Investment Company Institute
Written Testimony on Raised Bill Nos. 6349 and 6350
Before the State of Connecticut General Assembly
February 12, 2009

On behalf of its Connecticut-based members and all Connecticut-resident shareholders in investment companies (*e.g.,* mutual funds), the Investment Company Institute[1] strongly opposes the provisions of bill nos. 6349 and 6350 that would extend the sales tax to investment management services. If enacted, this sales tax on saving could:

- impose additional costs on Connecticut investors seeking to save for their retirement and other long-term needs through mutual funds;

- place Connecticut-based mutual fund firms operating in this nationwide industry at a competitive disadvantage; and

- be extraordinarily difficult (if not impossible) to administer efficiently and fairly.

As we do not believe a tax can be crafted that would eliminate (or even reduce) any of these significant deficiencies, we urge the General Assembly to remove this sales tax on saving from the bills.

Background

A mutual fund pools money from individuals and invests in a diversified portfolio of stocks, bonds or other securities in the United States and around the world. Each investor in a mutual fund is a shareholder of the fund. Each share represents a proportionate ownership in all the fund's underlying securities. The securities are selected by a professional investment adviser to meet a specified financial goal, such as growth or income.

Mutual funds typically do not have employees of their own. Instead, their services are performed by outside service providers, such as the fund's investment adviser. Funds with a common investment adviser (sometimes called a "manager") often are referred to as a mutual fund "family" or "complex." Competition between mutual fund complexes and their advisers is intense.

Sales Tax Should Not Be Imposed on Mutual Fund Shareholders and the Act of Saving

[1] The Investment Company Institute is the national association of U.S. investment companies, including mutual funds, closed-end funds, exchange-traded funds (ETFs), and unit investment trusts (UITs). ICI seeks to encourage adherence to high ethical standards, promote public understanding, and otherwise advance the interests of funds, their shareholders, directors, and advisers. Members of ICI manage total assets of $10.14 trillion and serve over 93 million shareholders.

Mutual funds, the investment vehicle of choice for moderate-income investors, have democratized our capital markets in ways that could not have been imagined just a generation or two ago. More than half of all American households have become investors as a result of mutual funds and now depend on their mutual fund investments to buy a home, finance a child's education, support aging parents or extended family, and prepare for retirement.

Imposing a sales tax on mutual funds and their shareholders will increase the cost of saving for retirement and other long-term needs. Given the increased responsibility that individuals have for ensuring their own retirement security, the legislature should be creating incentives to *encourage* rather than *discourage* saving.

Connecticut-Based Fund Managers Should Not Be Placed at a Competitive Disadvantage

Mutual fund advisers can be (and in fact are) located virtually anywhere. Many important ones are located in Connecticut. The two most important requirements for managing a mutual fund are well-educated employees and ready access to modern technology. Physical plant requirements are minimal.

The potential market for a fund manager's products is nationwide in scope. Because investors can communicate with a mutual fund manager through the mail, over the phone, or electronically, a mutual fund's shareholders can be (and generally are) located in all 50 states. A "local" mutual fund manager has no inherent advantage over "non-local" managers in attracting new investor dollars.

Extending the sales tax to services consumed by Connecticut-based fund managers could place them at a distinct competitive disadvantage vis-à-vis fund managers located throughout the rest of the United States. These flaws in the sales tax cannot be corrected by technical modifications to the legislation; imposing a sales tax on the mutual fund industry would *always* have this anti-competitive effect. As Connecticut-based fund managers in this highly mobile business provide exactly the kind of good jobs that states covet, the legislature should be creating incentives to *encourage* fund managers to locate in Connecticut. Extending the sales tax to investment management services could have the opposite effect.

Subjecting the Mutual Fund Industry to a Sales Tax on Saving Would Be Most Problematic

A sales tax on services *theoretically* could be assessed either against the mutual fund itself or against the fund's individual shareholders. Presumably, the tax would be assessed based upon the location of (1) the fund manager, if the fund were treated as the consumer, or (2) the fund shareholder, if the shareholder were treated on a look-through basis as the consumer.

In *practice*, however, such a tax cannot be applied either fairly or in an administrable manner. Because both funds and their shareholders are spread across the country, the tax cannot be applied evenhandedly against either the fund or the fund's shareholders. Moreover, regardless of whether the tax were assessed against the fund or its shareholders, Connecticut-based fund managers would be disadvantaged vis-à-vis fund managers located elsewhere because the Connecticut tax authorities would face significant obstacles in seeking compliance from out-of-state firms.

The Tax Cannot Fairly Be Assessed Against Mutual Funds Themselves

A mutual fund's costs, as fund-wide expenses, are spread proportionately across all of its shareholders. Individual fund shareholders are not, and indeed cannot be, charged separately for any services performed for the fund.

If a sales tax were assessed against the mutual fund, it effectively would be assessed against all of the fund's shareholders, both those resident in Connecticut and those resident in other states. Any fund-level tax would be spread inappropriately across all investors, rather than assessed just against Connecticut residents.

Collection of the tax, however, could be ensured only from funds whose managers are located in Connecticut, where the state has ready access to the enforcement mechanisms that could be utilized to ensure compliance. Thus, the sales tax would negatively impact the investment returns only of Connecticut-managed funds, thereby placing these funds at a competitive disadvantage in the nationwide mutual fund industry.

The Tax Cannot Fairly Be Assessed Against Fund Shareholders Resident in Connecticut

If a sales tax, alternatively, were assessed only against Connecticut residents invested in a mutual fund, it would be nearly impossible to implement. First, as discussed above, mutual fund-wide expenses are assessed against the mutual fund itself, rather than against the fund's individual shareholders. Funds today do not determine any fund shareholder's allocable portion of any fund-level expense. Thus, the records do not exist that would permit the fund or any of its shareholders to determine the amount of tax that would be assessed against any individual shareholder based on that shareholder's allocable portion of any fund-wide expense.

Second, even in the most unlikely event that shareholder-specific recordkeeping systems for fund expenses could be developed at reasonable cost, it would be difficult, if not impossible, to ensure that out-of-state firms would either (1) determine any Connecticut shareholder's allocable share of the fees on which sales tax would be assessed or (2) actually collect the tax and remit it to Connecticut. And, even if a non-Connecticut-based firm were willing to voluntarily calculate the tax for its shareholders, timely self-reporting by Connecticut shareholders could not be assured. Absent

widespread compliance with the rules, the overall confidence in (and compliance with) the tax system could erode.

Thus, even if shareholder-specific recordkeeping systems could be developed, a sales tax most likely could be collected only from those Connecticut investors who purchase shares of funds managed by Connecticut-based managers. Thus, such a tax also would have the effect of disadvantaging Connecticut-based fund managers vis-à-vis fund managers located elsewhere.

Recommendation

The Institute strongly recommends, on behalf of its Connecticut-based members and all Connecticut-resident shareholders, that the sales tax ***not*** be extended to any services consumed within the investment company industry. The three principal reasons for our recommendation are that:

- additional costs could be placed on Connecticut residents seeking to save and invest to meet their long-term needs, which could have the unintended (and most unfortunate) consequence of discouraging adequate saving by Connecticut residents;

- our Connecticut members, who strongly value their relationship to the state and appreciate the stable and qualified workforce available to help their businesses flourish, could be placed at a competitive disadvantage vis-à-vis their out-of-state competitors; and

- imposition of tax on these services would be extraordinarily difficult (if not impossible) to administer efficiently and fairly.

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The Institute appreciates your consideration of our concerns. Please do not hesitate to contact Karen Gibian at (202) 371-5432 or kgibian@ici.org if the Institute can answer any questions regarding this letter or provide any additional information regarding the organization, operation, or taxation of investment companies and/or their shareholders.

