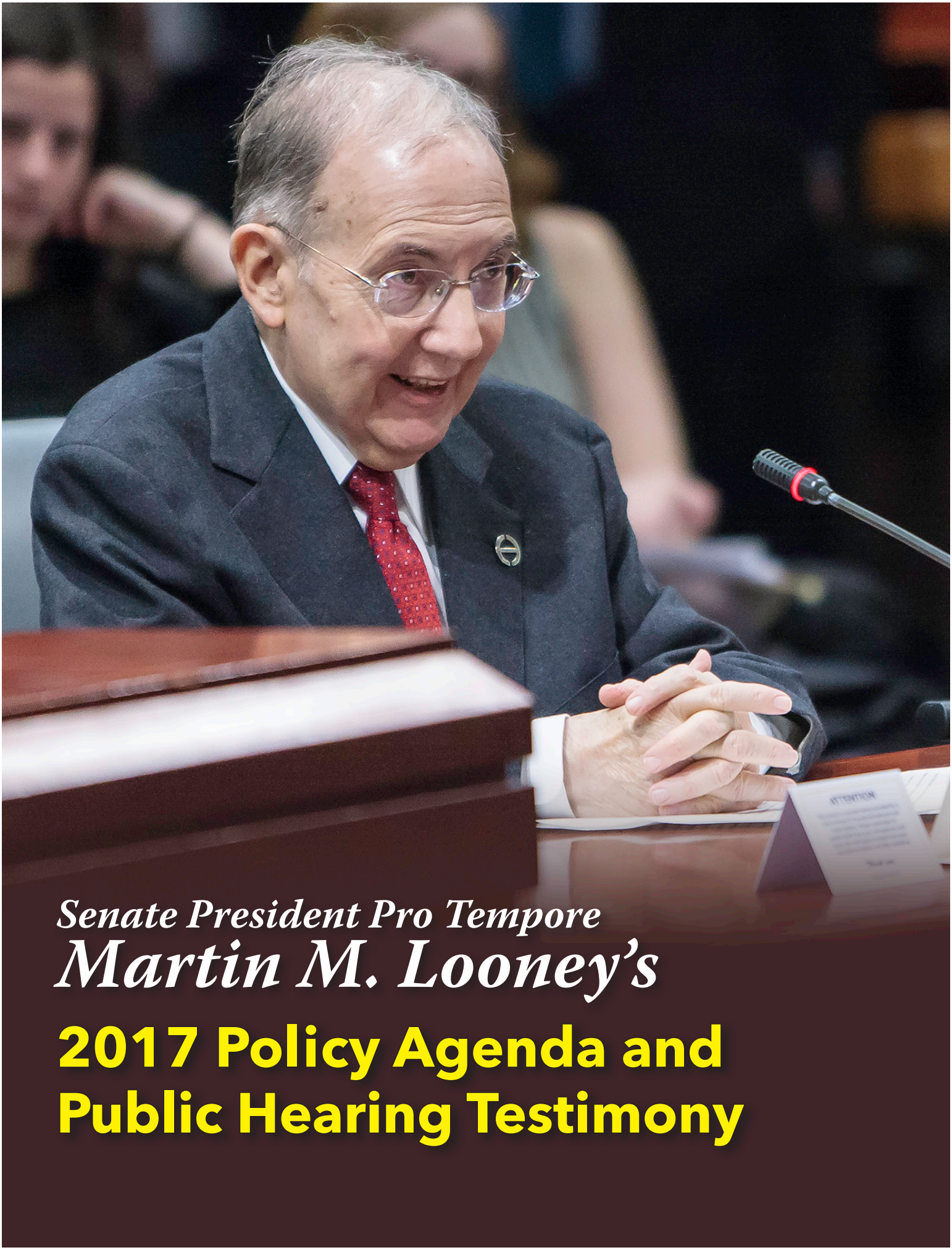

Senate President Pro Tempore

Martin M. Looney's

2017 Policy Agenda and Public Hearing Testimony

TABLE OF CONTENTS

PLANNING AND DEVELOPMENT COMMITTEE

PUBLIC HEALTH COMMITTEE

SENATOR MARTIN M. LOONEY
PRESIDENT PRO TEMPORE

Eleventh District
New Haven, Hamden & North Haven

State of Connecticut
SENATE

State Capitol
Hartford, Connecticut 06106-1591
132 Fort Hale Road
New Haven, Connecticut 06512
Home: 203-468-8829
Capitol: 860-240-8600
Toll-free: 1-800-842-1420
www.SenatorLooney.cga.ct.gov

TESTIMONY BEFORE THE COMMERCE COMMITTEE
Senator Martin M. Looney
March 9, 2017

In Support of S.B. 959, An Act Concerning an Inventory of the State's Bioscience Education Pipeline, S.B. 962, An Act Concerning The Development Of Evaluative Metrics For Bioscience Investments In The State and S.B. 968, An Act Concerning The Connecticut Health Data Collaborative

Good morning Senator Hartley, Senator Frantz, Representative Simmons, and distinguished members of the Commerce Committee. Thank you for the opportunity to testify this morning in support of several bills: S.B. 959 An Act Concerning an Inventory of the State's Bioscience Education Pipeline, S.B. 962 An Act Concerning The Development Of Evaluative Metrics For Bioscience Investments In The State, and S.B. 968 An Act Concerning The Connecticut Health Data Collaborative.

This is an exciting time for Connecticut. Given the great partnerships we have developed across this state in the bioscience sector, we are on the cusp of something truly remarkable. We have the potential to be a national leader in precision medicine and genomics. We have the potential to become the center of bioscience for future generations and transform people's relationship to their health, and their healthcare. The bills before you today will help to position the state to achieve this vision.

S.B. 968 continues the important work of the Connecticut Health Data Collaborative, or CHDC, which has identified precision medicine and personalized health as a sector in Connecticut with tremendous power and potential. This group, led by the Co-Chair of the Permanent Commission on Economic Competitiveness and Senator Joan Hartley, the Co-Chair of the Commerce Committee has proven to be critical in the advancement of our bioscience sector across the state. This collaborative has brought together leaders from our state's most prestigious research institutions, led by the Yale Center for Genomic Analysis, The Jackson Laboratory, Mount Sinai Genetic Testing Laboratory, and the University of Connecticut; hospital representatives, leaders

from some of the largest insurance companies in the country situated in Connecticut, and representatives from our state's technology advancement sector. Together, they have envisioned a bold plan for our state.

In the short time since it was established, the CHDC has put together an ambitious work plan to build and support the sector of bioscience and health data- precision medicine and the microbiome in particular – to thrive in our state. The work of this collaborative has positioned Connecticut to be a national leader. Passage of S.B. 968 will allow the work of the Connecticut Health Data Collaborative to continue so that it can develop the strategies to achieve the ambitious goals it has laid out in its recent and very impressive status report given on February third, and I urge your support.

Two other bills that emerged as a direct result of the CHDC are S.B. 959 and S.B. 962. With regard to S.B. 959, this bill is necessary in order to help our state meet the full potential of the great number of jobs the bioscience sector will need to fill in the future. With passage of S.B. 959, the CHDC collaborators, in conjunction with our educators, will help to identify the education pipeline our state must provide in order to meet those workforce needs. Health care leaders must work in partnership with educators so that we can meet the demands of the future. We know the state will require data scientists, data experts to perform predictive analytics, health informaticians, and genomic counselors. This study will help us to identify the specific requirements across the education spectrum so that we are ready and able to meet the exciting potential in order to be the national leader we should and must be in this sector.

Similarly, S.B. 962 requires the Department of Economic and Community Development in collaboration with other CHDC partners to create better measurements of how our state dollars are being returned to us by way of jobs and economic impact. CHDC collaborators agree that our current metrics for measuring the impact of state dollars are inefficient and do not give us a true and accurate reflection of what's going on across our state. How many jobs are being created over time? What is the multiplier effect? What is the impact of the intellectual property? What private investments emerged as a result of initial state investments? When we invest our precious state dollars in bioscience, precision medicine, and the microbiome we need to have a much better idea of what's being returned by way of talent, jobs, and economic impact. With the implementation of this bill, we will get a much more accurate picture of what is happening in our state and I urge your support.

