS side, all those converge to make sense to bring this under one umbrella. Both to provide good services and to be cost effective to tax payers.

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Senator Roraback.

SENATOR RORABACK:

Thank you, Mr. President. I would appreciate it if Senator Harris could refrain to references to a beautiful, sunny day. I don't think that's appropriate at 5 o'clock on a Saturday afternoon, on a beautiful, sunny day when we are captured in this chamber and the rest of the world is, I think, doing things that might be more healthful.

But at any rate --

THE CHAIR:

Your point is well taken, Senator.

SENATOR RORABACK:

Thank you, Mr. President.

THE CHAIR:

Senator Harris, be so guided.

SENATOR RORABACK:

Thank you, Mr. President.

So Behavioral Health Partnership -- I know that at the inception there was some conversation about dividing Behavioral Health Services to youth and behavioral health service to adults, and, through you, Mr. President, to Senator Harris, does he remember how

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that conversation ultimately was resolved?

THE CHAIR:

Senator Harris. Si.

SENATOR HARRIS:

Through you, Mr. President. And I will refrain and I apologize to my colleagues around the circle. It will be night soon, though. And then we'll be missing other good things.

Through you, Mr. President. The way that it actually worked out, if you look at the model, the Behavioral Health Partnership tends to be a services for children because when you take HUSKY A and HUSKY B, primarily children. And of course, DCF voluntary services all children. There are some adults -- my understanding -- under Behavioral Health Partnership now, because as we know, there are some adults in HUSKY A. And now we will be bringing all the populations together under, again, one umbrella.

THE CHAIR:

Senator Roraback.

SENATOR RORABACK:

Thank you, Mr. President. And for adults who were in the Medicaid program, not the SAGA population,

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but the -- often elderly population Medicaid recipients, what's their relations then with the Behavioral Health Partnership up to this date? Through you, Mr. President, to Senator Harris.

THE CHAIR:

Senator Harris.

SENATOR HARRIS:

Through you, Mr. President. I believe what Senator Roraback is referring to is the population which we know as the aged, blind and disabled. Probably should rename that one in my estimation. And they were not under managed care, they were under fee-for-service care, which, -- there's issues of expense there and real issues as far as having a robust network of service providers. So by moving that population, which is the older population primarily into managed care, we not only are going to be able to manage their care from a cost effective perspective, but we're also going to be able to provide them with a much more robust network of providers to give them care.

THE CHAIR:

Senator Roraback.

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SENATOR RORABACK:

Thank you, Mr. President. And through you to Senator Harris, would that also be known as the Title 19 population, often referred to as Title 19 or is Title 19 a subset of that population? Mr. President, through you to Senator Harris.

THE CHAIR:

Senator Harris.

SENATOR HARRIS:

Through you, Mr. President. Title 19 is Medicaid so Title 19 probably is the larger set and these are subsets of Title 19.

THE CHAIR:

Senator Roraback.

SENATOR RORABACK:

Thank you, Mr. President. And I know that this Legislature has -- I guess in concert with the federal health reform legislation, the SAGA population is being shifted into Medicaid and I'm wondering whether the transition for the aged, blind and disabled population from a fee-for-service to a managed care model is being driven by policy changes emanating from this institution or whether it's the federal health

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legislation which is behind that change, Mr. President. If I'm correctly understanding Senator Harris, that that's one of the things that we're responding to in this bill. Through you, Mr. President to Senator Harris.

THE CHAIR:

Senator Harris.

SENATOR HARRIS:

Through you, Mr. President. We were talking about moving this population into managed care for several years. I believe, though, that based on the structure of federal health care reform we are going to also receive a benefit for having taken the initiative on the state level to do so.

THE CHAIR:

Senator Roraback.

SENATOR RORABACK:

Thank you, Mr. President. And so the Behavioral Health Partnership will be charged with overseeing the network of providers, behavioral health providers available to serve this population, Mr. President, through you to Senator Harris, does it have any role in setting rates of reimbursement or in the allocation

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of resources, Mr. President, through you to Senator Harris?

THE CHAIR:

Senator Harris.

SENATOR HARRIS:

Through you, Mr. President. Under the current Behavioral Health Partnership a company known as Value Options has been providing that, those administrative and the clinical services. The way that it's contemplated now, I believe that contract is going out to date anyways, good timing from that perspective. And the way it's contemplated now under the bill, as amended, is that the BHP can enter into one or more contracts with managed care organizations to manage the care of these people.

THE CHAIR:

Senator Roraback.

SENATOR RORABACK:

Thank you, Mr. President. And is it fair to say that the BHP kind of serves as a clearing house or a gate keeper for the provision of behavioral health services to this population, Mr. President? Through you to Senator Harris.

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THE CHAIR:

Senator Harris.

SENATOR HARRIS: ~~---~~

Through you, Mr. President. I look at the Behavioral Health Partnership as a way of bringing families, providers, patient advocates, people in government together to be able to offer the best services. And if you look at the make up of the Behavioral Health Oversight Council, which now is being changed to reflect the adult population moving into this managed care setting, it reflects that cross section. One of the reasons I believe it's been successful is because all relevant parties have had a seat at the table to make sure that we're managing care, providing care in the most humane and cost effective way. Through you, Mr. President.

THE CHAIR:

Senator Roraback.

SENATOR RORABACK:

Thank you, Mr. President, and so that the members of the circle can understand and people that might be watching at home, the relationship between the Behavioral Health Partnership and the oversight

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council, it's the partnership that really has the responsibility to do the work. It's the oversight council which is there to provide them with support and guidance and to make sure that they're doing there job? Through you, Mr. President, to Senator Harris. Is that, speaking generally, an appropriate relationship between those two bodies?

THE CHAIR:

Senator Harris.

SENATOR HARRIS:

Through you, Mr. President. I think that's good. Almost like a board of directors in some ways over a corporate body that they have more of a 30,000 foot -- they go into details, too -- type of view, but not -- the oversight council is not on the ground on a daily basis.

THE CHAIR:

Senator Roraback.

SENATOR RORABACK:

Thank you, Mr. President and through you to Senator Harris, the Behavioral Health Partnership doesn't itself employ any individuals or does it? Through you, Mr. President, to Senator Harris.

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THE CHAIR:

Senator Harris.

SENATOR HARRIS:

Through you, Mr. President. I believe the way this is really structures is that you have the Department of Social Services, you have the Department of Children and Families, now you have the Department of Mental Health and Addiction Services and then there is a contract out under current conditions to Value Options to provide a lot of the -- you know -- not a lot, but the daily operations of claims administration, providing the care, but the two agencies are integral parts of that partnership to be able to provide that humane, cost effective care.

THE CHAIR:

Senator Roraback.

SENATOR RORABACK:

Thank you. So the partnership itself is really comprised of representatives of agencies of cognizance for lack of a better expression and together, they put together what we need as a state in terms of the coordination of care to this community of people. And presumably, through you, Mr. President, to Senator

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Harris, has the RPF which has just been put out, does that contemplate passage of this bill in terms of the range of services that we're looking for from a third party administrator? Through you, Mr. President, to Senator Harris.

THE CHAIR:

Senator Harris.

SENATOR HARRIS:

Through you, Mr. President. I'm not certain actually whether the Representative is out. I think it actually might be going out in the future. I don't recall one being issued yet. I do know that we are towards the end of a contract with Value Options.

THE CHAIR:

Senator Roraback.

SENATOR RORABACK:

Thank you, Mr. President. And I ask that question obviously because -- well, through you to Senator Harris -- I would imagine that the contract -- the work that's being done now by the third party administrator is a lesser work load than what will be required if this bill is passed. If this bill is passed, there will be more lives that are brought

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under the umbrella of Behavioral Health Partnership, presumably populations with different needs and my guess -- or I would ask Senator Harris, through you, Mr. President, whether the responsibilities of the third party administrator would be great with passage of this bill or whether they would be different in any way?

THE CHAIR:

Senator Harris.

SENATOR HARRIS:

Through you, Mr. President. We don't know that yet. There could be, for instance, one managed care organization, there could be two, there could be, I believe, multiple, the way this is written.

There definitely will be more lives covered under this managed care based system. But as I also said at the beginning, DMHAS is still going to have clinical management over their people. So that will not foist extra work on the partnership. That's already being done and it will continue to be done well by DMHAS, I'm sure.

THE CHAIR:

Senator Roraback.

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SENATOR RORABACK:

Thank you, Mr. President. And just, through you to Senator Harris, the clinical work that DMHAS will retain ownership of, for lack of a better word, through you, Mr. President, to Senator Harris, that's not the exclusive -- individuals who receive clinical services from DMHAS don't necessarily only receive those services through DMHAS. They may -- from DMHAS employees -- they may also receive them from private providers overseen by DMHAS? Is that correct, Mr. President? Through you, to Senator Harris.

THE CHAIR:

Senator Harris.

SENATOR HARRIS:

Through you, Mr. President. Yes.

THE CHAIR:

Senator Roraback.

SENATOR RORABACK:

Thank you, Mr. President. I was wondering, the fiscal note for the bill -- I'm trying to call it up, but -- is it anticipated that the state will have to pay more when we -- more to the third party administrator -- well, actually, let me back up, Mr.

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President, and through you to Senator Harris, presumably the state has a contract with a third party administrator and we're paying them money to coordinate this care. Through you, Mr. President, to Senator Harris, would that be his understanding?

THE CHAIR:

Senator Harris.

SENATOR HARRIS:

Through you, Mr. President. If I heard correctly, yes. We are currently under contract with a third party administrator, Value Options.

SENATOR RORABACK:

And through you, Mr. President --

THE CHAIR:

Senator Roraback.

SENATOR RORABACK:

Thank you, Mr. President, through you to Senator Harris, is it likely to be the case that we'll have to pay our new administrator, if there is a new administrator, more if this bill passes and we bring additional lives under the umbrella of the Behavioral Health Partnership? Is that not likely to represent a greater work load from the third party administrator

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and additional costs to the state? Through you, Mr. President.

(Senator Gaffey in the chair.)

THE CHAIR:

Senator Harris.

SENATOR HARRIS:

Through you, Mr. President. You look different, Mr. President, you took off your tie.

Through you, Mr. President. I think a lot of that is speculation. I mean, obviously, you're going to have a larger number of lives, there will be more people that you're going to be paying a capitated rate on. But perhaps the volume actually could improve the level of the capitated rate. We might be paying less per person because of negotiations. If we divide it up maybe there's a way that you can save on that end. And of course, we're already providing these services under the current model through DMHAS, so there's costs there that will not be expended. So it's really tough to figure out at the end of the day when you rack it up, is it going to be a little more or a

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little less. We do know that BHP has worked well, it has been cost effective, it has provided care.

There's no reason to think that it won't continue to do so for both the people it provides services to and the tax payers of Connecticut.

THE CHAIR:

Senator Roraback.

SENATOR RORABACK:

Thank you, Mr. President. And through you, I don't know whether Senator Harris has had an opportunity to review the fiscal note for this bill, which I'm reading. And it's an interesting fiscal note because it -- it's somewhat vague in terms of identifying the degree to which there's going to be an impact, a state impact going into the future.

And through you, Mr. President, to Senator Harris, does Senator Harris understand the reasoning behind the fiscal note of why we can't tell how much this change might cost? Through you, Mr. President, to Senator Harris.

THE CHAIR:

Senator Harris.

SENATOR HARRIS:

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Through you, Mr. President. Yes, Senator, because I think I just explained there's a lot of different moving parts, different contracts that might be entered. We don't know about how that will affect the capitated rate. It's not clear exactly right now what the saving might be on the DMHAS side from having us move into managed care. And so there's a lot of question marks, so it's really impossible to tell the fiscal impact.

Suffice it to say, though, again, I'm confident based upon the cost effective and humane way that the Behavioral Health Partnership has provided these services, it will continue to do so and will be a benefit, not a detriment, to the tax payers of Connecticut.

THE CHAIR:

Senator Roraback.

SENATOR RORABACK:

Thank you, Mr. President. And I would agree with Senator Harris. Because I think our experience has been with the existing Behavioral Health Partnership that it has brought value, most importantly to the individuals who fall under its umbrella. But as an

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added bonus, I think there's pretty wide consensus that there have been efficiencies achieved, better coordination of care. So it's kind of been a win-win for the state, of the individuals who are receiving these services and for the providers as well, who now have a centralized place to turn.

And just a couple more questions for Senator Harris about the Behavioral Health Partnership Oversight Council.

Through you, Mr. President, to Senator Harris, did Senator Harris say that he was now one of the chairs of that council? Through you, Mr. President, to Senator Harris.

THE CHAIR:

Senator Harris, did you say that?

SENATOR HARRIS:

Yes, Mr. President. When you had your tie on, I did.

THE CHAIR:

Thank you, Senator Harris.

Senator Roraback, you have the floor.

SENATOR RORABACK:

Thank you, Mr. President. And through you, Mr.

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President, Senator Harris, as chair of that body, does he know approximately how many individuals serve on that body? . . .

THE CHAIR:

Senator Harris.

SENATOR HARRIS:

Through you, Mr. President. I can do the count. I can picture the table in the committee room and I can do the count under existing -- the existing law, but what I do know is that we have added, I believe, four new members, I believe, on the amendment.

SENATOR RORABACK:

And that's -- and that's where I'm going --

SENATOR HARRIS:

And so we've gone, I believe, from about 14 now to, I believe, 18 members.

THE CHAIR:

Senator Roraback.

SENATOR RORABACK:

Thank you, Mr. President. And where I was going with this line of questioning is that the four new members are appointed by the chairs of the council and through you, Mr. President, to Senator Harris, I was

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wondering if all the members of the council are appointed by the chairs or whether it's just these four new members who are going to be appointed by the chairs?

THE CHAIR:

Senator Harris.

SENATOR HARRIS:

Through you, Mr. President. First, I -- back at Senator Roraback, I'd like to know if he's interested in being on the council, first of all, but he can answer in his follow up.

I believe that they are the traditional appointments of either an official, the Commissioner of DPH, Commissioner of DSS or their designees. And, of course, then we have legislative appointments. These four are the ones now that will be appointed actually by the chairs of the council.