General Assembly

January Session, 2009

Raised Bill No. 6349

LCO No. **2931**

02931_____FIN

Referred to Committee on Finance, Revenue and Bonding
Introduced by:
(FIN)

AN ACT CONCERNING THE SALES TAX ON SERVICES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Subdivision (37) of subsection (a) of section 12-407 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective April 1, 2009, and applicable to sales occurring on and after said date*):

(37) "Services" for purposes of subdivision (2) of this subsection, means:

(A) Computer and data processing services, including, but not limited to, time, programming, code writing, modification of existing programs, feasibility studies and installation and implementation of software programs and systems even where such services are rendered in connection with the development, creation or production of canned or custom software or the license of custom software, and exclusive of services rendered in connection with the creation, development hosting or maintenance of all or part of a web site which is part of the graphical, hypertext portion of the Internet, commonly referred to as the World Wide Web;

(B) Credit information and reporting services;

(C) Services by employment agencies and agencies providing personnel services;

(D) Private investigation, protection, patrol work, watchman and armored car services, exclusive of (i) services of off-duty police officers and off-duty firefighters, and (ii) coin and currency services provided to a financial services company by or through another financial services company. For purposes of this subparagraph, "financial services company" has the same meaning as provided under subparagraphs (A) to (H), inclusive, of subdivision (6) of subsection (a) of section 12-218b;

(E) Painting and lettering services;

(F) Photographic studio services;

(G) Telephone answering services;

(H) Stenographic services;

(I) Services to industrial, commercial or income-producing real property, including, but not limited to, such services as management, electrical, plumbing, painting and carpentry and excluding any such services rendered in the voluntary evaluation, prevention, treatment, containment or removal of hazardous waste, as defined in section 22a-115, or other contaminants of air, water or soil, provided income-producing property shall not include property used exclusively for residential purposes in which the owner resides and which contains no more than three dwelling units, or a housing facility for low and moderate income families and persons owned or operated by a nonprofit housing organization, as defined in subdivision (29) of section 12-412;

(J) Business analysis, management, management consulting and public relations services, excluding (i) any environmental consulting services, (ii) any training services provided by an institution of higher education licensed or accredited by the Board of Governors of Higher Education pursuant to section 10a-34, and (iii) on and after January 1, 1994, any business analysis, management, management consulting and public relations services when such services are rendered in connection with an aircraft leased or owned by a certificated air carrier or in connection with an aircraft which has a maximum certificated take-off weight of six thousand pounds or more;

(K) Services providing "piped-in" music to business or professional establishments;

(L) Flight instruction and chartering services by a certificated air carrier on an aircraft, the use of which for such purposes, but for the provisions of subdivision (4) of section 12-410 and subdivision (12) of section 12-411, would be deemed a retail sale and a taxable storage or use, respectively, of such aircraft by such carrier;

(M) Motor vehicle repair services, including any type of repair, painting or replacement related to the body or any of the operating parts of a motor vehicle;

(N) Motor vehicle parking, including the provision of space, other than metered space, in a lot having thirty or more spaces, excluding (i) space in a seasonal parking lot provided by a person who is exempt from taxation under this chapter pursuant to subdivision (1), (5) or (8) of section 12-412, (ii) space in a parking lot owned or leased under the terms of a lease of not less than ten years' duration and operated by an employer for the exclusive use of its employees, (iii) valet parking provided at any airport, and (iv) space in municipally-operated railroad parking facilities in municipalities located within an area of the state designated as a severe nonattainment area for

ozone under the federal Clean Air Act or space in a railroad parking facility in a municipality located within an area of the state designated as a severe nonattainment area for ozone under the federal Clean Air Act owned or operated by the state on or after April 1, 2000;

(O) Radio or television repair services;

(P) Furniture reupholstering and repair services;

(Q) Repair services to any electrical or electronic device, including, but not limited to, equipment used for purposes of refrigeration or air-conditioning;

(R) Lobbying or consulting services for purposes of representing the interests of a client in relation to the functions of any governmental entity or instrumentality;

(S) Services of the agent of any person in relation to the sale of any item of tangible personal property for such person, exclusive of the services of a consignee selling works of art, as defined in subsection (b) of section 12-376c, or articles of clothing or footwear intended to be worn on or about the human body other than (i) any special clothing or footwear primarily designed for athletic activity or protective use and which is not normally worn except when used for the athletic activity or protective use for which it was designed, and (ii) jewelry, handbags, luggage, umbrellas, wallets, watches and similar items carried on or about the human body but not worn on the body in the manner characteristic of clothing intended for exemption under subdivision (47) of section 12-412, under consignment, exclusive of services provided by an auctioneer;

(T) Locksmith services;

(U) Advertising or public relations services, including layout, art direction, graphic design, mechanical preparation or production supervision, not related to the development of media advertising or cooperative direct mail advertising;

(V) Landscaping and horticulture services;

(W) Window cleaning services;

(X) Maintenance services;

(Y) Janitorial services;

(Z) Exterminating services;

(AA) Swimming pool cleaning and maintenance services;

(BB) Miscellaneous personal services included in industry group 729 in the Standard Industrial Classification Manual, United States Office of Management and Budget, 1987 edition, or U.S. industry 532220, 812191, 812199 or 812990 in the North American Industrial Classification

System United States Manual, United States Office of Management and Budget, 1997 edition, exclusive of (i) services rendered by massage therapists licensed pursuant to chapter 384a, and (ii) services rendered by an electrologist licensed pursuant to chapter 388;

(CC) Any repair or maintenance service to any item of tangible personal property including any contract of warranty or service related to any such item;

(DD) Business analysis, management or managing consulting services rendered by a general partner, or an affiliate thereof, to a limited partnership, provided (i) the general partner, or an affiliate thereof, is compensated for the rendition of such services other than through a distributive share of partnership profits or an annual percentage of partnership capital or assets established in the limited partnership's offering statement, and (ii) the general partner, or an affiliate thereof, offers such services to others, including any other partnership. As used in this subparagraph "an affiliate of a general partner" means an entity which is directly or indirectly owned fifty per cent or more in common with a general partner;

(EE) Notwithstanding the provisions of section 12-412, except subdivision (87) of said section 12-412, patient care services, as defined in subdivision (29) of this subsection by a hospital, except that "sale" and "selling" does not include such patient care services for which payment is received by the hospital during the period commencing July 1, 2001, and ending June 30, 2003;

(FF) Health and athletic club services, exclusive of (i) any such services provided without any additional charge which are included in any dues or initiation fees paid to any such club, which dues or fees are subject to tax under section 12-543, (ii) any such services provided by a municipality or an organization that is described in Section 501(c) of the Internal Revenue Code of 1986, or any subsequent corresponding internal revenue code of the United States, as from time to time amended, and (iii) yoga instruction provided at a yoga studio;

(GG) Professional, insurance, occupational or personal service transactions, except any such service transaction which involves sales as inconsequential elements for which no separate charges are made.

Sec. 2. Subdivision (11) of section 12-412 of the general statutes, is repealed. (*Effective April 1, 2009, and applicable to sales occurring on and after said date)*

This act shall take effect as follows and shall amend the following sections:

Section 1	*April 1, 2009, and applicable to sales occurring on and after said date*	12-407(a)(37)
Sec. 2	*April 1, 2009, and applicable to sales occurring on and after said*	Repealer section

date

Statement of Purpose:

To make professional, insurance, occupational or personal service transactions subject to the sales tax.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]

General Assembly

January Session, 2009

Raised Bill No. 6350

LCO No. **2942**

02942_____FIN

Referred to Committee on Finance, Revenue and Bonding
Introduced by:
(FIN)

AN ACT ELIMINATING EXEMPTIONS FROM THE SALES AND USE TAX AND LOWERING THE RATE OF SUCH TAX.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Subdivision (1) of section 12-408 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective April 1, 2009, and applicable to sales occurring on and after said date*):

For the privilege of making any sales, as defined in subdivision (2) of subsection (a) of section 12-407, at retail, in this state for a consideration, a tax is hereby imposed on all retailers at the rate of [six] five per cent of the gross receipts of any retailer from the sale of all tangible personal property sold at retail or from the rendering of any services constituting a sale in accordance with subdivision (2) of subsection (a) of section 12-407, except, in lieu of said rate of [six] five per cent, (A) at a rate of twelve per cent with respect to each transfer of occupancy, from the total amount of rent received for such occupancy of any room or rooms in a hotel or lodging house for the first period not exceeding thirty consecutive calendar days, (B) with respect to the sale of a motor vehicle to any individual who is a member of the armed forces of the United States and is on full-time active duty in Connecticut and who is considered, under 50 App USC 574, a resident of another state, or to any such individual and the spouse thereof, at a rate of four and one-half per cent of the gross receipts of any retailer from such sales, provided such retailer requires and maintains a declaration by such individual, prescribed as to form by the commissioner and bearing notice to the effect that false statements made in such declaration are punishable, or other evidence, satisfactory to the commissioner, concerning the purchaser's state of residence under 50 App USC 574, (C) (i) with respect to the sales of computer and data processing services occurring on or after July 1, 1997, and prior to July 1, 1998, at the rate of five per cent, on or after July 1, 1998, and prior to July 1, 1999, at the rate of four per cent, on or after July 1, 1999, and prior to July 1, 2000, at the rate of three per cent, on or after July 1, 2000, and prior to July 1, 2001, at the rate of two per cent, on or after July 1, 2001, at the rate of one per cent, and on and

after April 1, 2009, at the rate of five per cent; (ii) with respect to sales of Internet access services, on and after July 1, 2001, such services shall be exempt from such tax, except on and after April 1, 2009, shall be taxed at the rate of five per cent; (D) with respect to the sales of labor that is otherwise taxable under subparagraph (C) or (G) of subdivision (2) of subsection (a) of section 12-407 on existing vessels and repair or maintenance services on vessels occurring on and after July 1, 1999, such services shall be exempt from such tax, except on and after April 1, 2009, shall be taxed at the rate of five per cent; (E) with respect to patient care services for which payment is received by the hospital on or after July 1, 1999, and prior to July 1, 2001, at the rate of five and three-fourths per cent and on and after July 1, 2001, but prior to April 1, 2009, such services shall be exempt from such tax, except on and after April 1, 2009, shall be taxed at the rate of five per cent. The rate of tax imposed by this chapter shall be applicable to all retail sales upon the effective date of such rate, except that a new rate which represents an increase in the rate applicable to the sale shall not apply to any sales transaction wherein a binding sales contract without an escalator clause has been entered into prior to the effective date of the new rate and delivery is made within ninety days after the effective date of the new rate. For the purposes of payment of the tax imposed under this section, any retailer of services taxable under subparagraph (I) of subdivision (2) of subsection (a) of section 12-407, who computes taxable income, for purposes of taxation under the Internal Revenue Code of 1986, or any subsequent corresponding internal revenue code of the United States, as from time to time amended, on an accounting basis which recognizes only cash or other valuable consideration actually received as income and who is liable for such tax only due to the rendering of such services may make payments related to such tax for the period during which such income is received, without penalty or interest, without regard to when such service is rendered.