SENATOR MARTIN M. LOONEY
PRESIDENT PRO TEMPORE

Eleventh District
New Haven, Hamden & North Haven

State of Connecticut
SENATE

State Capitol
Hartford, Connecticut 06106-1591

132 Fort Hale Road
New Haven, Connecticut 06512

Home: 203-468-8829
Capitol: 860-240-8600
Toll-free: 1-800-842-1420

www.SenatorLooney.cga.ct.gov

TESTIMONY BEFORE THE FINANCE, REVENUE AND BONDING COMMITTEE
Senator Martin M. Looney
February 28, 2017

In Support of S.B. 5, An Act Increasing the Estate Tax Exemption, S.B. 6, An Act Exempting Social Security Income From the Personal Income Tax, S.B. 7, An Act Concerning Property Tax Relief for Businesses, and S.B. 8, An Act Authorizing Municipalities to Levy a Local Sales Tax

Good afternoon Senator Fonfara, Senator Frantz, Representative Rojas, Representative Davis and members of the Finance, Revenue & Bonding Committee. I come before you today in support of four pieces of legislation that will establish important and much-needed reforms to our state tax system.

Collectively, these bills will help make our tax code more competitive with surrounding states, increase Connecticut's attractiveness as a place to retire, relieve small businesses from an administratively burdensome tax, and provide our towns with long-awaited options for revenue diversification.

S.B. 5, An Act Increasing the Estate Tax Exemption

It is important for Connecticut to maintain competitive tax rates relative to other states across the country. According to the Tax Foundation, 31 states have no estate or inheritance tax. Of the 19 other states that do, many are clustered in the Northeast—including all of New England except New Hampshire, and also including New York, New Jersey, Maryland and Delaware.
So we are in good company, regionally, in maintaining a tax on estates. Yet we can and should do more to make our estate tax the most competitive in the region. Among the Northeastern states mentioned above, Connecticut already has the lowest maximum estate tax rate at 12 percent. We can further enhance our competitive position by adopting the new estate tax exemption levels put forth in Senate Bill 5.

The federal estate tax exemption level for 2017 is set at $5.49 million—a figure which is automatically adjusted for inflation every year. Senate Bill 5 proposes to gradually bring Connecticut's estate tax exemption level up from its current $2 million level to match the federal threshold, thereafter also adjusting with inflation to keep on pace. The bill proposes increasing our $2 million threshold to $3 million in 2018, $4 million in 2019 and finally to match the federal level in 2020.

Taking this action would bring our estate tax exemption to the highest level of all our neighboring states, making Connecticut an even more attractive place to the high-income taxpayers who constitute such an important portion of our overall revenue base. I was pleased to see Governor Malloy offer an essentially identical proposal on estate tax reform in his proposed budget, and I urge the Committee to adopt these measures as your important work on the budget progresses.

S.B. 6, An Act Exempting Social Security Income From the Personal Income Tax

Continuing on a theme of making our state's tax rates more competitive, I also urge you to adopt Senate Bill 6, which would exempt all Social Security income from Connecticut's personal income tax, for all taxpayers. As of 2014, 36 of the fifty states already do not tax Social Security income.

Connecticut does exempt most Social Security income from taxation today, recognizing the benefit that this provides to the state's senior citizens on fixed incomes. Our current exemption level is based on a taxpayer's federal adjusted gross income (AGI). For instance, a married taxpayer filing jointly with federal AGI of less than $60,000 may deduct 100 percent of their federally taxable Social Security benefits. All other Connecticut taxpayers, of all incomes, may deduct 75 percent of their federal taxable Social Security benefits.
We are already very close a full tax exemption for Social Security benefits, and now is the time to join the majority of other states and end Social Security taxation entirely. Doing so would cost the state approximately $46 million in lost revenue, but this is only about 0.3 percent of total General Fund tax revenues.

Eliminating taxation of Social Security income in Connecticut would make our state a much more attractive place to retire, helping our senior citizens to continue living in our state, near their families and loved ones, and enjoying the first-class quality of life that makes Connecticut such a great place to live for people of all ages.

S.B. 7, An Act Concerning Property Tax Relief for Businesses

In 2015 the bipartisan State Tax Panel met to consider a variety of reforms to Connecticut's tax code. One of their final recommendations concerns the business personal property tax, and Senate Bill 7 seeks to implement that recommendation.
Connecticut's towns now impose a property tax on tangible personal property owned by businesses. The tax is assessed at a mill rate equivalent to the mill rate on real property in each town, and is applied against 70 percent of the depreciated value of taxable assets.
Personal property is valued using the historical purchase price less depreciation for age. Businesses are required to self-report their property in an annual declaration of their owned or leased personal property grouped into 17 different categories, a reporting process that can prove rather time-consuming, particularly for small businesses. Valuation follows standardized depreciation schedules for each category, most with a 30% residual value regardless of age.
Senate Bill 7 would exempt the first $10,000 of a business's tangible personal property from the business personal property tax, and provide administrative relief for small businesses by exempting those with less than $10,000 of personal property from the burden of itemizing their taxable personal property items.

The Tax Panel found that doing so would exempt 46 percent of all Connecticut businesses from this tax and its administrative burdens entirely, and at cost of only $18 million statewide in lost revenue to municipal governments.

It makes no sense for government to collect a tax that raises such a small amount of revenue while requiring such a great amount of administrative time and effort on the part of our small businesses. I urge the committee to pass Senate Bill 7 and provide relief for the small businesses of our state from this nuisance tax.

S.B. 8, An Act Authorizing Municipalities to Levy a Local Sales Tax

Last but not least, I would like to speak for a moment about municipal aid and the relationship between the State of Connecticut and our 169 towns. Everyone on this Committee and indeed in this legislature knows the importance of state aid to towns in balancing municipal budgets. It is also well known that, given the state's fiscal position, we must reexamine the financial relationship between the state and our towns this year.

Our solution to this problem will surely be multifaceted, and it must create stability, predictability and increased flexibility for municipal governments going forward. I believe that a part of that solution must include revenue diversification for our towns.
I was a proud supporter of this Committee's work two years ago to institute Municipal Revenue Sharing of a dedicated portion of the state's sales tax receipts. Those funds have since become an essential source of revenue for our towns, and therefore must and will be preserved. But the time has now come to take a step further.

Throughout the entire history of Connecticut, municipalities have been permitted to directly raise local revenues only through a single source: the property tax. This restriction is unique to the New England region, a legacy of our shared history dating back to colonial times. Yet in today's world, this old-fashioned practice places our state at a real disadvantage. With no options other than state aid for addressing municipal needs, our towns have been forced to rely solely on the property tax for the locally derived portion of their subsistence. The unfortunate result is some of the highest property taxes in the nation. Senate Bill 8 proposes something radical for Connecticut but very common in other parts of the country—allowing municipalities to, at their individual discretion, levy a local sales tax.

For administrative purposes only, and to save towns the expense of hiring new collections staff, this tax would be collected by the state, but its revenues would belong entirely to the towns that choose to impose it. Senate Bill 8 proposes allowing towns to lay a local sales tax of up to 0.5%, which would be entirely separate from the existing state sales tax. Were all towns to impose the full 0.5%, the Office of Fiscal Analysis estimates they would collectively raise approximately $214.5 million in local sales tax revenue.

Yet the goal of this proposal is not to grow the size of municipal government, but rather to enable our towns to diversify their local revenue base. I believe that our towns truly need this additional revenue flexibility, so they can diversify their revenue structures and ultimately reduce their reliance on the regressive property tax.

We can and must change the legacy colonial property tax system that ties the hands of our towns. Municipalities have long been asking the state for revenue diversification, and this General Assembly can make it a reality this year. Doing so will help to make our state and its towns both more competitive, and more equitable.

Thank you very much for your time, and for your attention to these important issues.

SENATOR MARTIN M. LOONEY
PRESIDENT PRO TEMPORE

Eleventh District
New Haven, Hamden & North Haven

State of Connecticut
SENATE

State Capitol
Hartford, Connecticut 06106-1591

132 Fort Hale Road
New Haven, Connecticut 06512

Home: 203-468-8829
Capitol: 860-240-8600
Toll-free: 1-800-842-1420

www.SenatorLooney.cga.ct.gov

TESTIMONY BEFORE THE GOVERNMENT ADMINISTRATION AND ELECTIONS COMMITTEE
Senator Martin M. Looney
February 22, 2017

In Support of S.B. 9, An Act Entering Connecticut into the National Popular Vote Compact (as well as House Bills 5205, 5434 and 5435)

Good morning Chairman Fox, Chairman Winfield, Chairman McLachlan and distinguished members of the Government Administration and Elections Committee. Thank you for the opportunity to testify this morning in strong support of Senate Bill 9, An Act Entering Connecticut into the National Popular Vote Compact, as well as House Bills 5205, 5434 and 5435. The effect of each of these bills would be to enter Connecticut into the Agreement Among the States to Elect the President by National Popular Vote (the "National Popular Vote Interstate Compact"), becoming the 12th state to become a member.