THE CHAIR:

Senator Roraback.

SENATOR RORABACK:

Thank you, Mr. President. And through you to Senator Harris, I'm wondering if Representative Ritter, the very capable House chair of the Public

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Health committee is the other co-chair with Senator Harris or whether it's somebody else. Through you, Mr. President, to Senator Harris.

THE CHAIR:

Senator Harris.

SENATOR HARRIS:

Through you, Mr. President. You are correct about Representative Ritter's capabilities, but it is another very capable person, a provider, Jeff Walter, who's done an excellent job with the oversight council.

THE CHAIR:

Senator Roraback.

SENATOR RORABACK:

Who's -- through you, Mr. President, who's the co-chair with Senator Harris?

THE CHAIR:

Senator Harris, the question is who the co-chair is besides you. I believe you said Mr. Walter is the other co-chair; is that correct?

SENATOR HARRIS:

Through you, Mr. President, yes.

THE CHAIR:

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Senator Roraback.

SENATOR RORABACK:

ES I thank -- Mr. President, and are you serving in that capacity? Through you, Mr. President, to Senator Harris, by virtue of having been appointed by someone or by virtue of your status as the chairman of the Public Health Committee.

THE CHAIR:

Senator Harris.

SENATOR HARRIS:

Through you, Mr. President. I was appointed, I believe, by the president of the Senate.

THE CHAIR:

Senator Roraback.

SENATOR RORABACK:

Thank you, Mr. President and through you, Mr. President, to Senator Harris, was his co-chair -- I'm going to go out on a limb and guess that perhaps his co-chair was appointed by the speaker of the House. Through you, Mr. President, to Senator Harris.

THE CHAIR:

Senator Harris.

SENATOR HARRIS:

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Through you, Mr. President. That sounds logical.
I can look for it in here, but I don't recall offhand.

THE CHAIR:

Senator Roraback.

SENATOR RORABACK:

Thank you, Mr. President. It could be the Governor, I don't know. What I'm trying to understand -- it's unusual -- you have individuals that are appointed by different appointing authorities and then they, in turn, are given additional appointment power to appoint additional members of this committee, so kind of by extension, the original appointing authorities are given an opportunity to exert greater influence over a body than might originally have been contemplated when the body was created. So it's not a criticism, it's just an observation. I've seen a lot of different structures for boards and the like, but - through you, Mr. President, to Senator Harris, I was just wondering if that was by design or the product of negotiations? Through you, Mr. President, to Senator Harris.

THE CHAIR:

Senator Harris.

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SENATOR HARRIS:

Through you, Mr. President. I did find the answer here in current law in front of me. I did -- was asked by our esteemed President of the Senate, Don Williams, to serve in this capacity, but the actual appointing authority, which you can see in the file on lines 133, beginning there, are the chairpersons of the Advisory Council on Medicaid/Managed Care actually select the chairpersons of the Behavioral Health Oversight Council from among the members of the council. And both my co-chair, Representative Ritter and I, by virtue of our positions of being the co-chairs of Public Health are members of the BHPOC. This, in itself, actually, in my mind, is also a unique way of appointing chairs. You don't see that in a lot of other areas of statute.

THE CHAIR:

Senator Roraback.

SENATOR RORABACK:

Thank you, Mr. President, and I tried to follow -- I think what I gleaned from Senator Harris' answer was that he and Representative Ritter, by virtue of their being -- they being chair people of the Public

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Health Committee, both are given membership of the Behavioral Health Partnership, which would stand to reason, if that's the case.

So through you, Mr. Chairman -- Mr. President, to Senator Harris, he and Representative Ritter both serve on the council and so Senator Harris being selected as a chair, that's a designation that comes from the Medicaid advisory council if I understood him correctly. Through you, Mr. President, to Senator Harris.

THE CHAIR:

Senator Harris.

SENATOR HARRIS:

Through you, yes, the chairpersons of the advisory council of Medicaid/Managed Care appoint the chairs of the Oversight Council.

THE CHAIR:

Senator Roraback.

SENATOR RORABACK:

Thank you, Senator and through you, Senator, they appoint those chairs from the membership of the Behavioral Health Partnership. What I'm trying to understand, through you, Mr. President, they couldn't

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go out and pick up somebody who doesn't otherwise serve on the Behavioral Health Partnership and ask them to chair. They have to look at the people who are already at the table and then choose them -- choose from amongst them for the chairmanship -- if that's -- is that Senator Harris' understanding of how the process works? Through you, Mr. President, to Senator Harris.

THE CHAIR:

Senator Harris.

SENATOR HARRIS:

Through you, Mr. President. Yes.

THE CHAIR:

Senator Roraback.

SENATOR RORABACK:

Thank you, Mr. President, and so I guess -- through you, Mr. President, to Senator Harris, does he know who the chairs of the Medicaid oversight advisory -- does he know who appointed him? Through you, Mr. President, to Senator Harris.

THE CHAIR:

Senator Harris.

SENATOR HARRIS:

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Through you, Mr. President. I believe the co-chairs -- because I do go to those meetings, too -- or did at least before the session got in full swing -- are -- Senator Harp is one of the co-chairs and I believe Senator Prague is the other co-chair of the Medicaid managed care. So I have them to thank. Thank you, Senator Harp. Through you, Mr. President.

THE CHAIR:

An august group, indeed. Senator Roraback.

SENATOR RORABACK:

And it's just -- through you, Mr. President, I'm not trying to play six degrees of separation. What I'm trying to kind of trace all this appointing authority back to the source and we might not have enough time this evening to do that because each layer of the onion we peel back there seems to be another layer and it's not a criticism, it's just kind of a -- and I didn't know when I -- I thought was asking a simple question. This turned into to be -- less simple than I had originally anticipated. But I guess I have -- to me the more important thing is not who's appointing these members but what these new members represent. And I think the -- I'd like to applaud

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Senator Harris because I think having representation on the oversight council of the home health care agency, of a substance abuse provider, somebody who's suffered with a psychiatry disability and who's in recovery and a family member of an individual who's struggling with a psychiatric disability is going to give greater weight to the work of the oversight council.

You know, I think we do a disservice when we create bodies that don't have representation from people that are actually benefiting from the services or have experienced this themselves. So I appreciate Senator Harris' explanation of the importance of this bill. I look forward to supporting it and I thank him for his indulgence.. Thank you, Mr. President.

THE CHAIR:

Thank you, Senator Roraback.

Would you remark further on the bill as amended?

Senator Kane.

SENATOR KANE:

Thank you, Mr. President, good afternoon.

THE CHAIR:

Good afternoon, sir.

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SENATOR KANE:

Through you, a couple of questions to the
proponent of the bill?

THE CHAIR:

Please proceed.

SENATOR KANE:

Thank you, Mr. President.

I guess not too similar to Senator Roraback's
questions in regards to the appointments of the actual
council, but similar in the notion that I like to talk
about the underlying bill and the actual behavioral
partnership health council. In section 2 it talks
about creating or establishing a community system of
care. And -- well, I guess -- let me take a step
back. How long has this council been in service or
been in existence? Through you, Mr. President.

THE CHAIR:

Senator Harris.

SENATOR HARRIS:

Through you, Mr. President. I don't know
exactly. It's been around for all of my tenure here
of six years. I would imagine the Medicaid managed
care council started after managed care came into

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existence in the late 90's so somewhere after that.

So it's probably coming on ten years.

THE CHAIR:

Senator Kane.

SENATOR KANE:

Thank you, Mr. President. And the reason I ask that question is because, again, I refer back to section 2 about the community system of care and under section 2 it talks about item 1 of subsection b, "alleviate hospital emergency department overcrowding." And I'm wondering if the council through its work is able to talk about that, have they helped in that regard? How are they doing that? Is there -- are there some outcomes that are measurable to that particular activity? Through you, Mr. President.

THE CHAIR:

Senator Harris.

SENATOR HARRIS:

Through you, Mr. President. Yes. I could show the good Senator that we have a lot of statistics on the success of the Behavioral Health Partnership, but it's a pretty simple equation. When you provide

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people their services, wellness and prevention, particular in behavioral health with immediate problems, if you provide them with the services they need so they can help themselves, so they can be stable, so they can be productive members of our communities, they don't go into crisis. And when people go into crisis and have nowhere to care for, one of the whole reasons that we're talking about health care reform is that they pay for it, we pay for it, they present at the emergency room. And so there was over utilization. So the more that we can provide care on the front end, you stop the hospital visits.

THE CHAIR:

Senator Kane.

SENATOR KANE:

Thank you, Mr. President. And I thought so and that's why I was curious about that.

One the next, number 2, it says "reduce unnecessary admissions and length of stay in hospitals and residential treatment settings." and I found that interesting because I'm wondering at that point of an individual being admitted to a hospital or residential treatment program, how through the council are they

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able to reduce the length of stay? Is that just through discussions that they're having with the actual providers, with the people doing the actual work? How are they able to work on that particular item? Through you, Mr. President

THE CHAIR:

Senator Harris.

SENATOR HARRIS:

Through you, Mr. President. Of point of clarification, it's not really the council per se. That's sort of an oversight group that brings together families, providers, people in the government agencies, patient advocates so you have everybody with different perspectives sitting around the table to make sure that the Behavioral Health Partnership, which consists of DSS, DCF and will soon, I hope, also have DMHAS on it, and in partnership now with a third party administrator, Value Options, that's the partnership. So the work of those organizations to provide behavior health services has done the things that you list in the original bill, in current law.

THE CHAIR:

Senator Kane.

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SENATOR KANE:

Thank you, Mr. President. Well, I ask that because it says the department "shall direct the activities of the administrative service organization." So I would imagine that they would have direct effect on those issues, because they are, according to the bill, directing the actual activities.

The next one talks about "increase the availability of outpatients services." Does that mean -- do they have any budgetary recommendations? Through you, Mr. President.

THE CHAIR:

Senator Harris.

SENATOR HARRIS:

Through you, Mr. President. All of this ultimately is part of the state budget. I believe what this is trying to get at is specific areas that the partnership, which, of course, consists of the departments and now one administrative service organization, but under this bill, if it passes, perhaps two or more administrative services organizations, these are the areas that they should

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try to focus on to get improvement so we have fewer people going to the hospital. So we have fewer unnecessary admissions and lengths of stay at hospitals and residential settings. So that we increase the availability of outpatient services, have a more robust network for people to get their services on the front end as opposed to, as we do all too often in Connecticut and in this country, wait until people go into crisis and pay for it more on the back end.

THE CHAIR:

Senator Kane.

SENATOR KANE:

Agreed. I agree with that. And the last question, in regard to section 2 talks about "promote community based system of care." and I'm wondering - because I know a lot of individuals on this side of the aisle have talked about private providers and shifting a lot of our social service programs from state agencies to the private providers. And I think, personally, that they do provide a wonderful service for the people in the state of Connecticut. They do it very efficiently, at a lower cost and with less resources, of course, as well. So my question, I

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guess, is how can -- well, two parts, I guess. How can we promote that part of it and is that part of what this section number 4 does, which is promoting community based system of care? Through you, Mr. President.

THE CHAIR:

Senator Harris.

SENATOR HARRIS:

Through you, Mr. President. I believe that the details of how to do the new language in line 58, the new number 4 will be left to the partnership and the oversight council. I believe what that means is we're not going to use institutional models where we gather people and put them in big buildings and basically have them all together, but we are going to try more and more, as we have been doing, to provide care in the community. It could be through state services, it could be through private provider services. And that the recovery oriented system of care, also -- which I don't know a lot about at this point and I hopefully will be learning more about -- is also a way to provide care, again, so that we have people that are stable and are productive members of our communities.

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THE CHAIR:

Senator Kane.

SENATOR KANE:

Thank you, Mr. President. Well, and again, the reason I ask that question -- and I agree with you. I agree that we're moving away from that institutionalization and more towards the community based system. And I agree with that wholeheartedly. I guess my thinking is that we can do that through private providers. And I'm just curious -- cause I know that in the social services aspect, there's only a few, maybe a handful of states that do it the way we do it, meaning a duality, if you will, where we have state run services and private services. Most states choose one or the other. So I was wondering if -- for efficiency models -- and, really, because I believe that the private providers do a better job on the street and, you know, at that level directly, that maybe this is something that this council should be looking at, and are they? And that's why I asked the question, really. Through you, Mr. President.

THE CHAIR:

Senator Harris.

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SENATOR HARRIS:

Through you, Mr. President. Care is currently given through Value Options to a host of -- through a host of providers that are private providers. I'm sure that there will be the need for more of that as you bring more lives under the Behavioral Health Partnership. DMHAS, as I told a couple of my other friends on your side of the aisle earlier, DMHAS will be maintaining clinical management over many of their patients, the people that they serve. So there still will be, under the BHP, a mix where you have private providers and -- through DMHAS and through DCF, they will be providing some services, too.

THE CHAIR:

Senator Kane.

SENATOR KANE:

Thank you, Mr. President. I appreciate those answers and I agree with that. I was just wondering if there was just a way of looking at it from that side of the angle.

My last question to you is in regard -- well, actually, I shouldn't say that -- I have a couple, but I have a question in regard to section 7, if you want

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to pull that up and it talks about the annual evaluation of the Behavioral Health Partnership. I was just wondering if you could just speak to that, if you would. Through you, Mr. President.

THE CHAIR:

Senator Harris.

SENATOR HARRIS:

Through you, Mr. President. This is in current law, an evaluation that's being done now by the commissioner of DCF and social services and will be done after this bill passes, as I believe it will, by the additional state agencies, the Department of Mental Health and Addiction Services, with a report to the General Assembly just to, again, to show -- we want to not only turn over the keys, if you will, to this partnership and fund this partnership, but we want to make sure that there are results and that our taxpayer's hard earned dollars are actually achieving good care for people and savings for all the tax payers.

THE CHAIR:

Senator Kane, you have the floor.

SENATOR KANE:

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Thank you, Mr. President. And one last question because I appreciate that answer is in regard to rate setting. And it talks about in the bill that the council -- I'm sorry. That the committees of cognizance, Appropriations, Human Services, Public Health can hold public hearings on the proposed rates, but not on the rate setting methodology. Can you explain to me the difference, what that is? Through you, Mr. President.