Sec. 2. Section 12-411 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective April 1, 2009, and applicable to sales occurring on and after said date*):

(1) An excise tax is hereby imposed on the storage, acceptance, consumption or any other use in this state of tangible personal property purchased from any retailer for storage, acceptance, consumption or any other use in this state, the acceptance or receipt of any services constituting a sale in accordance with subdivision (2) of subsection (a) of section 12-407, purchased from any retailer for consumption or use in this state, or the storage, acceptance, consumption or any other use in this state of tangible personal property which has been manufactured, fabricated, assembled or processed from materials by a person, either within or without this state, for storage, acceptance, consumption or any other use by such person in this state, to be measured by the sales price of materials, at the rate of [six] five per cent of the sales price of such property or services, except, in lieu of said rate of [six] five per cent, (A) at a rate of twelve per cent of the rent paid for occupancy of any room or rooms in a hotel or lodging house for the first period of not exceeding thirty consecutive calendar days, (B) with respect to the storage, acceptance, consumption or use in this state of a motor vehicle purchased from any retailer for storage, acceptance, consumption or use in this state by any individual who is a member of the armed forces of the United States and is on full-time active duty in Connecticut and who is considered, under 50 App USC 574, a resident of another state, or to any such individual and the spouse of such individual at a rate of four and one-half per cent of the sales price of such vehicle, provided such retailer requires and maintains a declaration by such individual, prescribed as to form by the

commissioner and bearing notice to the effect that false statements made in such declaration are punishable, or other evidence, satisfactory to the commissioner, concerning the purchaser's state of residence under 50 App USC 574, (C) with respect to the acceptance or receipt in this state of labor that is otherwise taxable under subparagraph (C) or (G) of subdivision (2) of subsection (a) of section 12-407 on existing vessels and repair or maintenance services on vessels occurring on and after July 1, 1999, such services shall be exempt from such tax, (D) (i) with respect to the acceptance or receipt in this state of computer and data processing services purchased from any retailer for consumption or use in this state occurring on or after July 1, 1997, and prior to July 1, 1998, at the rate of five per cent of such services, on or after July 1, 1998, and prior to July 1, 1999, at the rate of four per cent of such services, on or after July 1, 1999, and prior to July 1, 2000, at the rate of three per cent of such services, on or after July 1, 2000, and prior to July 1, 2001, at the rate of two per cent of such services, on and after July 1, 2001, at the rate of one per cent of such services, and (ii) with respect to the acceptance or receipt in this state of Internet access services, on or after July 1, 2001, such services shall be exempt from tax, (E) with respect to the acceptance or receipt in this state of patient care services purchased from any retailer for consumption or use in this state for which payment is received by the hospital on or after July 1, 1999, and prior to July 1, 2001, at the rate of five and three-fourths per cent and on and after July 1, 2001, such services shall be exempt from such tax.

(2) Every person storing, accepting, consuming or otherwise using in this state services or tangible personal property purchased from a retailer for storage, acceptance, consumption or any other use in this state and every person storing, accepting, consuming or otherwise using in this state tangible personal property which has been manufactured, fabricated, assembled or processed from materials purchased from a retailer by such person, either within or without this state, for storage, acceptance, consumption or any other use by such person in this state is liable for the tax. Such person's liability is not extinguished until the tax has been paid to this state, except that a receipt from a retailer engaged in business in this state or from a retailer who is authorized by the commissioner, under such regulations as the commissioner may prescribe, to collect the tax and who is, for the purposes of this chapter relating to the use tax, regarded as a retailer engaged in business in this state, given to the purchaser pursuant to subdivision (3) of this section is sufficient to relieve the purchaser from further liability for the tax to which the receipt refers.

(3) Every retailer engaged in business in this state and making sales of services or of tangible personal property for storage, acceptance, consumption or any other use in this state, not exempted under this chapter, shall, at the time of making a sale or, if the storage, acceptance, consumption or other use is not then taxable hereunder, at the time the storage, acceptance, consumption or use becomes taxable, collect the use tax from the purchaser and give to the purchaser a receipt therefor in the manner and form prescribed by the commissioner. For the purpose of uniformity of tax collection by the retailer the tax brackets set forth in subdivision (3) of section 12-408 pertaining to the sales tax shall be employed in the computation of the tax imposed by this section.

(4) The tax required to be collected by the retailer constitutes a debt owed to the retailer by the person purchasing tangible personal property or services from such retailer. The amount of tax,

when so collected, shall be deemed to be a special fund in trust for the state of Connecticut.

(5) The provisions of subdivision (4) of section 12-408 pertaining to the sales tax shall apply with equal force to the use tax.

(6) The tax required to be collected by the retailer from the purchaser shall be displayed separately from the list price, the price advertised in the premises, the marked price, or other price on the sales check or other proof of sales.

(7) Any person violating the provisions of subdivision (3), (5) or (6) of this section shall be fined five hundred dollars for each offense.

(8) Every retailer selling services or tangible personal property for storage, acceptance, consumption or any other use in this state shall register with the commissioner and give the name and address of all agents operating in this state, the location of all distribution or sales houses or offices or other places of business in this state and such other information as the commissioner may require.

(9) For the purpose of the proper administration of this chapter and to prevent evasion of the use tax and the duty to collect the use tax, it shall be presumed that services or tangible personal property sold by any person for delivery in this state is sold for storage, acceptance, consumption or other use in this state until the contrary is established. The burden of proving the contrary is upon the person who makes the sale unless such person takes from the purchaser a certificate to the effect that the services or property is purchased for resale.

(10) The certificate relieves the person selling the services or property from the burden of proof only if taken in good faith from a person who is engaged in the business of selling services or tangible personal property and who holds the permit provided for by section 12-409 and who, at the time of purchasing the services or tangible personal property, intends to sell it in the regular course of business or is unable to ascertain at the time of purchase whether the service or property will be sold or will be used for some other purpose.

(11) The certificate shall be signed by and bear the name and address of the purchaser, shall indicate the number of the permit issued to the purchaser and shall indicate the general character of the service or tangible personal property sold by the purchaser in the regular course of business. The certificate shall be substantially in such form as the commissioner may prescribe.

(12) (A) If a purchaser who gives a certificate makes any storage or use of the service or property other than retention, demonstration or display while holding it for sale in the regular course of business, the storage or use is taxable as of the time the service or property is first so stored or used.

(B) Notwithstanding the provisions of subparagraph (A) of this subdivision, any storage or use by a certificated air carrier of an aircraft for purposes other than retention, demonstration or display while holding it for sale in the regular course of business shall not be deemed a taxable storage or

use by such carrier as of the time the aircraft is first stored or used by such carrier, irrespective of the classification of such aircraft on the balance sheet of such carrier for accounting and tax purposes.

(13) It shall be presumed that tangible personal property shipped or brought to this state by the purchaser was purchased from a retailer for storage, use or other consumption in this state.

(14) [(A)] For the purpose of the proper administration of this chapter and to prevent evasion of the use tax, a purchase of any service described in subparagraph (I) of subdivision (2) of subsection (a) of section 12-407 shall be considered a purchase for resale only if the service to be resold is an integral, inseparable component part of a service described in said subparagraph (I) which is to be subsequently sold by the purchaser to an ultimate consumer. The purchaser of the service for resale shall maintain, in such form as the commissioner requires, records which substantiate: (i) From whom the service was purchased and to whom the service was sold; (ii) the purchase price of the service; and (iii) the nature of the service to demonstrate that the service was an integral, inseparable component part of a service described in subparagraph (I) of subdivision (2) of subsection (a) of section 12-407 which was subsequently sold to a consumer.

[(B) Notwithstanding the provisions of subparagraph (A) of this subdivision, no purchase of a service described in subparagraph (I) of subdivision (2) of subsection (a) of section 12-407 by a purchaser shall be considered a purchase for resale if such service is to be subsequently sold by the purchaser to an ultimate consumer that is affiliated with the purchaser in the manner described in subparagraph (A) of subdivision (62) of subsection (a) of section 12-412.