The purpose of the National Popular Vote Interstate Compact is simple: its enactment would guarantee the Presidency to the candidate who receives the most popular votes nationally. Under the National Popular Vote Interstate Compact, once it goes into effect the states therein choose to allocate their electoral votes to the candidate who garners the most popular votes in all 50 states and the District of Columbia. The compact takes effect only when enough states sign on to guarantee that the national popular vote winner wins the presidency. This means that states with a combined total of 270 electoral votes - a majority of the Electoral College - must join the compact for it to take effect.

Let me give you some context which I believe makes a clear and compelling case for passage of this important legislation:

It has broad and diverse support

To date, the bill has been enacted by a total of 11 states possessing 165 electoral votes, which represent 61% of the 270 electoral votes necessary to activate it. Connecticut's neighboring states - New York, Massachusetts, and Rhode Island - have passed this bill. The states which enacted this legislation are physically, politically and geographically diverse, including four small jurisdictions, three medium size states, and four large states. The bill has passed, often with broad bi-partisan support, a total of 35 legislative chambers in 24 states.

A plethora of polls show nationally more than 70% support for a nationwide popular vote for President. In Connecticut, 2 recent polls showed 73 and 74 percent support respectively. Of particular significance is the broad and diverse support it received across an individual's political affiliation - 80% among Democrats, 67% among Republicans, and 71% among others.

The U.S. Constitution, historical context, and how it would operate

The state-by-state winner-take-all method of awarding electoral votes is not set out in the United States Constitution. It was not debated at the Constitutional Convention, nor was it discussed in the Federalist Papers. The Founding Fathers did not design the system of allocating electoral votes currently used in most states. Rather, they established the Electoral College without any instructions on how states should use it. The winner-take-all rule was used by only three states in the nation's first presidential election in 1789 (all of which abandoned it by 1800).

A study of the evolution of the Electoral College provides a particularly telling story. During the 1787 Constitutional Convention, the delegates noted that they *"distrusted the passions of the people"* and particularly distrusted the ability of average voters to choose a president in a national election. The result was the creation of the Electoral College, a system that at that time gave each state a number of electors based on its number of members in Congress. Because there were no political parties back then, it was assumed that electors would use their best judgment to choose a president. The concept was that the electors would filter the *"passions of the people"* and provide a check on the public in case they make a poor choice for president.

In his seminal Federalist 68, Alexander Hamilton suggested that the electors making up the Electoral College would be, "*men most capable of analyzing the qualities adapted to the station and acting under circumstances favorable to deliberation."* He believed that such men would be *"most likely to have the information and discernment"* to make a good choice, and avoid the election of anyone *"not in an eminent degree endowed with the requisite qualifications"*. In sum, he felt the electors were necessary to stop a candidate with, *"talents for low intrigue, and the little arts of popularity"* from becoming President.

I fully reject the notion that the citizens of America, in the year 2017, cannot be trusted to directly elect their President. Instead, I believe that the direct election of the president by popular vote – that the winner of the presidency is the candidate who gets the most votes in the election - is now critical to the essence of our democracy. It must be effectuated as quickly as possible.

Even if Hamilton's original notion was legitimate, of which I have my doubts, the knowledge base and sophistication of the "average" citizen has changed greatly from Hamilton's times. It is a quaint and outdated notion to assume that ordinary citizens are incapable of making such decisions. It is a mistake to assume that our nation's relative stability is founded on our current Electoral College rules – just as our stability did not depend on indirect election of Senators or denial of women's suffrage prior to our amending the Constitution just a century ago. Just as we made a wise decision to allow for direct election of Senators over 100 years ago, the time has now come to do the same for the presidential election.

The individual states have the power to affect this change. Under the U.S. Constitution, states have *"exclusive"* and *"plenary"* power to choose the method of awarding their electoral votes. The U.S. Constitution Article II, Section 1 gives the states exclusive control over awarding their electoral votes where it states: *"Each State shall appoint, in such Manner as the Legislature thereof may direct, a Number of Electors...."*

To be clear, the National Popular Vote interstate compact would not take effect until enacted by states possessing a majority of the electoral votes - that is, enough to elect a President (270 of 538). Under the compact, the national popular vote winner would be the candidate who received the most popular votes from all 50 states (and DC) on Election Day.

The National Popular Vote bill preserves the Electoral College and state control of elections. Under the compact, when the Electoral College meets in mid-December, the national popular vote winner would receive all of the electoral votes of the enacting states.

The practical and fiscal considerations

Above and beyond the purely undemocratic nature of our current Electoral College system, there are also very important practical considerations that call for effectuation of a national popular vote system as quickly as possible. First, because of state winner-take-all statutes, presidential candidates have no reason to pay attention to the issues of concern to voters in states where the outcome is a foregone conclusion. As a result, the vast majority of states and the vast majority of voters are ignored because candidates campaign only in a handful of closely divided "battleground" states. Here in Connecticut, save a few visits associated with high dollar

fundraising events, we are generally relegated to "spectator" status in presidential campaigns. But it's not just us – the vast majority of states in America are essentially relegated to "spectator status" in every presidential election.

Here are some telling statistics from the last election:

- Over half of the campaign events (57% of the 399 events) were held in just 4 states (Florida, North Carolina, Pennsylvania, and Ohio)

- Virtually all of the campaign events (94%) were in just 12 states, containing only 30% of the country's population

These winner-take-all laws are the driving reason why the vast majority of voters and states are not in play in presidential campaigns. They encourage candidates to write off states where they are hopelessly behind, and take for granted states where they are safely ahead.

Additionally, and more significantly, state winner-take-all statutes adversely affect governance in a way that disadvantages non-swing states such as Connecticut. An analysis of "battleground" states shows they receive 7% more federal grants than "spectator" states, twice as many presidential disaster declarations, more Superfund enforcement exemptions, and more No Child Left Behind law exemptions.

To me, it is clear that the present winner-take-all Electoral College system is not only an unfair way to select a President - it also is unfair to our great state and the other "non-swing" states when it comes to both the outreach and attention given to us by Presidential candidates. Perhaps most disturbingly in these challenging fiscal times, this system results in federal funding decisions where more money is funneled into "swing states" to the detriment of our citizens.

In Conclusion

The adoption of legislation from states into the National Popular Vote Compact has been bipartisan, with both Republican and Democratic controlled legislative chambers overwhelmingly passing the national popular vote bill. Not only has support for the bill been bipartisan, criticism of the current Electoral College system has been as well.

I agree with the sentiments expressed by many national elected officials and leaders who believe that the Electoral College is no longer an appropriate way to select a President of the United States. It is imperative that we honor the will of the American people and Connecticut's citizens, and create a system that elects as President the winner of the popular vote. By passing this bill,

Connecticut can do its part to honor the will of the people by adding our electoral vote totals to the 165 already pledged toward the 270 necessary to enact the compact.

For all of the foregoing reasons, I urge the committee to pass this important bill to ensure that *every* vote matters in *every* state in *every* presidential election. I thank the Committee for its time and consideration of this important issue, and would be happy to answer any questions.

SENATOR MARTIN M. LOONEY
President Pro Tempore

Eleventh District
New Haven, Hamden & North Haven

State of Connecticut
SENATE

State Capitol
Hartford, Connecticut 06106-1591

132 Fort Hale Road
New Haven, Connecticut 06512

Home: 203-468-8829
Capitol: 860-240-8600
Toll-free: 1-800-842-1420

www.SenatorLooney.cga.ct.gov

TESTIMONY BEFORE THE HIGHER EDUCATION AND EMPLOYMENT ADVANCEMENT COMMITTEE
Senator Martin M. Looney
February 7, 2017

In Support of S.B. 17, An Act Assisting Students Without Legal Immigration Status With the Cost of College

Good Morning Sen. Bye, Sen. Linares, Rep. Haddad and Members of the Higher Education and Employment Advancement Committee. I am here to testify in support of S.B. 17 AN ACT ASSISTING STUDENTS WITHOUT LEGAL IMMIGRATION STATUS WITH THE COST OF COLLEGE

In 2011 the Connecticut General Assembly passed PA 11-43 which allows certain undocumented students who meet specific criteria to pay in-state tuition at our colleges. That legislation was compassionate, fair, and pragmatic. Allowing these students to qualify for the in-state tuition rate has assisted many students in their pursuit of higher education. Many others, however, are still unable to afford the costs of higher education without financial assistance.