THE CHAIR:

Senator Harris.

SENATOR HARRIS:

Through you, Mr. President. Again, as a legislature having constitutional authority over the power of the purse, we have oversight role over rates. But the rate setting methodology, actually putting together the rates, negotiating the rates with the third party administrators, the administrative organizations, now one, but under this bill, could be two or more, that would be still in the hands of the Department. But the Legislature would maintain oversight role.

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Senator Kane.

SENATOR KANE:

Thank you, Mr. President. And that's what I thought you were going to say, but I just wanted a clarification of that.

And I appreciate Senator Harris for his time and answering my questions.

I will be voting in favor of this bill as I do serve as the ranking member of the Human Services subcommittee and appreciate that this bill had come through both the committees of course, because they are the committees of cognizance and adding DMHAS to this council, I think makes a lot of sense. So I will be voting in favor of it. Thank you, Mr. President.

THE CHAIR:

Thank you, Senator Kane.

Will you remark further on the bill as amended?
Will you remark further?

Senator Boucher, do you seek the floor? Okay.
Please proceed, madam.

SENATOR BOUCHER:

Thank you very much, Mr. President. Mr. President, after listening to this debate this

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afternoon, there was some answers that clarified the bill, but there were also some questions that created, for me, some lack of clarity. And through you, Mr. President, if I could ask, again, the proponent, the actual rational and reason that we have this bill before us, why these changes were made? Through you, Mr. President.

THE CHAIR:

Senator Harris.

SENATOR HARRIS:

Through you, Mr. President. If I could just have clarification. I apologize, I distracted myself. I have only myself to blame. But was the question why we're moving DMHAS into the Behavioral Health Partnership?

THE CHAIR:

The question was why is the bill before us? What is the reason we need to make the change, as I recall Senator Boucher's saying.

SENATOR BOUCHER:

And in addition to that, Mr. President -- yes, sir -- in addition to that, the rationale for this particular council and outside group and partnership

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to be in statute? For us to have this oversight, as was just explained that we're one of the few states that do do this, through you, Mr. President.

THE CHAIR:

Thank you, Senator Boucher, for clarification, Senator Harris.

SENATOR HARRIS:

Through you, Mr. President. I don't know where to start because we've been talking about this now for well over an hour, I believe, and I've gone through all these details -- I don't want to say ad nauseum because I think it's been a good exercise. But the purpose of the Behavioral Health Partnership was to provide behavioral health services, people with psychiatric issues, people with substance abuse issues. One, because it's the right thing to do, and, two, because if you provide care and services to people with these behavioral health issues, you actually save money. Because people that don't get services, they go into crisis, they go to the emergency rooms, we've heard the stories more often, they get institutionalized, they become permanent wards of the state, if you will, permanently on the

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taxpayer dollars. Where our goal is to make sure people get the services they need, are stable, and not only don't go into those expensive settings, but can be productive members of our communities. Civic participation, tax payers, you name it.

The managed care model started back in the 90's and it was thought that we could use the managed care model to also help with behavioral health issues. So we set up a behavioral health partnership with the Department of Social Services, the Department of Children and Families contracting with an administrative services organization, typical managed care as you see under HUSKY, the Medicaid population. And as a matter of fact, HUSKY A and B and the DCF Voluntary Services clients are a part of the current Behavioral Health Partnership. And then we, on top of it, put a behavior health oversight council, which brings together not only the state agencies, legislators, families, consumers, providers, patient advocates to be able to oversee and make sure that the Behavioral Health Partnership is working effectively, to provide all those perspectives to make sure that care is being given and that we are saving tax payer

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dollars.

THE CHAIR:

Thank you for that explanation, Senator Harris.

Senator Boucher.

SENATOR BOUCHER:

Mr. President, that was extremely helpful in that clarification, but it still brings to mind that we've created another oversight body and added some layers. And I'm working hard to reach the conclusion that this has been additive and helpful rather than, again, just creating another oversight body.

There was some confusion in my mind when this was being discussed on the individuals that were a part of the oversight that might actually be -- to which these bodies report to in our own legislative committees, such as Appropriations and Human Services and so forth. Is there any duplication of individuals in that oversight that might be in a position to be reporting to their own committees? Through you, Mr. President.

THE CHAIR:

Senator Harris.

SENATOR HARRIS:

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Through you, Mr. President. I would take issue, first of all, about this idea of layers of oversight. I know it's a common refrain from some in this building to somehow make government like this evil thing.

The alternative, I guess, could be that we don't provide any care. Anyone with behavioral health issues can be in their communities, do what they want and somehow, it will never affect us in our lives, both morally or the tax payers, because, of course, they'll never get sick, they'll never go to the emergency room, we'll never have to pay for them, so we might as well not come up with a system of care. That's kind of the logical extent of some of the arguments I'm hearing.

This is not duplicative. This is a way to manage care of a population that wasn't being managed in this way. And there are on the oversight council, which I might say, is a voluntary council, appointed but voluntary, not paid, it's not like tax payers are shelling out big bucks to have me be co-chair of a voluntary body, or anybody else that sits on there, the family members that come out of care for their

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children and families and others. So I don't know what you mean by duplicative. This is the way that we've figured out and have -- people across the board, providers, family members, consumer advocates, Democrats, Republicans, legislators, executive branch members said that this actually has been a good thing for the people of Connecticut. So we're taking this good thing and now that we've changed the populations being served under DMHAS to a managed care situation, the SAGA recipients, state administered general assistance and the unmanaged care fee-for-service, the aged, blind and disabled, because of what we've done in the state and because of federal health care reform, they're going under managed care, it makes sense now to have DMHAS be a part of the Behavioral Health Partnership.

DMHAS has always, as said before, sat on the oversight council and participated and provided their expertise, but now has a way of providing service through third parties. Remember this isn't really a government program per se. This is government based, but we contract out to a private provider, Value Options, the contract to serve the population in large

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part. So this is a public/private partnership at its best.

THE CHAIR:

Senator Boucher.

SENATOR BOUCHER:

Thank you very much, Mr. President. And I think we are all, in this body, both sides of the aisle, in total agreement that these are very necessary services, and have supported them. It's the providing of those services -- it's absolutely necessary. What I'm just trying to get to is the transparency of the process, the amount of the various -- and we tend to do that a lot as you well know in this particular building, is that we continue to build more and more advisory boards. I know we have that problem even in the transportation area, where some have actually sat idle for years, that haven't done as much. And of late, we certainly changed that and they've become much more active and it is important to have that oversight. The issue is of transparency and that we don't necessarily have the same people on all of these boards that absolutely are going to be reporting to themselves later on on these issues.

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And I did have a question with regards to the membership where -- and I must be reading this incorrectly -- maybe you can help me with this. In the explanation of this that we were provided, that the Behavioral Health Partnership Oversight Council advises the Department on the partnership's planning and administration, but the bill removes from the council's voting membership DMHAS Commissioner and/or her designee and a member of the Community Mental Health Strategy Board. And then it adds to the council, non voting, ex official membership. Why would they be removed from the voting membership? Through you, Mr. President

THE CHAIR:

Senator Harris.

SENATOR HARRIS:

Through you, Mr. President. First of all, I would say that I'm in agreement with Senator Boucher. I totally agree that oftentimes we set up too many councils, task forces and have unnecessary oversight. We do, actually, too much legislating of these things and other things, and not enough real oversight that works. And the BHPOC, this oversight council and the

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Behavioral Health Partnership, actually, have worked. But if you could just point to me -- and I'll look at the specific parts. I mean, we've expanded this board. I mean, maybe the best way to say it is that there have been some change in the board -- in the oversight council, I should say, based upon experience.

But we have actually added because we are adding new population to the board for new appointments, which you can see in the amendment. And they are divided up so that they will reflect the newer populations, the needs and the perspectives of the newer populations. Because the theory behind, and the way it has actually successfully work, this oversight council, is that we have people from all different parts of the equation. So it's not just a typical task force where you throw a bunch of people together, it is one where we've thought, "Well, we need someone representing a family member here on the new piece. We need someone that has the perspective of a home health care agency providing behavioral health services," because that's something that would be important to the new people coming into the Behavioral

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Health Partnership. So that's what's always been important and I think these changes reflect trying to keep that intact, that everybody has a seat at the table.

SENATOR BOUCHER:

Mr. President, that's --

THE CHAIR:

Senator Boucher.

SENATOR BOUCHER:

-- welcome news, for sure, and I very appreciate it. I guess I was just reading from the OLR bill analysis on this bill and the area of membership when they said that the bill, although adds, also removes the voting membership of DMHAS to the Behavioral Health Partnership Oversight Council. And that was just the question is, did they go from a voting to a non voting membership? I would think that -- and absolutely, it is appropriate for this legislation to address the inclusion of DMHAS. It is absolutely appropriate. I think there's no one that would quibble with that.

The question is are they now non voting members or voting members of the council? Through you, Mr.

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President.

THE CHAIR:

Senator Harris, voting or non voting.

SENATOR HARRIS:

I believe -- and I'm trying to find the place in the file, but if the OLR report is accurate, it is -- as it says, that it removes from the council's voting membership the DMHAS commissioner or designee. And a member of the Community Mental Health Strategy Board. So they'd become ex officio.

THE CHAIR:

Senator Boucher.

SENATOR BOUCHER:

I thank you for that answer. I don't know that I'm altogether comfortable with that. I think that they would be a very important voting member of this organization, given how much is at stake and the population that they serve. And I hope that maybe someone would take a look at that.

Thank you, Mr. President. Much appreciate it.

THE CHAIR:

Thank you, Senator Boucher.

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SENATOR HARRIS:

Through you, Mr. President. The reason for that is if you look at the current law, the current commissioners are all ex officio members. There are eight non voting members appointed, I believe they're ex officio. So I think it's trying to make it consistent, but we can -- I can clarify that for you later, Senator. Thank you.

THE CHAIR:

Thank you, Senators.

Will you care to remark further on the bill as amended?

Senator Debicella.

SENATOR DEBICELLA:

Thank you, Mr. President, for the second time.

First, I would just like to thank Senator Harris, not just for his work on this bill and the discussion today. But I've had the pleasure of serving with him in this term on the Public Health committee and I think his answers today demonstrate the depth of knowledge that he has around some of the health issues that are facing some of our neediest citizens.

And, Mr. President, I just wanted to stand to

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speak on behalf of this bill, because if you look at it, much of the conversation we've had has surrounded -- one quote that Senator Harris had, which is the responsibility we have as a society to make sure that the people who can be helped, are helped. And the purpose of the Behavioral Health Partnership is to make sure that all the structures of government are brought to bear, to actually help those people who can recover from different behavioral health problems. DMHAS obviously has a key role to play in that, which is why they've been included in this bill.

But, Mr. President, one of the most important things that we haven't talked about yet is in section 2 of this bill. And it's tucked away. And we haven't talked about it that much yet, but it's actually adding in a new goal, if you will, for Behavioral Health Partnership. And it's one that's been there, but has not been explicit, which is to promote a community based, recovery oriented system of care. And this goes to what Senator Kane was describing before that, you know, we are one of four states who rely on a dual system of both state care and non-profit community provider care. In fact, over 80

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percent of our clients are handled by community not-for-profit organizations. And by relying on community based care, we are trying to ensure that folks who are going in for help are not going into a massive, state, faceless building where they're going to be treated like another number. They are being treated in their community by nonprofits who are actually able to tailor their services towards those patients. And usually can do it at a much cheaper rate that the state could.

And we've had that discussion with the budget. But the bill before us today makes sure that as the Behavioral Health Partnership is actually considering the type of care that we should be offering, that it is community based and recovery oriented.

Because the other important thing that we talked about and Senator Harris mentioned was that the people who can be helped should be helped, is for many of the folks who are going through these programs, there are issues that with proper treatment, they can return to society as fully functioning members. And we don't want them to become wards of the state. We don't want them to be forced onto government programs for the

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rest of their lives. The community aspect of this will actually help more people reintegrate into society faster.

Mr. President, I believe that the bill before us today, while largely technical in nature, actually carries the spirit of much of what we've been trying to accomplish with it. And I think Senator Harris in describing -- you know, we talked a lot of the technicalities of voting versus nonvoting and a lot of the details of how this Behavioral Health Partnership works. I think the most important thing that it does is it makes sure that our government agencies are coordinated. And that they're coming to the patient community, the client community in a way that is not stepping on each other's toes.

Senator Boucher quite correctly said, we want to make sure that this is not duplicative. We want to make sure that we are not, as a state, wasting tax payer money by having DMHAS and DSS and DCF all doing the exact same thing for clients. And having a partnership that actually coordinates the departments will actually give us a much better way to approach that client community in a unified way.

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So, Mr. President, today I rise in support of this bill. Again, I thank Senator Harris for his work on it and urge its adoption. Thank you.

THE CHAIR:

Thank you, Senator.

Will you remark further on the bill as amended?

Will you remark further?

Senator Harris.

SENATOR HARRIS:

Thank you, Mr. President, if there's no objection I ask that this matter be placed on the consent calendar.

THE CHAIR:

Seeing no objection, the item is placed on the consent calendar.

Mr. Clerk.

Senator Looney.

SENATOR LOONEY:

Yes, Mr. President, thank you. Mr. President, if the clerk would call next calendar page 35, Calendar 278, Senate Bill 400.

But before that, Mr. President, if we might -- I believe we're now in possession of Senate Agenda

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Number 3 for today's session.

THE CHAIR:

Mr. Clerk.

THE CLERK:

Mr. President, the clerk is in possession of Senate Agenda Number 3, dated May 1, 2010. Copies have been distributed.

THE CHAIR:

Senator Looney.

SENATOR LOONEY:

Thank you, Mr. President. Mr. President, I move all items on Senate Agenda Number 3, dated May 1st, 2010, be acted upon as indicated. And that the agenda be incorporated by reference into the Senate Journal and the Senate transcript.

THE CHAIR:

Seeing no objection, so ordered.

SENATOR LOONEY:

Thank you, Mr. President. In addition, Mr. President, items that we have -- that appear on the various agendas today, would also move that those items be immediately place on the calendar.