(15) For the purpose of the proper administration of this chapter and to prevent evasion of the use tax, no purchase of any service by a purchaser shall be considered a purchase for resale if such service is to be subsequently sold by the purchaser, without change, to an ultimate consumer that is affiliated with the purchaser in the manner described in subparagraph (A) of subdivision (62) of subsection (a) of section 12-412.]

Sec. 3. (NEW) (*Effective April 1, 2009, and applicable to sales occurring on and after said date*): Taxes imposed by chapter 219 of the general statutes shall not apply to the gross receipts from the sale of and the storage, use or other consumption in this state with respect to the following items:

(1) (A) Sales of tangible personal property or services to the United States, the state of Connecticut or any of the political subdivisions thereof, or its or their respective agencies; (B) sales of tangible personal property or services used to develop property which the state of Connecticut is under contract to purchase through a long-term financing contract; (C) sales and use of any services or tangible personal property to be incorporated into or used or otherwise consumed in (i) the demolition, remediation or preparation of the Adriaen's Landing site and the stadium facility site for purposes of the overall project, each as defined in section 32-651 of the general statutes, as amended by this act, (ii) the construction of the convention center, the Connecticut Center for Science and Exploration, the stadium facility and the related parking facilities and site preparation and infrastructure improvements, each as defined in section 32-651

of the general statutes, as amended by this act, or (iii) the construction of any future capital improvement to the convention center, the stadium facility or the related parking facilities.

(2) Sales of tangible personal property or services which this state is prohibited from taxing under the Constitution or laws of the United States.

Sec. 4. Subparagraph (A) of subdivision (8) of subsection (a) of section 12-407 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective April 1, 2009, and applicable to sales occurring on and after said date*):

(8) (A) "Sales price" means the total amount for which tangible personal property is sold by a retailer, the total amount of rent for which occupancy of a room is transferred by an operator, the total amount for which any service described in subdivision (2) of this subsection is rendered by a retailer or the total amount of payment or periodic payments for which tangible personal property is leased by a retailer, valued in money, whether paid in money or otherwise, which amount is due and owing to the retailer or operator and, subject to the provisions of subdivision (1) of section 12-408, as amended by this act, whether or not actually received by the retailer or operator, without any deduction on account of any of the following: (i) The cost of the property sold; (ii) the cost of materials used, labor or service cost, interest charged, losses or any other expenses; (iii) for any sale occurring on or after July 1, 1993, any charges by the retailer to the purchaser for shipping or delivery, notwithstanding whether such charges are separately stated in a written contract, or on a bill or invoice rendered to such purchaser or whether such shipping or delivery is provided by the retailer or a third party. [The provisions of subparagraph (A) (iii) of this subdivision shall not apply to any item exempt from taxation pursuant to section 12-412.] Such total amount includes any services that are a part of the sale; except as otherwise provided in subparagraph (B)(v) or (B)(vi) of this subdivision, any amount for which credit is given to the purchaser by the retailer, and all compensation and all employment-related expenses, whether or not separately stated, paid to or on behalf of employees of a retailer of any service described in subdivision (2) of this subsection.

Sec. 5. Subparagraph (A) of subdivision (9) of subsection (a) of section 12-407 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective April 1, 2009, and applicable to sales occurring on and after said date*):

(9) (A) "Gross receipts" means the total amount of the sales price from retail sales of tangible personal property by a retailer, the total amount of the rent from transfers of occupancy of rooms by an operator, the total amount of the sales price from retail sales of any service described in subdivision (2) of this subsection by a retailer of services, or the total amount of payment or periodic payments from leases or rentals of tangible personal property by a retailer, valued in money, whether received in money or otherwise, which amount is due and owing to the retailer or operator and, subject to the provisions of subdivision (1) of section 12-408, as amended by this act, whether or not actually received by the retailer or operator, without any deduction on account of any of the following: (i) The cost of the property sold; however, in accordance with such regulations as the Commissioner of Revenue Services may prescribe, a deduction may be taken if the retailer has purchased property for some other purpose than resale, has reimbursed

the retailer's vendor for tax which the vendor is required to pay to the state or has paid the use tax with respect to the property, and has resold the property prior to making any use of the property other than retention, demonstration or display while holding it for sale in the regular course of business. If such a deduction is taken by the retailer, no refund or credit will be allowed to the retailer's vendor with respect to the sale of the property; (ii) the cost of the materials used, labor or service cost, interest paid, losses or any other expense; (iii) for any sale occurring on or after July 1, 1993, except for any item exempt from taxation pursuant to section [12-412] 3 of this act, any charges by the retailer to the purchaser for shipping or delivery, notwithstanding whether such charges are separately stated in the written contract, or on a bill or invoice rendered to such purchaser or whether such shipping or delivery is provided by the retailer or a third party. The total amount of the sales price includes any services that are a part of the sale; all receipts, cash, credits and property of any kind; except as otherwise provided in subparagraph (B)(v) or (B)(vi) of this subdivision, any amount for which credit is allowed by the retailer to the purchaser; and all compensation and all employment-related expenses, whether or not separately stated, paid to or on behalf of employees of a retailer of any service described in subdivision (2) of this subsection.

Sec. 6. Subparagraph (I) of subdivision (37) of subsection (a) of section 12-407 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective April 1, 2009, and applicable to sales occurring on and after said date*):

(I) Services to industrial, commercial or income-producing real property, including, but not limited to, such services as management, electrical, plumbing, painting and carpentry and excluding any such services rendered in the voluntary evaluation, prevention, treatment, containment or removal of hazardous waste, as defined in section 22a-115, or other contaminants of air, water or soil, provided income-producing property shall not include property used exclusively for residential purposes in which the owner resides and which contains no more than three dwelling units, or a housing facility for low and moderate income families and persons owned or operated by a nonprofit housing organization; [, as defined in subdivision (29) of section 12-412;]

Sec. 7. Subparagraph (N) of subdivision (37) of subsection (a) of section 12-407 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective April 1, 2009, and applicable to sales occurring on and after said date*):

(N) Motor vehicle parking, including the provision of space, other than metered space, in a lot having thirty or more spaces, excluding (i) [space in a seasonal parking lot provided by a person who is exempt from taxation under this chapter pursuant to subdivision (1), (5) or (8) of section 12-412, (ii)] space in a parking lot owned or leased under the terms of a lease of not less than ten years' duration and operated by an employer for the exclusive use of its employees, [(iii)] (ii) valet parking provided at any airport, and [(iv)] (iii) space in municipally-operated railroad parking facilities in municipalities located within an area of the state designated as a severe nonattainment area for ozone under the federal Clean Air Act or space in a railroad parking facility in a municipality located within an area of the state designated as a severe nonattainment area for ozone under the federal Clean Air Act owned or operated by the state on or after April 1,

2000.

Sec. 8. Subparagraph (S) of subdivision (37) of subsection (a) of section 12-407 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective April 1, 2009, and applicable to sales occurring on and after said date*):

(S) Services of the agent of any person in relation to the sale of any item of tangible personal property for such person, exclusive of the services of a consignee selling works of art, as defined in subsection (b) of section 12-376c, or articles of clothing or footwear intended to be worn on or about the human body other than (i) any special clothing or footwear primarily designed for athletic activity or protective use and which is not normally worn except when used for the athletic activity or protective use for which it was designed, and (ii) jewelry, handbags, luggage, umbrellas, wallets, watches and similar items carried on or about the human body but not worn on the body, [in the manner characteristic of clothing intended for exemption under subdivision (47) of section 12-412,] under consignment, exclusive of services provided by an auctioneer.

Sec. 9. Subparagraph (EE) of subdivision (37) of subsection (a) of section 12-407 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective April 1, 2009, and applicable to sales occurring on and after said date*):

(EE) [Notwithstanding the provisions of section 12-412, except subdivision (87) of said section 12-412, patient] Patient care services, as defined in subdivision (29) of this subsection by a hospital, except that "sale" and "selling" does not include such patient care services for which payment is received by the hospital during the period commencing July 1, 2001, and ending June 30, 2003.

Sec. 10. Section 12-408b of the general statutes is repealed and the following is substituted in lieu thereof (*Effective April 1, 2009, and applicable to sales occurring on and after said date*):

On and after July 1, 1991, but prior to April 1, 2009, any person, firm or corporation who pays a sales and use tax, which tax would not have been due prior to July 1, 1991, pursuant to subdivision (39) of section 12-412 of the general statutes, revision of 1958, revised to January 1991, shall recover the tax paid by (1) adding such tax to any amounts otherwise payable under a sales contract approved by the Department of Public Utility Control pursuant to subsection (d) of section 16-243a, and (2) amortizing such tax, together with interest at the rate paid on front-loaded payments, over the life of a sales contract approved by the department pursuant to said subsection (d).