In 2015, PA 15-82 reduced from four years to two, the length of high school education that certain students must complete in Connecticut to receive in-state tuition benefits at the state's public higher education institutions. This year S.B. 17 would represent the next step along this path towards equity; it would allow these students access to the forms of financial aid at our state colleges and universities that are funded by tuition payments. This aid is funded by money set aside from the tuition of all students; the undocumented immigrant students' tuition provides some of the funding and it seems equitable that they should also benefit from the program.

Many of these students have lived in our state for virtually their entire lives; they are our neighbors and our children's friends and classmates. They are also a significant part of Connecticut's future. Students who attain degrees from public universities and colleges in Connecticut are more likely to build careers in Connecticut. Connecticut has had a significant out-migration of young people (ages 18-34). It is widely accepted that university attendance in a

particular state increases the likelihood that students will remain in that state upon graduation. However, the cost of attending Connecticut's public colleges and universities has been increasing dramatically which can adversely affect students' ability to further their education.

The provision of financial assistance would ensure that more young people will have the opportunity to attend college and succeed. Terri Carbaugh, the Vice Chancellor of the California Community College system, stated that "The higher the number of degree-holders living in our state, the more likely we are to meet future workforce demands." She is correct; we must do all we can to create a workforce that is attractive to businesses. California is one of the states which already has a law similar to what is being proposed for Connecticut.

College graduates generally pay much more in taxes than those without degrees and they are six times more likely to have a job. In addition, the jobs tend to be higher paying for the college educated, who are less likely to commit crimes or to seek government assistance of any kind. This legislation will increase the number of future taxpayers, and help to supply the highly skilled educated workforce essential if Connecticut is to successfully compete in the demanding global economy of the future.

Thank you for attention to this important issue

SENATOR MARTIN M. LOONEY
President Pro Tempore

Eleventh District
New Haven, Hamden & North Haven

State of Connecticut
SENATE

State Capitol
Hartford, Connecticut 06106-1591

132 Fort Hale Road
New Haven, Connecticut 06512

Home: 203-468-8829
Capitol: 860-240-8600
Toll-free: 1-800-842-1420

www.SenatorLooney.cga.ct.gov

TESTIMONY BEFORE THE HUMAN SERVICES COMMITTEE
Senator Martin M. Looney
February 7, 2017

In Support of S.B. 773, An Act Concerning Advance Notice by the Department of Social Services of Guidelines and Bulletins

Good Afternoon Senator Moore, Senator Markley, Representative Abercrombie and members of the Human Services Committee. I want to express my support for S.B. 773 AN ACT CONCERNING ADVANCE NOTICE BY THE DEPARTMENT OF SOCIAL SERVICES OF GUIDELINES AND BULLETINS. This issue has bipartisan support and I am pleased to work with Senator Fasano on this legislation. It is my understanding that certain executive department, including DSS, at times issue guidelines and bulletins when submitting regulations to the Regulation Review Committee would be more appropriate. In addition it is my understanding that at times some of the parties affected by these guidelines and bulletins are not notified and are expected to comply with them on very little notice. This bill would require DSS to submit its guidelines and bulletins to the Human Services Committee not later than sixty days prior to disseminating guidelines and bulletins related to any department program. This requirement would ensure that these documents in fact follow legislative intent. Thank you for hearing this important bill.

SENATOR MARTIN M. LOONEY
President Pro Tempore

Eleventh District
New Haven, Hamden & North Haven

State of Connecticut
SENATE

State Capitol
Hartford, Connecticut 06106-1591

132 Fort Hale Road
New Haven, Connecticut 06512

Home: 203-468-8829
Capitol: 860-240-8600
Toll-free: 1-800-842-1420

www.SenatorLooney.cga.ct.gov

TESTIMONY BEFORE THE HUMAN SERVICES COMMITTEE
Senator Martin M. Looney
March 2, 2017

In Support of S.B. 874, An Act Requiring Electronic Notification by the Department of Social Services

Good Afternoon Senator Moore, Senator Markley, Representative Abercrombie and members of the Human Services Committee. I want to express my support for S.B. 874, AN ACT REQUIRING ELECTRONIC NOTIFICATION BY THE DEPARTMENT OF SOCIAL SERVICES

It is my understanding that certain executive departments, including DSS, at times issue guidelines and bulletins when submitting regulations to the Regulation Review Committee would be more appropriate. In addition it is my understanding that at times some of the parties affected by these guidelines and bulletins are not notified and are expected to comply with them on very little notice. This bill would require disseminating the documents 60 days prior to the effective date. This would ensure timely notice of bulletins, guidelines and other information to those affected by Department of Social Services programs

Thank you for hearing this important bill.

SENATOR MARTIN M. LOONEY
President Pro Tempore

Eleventh District
New Haven, Hamden & North Haven

State of Connecticut
SENATE

State Capitol
Hartford, Connecticut 06106-1591

132 Fort Hale Road
New Haven, Connecticut 06512

Home: 203-468-8829
Capitol: 860-240-8600
Toll-free: 1-800-842-1420

www.SenatorLooney.cga.ct.gov

TESTIMONY BEFORE THE INSURANCE AND REAL ESTATE COMMITTEE
Senator Martin M. Looney
February 7, 2017

In Support of S.B. 19, An Act Requiring Health Insurance Coverage of a Prescribed Drug for a Chronic Disease During Certain Adverse Determination Reviews, S.B. 25, An Act Requiring Health Insurance Coverage of a Prescribed Drug During Adverse Determination Reviews and External Review Processes, S.B. 20, An Act Requiring the Insurance Commissioner to Consider Affordability in Reviewing Individual and Group Health Insurance Policy Premium Rate Filings, S.B. 21, An Act Concerning Health Insurance Coverage of Orally and Intravenously Administered Medications, S.B. 22, An Act Concerning Cost-Sharing for Prescription Drugs, S.B. 23, An Act Requiring Setting-Neutral Reimbursement Policies in Contracts Between Health Carriers and Health Care Providers, S.B. 24, An Act Reducing the Time Frame for Urgent Care Adverse Determination Review Requests, H.B. 5270, An Act Decreasing the Time Frames for Urgent Care Adverse Determination Review Requests, S.B. 426, An Act Concerning Contract Between Health Carriers and Health Care Providers, Agents or Vendors, Participating Provider Directories and Surprise Bills, S.B. 489, An Act Establishing State Medical Loss Ratios for Individual Health Insurance Policies and Group Health Insurance Policies Issued to a Small Employer

Senator Larson, Senator Kelly, Representative Scanlon and members of the Insurance and Real Estate Committee I would like to express my support for a number of bills on your agenda today

S.B. 19, AN ACT REQUIRING HEALTH INSURANCE COVERAGE OF A PRESCRIBED DRUG FOR A CHRONIC CONDITION DURING CERTAIN ADVERSE DETERMINATION REVIEWS and S.B. 25, AN ACT REQUIRING HEALTH INSURANCE COVERAGE OF A PRESCRIBED DRUG DURING THE ENTIRE ADVERSE DETERMINATION REVIEW AND EXTERNAL REVIEW PROCESSES address the situation in which a patient is prescribed a drug and the insurer defies the physician's order and determines that the drug is not medically necessary for the patient. These bills would require the insurer to cover the drugs during the course of the appeal. They would provide protection to patients with chronic disease during the course of either the entire appeal process (S.B. 25) or the insurers' internal grievance process

(S.B. 19). This legislation would assist patients in receiving appropriate care that has been authorized by a patient's treating physician. It would also encourage the insurer to resolve the appeal with reasonable speed.

S.B. 25 includes the language that I proposed a couple of years ago which would require coverage during the entire course of the appeals process while S.B. 19 represents an agreement reached with the insurance carriers in 2014 but has not yet been passed by the General Assembly. Unfortunately, after agreeing to this language (and not testifying against it in committee or opposing it when it passed the Senate) it appears that the insurers opposed this language in the House last year and thus the bill was never called in the House. We should also make sure that the ACA's protections for concurrent reviews are included in Connecticut statute.