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Seeing no objection, so ordered.

SENATOR LOONEY:

Thank you, Mr. President.

THE CHAIR:

Mr. Clerk, please call.

THE CLERK:

Calendar page 35, Calendar Number 278, File
Number 404, Senate Bill 400, AN ACT CONCERNING
INSURANCE REIMBURSEMENT PAYMENTS TO SCHOOL BASED
HEALTH CENTERS, Favorable Reported, Committee on
Public Health and Insurance.

THE CHAIR:

Senator Harris.

SENATOR HARRIS:

Thank you, Mr. President. I move acceptance of
the Joint Committee's Favorable Report and passage of
the bill.

THE CHAIR:

Question is on acceptance and passage of the
bill. Will you remark, sir?

SENATOR HARRIS:

I will, Mr. President. Thank you very much.

Mr. President, the clerk is in possession of an

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amendment, LCO Number 4914. I ask that it be called
and that I granted permission to summarize.

THE CHAIR:

Mr. Clerk.

THE CLERK:

LCO 4914, which will be designated Senate
Amendment Schedule A. It is offered by Senator Harris
of the 5th District, et al.

THE CHAIR:

Senator Harris.

SENATOR HARRIS:

Thank you, Mr. President. I move adoption.

THE CHAIR:

Question is on adoption. Will you remark, sir?

SENATOR HARRIS:

Thank you, Mr. President. Mr. President, this is
a strike all amendment, it becomes the bill. It's
very sort, very simple, but very important.

School based health centers on the front line of
health care, providing health care to hundreds of
thousands of kids every single year. As a matter of
fact, I had some statistics here about the number, but
what this bill tries to do is in these school based

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health center, where the nurse practitioners are providing care, there are a number of children that are privately insured. As a matter of fact, the privately insured account for about 30 percent of the visits to school based health centers. Almost 40,000 visits per year. But these visits have not been reimbursed by the insurance carriers. For some reason there haven't been contracts that were entered into between the insurance companies and the school based health centers, which would enable these visits to be covered.

So it's interesting that if a child goes to a minute clinic where there -- one of these walk in clinics where there is a contract with a private insurer, a service would be covered, but the same service provided in the school based health center would not be covered.

And these visits could account for over 3.6 million dollars, we estimate, in revenue for school based health centers. And as we know, in these tough times, when we've been doing a lot of cutting, the school based health centers have been receiving their end of those cuts. As a matter of a fact, at one

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point they were facing an additional -- after already being cut -- 2.75 million dollar reduction in their line item in the budget. It would be so helpful to have these private dollars coming in to help our school based health centers. And again, this is nothing that's out of the ordinary because these services are covered in other settings, just not in the school based health center.

So what this bill will do -- it's not a mandate. We're not trying to mandate this. But it will push the health insurers towards offering the school based health centers contracts to cover the benefits that they cover in other settings.

I urge adoption of the amendment.

THE CHAIR:

Will you remark further?

Senator DeBicella.

SENATOR DEBICELLA:

Mr. President, very briefly, I stand in support of this amendment as well. Senator Harris has done a very good job in crafting a very narrow bill that deals with what we might call a distribution issue rather than what we normally talk about here, which is

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a coverage issues. This is not talking about any additional coverage, which tends to drive up costs. This is just talking about making sure that in school based health clinics, we're able to get kids access to the same type of coverage that they would enjoy elsewhere by visiting another type of doctor.

So I believe that this bill is very carefully crafted to ensure that it is not going to be a mandate on our health care system, but instead, is going to help to increase access to care.

So I stand in favor of this bill -- this amendment and of the underlying bill. Thank you, Mr. President.

THE CHAIR:

Thank you, Senator DeBicella.

Senator McLachlan.

SENATOR MCLACHLAN:

Thank you, Mr. President. I rise in support of this amendment. I'd like to say that I've had experience serving in the advisory board of the Danbury school based health centers and it was probably four or five years ago that we were looking for creative ways to generate some more revenue,

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knowing that budgets were continuing to go down. And one of the things that were talked about many years ago was how could we recruit insurance companies to be more proactive in funding services at school based health centers.

So I applaud our efforts, my colleague, the chair of the Public Health committee. This is a good move. It's good for our children. It's a good, creative way for us to lessen the burdens of the budgets in school based health centers. Thank you.

THE CHAIR:

Thank you, Senator McLachlan.

Will you remark further? Will you remark further on the bill?

Senator Harris.

I'm sorry. The question is on adoption.

If not, all those in favor indicate by saying aye.

SENATORS:

Aye.

THE CHAIR:

Opposed, nay.

Ayes have it.

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Will you remark further, Senator Harris?

SENATOR HARRIS:

Thank you, Mr. President. I do want to thank Senator Debicella. On all the bills that we worked on today he was an excellent partner as a ranking member of Public Health and I think he hit the nail on the head with this one.

This is really a cost savings measure. It is actually going to be providing better care. We know when we provide care, we actually save money, both public and private dollars. And it will help us with our budget because by providing this stream of revenue to the school based health centers, not only will we keep people healthy and save dollars, but it will take the pressure off the state budget to have to fill in the gaps to make sure that these important front lines of health care, the school based health centers survive.

I appreciate everyone's cooperation. If there's no objection, I'd ask that this matter be placed on consent.

THE CHAIR:

Seeing no objection, the item is placed on the

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consent calendar.

Senate will stand at ease.

(Senate at ease)

Senator Looney.

SENATOR LOONEY:

Thank you very much, Mr. President. Mr. President, if the clerk would call the next two items in order that I believe have been marked previously. Calendar page 23, Calendar 63, Senate Bill 185, and then the next bill after that will be Calendar page 26, Calendar 141, Senate Bill 188.

THE CLERK:

Calendar page 23, Calendar Number 63, File Number 45, Senate Bill 185, AN ACT CONCERNING ADVERTISING BY NON LICENSED TRADESPERSONS, Favorably Reported, Committees on General Law and Judiciary.

THE CHAIR:

Chairman of the committee on General Law, Senator Colapietro, you have the floor, sir.

SENATOR COLAPIETRO:

Thank you, Mr. President. I move the Joint Committee's Favorable Report and passage of the bill.

THE CHAIR:

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The question is on passage of the bill.

Will you remark, sir?

SENATOR COLAPIETRO:

Thank you, Mr. President. This is a relatively small bill. What it does -- it's the same basically the same bill we passed last year that simple says that if you're a licensed plumber or electrician or whatever and you want to advertise, you now must put your license number down on the advertisement.

It also makes it a class b felony and orders restitution. If they can't pay the restitution, then they may -- the court may sentence them to probation.

THE CHAIR:

Thank you, Senator Colapietro.

Will you remark further?

SENATOR COLAPIETRO:

If there's no further questions, Mr. President, I would move this item to the consent calendar.

THE CHAIR:

Seeing no objection, the item is placed on the consent calendar.

Mr. Clerk.

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THE CLERK:

Calendar page 26. Calendar Number 141, File
Number 193, substitute for Senate Bill 188, AN ACT
ESTABLISHING UNIFORM PROCEDURES REGARDING NEW HOME
CONSTRUCTION CONTRACTOR AND HOME IMPROVEMENT
CONTRACTOR AND SALESMAN RELATED COMPLAINTS, Favorably
Reported, Committees on General Law and Government
Administration and Elections.

THE CHAIR:

Senator Colapietro.

SENATOR COLAPIETRO:

Thank you, Mr. President. Mr. President, this is
another relatively small bill. There is a system in
place now with the Department of Consumer Protection
that if someone -- a consumer has a complaint with a
construction contractor, a home improvement contractor
or a subcontractor that they could go through the
website -- did I move it yet? I thought I did.

THE CHAIR:

If you'd move the bill, sir.

SENATOR COLAPIETRO:

I move adoption.

THE CHAIR:

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The question is on acceptance and adoption. Will you remark, sir -- and passage, I'm sorry. Will you remark, sir?

SENATOR COLAPIETRO:

Like I said this is a the DCP does have a website already where you can go to for complaints. However, when you go to complain -- and I think the one thing that stuck in my mind and the rest of the committees' mind was when one of the fellows came up and testified that he was a home improvement contractor and he parked in the wrong place and he got a parking ticket. And it went on the website. They don't identify what the complaint is and it doesn't come off. So when some consumer will look at the website, they might say, "Well, this guy's got one complaint, so therefore, I'm going to go to somebody else." So it was unfair to the consumer as well as unfair to the contractor. So, Mr. President, this corrects that problem by simply giving the DCP permission to come back to the General Law Committee with a report on how to improve their system.

THE CHAIR:

Will you remark further?

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Senator Kane.

SENATOR KANE:

Thank you, Mr. President. I do have a couple of questions in regards to this bill. And through you, Mr. President, I'd like to ask a few to the proponent.

THE CHAIR:

Please proceed, sir.

SENATOR KANE:

In the analysis, it talks about a closed complaint. Through you, Mr. President, to the proponent, what is a closed complaint?

THE CHAIR:

Senator Colapietro.

SENATOR COLAPIETRO:

I believe it's the complaint we're talking about where someone can't know the kind of complaint it is. Through you, Mr. President.

THE CHAIR:

Senator Kane.

KANE:

And by that, you know, can there be open complaints? Through you, Mr. President.

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Senator Colapietro.

SENATOR COLAPIETRO:

Through you, Mr. President, no.

THE CHAIR:

Senator Kane.

KANE:

Okay, so. Thank you, Mr. President. So if there is -- if I have a contractor who is doing plumbing work for me and I'm redoing my bathroom and I have major problems and I make a complaint, that complaint to the Department of Consumer Protection is closed for other individuals so no one else knows? I mean, is it just the only way people else would know about what the contractor did to my bathroom is through word of mouth because I can't say that openly, is that what it is? Through you, Mr. President.

THE CHAIR:

Senator Colapietro.

SENATOR COLAPIETRO:

Thank you, Mr. President. Through you, Mr. President, maybe I didn't explain it clear enough. But that's the problem today is the complaints that do get put on there are not specified what they are.

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Therefore, no one would really know what kind of a complaint you had, if you did have one.

What~~is~~this does is corrects that.

THE CHAIR:

Senator Kane.

KANE:

Oh, okay. Okay. So that's what I -- I guess I failed to understand, thank you, Mr. President. So these particular complaints, going back to my example of the remodeling of the bathroom, would be put up on the website. So it would say "complainant had an issue with plumber A." And how detailed would that complaint be? Through you, Mr. President.

THE CHAIR:

Senator Colapietro.

SENATOR COLAPIETRO:

That depends on the complaint, I suppose. Somebody calls and says that the toilet -- forgot to put the ring on the bottom, then that would be on the website as well. If you have one complaint against this contractor that put your plumbing in. Through you, Mr. President.

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Senator Kane.

KANE:

Thank you, Mr. President. So is it -- would it be me, myself as the consumer who would write up the complaint or is it the Department that would take that complaint through a hearing or through email or what have you and put that up on the Internet. I'm just curious in the detail, who gets to decide what goes up there? Through you, Mr. President.

THE CHAIR:

Senator Colapietro.

SENATOR COLAPIETRO:

Thank you, Mr. President. Through you, Mr. President, what this does is that it doesn't mandate that the DCP do this. It mandates that the DCP comes up with a better system than they have today. And the system that they have today is that you could possibly park your car in front of the house, have somebody give you a ticket and that would be a complaint on there. And no consumer who would start the complaint would put it on there and the next consumer looking for -- at the person's record would see that as a complaint. And it may not necessarily be a complaint.

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THE CHAIR:

Senator Kane.

SENATOR KANE:

Thank you, Mr. President. I guess maybe I still am struggling with this. And by that I mean we are talking about the Department of Consumer Protection's website. And myself, as a consumer, am I able to lodge these complaints on the Internet myself or does it have to go through a complaint process? And that's what I'm trying to understand, if this website is user friendly to consumers or is it just something that's gone through a process? Through you, Mr. President.

THE CHAIR:

Senator Colapietro.

SENATOR COLAPIETRO:

Through you, Mr. President. I would get another plumber, but no, honestly, if I were a consumer, I would be complaining to the Department of Consumer Protection who would put it on their website and improve the system better than what you have today. Through you, Mr. President.

THE CHAIR:

Senator Kane.

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SENATOR KANE:

Thank you, Mr. President. You know, I could pick up this microphone if that helps move this along better.

I guess the reason I ask that question is because I'm just curious through the whole process. If I was -- you know -- I just want to make sure that people can't just go on the Internet -- I guess you could do it anyway, you could create a blog, you could go on Facebook, you can go on Twitter. And I can write, "Hey, Joe the Plumber screwed up my bathroom." Or I could possibly go on the plumbers website -- I mean, everybody has a website now, I would think, but I'm just worried that if the consumer got on the Internet and was able to lodge these types of things on the website -- because that can become very dangerous. You mentioned a parking ticket before. You know, I could say, "Well, plumber A got this this or this." And so that's why -- I just want to make sure that the Department is the one in control over the website and the complaint. Through you, Mr. President.

THE CHAIR:

Senator Colapietro.

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SENATOR COLAPIETRO:

Senator Kane, you're absolutely correct. The Department is responsible for what they do with these complaints, but this was initiated by, actually, the Home Builder's Association who has been having this kind of trouble for years. And this hopefully corrects that problem. Through you, Mr. President.

THE CHAIR:

Thank you, Senator Colapietro. Senator Kane.

SENATOR KANE:

Thank you, Mr. President. That's the clarification I was looking for because -- you know -- I just couldn't wrap my arms around the website and how it is able to be used.

Then in another part of the bill talks about determining how long complaints remain posted on the website. So, let's say, going back to my previous example, I have a problem with the plumber, I make a complaint to the Department of Consumer Protection, the Department of Consumer Protection gets involved. Now, the plumber comes back and says, "You know what, Rob, we screwed up your bathroom, I want to fix it." So I then say, "Oh, geez, that was wonderful for you

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to come back and fix my bathroom." I'm happy, my wife's happy now, everybody's happy that the bathroom was fixed. Now I no longer have a complaint with that individual. So would that complaint then get taken down off the website, because now I think the contractor did an honorable thing. Through you, Mr. President.