Sec. 11. Section 12-410 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective April 1, 2009, and applicable to sales occurring on and after said date*):

(1) For the purpose of the proper administration of this chapter and to prevent evasion of the sales tax it shall be presumed that all receipts are gross receipts that are subject to the tax until the contrary is established. The burden of proving that a sale of tangible personal property or service constituting a sale in accordance with subdivision (2) of subsection (a) of section 12-407

is not a sale at retail is upon the person who makes the sale unless such person takes in good faith from the purchaser a certificate to the effect that the property or service is purchased for resale.

(2) The certificate relieves the seller from the burden of proof only if taken in good faith from a person who is engaged in the business of selling tangible personal property or services constituting a sale in accordance with subdivision (2) of subsection (a) of section 12-407 and who holds the permit provided for in section 12-409 and who, at the time of purchasing the tangible personal property or service: (A) Intends to sell it in the regular course of business; (B) intends to utilize such personal property in the delivery of landscaping or horticulture services, provided the total sale price of all such landscaping and horticulture services are taxable under this chapter; or (C) is unable to ascertain at the time of purchase whether the property or service will be sold or will be used for some other purpose. The burden of establishing that a certificate is taken in good faith is on the seller. A certificate to the effect that property or service is purchased for resale taken from the purchaser by the seller shall be deemed to be taken in good faith if the tangible personal property or service purchased is similar to or of the same general character as property or service which the seller could reasonably assume would be sold by the purchaser in the regular course of business.

(3) The certificate shall be signed by and bear the name and address of the purchaser, shall indicate the number of the permit issued to the purchaser and shall indicate the general character of the tangible personal property or service sold by the purchaser in the regular course of business. The certificate shall be substantially in such form as the commissioner prescribes.

(4) (A) If a purchaser who gives a certificate makes any use of the service or property other than retention, demonstration or display while holding it for sale in the regular course of business, the use shall be deemed a retail sale by the purchaser as of the time the service or property is first used by the purchaser, and the cost of the service or property to the purchaser shall be deemed the gross receipts from such retail sale.

(B) Notwithstanding the provisions of subparagraph (A) of this subdivision, any use by a certificated air carrier of an aircraft for purposes other than retention, demonstration or display while holding it for sale in the regular course of business shall not be deemed a retail sale by such carrier as of the time the aircraft is first used by such carrier, irrespective of the classification of such aircraft on the balance sheet of such carrier for accounting and tax purposes.

(5) [(A)] For the purpose of the proper administration of this chapter and to prevent evasion of the sales tax, a sale of any service described in subparagraph (I) of subdivision (2) of subsection (a) of section 12-407 shall be considered a sale for resale only if the service to be resold is an integral, inseparable component part of a service described in said subparagraph (I) which is to be subsequently sold by the purchaser to an ultimate consumer. The purchaser of the service for resale shall maintain, in such form as the commissioner requires, records which substantiate: (i) From whom the service was purchased and to whom the service was sold, (ii) the purchase price of the service, and (iii) the nature of the service to demonstrate that the services were an integral, inseparable component part of a service described in subparagraph (I) of subdivision (2) of subsection (a) of section 12-407 which was subsequently sold to a consumer.

[(B) Notwithstanding the provisions of subparagraph (A) of this subdivision, no sale of a service described in subparagraph (I) of subdivision (2) of subsection (a) of section 12-407 by a seller shall be considered a sale for resale if such service is to be subsequently sold by the purchaser to an ultimate consumer that is affiliated with the purchaser in the manner described in subparagraph (A) of subdivision (62) of subsection (a) of section 12-412.

(6) For the purpose of the proper administration of this chapter and to prevent evasion of the sales tax, no sale of any service by a seller shall be considered a sale for resale if such service is to be subsequently sold by the purchaser, without change, to an ultimate consumer that is affiliated with the purchaser in the manner described in subparagraph (A) of subdivision (62) of subsection (a) of section 12-412.]

Sec. 12. Subdivision (3) of subsection (a) of section 12-458 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective April 1, 2009, and applicable to sales occurring on and after said date*):

(3) Said tax shall not be payable on such fuel as may have been (A) sold to the United States, (B) sold to a municipality of this state, (i) for use by any contractor performing a service for such municipality in accordance with a contract, provided such fuel is used by such contractor exclusively for the purposes of and in accordance with such contract, or (ii) for use exclusively in a school bus, as defined in section 14-275, (C) sold to a municipality of this state, a transit district of this state, or this state, at other than a retail outlet, for governmental purposes and for use in vehicles owned and operated, or leased and operated by such municipality, such transit district or this state, (D) sold to a person licensed as a distributor in this state under section 12-456, (E) transferred from storage within this state to some point without this state, (F) sold to the holder of a permit issued under section 12-458a for sale or use without this state, (G) [sold to the holder of a permit issued under subdivision (63) of section 12-412, provided (i) such fuel is not used in motor vehicles registered or required to be registered to operate upon the public highways of this state, unless such fuel is used in motor vehicles registered exclusively for farming purposes, (ii) such fuel is not delivered, upon such sale, to a tank in which such person keeps fuel for personal and farm use, and (iii) a statement, prescribed as to form by the Commissioner of Revenue Services and bearing notice to the effect that false statements made under this section are punishable, that such fuel is used exclusively for farming purposes, is submitted by such person to the distributor, (H)] sold exclusively to furnish power for an industrial plant in the actual fabrication of finished products to be sold, or for the fishing industry, [(I)] (H) sold exclusively for heating purposes, [(J)] (I) sold exclusively to furnish gas, water, steam or electricity, if delivered to consumers through mains, lines or pipes, [(K)] (J) sold to the owner or operator of an aircraft, as defined in section 15-34, exclusively for aviation purposes, provided (i) for purposes of this subdivision, "aviation purposes" means for the purpose of powering an aircraft or an aircraft engine, (ii) such fuel is delivered, upon such sale, to a tank in which fuel is kept exclusively for aviation purposes, and (iii) a statement, prescribed as to form by the Commissioner of Revenue Services and bearing notice to the effect that false statements made under this section are punishable, that such fuel is used exclusively for aviation purposes, is submitted by such person to the distributor, [(L)] (K) sold to a dealer who is licensed

under section 12-462, as amended by this act, and whose place of business is located upon an established airport within this state, or [(M)] (L) diesel fuel sold exclusively for use in portable power system generators that are larger than one hundred fifty kilowatts.

Sec. 13. Subsection (a) of section 12-462 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective April 1, 2009, and applicable to sales occurring on and after said date*):

(a) The commissioner may license dealers to purchase fuel that is exempt under subparagraph [(L)] (K) of subdivision (3) of subsection (a) of section 12-458, as amended by this act, from distributors and to sell such nontaxable fuel, provided they can properly control such sale, through meters or by full tank wagon compartment delivery, directly into the fuel tank of any aircraft or aircraft engine. The dealer so licensed shall keep and maintain proper accounting records of all purchases from the distributor and sales invoices to the purchaser, showing the signature of the purchaser and the license number of the aircraft serviced, and the inventory on hand on the first day of each month. Such records shall be preserved for a period of at least three years and shall be audited by the commissioner at regular intervals. Any discrepancies found to exist for which a satisfactory explanation cannot be submitted shall be subject to the tax imposed by section 12-458, as amended by this act, against such dealer. The license to sell fuel as a dealer under this subsection may be revoked if the licensee fails to properly control and safeguard the state from any diversion to uses other than those specified in this section.

Sec. 14. Subsections (b) and (c) of section 12-587 of the general statutes are repealed and the following is substituted in lieu thereof (*Effective April 1, 2009, and applicable to sales occurring on and after said date*):

(b) (1) Except as otherwise provided in subdivision (2) of this subsection, any company which is engaged in the refining or distribution, or both, of petroleum products and which distributes such products in this state shall pay a quarterly tax on its gross earnings derived from the first sale of petroleum products within this state. Each company shall on or before the last day of the month next succeeding each quarterly period render to the commissioner a return on forms prescribed or furnished by the commissioner and signed by the person performing the duties of treasurer or an authorized agent or officer, including the amount of gross earnings derived from the first sale of petroleum products within this state for the quarterly period and such other facts as the commissioner may require for the purpose of making any computation required by this chapter. Except as otherwise provided in subdivision (3) of this subsection, the rate of tax shall be (A) five per cent with respect to calendar quarters prior to July 1, 2005; (B) five and eight-tenths per cent with respect to calendar quarters commencing on or after July 1, 2005, and prior to July 1, 2006; (C) six and three-tenths per cent with respect to calendar quarters commencing on or after July 1, 2006, and prior to July 1, 2007; (D) seven per cent with respect to calendar quarters commencing on or after July 1, 2007, and prior to July 1, 2013; and (E) eight and one-tenth per cent with respect to calendar quarters commencing on or after July 1, 2013.