S.B. 20, AN ACT CONCERNING THE FACTORS TO BE CONSIDERED BY THE INSURANCE DEPARTMENT IN A HEALTH INSURANCE PREMIUM RATE FILING REVIEW, would add "affordability" to the criteria that the Department of Insurance should consider when approving or denying health insurance rates. Clearly, the affordability of the plan for consumers is of extraordinary importance when analyzing these rates.

S.B. 21 AN ACT CONCERNING HEALTH INSURANCE COVERAGE OF ORALLY AND INTRAVENOUSLY ADMINISTERED MEDICATIONS. would create greater equity in our healthcare system by extending to all patients the protections that we extended to cancer patients seven years ago. In 2010, the Connecticut General Assembly passed PA 10-63, AN ACT CONCERNING ORAL CHEMOTHERAPY TREATMENTS which addressed the fact that many current therapies can include oral rather than intravenous chemotherapy. Unfortunately, this act applied only to cancer therapy and there are a number of other diseases that are now best treated with these types of medications. The oral medications can include biologics/biopharmaceuticals which have revolutionized care for some diseases and have offered many patients literally a new lease on life. However, these drugs are often extraordinarily expensive. Many of the drugs come in pill form and thus are covered as prescription drugs rather than as medical expenses. Many health plans would cover 100% of an IV infusion but only a percentage of a prescription drug. Thus, if the biologic/biopharmaceutical cost was $5000 per month and the patient had a plan that paid 80% of prescription drug costs, that patient would have to pay $12,000 per year out of pocket, while the out of pocket cost if the procedure was an IV infusion would be $0. This seems an absurd result since oral drugs would seem to save the healthcare system time as well as money. These new drugs are making many diseases manageable but it would appear that the practice of medicine, our healthcare system, and the insurance industry have not caught up with the power and convenience of these new drugs

S.B. 22 , AN ACT CONCERNING COST-SHARING FOR PRESCRIPTION DRUGS would cap the out of pocket costs of prescription drugs to $100 per drug per month. The average

annual cost of a specialty pharmaceutical drug is higher than the national annual median income[1]. It is unfortunate that states cannot actually affect the prices of these drugs, but they can offer some financial relief for patients. This bill would certainly provide a meaningful incentive for insurers to do a better job negotiating with the pharmaceutical companies.

There are a number of other proposals to assist patients with prescription drug costs and policies including proposals to create a transparency website which would be a very important action for our state as well as proposals to require that a patient pay cost sharing off the negotiated price rather than the retail price and proposals to alter the reimbursement rate which would de-couple reimbursement for administration of the drug from reimbursement for the drug cost. I support all of those measures as well.

S.B. 23, AN ACT REQUIRING SITE-NEUTRAL PAYMENTS FOR HEALTH CARE SERVICES would require site neutral reimbursement policies. In 2015, S.B. 811 (PA 15-146) originally had contained a provision to create site neutral payment policies between physician owned practices and hospital owned outpatient practices. The site neutral reimbursement provision was ultimately removed in order to facilitate passage of the bill. The disparity in pricing for the same procedure at different sites of service goes beyond any rational explanation. One of the arguments used against including site neutral payment policies in that bill was that this policy had never been implemented anywhere. However, since then this policy has been included by Congress in the 2015 bipartisan budget deal[2]. The mechanism used by Congress is not ideal in that it is only prospective (it would apply to practices acquired after January 2017) and the payment rate for all is the lower physician rate. I would recommend that site neutral payment be implemented for all practices acquired after 2008 and I would suggest that the rate be slightly higher than the reimbursement for private physicians. There are a variety of possible ways to set guidelines for that reimbursement rate and I would be happy to work with you on this matter. There are also a variety of ways to narrow the scope of this policy such as making it apply to only a subset of The Medicare Payment Advisory Commission (MEDPAC) recommendations (e.g. start with evaluation and management codes). I look forward to working with you to alleviate these site-driven disparities in healthcare costs. Not only can hospitals and hospital owned practices charge facility fees, they are also reimbursed at a much higher rate by insurers for the same procedures that independent physicians can provide. A good first step would be to have our state follow the MEDPAC recommendation for site neutral payments for MEDPAC's group 1 and 2 procedures. If the procedure or treatment can be done as safely in a physician's office, why should the physician not be reimbursed at the same rate as the hospital? There should not be two standards for a reasonable and customary cost. There are a variety of

[1] https://www.washingtonpost.com/news/wonk/wp/2015/11/20/specialty-drugs-now-cost-more-than-most-household-incomes/

[2] (Section 603) that provides that effective January 1, 2017, Medicare payments for most items and services furnished at an off-campus department of a hospital that was not billing as a hospital service prior to the date of enactment will be made under the applicable non-hospital payment system

methods to create site neutral payment guidelines. One promising method would be to set a cap on the price at the Medicare rate plus a percentage (likely in the range of 150% of the Medicare rate). The entity in Massachusetts (The Group Insurance Commission) that covers state employees and retirees recently voted to cap payments to healthcare providers at 160% of Medicare.[3]

Clearly, there has been a movement toward consolidation in healthcare providers. Hospitals are merging with and acquiring other hospitals and thus creating large health systems. Hospitals and health systems are also purchasing physicians' practices. These larger entities make a number of claims, of which the accuracy remains to be determined. First, they claim, "the Affordable Care Act made me do it." In truth, the ACA encourages cooperation and collaboration in order to achieve higher quality and lower cost care. The ACA encourages all the physicians who provide service to a specific patient to share information. The act does not demand consolidation and the movement toward consolidation long predates the ACA's passage. Second, these entities claim that consolidation will provide lower costs; however numerous studies have shown that in fact when physicians' practices are owned by hospitals and health systems the prices increase dramatically. It is also obvious that when hospitals are allowed to consolidate in a manner that creates a virtual monopoly, prices skyrocket. These large entities also claim they will provide higher quality care but they can provide no supporting evidence.

There are certainly smaller hospitals and health systems that are embracing integrated care using affiliation and cooperation with community physicians. These hospitals and community providers tend to offer the high quality and low cost services that our state should actively support.

S.B. 24, AN ACT REDUCING THE TIME FRAMES FOR URGENT CARE ADVERSE DETERMINATION REVIEW REQUESTS and H.B. 5270
AN ACT DECREASING THE TIME FRAMES FOR URGENT CARE ADVERSE DETERMINATION REVIEW REQUESTS would decrease the timeframe for expedited reviews; this time frame was unfortunately lengthened in PA 11-58. I am glad that this effort is bipartisan and I truly appreciate working with Representative Yaccarino on this issue. Under the current system, the insurer has 72 hours to respond to an urgent care request; in some cases 72 hours can put a patient in serious danger of a negative outcome. I have in past years proposed and still prefer a 24 hour timeframe which is the current requirement for mental health urgent care requests. Last week the American Medical Association and the American Hospital Association announced joint policy goals[4] which included a 24 hour time frame for urgent care

[3] https://www.bostonglobe.com/business/2017/01/23/state-health-care-giant-pushes-for-cuts-hospital-payments/wjLoSDShdpqTH4eQja0R1N/story.html
[4] https://www.ama-assn.org/health-care-coalition-calls-prior-authorization-reform

requests. Clearly 24 hours represents a superior policy, however, even 48 hours would be a significant improvement from current state law.

S.B. 426, AN ACT PROTECTING PATIENTS FROM INAPPROPRIATE BILLING PRACTICES, is a bipartisan joint proposal with Senator Fasano which would strengthen the protections from surprise billing that were included in PA 15-146. That act (which has been a model for other states) reformed many aspects of our healthcare system but as is often true, once enacted legislation may require small adjustments. This bill would ensure that when a patient receives care at an in-network hospital the patient would be responsible only for the in-network cost sharing from all providers who cared for that patient at that hospital. It appears that there are certain specialties and services that often are out of network in certain insurance plans at some hospitals. This legislation would ensure that services such as labs, radiology, and anesthesiology are included in the prohibition from surprise billing. Patients who choose to receive care at in-network hospitals should not be required to research which providers and services at those hospitals are in-network (if that information is even readily available). There are also proposals (I have a proposed bill in Public Health and there are proposals in other states) to simply require that in order for a hospital to credential a physician, that physician would be required to accept all the insurance that is accepted by the hospital. It is my hope that S.B. 426 will achieve the same patient protections in a manner that is easier to implement. This bill is also a placeholder for other minor updates needed to PA 15-146.