THE CHAIR:

Senator Colapietro.

SENATOR COLAPIETRO:

Through you, Mr. President. I would hope and assume that when the DCP would come back with a study that it would correct that type of a problem. As it is now, the complaint could go on unforeseen, cloaked, if you prefer. And therefore, nobody would know what that complaint was and it never comes off. And so hopefully, maybe they'll come back with a recommendation of 60 days or 6 months or a year it comes off, and then the slate is clean again. Through you, Mr. President.

THE CHAIR:

Senator Kane.

SENATOR KANE:

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Thank you, Mr. President. So this isn't really a study that will take place by the Department of Consumer Protection? Through you, Mr. President.

THE CHAIR:

Senator Colapietro.

SENATOR COLAPIETRO:

Through you, Mr. President, if I may read this. It says, "This bill simply requires a study to be done by the Department of Consumer Protection and report back to the General Law Committee by the end of this year. The study will look at how the agency handles consumer complaints that come in about residential construction contractors." Through you, Mr. President.

THE CHAIR:

Senator Kane.

SENATOR KANE:

That's interesting because do we need a study to say, you know, how a complaint gets made to the Department of Consumer Protection? I mean, I know that the Department of Consumer Protection and Commissioner Jerry Farrell, they tackle thousands and thousands and thousands of complaints and they do a

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very good job, actually. I know they have a great staff over there. So do we need a study to decide about web -- about complaints that go up on a website? Cant they just implement this policy? Do we really need legislation for them to put this into place? I mean, again, I know that they're doing a great job over there. Through you, Mr. President.

THE CHAIR:

Senator Colapietro.

SENATOR COLAPIETRO:

Through you, Mr. President. The first complaint -- I mean, the first question was do we need this study. Well, apparently so or I wouldn't be here doing this legislation for people that have problems with the website as is. Hopefully, this corrects it and makes it better. Through you, Mr. President.

THE CHAIR:

Senator Kane.

SENATOR KANE:

Thank you, Mr. President. No, that was my point. I don't think we need a study to -- again -- I don't know -- I mean -- I wish I had the department's website up, speaking of websites. Because then I

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could look at how many complaints they actually do on a annual basis. And I know it's like in the thousands and they do an incredible amount of work there. So you know, why do we need a study for something like this? That's my point. And I don't know that I necessarily agree with that because I think they're already doing this, they're putting in this effort, they're tackling these complaints, why can't they just implement the policy? Through you, Mr. President.

(Senator Duff in the Chair.)

THE CHAIR:

Senator Colapietro.

SENATOR COLAPIETRO:

Through you, Mr. President. I believe this study is needed and that's why complaints have been coming in to the committee as well. And it hasn't been coming into the department. The department is not mandated now to fix the problem. The problem is, as I've said before, that there's no way of knowing what kind of complaint you have on there. And yes, we do need a study, because that's what people are asking

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for. And it doesn't cost anybody anything and I think the DCP would do a fantastic job with a better system, as well. Through you, Mr. President.

THE CHAIR:

Senator Kane.

SENATOR KANE:

Thank you, Mr. President. I'm looking at the fiscal note and it says there is no fiscal note. So how are they able to do the study without any cost? Through you, Mr. President.

THE CHAIR:

Senator Colapietro.

SENATOR COLAPIETRO:

Well, I can only assume, I can't tell you how they do their studies because some people pay for studies and some people just sit down and say let's make this system a little bit better and they may call that a study as well. Through you, Mr. President.

THE CHAIR:

Senator Kane.

SENATOR KANE:

See, I think -- thank you, Mr. President. I think you just made my point that a study may not even

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be necessary. They could just implement the process. But I thank Senator Colapietro for his answers. I will look at the bill a little bit further. I do believe that the Department of Consumer Protection does a wonderful job in its efforts. They tackle thousands of complaints every year. I'm curious in how these complaints will be posted on the Internet and how they can actually be taken off the Internet once a contractor makes good on their work. I don't know if we need a study to show that. I think they can figure that out on their own, but -- thank you, Mr. President.

THE CHAIR:

Thank you, Senator.

Will you remark further?

Senator Roraback.

SENATOR RORABACK:

Thank you, Mr. President, good evening.

THE CHAIR:

Good evening.

SENATOR RORABACK:

I wanted Senator Colapietro to exercise his neck a little bit to the left. He's -- we don't share a

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microphone as he did with Senator Kane, but. I was curious to learn in the colloquy between Senator Colapietro and Senator Kane that there are some perceived shortcomings in the process by which consumer complaints are handled by the Department of Consumer Protection. And through you, Mr. President, to Senator Colapietro, if I buy a new house and I find out there's a problem with it, through you, Mr. President, to Senator Colapietro, what can the Department of Consumer Protection do to help me right the wrong? Through you, Mr. President, to Senator Colapietro.

THE CHAIR:

Senator Colapietro.

SENATOR COLAPIETRO:

Thank you, Mr. President. Through you, Mr. President, Senator Roraback, the answer to that is very simple. If you have a problem as a consumer with a house that's been built, let's say the roof is leaking or something like that, you have access to the home improvement contractor's fund, at that point. The DCP handles that and they do a fantastic job because I personally have some constituents that had

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problems like that.

THE CHAIR:

Senator Roraback.

SENATOR RORABACK:

Thank you, Mr. President. Through you, Mr. President, to Senator Colapietro, so the complaints that Senator Colapietro have not been about the adequacy of the fund or the process by which people can access the fund. Through you, Mr. President, to Senator Colapietro, I was curious to understand what the nature of the complaints are that the General Law committee has been receiving or Senator Colapietro or the Department has been receiving? Through you, Mr. President.

THE CHAIR:

Senator Colapietro.

SENATOR COLAPIETRO:

Thank you, Mr. President. Through you, Mr. President. The only thing I can assume is when I listened to the public hearings and people come into testify. I don't build a house and I don't run the DCP, but the contractors that come in and complain that sometimes, as I used for an example, that one

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person parked illegally, got a ticket, went on the website, somehow it got on the website and it doesn't come off. It's cloaked and so there's a complaint against that contractor and the consumer could take a look at that and say, I'm not going to this guy. I'm going to see Toni over there, she's better than you are, because you got a complaint on your record. Through you, Mr. President.

THE CHAIR:

Senator Roraback.

SENATOR RORABACK:

Thank you, Mr. President. So the complaints that were brought out at the public hearing were from contractors who felt that they had unfairly been identified by the Department of Consumer Protection as being bad or having a stain on their record, which they didn't think was justified? Through you, Mr. President, to Senator Colapietro. Is that -- am I understanding, kind of the universe of complaints that gave rise to this bill? Through you, Mr. President.

THE CHAIR:

Senator Colapietro.

SENATOR COLAPIETRO:

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Through you, Mr. President. I would assume that's exactly the same and the only difference I would say is that the consumer would have the same benefit by being better off to look at a record that shows whether he really did something wrong or not.

Through you, Mr. President.

THE CHAIR:

Senator Roraback.

SENATOR RORABACK:

Thank you, Mr. President. I certainly, as a consumer, I would want to make sure there was accurate information on the department's website because if it's a good contractor and I look at it and they -- with all due respect, if my contractor gets a parking ticket, that doesn't make him a bad contractor. So I wouldn't want to look at the website and see someone and not go to them because they had a parking ticket. Because I would think if they're on the Department of Consumer Protection's website, it's because they built a bad house or they didn't -- you know, they didn't do something responsibly. So through you, Mr. President, to Senator Colapietro, I was wondering if the people at the public hearing had made efforts to contact the

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commissioner and say there's a problem here. And, through you, Mr. President, did the commissioner respond, if Senator Colapietro knows the answer to that question.

THE CHAIR:

Senator Colapietro.

SENATOR COLAPIETRO:

Through you, Mr. President. I haven't heard from the Department of Consumer Protection. I do know that they have had complaints on there and the Department had recommended as well that this would be a good thing, that they had to come back and prove their system is all they're having to do.

THE CHAIR:

Senator Roraback.

SENATOR RORABACK:

Thank you, Mr. President. Through you to Senator Colapietro, does he know, if I make a complaint. If I just call up and -- Department of Consumer Protection and say I want to make a complaint against Senator Colapietro, will they put that on the website without doing any investigation? Through you, Mr. President, to Senator Colapietro.

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THE CHAIR:

Senator Colapietro.

SENATOR COLAPIETRO:

Through you, Mr. President. That's a good question, but I don't know how they have their procedures or how they operate. But that's -- that was never brought up at the public hearing or -- so I couldn't answer that, honestly. Through you, Mr. President.

THE CHAIR:

Senator Roraback.

SENATOR RORABACK:

Thank you, Mr. President. And I ask the question because it wouldn't be -- I don't think it would be very good public policy for the -- an agency to be putting a black mark on somebody's record without doing some investigation of the complaint. Through you, Mr. President, to Senator Colapietro, what I'm trying to understand is whether like the individual with the parking ticket, did that get there because someone filed a complaint, Mr. President, through you, or is there some way that the Department looks for -- you know, tries to match people that have been in

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court with the names of people they have licensed?

Through you, Mr. President, to Senator Colapietro, if he knows how the mechanics of that program work.

THE CHAIR:

Senator Colapietro.

SENATOR COLAPIETRO:

Through you, Mr. President. No, I don't know how the mechanics work. I know there were complaints and the complaints mainly came from the contractors and home builders. Because they were looking at it as though it was a black mark on their record and it shouldn't have been.

THE CHAIR:

Senator Roraback.

SENATOR RORABACK:

Thank you, Mr. President. And I appreciate Senator Colapietro's answer and I -- you know, I certainly have a great deal of sensitivity towards contractors who may unfairly had their reputations tarnished by being identified on the Department of Consumer protections website as being deficient in some way when the facts might prove otherwise. So I intend to support the bill. I appreciate Senator

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Colapietro's responsiveness to what I think -- if I were at the public hearing, my guess is that I would have felt sympathy for these people and wanted to do something to help them and I'm guessing that Senator Colapietro, with the passage of this bill is hoping the Department is going to come up with better ways to protect people from being unfairly tarnished. So I appreciate Senator Colapietro's answers and look forward to supporting the bill. Thank you, Senator Colapietro and thank you, Mr. President.

THE CHAIR:

Thank you, Senator.

Will you remark further?

Senator Debicella.

SENATOR DEBICELLA:

Thank you, Mr. President. Mr. President, I'll give Senator Colapietro a rest for a couple seconds. I'll make some comments on this bill before I have some questions.

Mr. President, this is actually something that I think most people out there can really relate to is -- you know, in my own experience, I've dealt with contractors on my own home, who I wish there were some

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reliable database that you can go to to actually determine who has had complaints against them, who is actually the type of contractors you want to actually do your extra due diligence on. Everybody obviously should ask for references, but I've had experiences with home contractors where even though some people said, "oh, yeah they did a great job," they've either taken too long, well beyond what they said they were going to, add in all the change orders that add up to 2X what they originally made the estimate to, all the things that you would say, "Geez, that's not necessarily illegal, but it certainly seems unethical." And you would wish that there be a reliable place where you could actually go to find that.

Right now on the web there are places that rate contractors, but believe it or not, the contractors themselves go to these websites and all rate themselves, "Oh, yes, check plus plus." They're the most excellent contractors in the world. So I actually thing that the spirit of this bill is in exactly the right place.

My questions, through you, Mr. President, to

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Senator Colapietro, actually have to do with the details of why we're studying this. Because I think Senator Kane hit on something that -- to me this doesn't seem like necessary legislation for the commissioner to actually just go do this rather than study it.

And so, through you, Mr. President, a few questions to the proponent of the bill.

THE CHAIR:

Senator Colapietro.

SENATOR DEBICELLA:

Mr. President, first off, starting in section -- subsection B, looking at lines 9 through 12, this bill seems to say that a person can make a written complaint with the department if they're either registered as a home construction contractor, a home improvement contractor or -- and this is my question, lines 9 through 12, "who is not registered pursuant to said chapters but has performed work or acted in a manner." So what that highlighted to me was don't you need to be registered with the state in order to actually go and be a home contractor or a home improvement contractor? Isn't it illegal to do work

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without registering? Through you, Mr. President.

THE CHAIR:

Senator Colapietro.

SENATOR COLAPIETRO:

Thank you, Mr. President. Through you, Mr. President, the bill that we just got through passing deals with exactly that. Some people do build houses without any kind of registering or licensing. This bill here just corrects the matter of documentation of bad contractors for the consumer. So it actually benefits the consumer and it also benefits the contractors so you now can see without closure -- without whatever you want to call it where you can't see what the complaint could be, which is what it was before.

This bill only tells the Department of Consumer Protection, if you want to call it a study, if you want to sit down and call it whatever you want, but come back with a better system than you have today. And that's all we heard at the public hearing was people saying that it was not a good system. Through you, Mr. President.

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Senator Debicella.

SENATOR DEBICELLA:

Thank you, Mr. President. And it seems to me that we would actually want to make sure that anybody who is performing this type of work without registering with the state is definitely getting reported to the state, right? If somebody is performing work on my house, whatever it is, putting in the new cabinets, who knows what it is and they're not registered and make a claim that they are, I don't want to just put them on this website. I want to make sure that they are reported for investigation for legal action by the department, not just put them on a website. But I understand, Senator Colapietro's intent behind this bill. I thank him for that answer.

And then looking at the next section, subsection C, my question was about we have set up -- you know, I always worry about the study bills that we set up specific areas for them to study and, you know, they're going to produce a lot of paper on this stuff. And I'm not sure if we need to study all these areas. You know, if I look at subsection 1 under section c, line 16, we've given them six areas, discretely to

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study. And the first is creating subsets of closed complaints related to serious violations of the law. And so my question is, through you, Mr. President, don't -- and I'm shocked if we don't know this -- don't we already know what types of complaints should be referred over to the Attorney General or the State's Attorneys Office for serious investigation versus kind of that not necessarily illegal, but ethical gray zone that you would want reported? I'm surprised we don't have standards for that already. Through you, Mr. President.