(2) Gross earnings derived from the first sale of the following petroleum products within this state shall be exempt from tax: (A) Any petroleum products sold for exportation from this state

for sale or use outside this state; (B) the product designated by the American Society for Testing and Materials as "Specification for Heating Oil D396-69", commonly known as number 2 heating oil, to be used exclusively for heating purposes or to be used in a commercial fishing vessel; [, which vessel qualifies for an exemption pursuant to section 12-412;] (C) kerosene, commonly known as number 1 oil, to be used exclusively for heating purposes, provided delivery is of both number 1 and number 2 oil, and via a truck with a metered delivery ticket to a residential dwelling or to a centrally metered system serving a group of residential dwellings; (D) the product identified as propane gas, to be used exclusively for heating purposes; (E) bunker fuel oil, intermediate fuel, marine diesel oil and marine gas oil to be used in any vessel having a displacement exceeding four thousand dead weight tons; (F) for any first sale occurring prior to July 1, 2008, propane gas to be used as a fuel for a motor vehicle; (G) for any first sale occurring on or after July 1, 2002, grade number 6 fuel oil, as defined in regulations adopted pursuant to section 16a-22c, to be used exclusively by a company which, in accordance with census data contained in the Standard Industrial Classification Manual, United States Office of Management and Budget, 1987 edition, is included in code classifications 2000 to 3999, inclusive, or in Sector 31, 32 or 33 in the North American Industrial Classification System United States Manual, United States Office of Management and Budget, 1997 edition; (H) for any first sale occurring on or after July 1, 2002, number 2 heating oil to be used exclusively in a vessel primarily engaged in interstate commerce; [, which vessel qualifies for an exemption under section 12-412;] (I) for any first sale occurring on or after July 1, 2000, paraffin or microcrystalline waxes; (J) for any first sale occurring prior to July 1, 2008, petroleum products to be used as a fuel for a fuel cell; [, as defined in subdivision (113) of section 12-412;] (K) a commercial heating oil blend containing not less than ten per cent of alternative fuels derived from agricultural produce, food waste, waste vegetable oil or municipal solid waste, including, but not limited to, biodiesel or low sulfur dyed diesel fuel; or (L) for any first sale occurring on or after July 1, 2007, diesel fuel other than diesel fuel to be used in an electric generating facility to generate electricity.

(3) The rate of tax on gross earnings derived from the first sale of grade number 6 fuel oil, as defined in regulations adopted pursuant to section 16a-22c, to be used exclusively by a company which, in accordance with census data contained in the Standard Industrial Classification Manual, United States Office of Management and Budget, 1987 edition, is included in code classifications 2000 to 3999, inclusive, or in Sector 31, 32 or 33 in the North American Industrial Classification System United States Manual, United States Office of Management and Budget, 1997 edition, or number 2 heating oil used exclusively in a vessel primarily engaged in interstate commerce [, which vessel qualifies for an exemption under section 12-412] shall be: (A) Four per cent with respect to calendar quarters commencing on or after July 1, 1998, and prior to July 1, 1999; (B) three per cent with respect to calendar quarters commencing on or after July 1, 1999, and prior to July 1, 2000; (C) two per cent with respect to calendar quarters commencing on or after July 1, 2000, and prior to July 1, 2001; and (D) one per cent with respect to calendar quarters commencing on or after July 1, 2001, and prior to July 1, 2002.

(c) (1) Any company which imports or causes to be imported into this state petroleum products for sale, use or consumption in this state, other than a company subject to and having paid the tax on such company's gross earnings from first sales of petroleum products within this state, which earnings include gross earnings attributable to such imported or caused to be imported petroleum

products, in accordance with subsection (b) of this section, shall pay a quarterly tax on the consideration given or contracted to be given for such petroleum product if the consideration given or contracted to be given for all such deliveries during the quarterly period for which such tax is to be paid exceeds three thousand dollars. Except as otherwise provided in subdivision (3) of this subsection, the rate of tax shall be (A) five per cent with respect to calendar quarters commencing prior to July 1, 2005; (B) five and eight-tenths per cent with respect to calendar quarters commencing on or after July 1, 2005, and prior to July 1, 2006; (C) six and three-tenths per cent with respect to calendar quarters commencing on or after July 1, 2006, and prior to July 1, 2007; (D) seven per cent with respect to calendar quarters commencing on or after July 1, 2007, and prior to July 1, 2013; and (E) eight and one-tenth per cent with respect to calendar quarters commencing on or after July 1, 2013. Fuel in the fuel supply tanks of a motor vehicle, which fuel tanks are directly connected to the engine, shall not be considered a delivery for the purposes of this subsection.

(2) Consideration given or contracted to be given for petroleum products, gross earnings from the first sale of which are exempt from tax under subdivision (2) of subsection (b) of this section, shall be exempt from tax.

(3) The rate of tax on consideration given or contracted to be given for grade number 6 fuel oil, as defined in regulations adopted pursuant to section 16a-22c, to be used exclusively by a company which, in accordance with census data contained in the Standard Industrial Classification Manual, United States Office of Management and Budget, 1987 edition, is included in code classifications 2000 to 3999, inclusive, or in Sector 31, 32 or 33 in the North American Industrial Classification System United States Manual, United States Office of Management and Budget, 1997 edition, or number 2 heating oil used exclusively in a vessel primarily engaged in interstate commerce [, which vessel qualifies for an exemption under section 12-412] shall be: (A) Four per cent with respect to calendar quarters commencing on or after July 1, 1998, and prior to July 1, 1999; (B) three per cent with respect to calendar quarters commencing on or after July 1, 1999, and prior to July 1, 2000; (C) two per cent with respect to calendar quarters commencing on or after July 1, 2000, and prior to July 1, 2001; and (D) one per cent with respect to calendar quarters commencing on or after July 1, 2001, and prior to July 1, 2002.

Sec. 15. Section 19a-485 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective April 1, 2009*):

(a) Whenever the words "home for the aged" or "homes for the aged" are used or referred to in the following sections of the general statutes, the words "residential care home" or "residential care homes", respectively, shall be substituted in lieu thereof: 1-19, 9-19c, 9-19d, 9-159q, 10a-178, 12-407, as amended by this act, [12-412,] 17b-340, 17b-341, 17b-344, 17b-352, 17b-356, 17b-522, 17b-601, 19a-490, 19a-491, 19a-491a, 19a-504, 19a-521, 19a-521b, 19a-550, 19a-576, 19a-638, 19a-639, 20-87a, 32-23d, 38a-493 and 38a-520.

(b) If the words "home for the aged" or "homes for the aged" are used or referred to in any public or special act of 1997 or 1998, the words shall be deemed to refer to "residential care home" or

"residential care homes" respectively.

Sec. 16. Section 19a-669 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective April 1, 2009*):

Effective October 1, 1993, and October first of each subsequent year, the Secretary of the Office of Policy and Management shall determine and inform the Office of Health Care Access of the maximum amount of disproportionate share payments and emergency assistance to families eligible for federal matching payments under the medical assistance program pursuant to federal statute and regulations and subdivisions (2) and (28) of subsection (a) of section 12-407, subdivision (1) of section 12-408, as amended by this act, [subdivision (5) of section 12-412,] section 12-414, section 19a-649 and this section and the actual and anticipated appropriation to the medical assistance disproportionate share-emergency assistance account authorized pursuant to sections 3-114i and 12-263a to 12-263e, inclusive, subdivisions (2) and (29) of subsection (a) of section 12-407, subdivision (1) of section 12-408, as amended by this act, section 12-408a, [subdivision (5) of section 12-412,] subdivision (1) of section 12-414 and sections 19a-646, 19a-659, 19a-662, 19a-669 to 19a-670a, inclusive, as amended by this act, 19a-671, as amended by this act, 19a-671a, 19a-672, as amended by this act, 19a-672a, 19a-673 and 19a-676, and the amount of emergency assistance to families' payments to eligible hospitals projected for the year, and the anticipated amount of any increase in payments made pursuant to any resolution of any civil action pending on April 1, 1994, in the United States district court for the district of Connecticut. The Department of Social Services shall inform the office of any amount of uncompensated care which the Department of Social Services determines is due to a failure on the part of the hospital to register patients for emergency assistance to families, or a failure to bill properly for emergency assistance to families' patients. If during the course of a fiscal year the Secretary of the Office of Policy and Management determines that these amounts should be revised, said secretary shall so notify the office and the office may modify its calculation pursuant to section 19a-671, as amended by this act, to reflect such revision and its orders as it deems appropriate and the Commissioner of Social Services may modify said commissioner's determination pursuant to section 19a-671, as amended by this act.

Sec. 17. Subsection (d) of section 19a-670 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective April 1, 2009*):

(d) Nothing in section 3-114i, subdivision (2) or (29) of subsection (a) of section 12-407, subdivision (1) of section 12-408, as amended by this act, section 12-408a, [subdivision (5) of section 12-412,] subdivision (1) of section 12-414, or sections 12-263a to 12-263e, inclusive, section 19a-646, 19a-659, 19a-662 or 19a-669 to 19a-670a, inclusive, as amended by this act, 19a-671, as amended by this act, 19a-671a, 19a-672, as amended by this act, 19a-672a, 19a-673 and section 19a-676, or section 1, 2, or 38 of public act 94-9* shall be construed to require the Department of Social Services to pay out more funds than are appropriated pursuant to said sections.