S.B. 489, AN ACT ESTABLISHING STATE MEDICAL LOSS RATIOS FOR INDIVIDUAL HEALTH INSURANCE POLICIES AND GROUP HEALTH INSURANCE POLICIES ISSUED TO A SMALL EMPLOYER would incorporate Medical Loss Ratios (MLR) into Connecticut state statutes. The Affordable Care Act (ACA) sets Medical Loss Ratios for insurers which limit the amount of money that insurance companies can spend on administrative costs and ensures that the majority of the dollars be spent on actual medical care. With the current threats to the Affordable Care Act I believe it would be prudent to codify the ACA's MLR into Connecticut's statutes which is what S.B. 489 would do.

Thank you for hearing these extraordinarily important bills.

SENATOR MARTIN M. LOONEY
President Pro Tempore

Eleventh District
New Haven, Hamden & North Haven

State of Connecticut
SENATE

State Capitol
Hartford, Connecticut 06106-1591

132 Fort Hale Road
New Haven, Connecticut 06512

Home: 203-468-8829
Capitol: 860-240-8600
Toll-free: 1-800-842-1420

www.SenatorLooney.cga.ct.gov

TESTIMONY BEFORE THE INSURANCE AND REAL ESTATE COMMITTEE
Senator Martin M. Looney
February 16, 2017

In Support of S.B. 116, An Act Concerning Disputes Between Hospitals and Insurers

Good morning Senator Larson, Senator Kelly, Representative Scanlon and members of the Insurance and Real Estate Committee I would like to express my support for S.B. 116, AN ACT CONCERNING DISPUTES BETWEEN HOSPITALS AND INSURERS. This legislation would require binding arbitration to resolve disputes between hospitals and insurers when the parties fail to reach an agreement. There have been several situations over the last few years in which contract disputes between hospitals and insurers put patient care at risk. Both the hospitals and the insurers have engaged in brinksmanship with a seeming disregard for the wellbeing of the patients. This is an unacceptable situation for patients. While in the end the insurer and provider have reached an agreement these disputes have taken a serious toll on patients who had to consider rescheduling needed procedures and researching alternative providers. I realize that both the insurers and the hospitals will claim that the current negotiation process works. I ask, for whom does this process work? Certainly it does not work for the patients who, after having selected a physician and/or hospital, are suddenly told that those providers will no longer be covered. And later after the patient has selected new providers he or she will likely be informed that actually the former provider is back in the network. This brinksmanship puts patient health at risk and exposes the fact that some sectors of our healthcare system put profits ahead of patients. These standoffs clearly illustrate that the current highly consolidated healthcare market requires additional government oversight to protect patients. Residents of our state deserve better.

I believe the legislation should include the following elements:

a. Require that physicians cannot become out of network during the patient's policy term. If a patient selects a plan that has the patient's desired physician in-network, that physician shall not become out of network during the term of the policy.

b. Require that during the time that the parties are negotiating after the insurer and the provider are no longer under contract with each other, the patient shall be held harmless and shall not have to pay more than the in-network cost sharing. The provider and the insurer shall follow the reimbursement mechanism set up for out of network emergency services in PA 15-146[5] and the provider shall bill the insurer directly.
c. Require that the parties continue negotiating for a specified time and allow either party to request binding arbitration
d. Require that the terms of these agreements be made available to the insureds

Thank you for hearing this extraordinarily important bill

[5] Under PA 15-146 the patient is held harmless and the provider is reimbursed at the greatest of the in-network rate, the Medicare rate, or 80% of the Usual and Customary rate as defined in the act.

SENATOR MARTIN M. LOONEY
PRESIDENT PRO TEMPORE

Eleventh District
New Haven, Hamden & North Haven

State of Connecticut
SENATE

State Capitol
Hartford, Connecticut 06106-1591
132 Fort Hale Road
New Haven, Connecticut 06512
Home: 203-468-8829
Capitol: 860-240-8600
Toll-free: 1-800-842-1420
www.SenatorLooney.cga.ct.gov

TESTIMONY BEFORE THE INSURANCE AND REAL ESTATE COMMITTEE
Senator Martin M. Looney
March 2, 2017

In Support of S.B. 879, An Act Establishing State Medical Loss Ratios for Individual Health Insurance Policies and Group Health Insurance Policies for Small Employers

Good morning Senator Larson, Senator Kelly, Representative Scanlon and members of the Insurance and Real Estate Committee I would like to express my support for S.B. 879, AN ACT ESTABLISHING STATE MEDICAL LOSS RATIOS FOR INDIVIDUAL HEALTH INSURANCE POLICIES AND GROUP HEALTH INSURANCE POLICIES FOR SMALL EMPLOYERS.

As the vast majority of people well understand, our healthcare system is extraordinarily complicated. The Affordable Care Act was a conservative reform that improved the current complex healthcare system in a manner that does a better job serving patients. One of the ACA reforms was to set standards for Medical Loss Ratio (MLR)[6]. Setting a minimum MLR standard limits the percentage of premium dollars that fund a health carrier's administrative costs and requires that the majority of these dollars be spent on actual health care. The MLR requirement is just common sense. It had seemed that because the federal law set MLR standards that there was no need for our state to take action. However, with the current federal political reality, the entire ACA including the MLR requirements may be in danger. This bill will ensure that in the event that the ACA is repealed, Connecticut consumers will still be protected by a reasonable Medical Loss Ratio. Thank you for hearing this important bill.

[6] MLR is defined as "A basic financial measurement used in the Affordable Care Act to encourage health plans to provide value to enrollees. If an insurer uses 80 cents out of every premium dollar to pay its customers' medical claims and activities that improve the quality of care, the company has a medical loss ratio of 80%. A medical loss ratio of 80% indicates that the insurer is using the remaining 20 cents of each premium dollar to pay overhead expenses, such as marketing, profits, salaries, administrative costs, and agent commissions. The Affordable Care Act sets minimum medical loss ratios for different markets, as do some state laws."

SENATOR MARTIN M. LOONEY
President Pro Tempore

Eleventh District
New Haven, Hamden & North Haven

State of Connecticut
SENATE

State Capitol
Hartford, Connecticut 06106-1591

132 Fort Hale Road
New Haven, Connecticut 06512

Home: 203-468-8829
Capitol: 860-240-8600
Toll-free: 1-800-842-1420

www.SenatorLooney.cga.ct.gov

TESTIMONY BEFORE THE INSURANCE AND REAL ESTATE COMMITTEE
Senator Martin M. Looney
March 7, 2017

In Support of S.B. 925, An Act Concerning the Cost of Prescription Drugs and Value-Based Insurance Design

Good morning Senator Larson, Senator Kelly, Representative Scanlon and members of the Insurance and Real Estate Committee I would like to express my support for S.B. 925 (RAISED) AN ACT CONCERNING THE COST OF PRESCRIPTION DRUGS AND VALUE-BASED INSURANCE DESIGN. I would also like to express my appreciation to Comptroller Lembo for his extraordinary work on this important issue. This bill addresses value based design in health insurance as well as prescription drug transparency. I have been working with the Comptroller and several other groups on the issue of prescription drug transparency and regulation.

This proposal includes needed patient protections such as mandating that if a health insurance plan has a prescription drug co-pay that is a percentage of the cost of the drug, that the copay be calculated off the net price not the retail price. The net price should be calculated not only to include the discount off the retail price that the insurer pays up front but also by the rebate that the insurer gets from the pharmaceutical company for selecting the specific drug. This bill also prohibits insurers from reimbursing for drugs given in physicians' offices at a percentage of the cost of the drug. The cost of infusions services would seem to be unrelated to the cost of the drug and it would seem that a flat fee for infusion services would be more rational. Basing the reimbursement on the drug cost would appear to create an incentive for the use of more expensive drugs.

In addition to those patient protections, the bill sets up pharmaceutical transparency standards for drugs over a certain cost and for drugs with price increases over a certain percentage. I stand in strong support of these provisions. The legislation also recreates the much needed task force on pricing of pharmaceuticals.

I firmly believe that this legislation should go even farther and I look forward to working with you and the Comptroller to protect patients and improve transparency of prescription drug pricing. I am attaching my testimony on S.B. 442 and 445 which includes additional patient protections.

Thank you for hearing this important bill.