THE CHAIR:

Senator Colapietro.

SENATOR COLAPIETRO:

Through you, Mr. President. Through my experience -- I got a little bit of experience at being a subcontractor because I was one. About 25 years ago, I used to be a subcontractor so I'm a little aware of the subcontracting problem. What you're talking about is absolutely right, but we don't know what kind of complaints are going to go on there and it's supposed be because you got a bad plumber or a bad roofer or a bad electrician or a bad something

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that would go on there and give a black mark on a construction -- either a salesman sold you a bill of goods that didn't work or something like that. That was supposed to go and you'll know what the complaint is when the Department of Consumer Protection comes back and, like I said, if you want to call it a study, it's not very expensive to study, you could sit down with two people probably and say, "Well, maybe we better change this." They'd report back to us and make sure that we have a correct system in place. Through you, Mr. President.

THE CHAIR:

Senator DeBicella:

SENATOR DEBICELLA:

Thank you, Mr. President. And I'm glad to hear the Senator say that in two respects and it's important for legislative intent is one, I think he's absolutely right that these standards already exist for what's a serious violation of the law you can close and just send it to the Attorney General for investigation versus, as the good senator said, something that is a shoddy workmanship or something that is a change in the terms of the contract that,

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you know, kind of done on the last minute on the sly. That's the stuff that we want out in the open because it's not necessarily criminal or rising to that level of prosecution. But you want to make sure folks know about it. And I appreciate that.

My next question would be on section number 20 -- excuse me -- line number 22, where it actually says, "creating improved notices or disclosures to the public on how to search for contractors and interpret complaints posted on the Department's Internet website." To me this seems like a pretty straightforward area that we have so many search engines, not only within state government, but just out there in general, the Googles of the world and the search technologies that we have. Is this really something that we need to make sure that the Department has, you know, fully, you know, vetted and studied every which way? It seems like something we should just do. And through you, Mr. President, again, just for legislative intent, you know, why did the good Senator think that the lines 22 through 24 were necessary?

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Senator Colapietro.

SENATOR COLAPIETRO:

Through you, Mr. President. I believe we went through this last year or two years ago with another senator. The reason we have this bill is because somebody complained, period. And whether you like parts of it or not doesn't mean that somebody, when they did complain, didn't like what they saw in here. The main thing was is to correct a problem that we have out there -- disregarding whether I liked it or not, so that's the way it is and I don't know what you can do about saying something on line 22, I don't like. Well, I can't help you.

THE CHAIR:

Senator Debicella.

SENATOR DEBICELLA:

Thank you, Mr. President. And the question I would have then -- you know, the sense that I'm getting from Senator Colapietro is exactly what I wanted to hear for legislative intent, which is that -- and he said this several times, this is not a study. We just need a couple guys to sit down and figure this out and do it. And I fully agree with that with him,

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is that this is something that seems very common
sensical, seems like something we want to have.

And my question through him is then, line 30, we
set up December 31st, 2010 as the end date to submit a
report on the Department's findings, you know, it
reads like a study bill, like "give me a big 30-page
report on this." I would much rather us say in this
bill, "By December 31st, do it, have it up and
running." Right? Not submit a report and then we can
all talk about next year. Let's just tell the
commissioner to do it, because I actually think most
of the things in this bill are exactly what the good
senator said. Two guys can just sit down and just
figure this out in the department. So, through you,
Mr. President, in line 30, is there a logic to us
asking them to report findings versus just get it done
by the end of the year? Through you, Mr. President.

THE CHAIR:

Senator Colapietro..

SENATOR COLAPIETRO:

Through you, Mr. President. Yes, there's logic
to it because someone complained about it. You don't
like it, that's your problem. They like it with the

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bill, they accepted it, they told us what their problems were, what they thought would correct them. We decided instead of mandating the Department of Consumer Protection, come back and do this, this and this, we asked them to come back and report to us a better system than they have today, that's all. And as far as the legal and nonlegal advice, under a normal DCP complaint, like a leaky roof or something - - and I can tell you this because I went through it -- somebody would come and complain to the DCP and they would not go to the Attorney General. They would take care of the problem themselves, which they do, if it got to be criminal, then they would go to the Attorney General and have him investigate it and do whatever they have to do after that. So this bill is only a bill, only a study, doesn't cost anybody anything. The Department itself doesn't disagree with it, the contractors don't disagree with it and nobody testified against it at public hearing so we did the bill, simple as that. Through you, Mr. President.

THE CHAIR:

Senator DeBicella.

SENATOR DEBICELLA:

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Thank you, Mr. President. And I -- actually -- so Senator Colapietro just said something that I actually disagree with -- that I think contradicts what we were talking about before is this bill does read like a study bill, but I don't think that's what we want. I don't think we want to just study this and, you know, it's not an item that needs a work group of 20 people to sit around the table and come up with a 40-page report. I actually think that what he said before was correct. Is that this is something that you can get two guys in the department to sit down, say this is what we want the website to look like, these are the closed ones that we're not going to reveal, they're going to the Attorney General, like he just said, these are the ones we want on the website, let's put them up and then do it. It takes like a month to build a website. And my worry about this bill, Mr. President, it's not the spirit of the bill. I actually think Senator Colapietro is absolutely right on the need for the bill and the unanimity around it. My worry is that we just study these things and say give us a report and then we'll look at this in 2011. This is something that we want

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government to move on. And so, Mr. President, my worry about this bill is that we've set this up like a traditional study bill and Senator Colapietro's right; it doesn't cost anything. I'm going to be voting for this. I think it's a good idea. My worry about it is that the way it's written is going to result in another report that I get in my office instead of actual results for the people of Connecticut.

So I thank you, Mr. President, and I thank Senator Colapietro for answering my questions.

THE CHAIR:

Thank you, Senator.

Will you remark further?

Senator Kissel.

SENATOR KISSEL:

Thank you, Mr. President. It is great to see you there at 6:35 and my guess is there's probably some horses running the track as we speak.

I want to commend Senator Colapietro, who I had the great pleasure to serve with over the last two years, for bringing this bill forward. It's certainly an area that I agree with Senator DeBicella that demands our full attention.

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I remember when I was engaged in the practice of law in a small private practice over ten years ago, the firm's name was Blaney, Fallon, Cameron and Barberry at that time, and I had some constituents, actually some clients at that time and we filed suit against a company, I believe it's name was Sunwarmers. And what they had done was they had built this addition to a home that was all enclosed in glass. The idea was they would build these additions and the sunlight would pour through and warm up that area and it could either be turned into a dining area or a recreation area or something like that. And unfortunately in this particular matter that I brought suit on, the construction was lacking in so many ways.

And I know the Senator Colapietro has a vast wealth of knowledge regarding construction and the like and so these folks went through, they created what's called a punch list, they went to the contractor, the company, they went through the punch list. And it turned out that some common sensical -- and I believe, standard in the industry things had been not done properly.

For example, flashing. Whenever you build

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something that's going to be adjacent to a standing structure, you need to have flashing which is -- if it's in the case of a chimney and a roof, it's typically out lead but it could be some other kind substance, typically a metal substance that folds in on one side and comes out on another like an L. and what you do is if you have enough flashing around the entire area that's connect, that actually will act as a barrier, both for air and for, most importantly, rain and snow and other things that could leak into the inside. And there was no adequate flashing between this glass enclosed area and the rest of the house.

Other areas were, indeed, with the glass enclosed area, the craftsmanship in those individual pane areas were not appropriate for what was being constructed, and indeed, some of the glass panes weren't appropriate for the building. And there were dozens and dozens of other issues. And the problem is when you get either an addition to a house or new construction of a house, these are individuals that when you go down the road and you go to work and you come home, that is your castle. That is your area to

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have peace of mind and comfort and if you go and you struggle at your job for eight, nine, ten hours, when you go home, you do not want to be confronted with problems.

And let's say your spouse -- either might be home -- and it doesn't matter, man or woman -- or if they're out working that day as well, when you come home, it's terrible to find yourself facing a lot of those difficulties and feeling so constrained in your ability to enjoy your castle, your home, something that you poured probably the vast amount of your individual wealth into and it's most individuals in the state of Connecticut largest single asset, it's very disconcerting to have a problem with a contractor.

And then on the other hand, let's be fair and honest regarding a lot of these contractors, there is a learning curve. A lot of them might be very good out in the field as individuals, either working as carpenters or in any number of fields and maybe they have a good appreciation for what it's like to have a lot of skill sets, but when they take that giant leap to create their own business, whether it's a

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corporation or an LLC, at that time there's a lot of other additional responsibilities that come with holding yourself out to the public to do these kinds of projects.

You have to make sure that going forward you have priced it appropriately. You have a margin for error. You also have a margin for profit. And quite often, you may not have the total amount of skill sets to be able to do the job yourself.

And, for example, in the Sunwarmers case, there was problems necessitating that if you have multiple projects going on at the same time, you know, sometimes things slow you down, such as inclement weather. You certainly can't have the side of a house opened up, even if it's covered with plastic sheeting, if there's a terrible snow storm or rain storm or wind gusts.

And so a lot of this is timing. A lot of this is getting a certain amount of money up front from the customers. And that is what really, that is what really gets under people's skin. Because quite often these projects, whether it's -- we're not even talking about a new build, I'll get to that later on, but

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talking about an addition to a home, what you're talking about is a substantial deposit of funds by the home owner to the contractor at the outset, probably in the range of \$5,000 if it's a modest renovation to a kitchen all the way up to 15, 20, 25,000 dollars. These are no insignificant investments by homeowners by any stretch. And that I am using as the paradigm or the point of reference, North Central Connecticut, which I'm most familiar with. I'm certainly not taking into consideration the much higher costs that construction and renovation may engender down in Fairfield County and other more wealthy areas of the state of Connecticut.

So when you are a couple or an individual, a homeowner, you've thought about this for a long period of time, you go out there, you negotiate, you sign a contract with a building renovator, you do this in good faith and you tender a check, typically, a bank money order or a bank check, could be a personal check and then they will wait to let it clear, that's a significant act of good faith. And usually a substantial amount of money. Quite often in the field, if it's a \$20,000 project, it might be half

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down, half upon completion.

Then what happens is this. The first thing that might typically befall a homeowner that's proceeding along this path is that there will be delays. And typically, the delays start off somewhat innocuously. There will be a projected time frame for the renovation of the home and that's all done in good faith. And we actually have statutes that sort of delineate exactly what has to be in that consumer contract. We've been -- we've done very good work as a legislature. And if you look in the statutes, we actually, I believe, have model forms as to what these home improvement contractors have to have. And we actually are so particularized in our legislation that we've even, I believe, placed in statute, the size point type that certain parts of those contracts have to be in.

And so those end up being turned into rather standardized forms. It will be built in there exactly what's going to be done to the home and so we've done a great job as far as doing that.

But basically what that is only done, though, is afford the land owners, the homeowners a good contract

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within the four squares of those pieces of paper to be able to bring suit in a court of law.

And now this is where the problem arises. Again, the small delays. It's supposed to be a month or two months and all of a sudden, the contractor calls and they say, "I'm sorry. We got jammed up on another job so it's going to take us an additional week to come out to your site." Now, if the job hasn't even started yet, two things occur to the homeowner in their head. I hope they eventually get here but the red flags haven't completely gone up yet because there's been no damage done.

The real nightmare -- and I believe there was a Shelly Long movie from about 15 years ago called The Money Pit, which really -- and I don't even know, maybe she was married to Tom Hanks -- but it really spun out of control. I always try to work in a movie reference if I can so that people watching on the CTN network say, "Oh yeah, I've seen that movie," but -- I mean, the real nightmare, actually is if there's something done to your home, such that your ability to enjoy life's simple pleasures have come to a grinding halt, and then you get that phone call. You get that

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phone call and the reason is something that can almost be noncontrovertible. "I'm sorry. We got jammed up on another home site, we need a couple of days."

Well, what is the homeowner to do if half of their house is open to the elements? And yeah, there may be a tarpaulin hanging over their roof and flapping in the winds, but what is the homeowner to do? That's a really bad situation.

At that point in time, if everything has been going well, what any homeowner would actually want to avail themselves of is you're going to give that contractor the benefit of the doubt because you are now not in a good bargaining position. And nobody can really help you at this point in time. You have to see the project through, one way or another.

And believe me, again, when I was engaged in the practice of law at a modestly sized law firm in Enfield, there were many people who came in and talked to us and said, "We have that kind of problem." And at that point in time, as much as they may say, "I want to sue these folks," you have to get those folks to take a step back and again logically look at the problem. And you have to say, "Well, where along in

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this process are you?" And if they're in the point in the process where half of their house has been carved out and opened up because there's supposed to be an addition or something like that, the first, in my view, advice to give to the homeowner is you've got to work with that contractor if at all possible to conclude that build and then we'll talk about the remedies that you might have. Or if -- very unfortunately -- the communication level has completely broken down and there's animosity between the parties, then you have -- again, not necessarily legal advice, but I believe the sagest kind of practical advice is now you have to cut your losses. You look at the four squares of the contract and say, "Okay, we know what your rights and responsibilities are here under the contract." And then my guess is what will happen at that time is you will find out what the contract demands as far as notification to the builder as far as terminating that contract for good cause. And that good cause can be a recitation as to the amount of delay, the substandard quality of the work, substandard materials and things like that.

And so what's the best takeaway so far from what

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we're talking about here in the circle, a very important issue to many homeowners through the state of Connecticut? Well, this would be--- if I was at home watching, this is the first takeaway I would suggest to people . It's not legal advice. It's practical advice. Maybe they even talk about things like this on This Old House, I'm not sure. But as with so many other areas of our lives, it's almost caveat emptor, buyer beware, or at least, buyer, build up your own case. Be your own best advocate. And so how do you do that?