Sec. 18. Section 19a-671 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective April 1, 2009*):

The Commissioner of Social Services is authorized to determine the amount of payments pursuant to sections 19a-670, as amended by this act, 19a-670a, 19a-671, as amended by this act, 19a-671a and 19a-672, as amended by this act, for each hospital. The commissioner's determination shall be based on the advice of the office and the application of the calculation in this section. For each hospital, the Office of Health Care Access shall calculate the amount of payments to be made pursuant to sections 19a-670, as amended by this act, 19a-670a, 19a-671, as amended by this act, 19a-671a and 19a-672, as amended by this act, as follows:

(1) For the period April 1, 1994, to June 30, 1994, inclusive, and for the period July 1, 1994, to September 30, 1994, inclusive, the office shall calculate and advise the Commissioner of Social Services of the amount of payments to be made to each hospital as follows:

(A) Determine the amount of pool payments for the hospital, including grants approved pursuant to section 19a-168k, in the previously authorized budget authorization for the fiscal year commencing October 1, 1993.

(B) Calculate the sum of the result of subparagraph (A) of this subdivision for all hospitals.

(C) Divide the result of subparagraph (A) of this subdivision by the result of subparagraph (B) of this subdivision.

(D) From the anticipated appropriation to the medical assistance disproportionate share-emergency assistance account made pursuant to sections 3-114i and 12-263a to 12-263e, inclusive, subdivisions (2) and (29) of subsection (a) of section 12-407, subdivision (1) of section 12-408, as amended by this act, section 12-408a, [subdivision (5) of section 12-412,] subdivision (1) of section 12-414 and sections 19a-646, 19a-659, 19a-662, 19a-669 to 19a-670a, inclusive, as amended by this act, 19a-671, as amended by this act, 19a-671a, 19a-672, as amended by this act, 19a-672a, 19a-673 and 19a-676, for the quarter subtract the amount of any additional medical assistance payments made to hospitals pursuant to any resolution of or court order entered in any civil action pending on April 1, 1994, in the United States District Court for the district of Connecticut, and also subtract the amount of any emergency assistance to families payments projected by the office to be made to hospitals in the quarter.

(E) The disproportionate share payment shall be the result of subparagraph (D) of this subdivision multiplied by the result of subparagraph (C) of this subdivision.

(2) For the fiscal year commencing October 1, 1994, and subsequent fiscal years, the interim payment shall be calculated as follows for each hospital:

(A) For each hospital determine the amount of the medical assistance underpayment determined pursuant to section 19a-659, plus the actual amount of uncompensated care including emergency assistance to families determined pursuant to section 19a-659, less any amount of uncompensated care determined by the Department of Social Services to be due to a failure of the hospital to enroll patients for emergency assistance to families, plus the amount of any grants authorized

pursuant to the authority of section 19a-168k.

(B) Calculate the sum of the result of subparagraph (A) of this subdivision for all hospitals.

(C) Divide the result of subparagraph (A) of this subdivision by the result of subparagraph (B) of this subdivision.

(D) From the anticipated appropriation made to the medical assistance disproportionate share-emergency assistance account pursuant to sections 3-114i and 12-263a to 12-263e, inclusive, subdivisions (2) and (29) of subsection (a) of section 12-407, subdivision (1) of section 12-408, as amended by this act, section 12-408a, [subdivision (5) of section 12-412,] subdivision (1) of section 12-414 and sections 19a-646, 19a-659, 19a-662, 19a-669 to 19a-670a, inclusive, as amended by this act, 19a-671, as amended by this act, 19a-671a, 19a-672, as amended by this act, 19a-672a, 19a-673 and 19a-676, for the fiscal year, subtract the amount of any additional medical assistance payments made to hospitals pursuant to any resolution of or court order entered in any civil action pending on April 1, 1994, in the United States District Court for the district of Connecticut, and also subtract any emergency assistance to families payments projected by the office to be made to the hospitals for the year.

(E) The disproportionate share payment shall be the result of subparagraph (D) of this subdivision multiplied by the result of subparagraph (C) of this subdivision.

Sec. 19. Section 19a-672 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective April 1, 2009*):

The funds appropriated to the medical assistance disproportionate share-emergency assistance account pursuant to sections 3-114i and 12-263a to 12-263e, inclusive, subdivisions (2) and (29) of subsection (a) of section 12-407, subdivision (1) of section 12-408, as amended by this act, section 12-408a, [subdivision (5) of section 12-412,] subdivision (1) of section 12-414 and sections 19a-646, 19a-659, 19a-662, 19a-669 to 19a-670a, inclusive, as amended by this act, 19a-671, as amended by this act, 19a-671a, 19a-672, as amended by this act, 19a-672a, 19a-673 and 19a-676, shall be used by said account to make disproportionate share payments to hospitals, including grants to hospitals pursuant to section 19a-168k, and to make emergency assistance to families payments to hospitals. In addition, a portion of funds appropriated to the medical assistance disproportionate share-emergency assistance account may be used to make outpatient payments as the Department of Social Services determines appropriate or to increase the standard medical assistance payments to hospitals if the Department of Social Services determines it to be appropriate to settle any civil action pending on April 1, 1994, in the United States District Court for the district of Connecticut. Notwithstanding any other provision of the general statutes, the Department of Social Services shall not be required to make any payments pursuant to sections 3-114i and 12-263a to 12-263e, inclusive, subdivisions (2) and (29) of subsection (a) of section 12-407, subdivision (1) of section 12-408, as amended by this act, section 12-408a, [subdivision (5) of section 12-412,] subdivision (1) of section 12-414 and sections 19a-646, 19a-659, 19a-662, 19a-669 to 19a-670a, inclusive, as amended by this act, 19a-671, as amended by this act, 19a-671a, 19a-672, as amended by this act, 19a-672a, 19a-673 and 19a-676, in excess of the

funds available in the medical assistance disproportionate share-emergency assistance account.

Sec. 20. Section 22a-9 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective April 1, 2009*):

The commissioner shall act as the official agent of the state in all matters affecting the purposes of this title and sections 2-20a, 5-238a, subsection (c) of section 7-131a, sections 7-131e, 7-131f, subsection (a) of section 7-131g, sections 7-131i, 7-131*l* , subsection (a) of section 10-409, subdivisions (51) and (52) of section 12-81, [subdivisions (21) and (22) of section 12-412,] subsections (a) and (b) of section 13a-94, sections 13a-142a, 13b-56, 13b-57, 14-100b, 14-164c, chapter 268, sections 16a-103, 22-91c, 22-91e, subsections (b) and (c) of section 22a-148, section 22a-150, subdivisions (2) and (3) of section 22a-151, sections 22a-153, 22a-154, 22a-155, 22a-156, 22a-158, chapter 446c, sections 22a-295, 22a-300, 22a-308, 22a-416, chapters 446h to 446k, inclusive, chapters 447 and 448, sections 23-35, 23-37a, 23-41, chapter 462, section 25-34, chapter 477, subsection (b) of section 25-128, subsection (a) of section 25-131, chapters 490 and 491 and sections 26-257, 26-297, 26-303 and 47-46a, under any federal laws now or hereafter to be enacted and as the official agent of any municipality, district, region or authority or other recognized legal entity in connection with the grant or advance of any federal or other funds or credits to the state or through the state, to its political subdivisions.

Sec. 21. Subsection (a) of section 26-82 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective April 1, 2009*):

(a) No person shall hunt, pursue, wound or kill any deer or sell or offer for sale or have in possession the flesh of any deer captured or killed in this state, or have in possession the flesh of any deer from any other state or country unless it is properly tagged as required by such state or country except as provided by the terms of this chapter or regulations adopted pursuant thereto, and except that any landowner or primary lessee of land owned by such landowner or the husband or wife or any lineal descendant of such landowner or lessee or any designated agent of such landowner or lessee may kill deer with a shotgun, rifle or bow and arrow provided a damage permit has first been obtained from the commissioner and such person has not been convicted for any violation of this section, section 26-85, 26-86a, 26-86b or 26-90 or subsection (b) of section 26-86a-2 of the regulations of Connecticut state agencies within three years preceding the date of application. Upon the receipt of an application, on forms provided by the commissioner and containing such information as said commissioner may require, from any landowner who has or whose primary lessee has an actual or potential gross annual income of twenty-five hundred dollars or more from the commercial cultivated production of grain, forage, fruit, vegetables, flowers, ornamental plants or Christmas trees and who is experiencing an actual or potential loss of income because of severe damage by deer, the commissioner shall issue not more than six damage permits without fee to such landowner or the primary lessee of such landowner, or the wife, husband, lineal descendant or designated agent of such landowner or lessee. The application shall be notarized and signed by all landowners or by the landowner or a lessee. [to whom a farmer tax exemption permit has been issued pursuant to subdivision (63) of section 12-412.] Such damage permit shall be valid through October thirty-first of the year in which it is issued and may specify the hunting implement or shot size or both which shall be used to take