SENATOR MARTIN M. LOONEY
PRESIDENT PRO TEMPORE

Eleventh District
New Haven, Hamden & North Haven

State of Connecticut
SENATE

State Capitol
Hartford, Connecticut 06106-1591
132 Fort Hale Road
New Haven, Connecticut 06512
Home: 203-468-8829
Capitol: 860-240-8600
Toll-free: 1-800-842-1420
www.SenatorLooney.cga.ct.gov

TESTIMONY BEFORE THE JUDICIARY COMMITTEE
Senator Martin M. Looney
February 17, 2017

In Support of S.R.J. 42, Resolution Confirming the Nomination of the Honorable Brian T. Fischer of Madison to be a Judge of the Superior Court

Good Morning Senator Doyle, Senator Kissel, Representative Tong and members of the Judiciary Committee I am here to express my support for Judge Brian T. Fischer's reappointment to the Superior Court

On March 14, 2001 when Judge Fischer's first nomination to become a Superior Court judge was heard in the Judiciary committee, I commented that "I have known Attorney Fischer for many years. He is an extraordinarily qualified nominee as the diversity of his practice and experience testifies. He also has, I think, exactly the right temperament and approach for a judge, someone who is conscientious and even tempered and also very probing in his intellect in his approach to the law and I think we will have a tremendous addition to the Superior Court Bench as Judge Fischer takes that office."

I have never been more correct in all my life and I have known him for many more years now. Of course now I have a very personal connection to the judge; as you all know Judge Brian Fischer donated his kidney to me. I literally owe my life to him and I will be forever more thankful than I can express to Judge Fischer and his wife Katie. However, that act of boundless kindness and generosity is not the reason why Judge Fischer deserves to be reappointed. He deserves to be reappointed because he is an extraordinarily fine judge. He sits on cases big and small with the same fine probing intellect and sense of fairness and decency with which he has lived his entire life. Whether it is upholding first amendment protections for reporters as he did in a case in 2012 or denying a defense motion to have the judge disqualified in the Cheshire murder case, or taking on the job of the administrative judge for New Haven, Judge Fischer always follows the rule of law.

I am proud to call Judge Fischer my friend and I will be proud to cast my vote to reappoint Judge Brian Fischer when this nomination reaches the Senate.

From NH register article:

Fischer was appointed a judge by Gov. John G. Rowland in 2001 and has served in the Middlesex, Meriden, Bridgeport, Ansonia-Milford and New Britain judicial districts before coming to the New Haven Judicial District in 2010.

He served as an administrative judge in New Haven from 2010 through 2014 and an assistant administrative judge for the past two years. Fischer is up for reappointment this spring after serving two eight-year Superior Court terms.

He was an attorney with Fischer & Fischer from 1979 to 1985; was assistant corporation counsel for the city of West Haven for 10 years and was in private practice from 1986 to 2001.

Fischer graduated from the University of Richmond in 1975 and Delaware Law School in 1979.

SENATOR MARTIN M. LOONEY
PRESIDENT PRO TEMPORE

Eleventh District
New Haven, Hamden & North Haven

State of Connecticut
SENATE

State Capitol
Hartford, Connecticut 06106-1591
132 Fort Hale Road
New Haven, Connecticut 06512
Home: 203-468-8829
Capitol: 860-240-8600
Toll-free: 1-800-842-1420
www.SenatorLooney.cga.ct.gov

TESTIMONY BEFORE THE JUDICIARY COMMITTEE
Senator Martin M. Looney
March 6, 2017

In Support of S.B. 932, An Act Establishing a Statutory Cause of Action for Injury to Person or Property Based on Negligent Infliction of Emotional Distress

Good Morning Senator Doyle, Senator Kissel, Representative Tong, and members of the Judiciary Committee. I would like to express my support for S.B. 932, AN ACT ESTABLISHING A STATUTORY CAUSE OF ACTION FOR INJURY TO PERSON OR PROPERTY BASED ON NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS.

Connecticut law does not currently recognize negligent infliction of emotional distress (NIED) for loss of property. This was brought to my attention by an article in the Law Tribune[7]. The article describes a case in which six rings with both financial and emotional value were stolen from the body of a woman who died at Bridgeport Hospital. Although the family of the decedent could recover the financial value of these items, the emotional distress claims were dismissed. The trial court held "that Connecticut courts do not recognize a cause of action for negligent infliction of emotional distress based solely on damage to property[8]," this was upheld on appeal.[9]

Certain kinds of property (such as a keepsake from a grandparent or a beloved family pet) have emotional value far beyond their monetary worth. The loss of this kind of property cannot be replaced by its cash value. S.B. 932 would allow for claims based on negligent infliction of emotional distress so that victims of this tort could recover for their emotional losses. Last year, S.B. 457 would have made similar changes, and one of the criticisms was that that bill had a 3 year statute of limitations. In response to that, this bill has a two year statute of limitations. Some of the testimony from last year included concerns regarding a potential effect on the

[7] http://www.ctlawtribune.com/id=1202745312732/Court-Rejects-Emotional-Distress-Claim-Over-Rings-Stolen-From-Dead-Woman-at-Hospital?mcode=0&curindex=0
[8] http://ct.findacase.com/research/wfrmDocViewer.aspx/xq/fac.20131213_0001499.CT.htm/qx
[9] https://www.jud.ct.gov/external/supapp/Cases/AROap/AP161/161AP61.pdf

practice of medicine; that is not the intent or the effect of this legislation. This bill does not change statutes on medical malpractice; it simply allows for consideration of the emotional value of property in negligence actions. The Committee might wish to consider capping the amount that a person can recover for NIED claims; I look forward to working with you on this legislation. Thank you for hearing this important bill.

SENATOR MARTIN M. LOONEY
President Pro Tempore

Eleventh District
New Haven, Hamden & North Haven

State of Connecticut
SENATE

State Capitol
Hartford, Connecticut 06106-1591

132 Fort Hale Road
New Haven, Connecticut 06512

Home: 203-468-8829
Capitol: 860-240-8600
Toll-free: 1-800-842-1420

www.SenatorLooney.cga.ct.gov

TESTIMONY BEFORE THE JUDICIARY COMMITTEE
Senator Martin M. Looney
March 15, 2017

In Support of H.B. 6200, An Act Concerning The Presentation of a Permit To Carry A Pistol or Revolver

Good Morning Senator Doyle, Senator Kissel, Representative Tong and members of the Judiciary Committee I am here to express my support for S.B. 6200, An Act Concerning The Presentation of a Permit To Carry A Pistol or Revolver.

This bill would require individuals who are openly and visibly carrying a pistol or revolver to produce their permit upon request of a law enforcement officer. This would seem to be a common sense requirement; under Connecticut law, in order to legally carry a pistol or revolver, a person must also be carrying the permit for that weapon. I know that some opponents of this legislation are claiming it is akin to 'stop and frisk' while other opponents claim it allows for illegal search and seizure. Those are alternative facts; the bill before you does not allow an officer to stop and frisk a person who is legally carrying a weapon nor does it allow seizure of such legally carried weapon.

The Second Amendment to the United States Constitution states that "A well regulated militia, being necessary to the security of a free State, the right to keep and bear arms shall not be infringed". This language has long been interpreted to allow certain common sense regulation of gun rights. This bill is one of those regulations.

The requirement in S.B. 6200 is somewhat parallel to the requirement that when driving an automobile a person must be carrying a driver's license. When a driver is asked by an officer to present the license, the driver must comply with the request. It would seem reasonable that a person carrying a pistol or revolver should be subject to the same requirements. It would seem even more justifiable to require presentation of a permit to carry since an openly visible pistol or revolver may cause anxiety to other persons within sight of the weapon. The visible weapon can

be used as an intimidation factor even when the person carrying possesses a permit. It is uncommon that the sight of an automobile can cause undue anxiety in any person.

I am proud to stand today with many Chiefs of Police and CT Against Gun Violence in support of S.B. 6200. Thank you for hearing this important common sense legislation.

SENATOR MARTIN M. LOONEY
President Pro Tempore

Eleventh District
New Haven, Hamden & North Haven

State of Connecticut
SENATE

State Capitol
Hartford, Connecticut 06106-1591

132 Fort Hale Road
New Haven, Connecticut 06512

Home: 203-468-8829
Capitol: 860-240-8600
Toll-free: 1-800-842-1420

www.SenatorLooney.cga.ct.gov

TESTIMONY BEFORE THE JUDICIARY COMMITTEE
Senator Martin M. Looney
March 22, 2017

In Support of S.B. 11, An Act Concerning the Legalization and Taxation of the Retail Sale of Marijuana

Good morning Senator Doyle, Representative Tong, Senator Kissel, Representative Rebimbas and members of the Judiciary Committee. Thank you for the opportunity to testify in support of Senate Bill 11, AN ACT CONCERNING THE LEGALIZATION AND TAXATION OF THE RETAIL SALE OF MARIJUANA.