Well, what I would suggest is -- and in our household, I'm lucky enough my wife is the keeper of all the financial documents. I'm not really a money kind of guy at all when it comes to my own household finances. Certainly, I'm a money guy here in the circle when we talk about budgetary issues and sort of broad brush kinds of public policy initiatives, but along with the very simple, sage advice of keeping all those documents, you know, copies of canceled checks, copies of work order forms, copies of punch lists, copies of the contract in a nice manila folder like I'm holding up right here, the other thing that I

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would suggest for anybody that goes along this path, if you are spending any kind of funds at all is to keep a journal. ---

And by that I mean, you just go into a CVS or a Walgreen's or your local corner drug, and you get yourself a spiral bound notebook for about 2.59 or 3.59, and you begin at the very beginning. And that may be even before you enter into a contract with that particular home improvement contractor. You might even want to begin in there, you know, "We are now about to engage in this," and start listing who you've talked to as far as possibly contracting out so that already, at the very front page, you've got three or four home improvement contractors that you've looked into, names, addresses, phone numbers. Put in there if you've had contact with them and if you decide not to go down that path, it's always helpful to have a reason why. And it may not be necessarily something bad such that you would not recommend them to your friends or neighbors or loved ones, but it might simply come down to something that contractor one, two and three all seemed eminently qualified, and based upon the price quotes given to me, I'm going to go

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with contractor number three.

And I'm going to tell you in a little bit why that's probably an important first notation on the first page of the journal.

Then as you proceed through the home improvement process, probably what you'll want to do is do it just like a diary. So you start off as soon as you have initial discussions with the contractor, the home improvement contractor that you want to move forward with. Put down all the elements of that discussion, whether that could eventually be used in a court of law or not is up to speculation. Typically hearsay is not, but we're not going to get into a long, rambling discussion as to the rules of evidence at this point in time. We'll leave that for a Judiciary bill at some other date. But what you want to put in there is that verbal discussion, what were the key elements, maybe some disagreements. And then you're going to want to put in there the date that you both entered into the signed home improvement contract.

The next important set of dates is when work is supposed to begin. You shouldn't have to expect anything, it's not really up to you to be the general

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contractor in that kind of situation, so it's not up to you to order the materials and things like that, but certainly within the four corners of your contract with that contractor, there will be a paragraph that states when work is about to commence.

And there should be -- if it's any kind of large home improvement enterprise, some benchmarks along the way. So that the date the work is supposed to commence should be in there and there may be some other dates, some other benchmarks where certain major elements of the home improvement renovation is supposed to go forward. For example, work is supposed to commence, May 1st, Sunday, May 1, that would be the first date.

The next thing that might have to take place is all shingles, windows and things and the wall facing the north shall be removed by June 1st. Well, there's your first benchmark. And so in your journal that you're keeping on your home improvement, what you can put is did the contractor commence work as per the terms of the home improvement contract, may 1st. And there's sort of your first indicia as to how this is going to go.

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But you're going to want to have that evidence because memories get stale, it's hard to remember what you had for breakfast yesterday. Certainly it's difficult to remember a conversation that took place a week ago. And if somebody said, "Well, exactly what happened on April 1st when it came down to your home build?" you may not have the foggiest idea. It's just going to be lost out there in the clouds somewhere, and you'll have a very difficult time reconstructing the exact things.

What you're going to want, whether this ends up in a lawsuit or in a complaint before the Department of Consumer Protection is you're going to want to have a handy reference at your fingertips as to every element of this home improvement build.

And so what you do is on that date that the first thing is supposed to take place, the beginning of the project, you just take, it's very easy, you take about ten, fifteen minutes, and after the workers have concluded whatever they were supposed to do, in the comfort of your own home, you sit at the kitchen table and you just write it down. There it is in black and ink -- black and white, on the paper, written down, an

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easy reference and you never have to worry about, "Oh gee, what happened on that day?"

And get into the habit, the habit of creating that journal, that diary of the project, because at some point in time when the contract, if -- God forbid -- the contractor reach an impasse and there's a disagreement, now, as I had referenced much earlier, a couple of things can take place.

You could try to work it out with the contract as per the terms of the contract. But as I had indicated, sometimes these things disintegrate so quickly or there's an impasse that engenders ill will between the parties, that all of a sudden you realize, "I can't even go forward with this home improvement with this particular contractor." You understand that that's just not going to take place.

And how can that possibly have occurred when everybody started out with such high hopes and optimism and high expectations? Well, this is how that can occur. Because things are supposed to happen and your life is now being built around their schedule. And at the beginning when you hammered out the terms of that original agreement, you might say,

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"You know what, my daughter's sweet sixteen birthday party is on a Saturday in June and we're going to have her friends over and we're going to have family members over and that's a really big deal in our family and after we do something everybody's coming over to the house. We really cannot have any kind of construction going on on that weekend and above and beyond that, we don't want to have things a total mess because, a), we're going to have a lot people in the house."

Well, what happens in some of these instances is that those kinds of deadlines, those kind of benchmarks get blown away and all of a sudden if you've got a lot of dust from sheet rock and stuff like that, and you've got people coming over to your house and they end up -- it gets on people's shoes, it gets all over, maybe, your rugs and stuff like that, all of a sudden, some little glitch in this home improvement endeavor that you've gone through and that you have thousands and thousand of dollars tied up turns into a nightmare.

And so tempers flare. And you're not happy. And so you call up that contractor the following Monday

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and you say, "Hey, we even put in the contract you couldn't do anything on that weekend and you were supposed to leave it in broom clean condition so that when we had our guests come over, the house would be able to be lived in, we could be able to have this once-in-a-lifetime sweet sixteen party for our daughter. And it turned into a little bit of a disaster."

And above and beyond that, you know, the couple, the husband and the wife were left with this big problem on their hands. So something that otherwise should have been a Kodak moment in their life's history turned in to a Kodak nightmare.

And so that has to go into the journal, but it's those kinds of things that end up turning into a problem such that individuals are unable to work with one another going forward.

Now, what happens at that point in time? Remember when I spoke about going to Walgreen's or CVS or another corner store to get that spiral bound notebook, and when you were making your initial set of determinations as to where you wanted to go and hire for this home improvement build, you had written down

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the different folks that you had endeavored to inquire about, spoken to, done research on, and maybe you made your decision based upon a simple financial determination that this contractor will do the job cheaper. And now all of a sudden you're like a month or two or three months into this home improvement build and you scratch your head and you go, "Now I know why they're cheaper. They're messy and they don't really care about us because we're just another project for them." Or it could be something like, "You know, they're really good on the big builds and they're not really-taking care on the small builds." Maybe they do some sort of industrial kind of builds, but they're not as nuanced or fine tuned into the ramifications of what is required when you're doing a home improvement as opposed to an industrial kind of improvement.

Whatever the reason, having that journal at your fingertips will then allow you, without a lot of hassle to go out there, and after you've perhaps spoken to an attorney or someone who has kind of experience in this business field that can give you some sage advice, what you have to do is you have to

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then terminate your agreement under the proper protocols and terms of that home improvement contract with that original contractor. And then go about the business of trying to hire someone else. Now, at this point in time, it's appropriate to point out -- a lot of folks that may be watching this on the CTN network would be very understanding of this. As difficult as it is sometimes to be able to go out there and find a really good home improvement contractor that you feel good about at the beginning of a project, it is that much more difficult, it is much more difficult exponentially to hire a contractor to come in and fix a project that has gone off on the wrong foot.

And let me give you a couple of reasons why that's the case. First of all, there may have been something done on the project that have necessitated other things that are going to be costly. There may have been some shutting off of plumbing in this area of the house that's going to require bringing in a master plumber to fix that. There may have been some electrical wiring that was done substandard, such that you have the unfortunate burden as the new contractor to go to the homeowner and say, "I understand that you

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paid \$2000 to have this wiring done. It's already in there, but I've got to be honest. I got to pull out the sheet rock and I'm going to have to redo it because it's all below grade." And so when you're put into that position -- and a lot of the really good home improvement contractors will be able to pull this out immediately, just with their eyes and be able to evaluate these things. They will know immediately what is substandard, what's going to be hassle. And so it's not as simple as, "We've built up to a certain level and now we just have to hire someone else to finish it off." Quite often what they're going to have to do, since at the end of the project, they are going to have to sign off as to the safety, security and all the legal ramifications of that final build, perhaps with the home inspector that comes out from the town or someone else, could even be someone from an insurance company who's going to have to then rewrite the policy on the house with the addition or anything else like that, the last contractor on the project is going to be the one that's going to be the first one on the hook if anything is wrong. And so when they come out, they're going to have that

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additional responsibility. So that's why it's very important to have that notebook, that journal to keep track of all of these things.

Now when we get down to the part of the legislation before us, and again, I commend my friend and colleague, Senator Colapietro for bringing this forward, it says it allows anyone to file a written complaint with the Department of Consumer Protection concerning work practices on new home construction contracts, home improvement contractor or salesman or one who is not registered or licensed, but has performed similar work. And I guess, when I have an opportunity to move forward and ask some questions on this bill, one of the first questions will be is what is the policy of the state of Connecticut right now, and I'm not exactly sure whether -- why someone couldn't file a written complaint at this time. So if I may, I think I've spoken for about 25 minutes as a lead up to my first question. But if Senator Colapietro is available, I'd love to ask him a few questions.

THE CHAIR:

That was just a little introductory.

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Senator Colapietro.

Senator.

SENATOR KISSEL:

Thank you, through you, Mr. President --

THE CHAIR:

Thank you, sir.

SENATOR KISSEL:

My reading of the bill says it allows anyone to file a written complaint with the Department of Consumer Protection concerning work practices of new home construction contractors, home improvement contractors, salesmen who is not registered or licensed but is permitted to perform said work.

And I'm just wondering is there any prohibition from anyone making a written complaint to Consumer Protection at this time already?

THE CHAIR:

Senator Colapietro.

SENATOR COLAPIETRO:

Through you, Mr. President. I was going to ask you to repeat that question before, but I don't know if I have enough time.

I'm just kidding, I'm just kidding.

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SENATOR KISSEL:

I'd be happy to repeat the question.

SENATOR COLAPIETRO:

I know you would.

THE CHAIR:

Through the chairs, please.

SENATOR COLAPIETRO:

Through you, Mr. President, I am not aware of the way they do their system over there in all honesty.

But I can tell you one thing, I will say when Senator Kissel and I were on the General Law committee together that the industry is a whole lot better off today than it was the, before that. Through you, Mr. President.

THE CHAIR:

Senator Kissel.

SENATOR KISSEL:

Thank you very much. And I appreciate those kind words by Senator Colapietro. I think we've done an awful lot of good work over the years on the General Law committee.

Back when I was honored enough to serve as co-chair of the committee during that brief two-year

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window in the mid 1990s and over the years, Senator Colapietro, especially, Senator Colapietro, in the area of subcontractors, contractors, mechanic's liens -- you have a wealth of experience in that particular area.

It also says regarding the Department of Consumer Protection study of complaint process for improvements. I guess, first of all, do we know how many people in the Department of Consumer Protection work in this area regarding complaints for home improvement builds? Through you, Mr. President.

THE CHAIR:

Senator Colapietro.

SENATOR COLAPIETRO:

Through you, Mr. President. I wish I had the number of complaints that there were, but yes, there are complaints, but the complaints weren't about complaints. The complaints were about the system itself whereas, someone, as I said, would get a parking ticket, it would go as a black mark on your record as a home improvement contractor or a home builder. And they felt that that was unfair to both the consumer and the contractor or subcontractor or

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salesman because they couldn't tell what it meant or what it was. So this just simply says come back and tell us the new system that you've decided is better than the one you have.

THE CHAIR:

Senator Kissel.

SENATOR KISSEL:

Thank you, Mr. President. And thank you to the co-chair of the General Law committee.

So let me try to rephrase this and recapitulate it so that I believe I understand what you're saying.

We're not necessarily solely concerned about complaints that consumers make about their home remodeling, their new home construction, their home renovations, but we're also -- as much as we're concerned about that aspect -- we're also concerned that if a homeowner makes a complaint to the Department of Consumer Protection regarding a home improvement build, let's say, and the Department of Consumer Protection then conducts an internal investigation, they may end up doing something to disparage the reputation of the home improvement contractor, and the home improvement contractor has no

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way of finding out, well, why did you come to that result, you never really investigated the case and now you have a black mark against our name and that's driving away business. Is that sort of part of what we're trying to get at also? Through you, Mr. President.

THE CHAIR:

Senator Colapietro.

SENATOR COLAPIETRO:

Thank you, Mr. President. That's correct, Senator Kissel.

THE CHAIR:

Senator Kissel.

SENATOR KISSEL:

Thank you very much. And so I heard talk about getting -- God bless you -- I heard talk about going on a website, but where are these black marks against good home improvement contractors now? Is there -- do you have to go over across the street to the Department of Consumer Protection building and go and ask somebody or is there some sort of journal where this is all notated or are they up and running with some kind of website now, but the website doesn't have

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any kind of detail, it just has good marks or bad marks or no marks? Through you, Mr. President.

THE CHAIR:

Senator Colapietro.

SENATOR COLAPIETRO:

Through you, Mr. President, to Senator Kissel. I'm not aware of how they do their system. I know that they do have a website, is all I know. And how they got on there before, I don't know either, but the complaint was that you couldn't tell what kind of a complaint was on there against a person. Through you, Mr. President.

THE CHAIR:

Senator Kissel.

SENATOR KISSEL:

Thank you very much. Well, I have no further questions for my friend and colleague, Senator Colapietro. Again, I applaud his efforts here.

I think it's great that we're taking a balanced approach to this issues. As I had indicated in my earlier colloquy on the issue, certainly the home owners themselves have an awful lot at stake.

But also, in this very difficult economy, a

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individual home improvement contractor who is out there, trying to make ends meet and doing the best that he or she can and assuming that they are doing a good job, the last thing in the world that they need is to have a black mark against their good business record.

And indeed, I can actually envision a case where some home owners, trying to maybe reduce the amount of money that they might have to pay at the end of a build, could say to a really good home improvement contractor, "You know what, we gave you a \$10,000 deposit, you did a beautiful job, we've got a few problems, but if you knock five grand off the last ten thousand that we owe you, we'll just let it be." At which point in time the home improvement contractor might say, "I'll fix those problems. I can do those problems from within the amount, I don't want to reduce the ten thousand dollars that you owe me, you owe me that." And the last thing we need in the world in the state of Connecticut is a system that would allow the home owner at that point in time -- now, the shoe's on the other foot -- the home contractor has done a great job, difficult to do a perfect job, but

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there's always going to be a few things and that's why punch lists are standard in the field. But a punch list is created so that the contractor can just go back and fix those little things.