such deer. The commissioner may at any time revoke such permit for violation of any provision of this section or for violation of any regulation pursuant thereto or upon the request of the applicant. Notwithstanding the provisions of section 26-85, the commissioner may issue a permit to any landowner or primary lessee of land owned by such landowner or the husband or wife or any lineal descendant of such landowner or lessee and to not more than three designated agents of such landowner or lessee to use a jacklight for the purpose of taking deer when it is shown, to the satisfaction of the commissioner, that such deer are causing damage which cannot be reduced during the daylight hours between sunrise and one-half hour after sunset on the land of such landowner. The commissioner may require notification as specified on such permit prior to its use. Any deer killed in accordance with the provisions of this section shall be the property of the owner of the land upon which the same has been killed, but shall not be sold, bartered, traded or offered for sale, and the person who kills any such deer shall tag and report each deer killed, as provided in section 26-86b. Upon receipt of the report required by section 26-86b, the commissioner shall issue an additional damage permit to the person making such report. Any deer killed otherwise than under the conditions provided for in this chapter or regulations adopted pursuant thereto shall remain the property of the state and may be disposed of by the commissioner at the commissioner's discretion to any state institution or may be sold and the proceeds of such sale shall be remitted to the State Treasurer, who shall apply the same to the General Fund, and no person, except the commissioner, shall retail, sell or offer for sale the whole or any part of any such deer. No person shall be a designated agent of more than one landowner or primary lessee in any calendar year. No person shall make, set or use any trap, snare, salt lick, bait or other device for the purpose of taking, injuring or killing any deer, except that deer may be taken over an attractant in areas designated by the commissioner. For the purposes of this section, an attractant means any natural or artificial substance placed, exposed, deposited, distributed or scattered that is used to attract, entice or lure deer to a specific location including, but not limited to, salt, chemicals or minerals, including their residues or any natural or artificial food, hay, grain, fruit or nuts. The commissioner may authorize any municipality, homeowner association or nonprofit land-holding organization approved by the commissioner under the provisions of this section to take deer at any time, other than Sundays, or place using any method consistent with professional wildlife management principles when a severe nuisance or ecological damage can be demonstrated to the satisfaction of the commissioner. Any such municipality, homeowner association or nonprofit land-holding organization shall submit to the commissioner, for the commissioner's review and approval, a plan that describes the extent and degree of the nuisance or ecological damage and the proposed methods of taking. Prior to the implementation of any such approved plan, the municipality, homeowner association or nonprofit land-holding organization shall provide notice of such plan to any abutting landowners of such place where the plan will be implemented. Such plan shall not authorize the use of a snare. No person shall hunt, pursue or kill deer being pursued by any dog, whether or not such dog is owned or controlled by such person, except that no person shall be guilty of a violation under this section when such a deer is struck by a motor vehicle operated by such person. No person shall use or allow any dog in such person's charge to hunt, pursue or kill deer. No permit shall be issued when in the opinion of the commissioner the public safety may be jeopardized.

Sec. 22. Section 32-650a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective April 1, 2009*):

The use of the term "Adriaen's Landing" in this chapter [, subdivision (1) of section 12-412] and subsection (a) of section 12-498 is for convenience and shall not be construed to require that the improvements within the capital city economic development district which are contemplated by this chapter [, subdivision (1) of section 12-412] and subsection (a) of section 12-498 bear that name.

Sec. 23. Subdivision (22) of section 32-651 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective April 1, 2009*):

(22) "Overall project" means the convention center project, the stadium facility project and the parking project, or one or more of the foregoing as more particularly described in the master development plan, including all related planning, feasibility, environmental testing and assessment, permitting, engineering, technical and other necessary development activities, including site acquisition, site preparation and infrastructure improvements. As used in sections 32-664, 32-665 and 32-668, [and subdivision (1) of section 12-412,] subsection (a) of section 12-498, [and] subdivision (1) of section 22a-134, and section 32-617a, "overall project" also includes the development, design, construction, finishing, furnishing and equipping of the on-site related private development.

Sec. 24. Subsection (i) of section 32-656 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective April 1, 2009*):

(i) The secretary and the authority shall jointly select and appoint an independent construction contract compliance officer or agent, which may be an officer or agency of a political subdivision of the state, other than the authority, or a private consultant experienced in similar public contract compliance matters, to monitor compliance by the secretary, the authority, the project manager and each prime construction contractor with the provisions of applicable state law, including [subdivision (1) of section 12-412,] subsection (a) of section 12-498, sections 12-541 and 13a-25, subdivision (1) of section 22a-134, section 32-600, subsection (c) of section 32-602, subsection (e) of section 32-605, section 32-610, subsections (a) and (b) of section 32-614, sections 32-617, 32-617a, 32-650, 32-651 to 32-658, inclusive, as amended by this act, 32-660 and 32-661, subsection (b) of section 32-662, section 32-663, subsections (j) to (l), inclusive, of section 32-664, sections 32-665 to 32-666a, inclusive, sections 32-668 and 48-21 and sections 29 and 30 of public act 00-140*, and with applicable requirements of contracts with the secretary or the authority, relating to set-asides for small contractors and minority business enterprises and required efforts to hire available and qualified members of minorities and available and qualified residents of the city of Hartford and the town of East Hartford for construction jobs with respect to the overall project and the on-site related private development. Such independent contract compliance officer or agent shall file a written report of his or her findings and recommendations with the secretary and the authority each quarter during the period of project development.

Sec. 25. Section 52-568a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective April 1, 2009*):

Any person or any attorney who represents such person, who commences any civil action or complaint, in his own name or the name of others, against the owner or operator of a "pick or cut your own agricultural operation" (1) without probable cause, shall pay such owner or operator double damages, including, in the discretion of the court, costs and attorney's fees, or (2) without probable cause, and with a malicious intent unjustly to vex and trouble such owner or operator, shall pay such owner or operator treble damages including, in the discretion of the court, costs and attorney's fees. As used in this section, "pick or cut your own agricultural operation" means a farm [to whom the Department of Revenue Services has issued a farmer tax exemption permit under subdivision (63) of section 12-412] that allows any person to enter such farm for the purpose of agricultural harvesting, including the cutting of Christmas trees. Nothing in this section shall be construed to affect or abrogate the provisions of section 52-568.

Sec. 26. Sections 12-129s, 12-412, 12-412b, 12-412e, and 12-412h of the general statutes are repealed. (*Effective April 1, 2009, and applicable to sales occurring on and after said date*)

This act shall take effect as follows and shall amend the following sections:

Section 1	*April 1, 2009, and applicable to sales occurring on and after said date*	12-408(1)
Sec. 2	*April 1, 2009, and applicable to sales occurring on and after said date*	12-411
Sec. 3	*April 1, 2009, and applicable to sales occurring on and after said date*	New section
Sec. 4	*April 1, 2009, and applicable to sales occurring on and after said date*	12-407(a)(8)(A)
Sec. 5	*April 1, 2009, and applicable to sales occurring on and after said date*	12-407(a)(9)(A)
Sec. 6	*April 1, 2009, and applicable to sales occurring on and after said date*	12-407(a)(37)(I)

Sec. 7	*April 1, 2009, and applicable to sales occurring on and after said date*	12-407(a)(37)(N)
Sec. 8	*April 1, 2009, and applicable to sales occurring on and after said date*	12-407(a)(37)(S)
Sec. 9	*April 1, 2009, and applicable to sales occurring on and after said date*	12-407(a)(37)(EE)
Sec. 10	*April 1, 2009, and applicable to sales occurring on and after said date*	12-408b
Sec. 11	*April 1, 2009, and applicable to sales occurring on and after said date*	12-410
Sec. 12	*April 1, 2009, and applicable to sales occurring on and after said date*	12-458(a)(3)
Sec. 13	*April 1, 2009, and applicable to sales occurring on and after said date*	12-462(a)
Sec. 14	*April 1, 2009, and applicable to sales occurring on and after said date*	12-587(b) and (c)
Sec. 15	*April 1, 2009*	19a-485
Sec. 16	*April 1, 2009*	19a-669
Sec. 17	*April 1, 2009*	19a-670(d)
Sec. 18	*April 1, 2009*	19a-671
Sec. 19	*April 1, 2009*	19a-672
Sec. 20	*April 1, 2009*	22a-9
Sec. 21	*April 1, 2009*	26-82(a)

Sec. 22	*April 1, 2009*	32-650a
Sec. 23	*April 1, 2009*	32-651(22)
Sec. 24	*April 1, 2009*	32-656(i)
Sec. 25	*April 1, 2009*	52-568a
Sec. 26	*April 1, 2009, and applicable to sales occurring on and after said date*	Repealer section

Statement of Purpose:

To eliminate exemptions from the sales and use tax, lower the rate of the tax to five per cent, and make conforming changes.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]