I agree with Senator Colapietro, we don't want a system that would give undue leverage at that point in time to some homeowners that are, perhaps, rather unscrupulous or certainly very aggressive to say, "You know what, if you don't cut that money off of what we owe you, we can always file a complaint with Consumer Protection." Because now, if there are no guidelines, if there is no, essentially, due process, if there's no, essentially, equality in the system, then I, as that struggling, home improvement contractor -- and a lot of times, it could be a husband and wife working as a team, you know, one of them is really good in the field, one of them is doing the books, they've got a couple other people, they've invested their lives in this, maybe for ten, 20, 30 years, that individual has worked on, gotten their skills together, and now they're trying to go out there and do it on their own. They're going to huddle back in that office and go, "Oh my God. This is only our second contract and if

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these people do that to us, we're dead in the water."

Because then no one's going to come to us and how
unfair, because we did a good job.

So I think that equality goes both ways. Thus
the term equality. Due process, fundamental fairness.
And you are exactly correct, my colleagues, that we
need a fair and balanced system, and, heretofore, I
agree. It doesn't appear that anybody really knows
what takes place once these complaints are field with
Consumer Protection. The system could be tilted too
far towards the contractors, I don't know. Or the
system could be tilted too far in the other direction
so that when DCP calls up a contractor and says we've
gotten this complaint, do you just want to sign a
consent order and we'll waive the penalty, but it's
going to have to go on your record here.

Let's say they need every nickel and dime they
have just to make ends meet, they may go ahead with
that consent order, not knowing that that is a black
mark against their record for the rest of that
business' life.

So at the conclusion of the discussion, I think
asking them to do a study is a good way to go, but I

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agree very much with what Senator DeBicella said is, that I have some concerns about studies gathering dust on shelves.

My guess would be whomever -- God willing -- is here next year, wins reelection if they're seeking reelection, if there's open seats, new people serving in the Senate and the House and then get appointed to serve on the General Law Committee, and I'm guessing that the study must be provided to the General Law Committee -- actually, that's a good question.

Through you, Mr. President, to the co-chair of the General Law Committee, when Consumer Protection does create this study by the end of the year, does it have to be provided to the co-chairs and ranking members of the General Law committee? Through you, Mr. President.

THE CHAIR:

Senator Colapietro.

SENATOR COLAPIETRO:

Thank you, Mr. President. Through you, Mr. President, to Senator Kissel. It doesn't specify who's going to be there because I don't think I even know that, but it does specify that it will report

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back to the General Law Committee assuming it's all of us. Through you, Mr. President.

THE CHAIR:

Senator Kissel.

SENATOR KISSEL:

Great, okay, that's very reassuring. No further questions of Senator Colapietro.

I think that's exactly the way to go. As I serve on the ranking -- as the ranking Senator on the Judiciary committee, I can't tell you how many things we have out there where Department of Corrections has to report back to the Judiciary committee, other branches of government have to report to us. Of course, it does -- never delineates who the Senators or House members are, but I think it's always good policy for the legislative branch -- good public policy to have the chairs, ranking members, both get copies of those reports so that everybody can huddle and figure out what's the next best direction to go in.

And so the last sort of nuanced thing that I would state is that asking the Department of Consumer Protection to study itself, I know that they're out

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there and that they will do the very best job they can, but my concern is that they, perhaps, might not be as critical of themselves as they might -- as we might wish them to be. And again, it's not a disparaging statement to any of those good folks over there, but if your asked to do a self evaluation, that's a hard thing to do and to really be super critical of yourself. And so, they may feel, right now, that they are doing a fair and balanced job as long as there's enough information in there so that we can figure out what the process is, that would be a good thing. And so I would encourage all of us that should this legislation be forwarded, move forward and be signed in to law, I think that we should actually inquire as to what their intention is over in Consumer Protection. I think that just a phone call or a letter as to how they -- and in fact, the co-chairs and the ranking members, which I am not, of General Law might want to just send a letter out there and say what is sort of the outline that you're going to pursue. Because I would hate to see, in December 31st, something that says "received 3,892 complaints, 2442 were resolved, consent orders were entered into,

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dah, dah, dah, dah, dah," and that really doesn't give me any information.

What we need to do is find out what is the process. And what I'm hoping that we'll find out is sort of a story that when we receive complaints from the public they are assigned to so-and-so. So-and-so will then proceed in this way: phone calls, asking for information, creating of a file. After the file has been created, do they afford both sides to come in and talk? At that point in time, do they come up with, perhaps, a preliminary report? Do they provide the preliminary report to the contractor and the home owner for their review and additional comment? And, if, at that time, after a preliminary report is created, do they then issue a final report and afford people some kind of mechanism to appeal therefrom if they feel in some way that they've been aggrieved? And if that is the process, then how is that process resolved?

Because clearly what is at issue here are individual's livelihoods on one hand, and on the other hand, individual's piece of mind in the comfort of their castle, their home.

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And so I applaud your efforts. I applaud the efforts of everybody on the General Law Committee who worked so hard on this legislation. And with that, Mr. President, I am happy to support the bill. Thank you, sir.

THE CHAIR:

Thank you, Senator.

Senator Boucher.

SENATOR BOUCHER:

Good evening, Mr. President. Very nice to spend a Saturday evening with you.

THE CHAIR:

Thank you.

SENATOR BOUCHER:

And hope that your family is well. I know waiting very anxiously to see you this evening.

I was very, very pleased to hear the comments of my colleague, Senator Kissel, who brought up a topic that is very much a part of what we do as legislators, that the public isn't often aware of. And that is constituent services. And when we are engaged in a good portion of that part of our job, many think it's just about making laws here in this circle, but

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there's a good aspect, a large portion of the aspect of our jobs is constituent services.

And for those that have been here quite a long time, they recognize very rapidly that a good portion of the phone calls they get is often complaints and consumer protection complaints where we have to work very closely with the Department of Consumer Protection.

And very often, a lot of those complaints have to do with contractors, with painters and others in our district. They may have had some experience that grows to the level of either filing a complaint or oftentimes just finding out more about someone that they are trying to hire.

And I think that it is important -- and given that we often do refer complaints or work with the Department of Consumer Protection, I wonder, through you, Mr. President, if I may ask a question of our good Senator Colapietro with regards to the process at Consumer Protection. We know that we can access the possibility of checking out a contractor. We often do have them keep a list of those contractors where there is a complaint. Beyond that, Mr. President, might I

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ask that body of information, record keeping? Would it be open to anyone that would wish access to that?

Through you, Mr. President.

THE CHAIR:

Senator Colapietro.

SENATOR COLAPIETRO:

Through you -- excuse me -- through you, Mr. President, I was going to answer Senator Kissel's question and I'll answer it pretty much the same way is that hopefully the General Law Committee when it does come back -- and we're not picking on the DCP or anyone else, we're picking on the system itself.

We all seem to agree, including the Department of Consumer Protection consumers, home builders, all seem to agree that the system is not a good one. And therefore, their recommendation will come back to the General Law Committee. Hopefully the General Law Committee will sit down and say, "That's all good" or "we'd like to tweak this or that." There is -- the system they have today -- like I said before, I couldn't tell you how you file a complaint formally, but pick up the phone and call DCP and ask them, I guess. Through you, Mr. President.

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THE CHAIR:

Senator Boucher.

SENATOR BOUCHER:

Thank you, Mr. President. I appreciate the answer very much. I think that a lot of our departments have worked hard to create on their websites, actually, a clicking mechanism to get a form online, to file a complaint. But the question arises, once that is filed, where does it go and who has access to that? And I believe, if I'm hearing you correctly, through you, Mr. President, that your point of this legislation is to actually ascertain that and to see if that process is working well and should it work better. Through you, Mr. President.

THE CHAIR:

Senator Colapietro.

SENATOR COLAPIETRO:

Through you, Mr. President, thank you for the question. I think it specifies right in the bill, it is a class B misdemeanor, it's punishable by six months imprisonment, a fine up to a thousand dollars or both. And it also says that before anyone can be maybe prosecuted or licensed by the Consumer

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Protection commission must review the activity in question, and, two, make a written determination that the activity requires a license and is not the subject of a bona fide dispute between members of the trade or craft regardless of whether they are licensed.

THE CHAIR:

Senator Boucher.

SENATOR BOUCHER:

Thank you, Mr. President. I guess that answer begs another question and that is I was just hearing a penalty for. Is that for the false reporting of a complaint or is that for the actual commission of illegal activity through the contractor? Through you, Mr. President.

THE CHAIR:

Senator Colapietro.

SENATOR COLAPIETRO:

Through you, Mr. President. I believe that would be depending on the finding itself.

THE CHAIR:

Senator Boucher.

SENATOR BOUCHER:

Thank you, Mr. President. Well, it's obvious

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that this issue does require a bit of study although, like my good colleague, Senator DeBicella, it would be nice to proceed if there's a perceived problem, expeditiously, to get to a resolution.

However, I do think that this issue does raise some concerns. The concerns would be if, in fact, this system could be gamed from an unscrupulous business that would want to maybe put their competitor at a disadvantage and therefore file a number of complaints that were not true, did not have basis and as a result of that, would create a very negative situation and it would involve probably litigation and some lawsuits that would be brought about.

I guess some of my concern would be if the state became and got into the business of filtering the good versus bad in a ratings system that it might open us to some litigation, but again, that could be something that the committee could study and bring to us as far as what they're recommendations might be.

It's also interesting to note that there are some both free websites and some paid websites that do exactly what we are talking about today in this bill. One of the most famous -- and I know that there are

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others that I'm sure some of my colleagues might know about, might even help us with the explanation of what they do. But one that I'm somewhat familiar with, and many are out there in our viewing public is Angie's List. Angie's List is one of many companies which aggregate consumer reviews of local service companies primarily in the construction business that have been described by the New York Times as a way to capture word-of-mouth wisdom, for example, in the area.

But Angie's List is kind of unique. And I think it makes a very good case study for us when we're discussing something as important as this. Because you see that it actually charges consumers to see it's reviews rather than take paid advertising on the part of contractors or those in the construction trade.

So it sort of reflects their believe that charging customers adds credibility to the information. In other words, they're paying to get good data, good information who they should using and who maybe they should be steered away from.

It's really -- this is a company that was based in Indianapolis originally, and was started some years ago by actually a young intern by the name of Angie,

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who, in fact, did go door to door to try to sign up individuals that would want this information. And they would then create this rating on local contractors. And a little further after that period of time in 1996 it was purchased by United -- or Unified Neighbors and it was relocated as of -- actually, January of 2007. The company now serves 124 US cities. So it really has a very strong following and it provides reviews of companies in so many different categories, not just construction, not contractors or home builders or plumbers and electricians, but it also now works in the medical industry including doctors, dentists, hospitals and insurers. And it gives them grades. It lists them as you get an A grade if you're extremely good all the way down to an F using these consumer reviews, which is really an excellent way to go about it.

And again, as I said, it comes from paid memberships. Because I often wonder if we're going to engage in a process like this, it does cost a lot of money and it would involve a lot more specialized staff that would have expertise that we probably --

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Excuse me, Senator Boucher.

SENATOR BOUCHER:

Yes, sir.

THE CHAIR:

Senator Meyer, could you -- Senator Meyer.

Senator Meyer.

Senator Meyer, please take your conversation
outside the chamber.

SENATOR BOUCHER: Oh, excellent.

THE CHAIR:

Thank you, Senator Meyer.

SENATOR MEYER:

(Inaudible.)

THE CHAIR:

There's no conversation -- that would be great.
Thank you.

Senator Col -- Senator Meyer, you're out of
order.

SENATOR MEYER:

I'd love to be out of order (inaudible).

THE CHAIR:

Thank you.

SENATOR BOUCHER:

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So in conclusion and in trying to wrap up this very helpful conversation with regards to a consumer protection issue that is on the top of mind of many individuals, I would refer to the fact that even Angie's List ran into trouble with a law suit that they themselves found themselves were liable by contractors for millions of dollars in damages when one of their members was sued by making a -- what they claimed was a false negative -- negative comment about their services.

So we have to be very cautious as we move forward with an issue like this. There are some risks associated that could put the state in a position where they would have to defend themselves in court if we didn't do it properly.

So let's use some examples that are out there, Mr. President, and proceed with this very good bill in moving it forward. Thank you, Mr. President.

THE CHAIR:

Thank you, Senator. Will you remark further?

Senator Colapietro.

SENATOR COLAPIETRO:

Thank you, Mr. President. I have to apologize to

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Senator Boucher. There is no penalties -- I took the wrong paper and I was reading the wrong ones. There are no penalties and this was simply a study to come back and tell us how to make this system better. Through you, Mr. President.

THE CHAIR:

Thank you, Senator --

SENATOR BOUCHER:

Thank you very much --

THE CHAIR:

Senator Boucher.

SENATOR BOUCHER:

- for his answers, Mr. President. Have a very good evening.

THE CHAIR:

Thank you, Senator Boucher.

Will you remark further? Will you remark further?

Senator Looney.

SENATOR LOONEY:

Thank you, Mr. President. Mr. President, if there is no further objection or just one comment on the bill, we move to place it on the consent calendar.

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THE CHAIR:

Is there any objection to placing this on the consent calendar?

Any objection? Seeing none, this item will be placed on the consent calendar.

Mr. Clerk, Senator Looney.

SENATOR LOONEY:

Yes, Mr. President, thank you. I believe the clerk is now in possession of Senate Agenda number 4. I don't -- if I may inquire of the clerk if we had already adopted Agenda Number 3, but we're also now in possession of Senate Agenda Number 4.

THE CHAIR:

Mr. Clerk.

THE CLERK:

Mr. President, the clerk is in possession of Senate Agenda Number 4, dated May 1, 2010, copies have been distributed.

THE CHAIR:

Senator Looney.

SENATOR LOONEY:

Yes, thank you, Mr. President. Mr. President, I move all items on Senate Agenda Number 4, dated May