In 1920, our nation began what was called the Noble Experiment — prohibiting alcohol sales. Alcohol consumption initially dropped, but it soon began to steadily increase, and Prohibition created many new problems. The government had no control over alcohol production or sales, and an average of one thousand Americans died each year from tainted alcohol. Meanwhile, violent criminal organizations took control of the industry. Corruption became rampant in law enforcement, and the federal government was deprived of more than $11 billion in tax revenue.

After 13 years, prohibition was abandoned in favor of regulation and taxation.

Following the end of Prohibition, the Federal Bureau of Narcotics, under controversial commissioner Harry J. Anslinger, engaged in a sensationalist, racially charged anti-marijuana campaign. This campaign culminated in the Marijuana Tax Act of 1937, which outlawed the possession or sale of marijuana. Such tactics continued into the 1970s during Richard Nixon's "war on drugs." In a 1994 interview published last year, Nixon advisor and key Watergate figure John Ehrlichman said the war on drugs was created as a political tool to fight African-Americans and anti-war advocates. Ehrlichman said "We knew we couldn't make it illegal to be either against the war or black, but by getting the public to associate the hippies with marijuana and blacks with heroin, and then criminalizing both heavily, we could disrupt those communities. We

could arrest their leaders, raid their homes, break up their meetings, and vilify them night after night on the evening news. Did we know we were lying about the drugs? Of course we did."

Marijuana prohibition has lasted 80 years. Yet, it has been just as much of a failure as America's short-lived experiment with alcohol prohibition. It is time we take the rational, common-sense approach to marijuana, as we did with alcohol: regulating and taxing it.

According to the Substance Abuse and Mental Health Services Administration, 479,000 Connecticut residents use marijuana each year — over 13% of the state's population. Other than those who are participants in our medical marijuana program, these users are getting this product from the illicit market, which poses significant dangers. Buyers can be sold marijuana tainted with harmful contaminants, offered hard drugs, or even physically assaulted. If this bill is enacted, consumers could purchase products from regulated stores. Marijuana would be produced by regulated growers and product manufacturers, and would be tested for potency and contaminants. It would also have warning labels and child-proof packaging.

Legalization can also help Connecticut's economy. It is estimated that, in 2015, the legal marijuana industry in Colorado created more than 18,000 new full-time jobs and generated $2.4 billion in economic activity. A recent report projects that, by 2020, the legal cannabis market will create more than a quarter of a million jobs nationally. And these jobs will come with the protections workers deserve, from minimum wage and overtime regulations, to unemployment insurance and social security.

Taxation of marijuana would also generate significant revenue. Senate Bill 11 proposes a structure for taxation of marijuana and marijuana products inspired by the approach to legalization and taxation taken in the State of Colorado. Based on an Office of Fiscal Analysis report on Colorado's policy, I estimate that as drafted, Senate Bill 11 would raise approximately $18.5 million in the first six months of collections, $83.4 million in the following full year of collections, and $135.0 million in the third year from these taxes. Further research from the Office of Fiscal Analysis can help to sharpen these figures as this bill moves forward.

I am aware that many individuals have passionate and sincere concerns about marijuana legalization. I would note that in a recent report, "Dose of Reality: The Effect of State Marijuana Legalizations", the Cato Institute reviewed data regarding, among other things, marijuana usage, suicide rates, treatment admissions, crime, traffic fatalities, school suspensions and expulsions, standardized test scores, home prices, unemployment rates and correction and police expenditures in the states of Colorado, Washington, Oregon and Alaska following legalization. The report found that: "The absence of significant adverse consequences is especially striking given the sometimes dire predictions made by legalization opponents." Regarding usage specifically, the report found that "state marijuana legalizations have had minimal effect on

marijuana use and related outcomes." The report also found that available data from Colorado and Alaska on marijuana use from the Youth Risk Behavior Survey showed no obvious effect of legalization on youth marijuana use.

I would also note that, in recent years, Connecticut has seen a staggering number of deaths caused by legal prescription opioids. According to the Chief Medical Examiner, there were 917 such deaths in 2016 alone. Marijuana legalization could reduce the number of overdose deaths by providing a safer alternative. Several studies have shown that cannabis can be an effective substitute, allowing patients to reduce or eliminate their use of opiates. And, unlike opiates, the U.S. Drug Enforcement Administration reports that no deaths from marijuana overdose have ever been recorded.

We have also heard concerns regarding potential conflicts with federal law given that possessing, growing, and distributing marijuana is federally illegal. The cornerstone of the Obama administration's marijuana policy was emphasis on state regulation. In an August 2013 memorandum, then-Deputy Attorney General James Cole stated that the federal government would focus its efforts on specific enforcement priorities (for example, preventing the distribution of marijuana to minors or preventing revenue from the sale of marijuana from going to criminal enterprises) and rely on state law enforcement authorities to manage areas that are not federal priorities. The Cole memo made clear that in order to ensure that the U.S. government's concerns are addressed, the department expects states to implement a strong regulatory framework.

There is ample reason to believe the Trump administration will continue this policy of non-intervention in states with well-regulated marijuana laws. During his campaign, President Trump said, "In terms of marijuana and legalization, I think that should be a state issue, state-by-state." In addition, the public overwhelmingly supports allowing states to determine their own marijuana policies without federal interference. A February 23, 2107 poll by Quinnipiac University found that 71% of American voters believe that the government should not enforce federal laws against marijuana in states that have legalized medical or recreational marijuana use.

We know there is popular support for legalization here in Connecticut. A March 11, 2015 poll by Quinnipiac University found that 63% of Connecticut voters support the legalization of marijuana. The support for legalization is not partisan or geographic. Two weeks ago, the Public Health Committee heard testimony on House Bill 5314, AN ACT CONCERNING THE REGULATION AND TAXATION OF THE RETAIL SALE AND CULTIVATION OF MARIJUANA FOR USE BY PERSONS TWENTY-ONE YEARS OF AGE OR OLDER, which was introduced by Representative Melissa Ziobron. In her testimony, Representative Ziobron informed the committee that she conducted a survey of her constituents in Colchester, East Haddam and East Hampton, and reported that "60 percent of my constituents favor legalization"

and that “[more] than 300 of those who responded to the survey took the time to comment thoughtfully, one way or another, on the topic.” I want to commend Representative Ziobron for her hard work on this issue, as well as Representatives Toni Walker and Robyn Porter who joined her to give their own compelling testimony.

Our region is rapidly moving toward regulating marijuana — Maine and Massachusetts voters approved ballot initiatives in November and are expected to have stores open next year. Rhode Island, Vermont, and New Jersey’s legislatures are all seriously considering enacting similar measures either this year or next. We need to make sure that Connecticut is not left behind as our neigH.B. ors move forward with common sense marijuana policy.

SENATOR MARTIN M. LOONEY
PRESIDENT PRO TEMPORE

Eleventh District
New Haven, Hamden & North Haven

State of Connecticut
SENATE

State Capitol
Hartford, Connecticut 06106-1591

132 Fort Hale Road
New Haven, Connecticut 06512

Home: 203-468-8829
Capitol: 860-240-8600
Toll-free: 1-800-842-1420

www.SenatorLooney.cga.ct.gov

TESTIMONY BEFORE THE JUDICIARY COMMITTEE
Senator Martin M. Looney
March 27, 2017

In Support of H.B. 5743, An Act Concerning Hate Crimes and S.B. 364, An Act Concerning Access to Legal Counsel for Indigent Individuals in Certain Civil Matters Involving Allegations of Abuse

Good afternoon, Senator Doyle, Senator Kissel, Representative Tong, and members of the Judiciary Committee. Thank you for the opportunity to testify today in strong support of House Bill 5743, An Act Concerning Hate Crimes, and Senate Bill 364, An Act Concerning Access to Legal Counsel for Indigent Individuals in Certain Civil Matters Involving Allegations of Abuse.

House Bill 5743, An Act Concerning Hate Crimes

It is completely unacceptable that in recent months Connecticut has seen many incidents of intimidation and threatening based on bigotry or bias. Between January 18 and March 8 there were 4 bomb threats received by JCCs throughout the state, all of which caused the evacuation of young children in daycare. On February 27, the West Hartford Hebrew High School of New England received a bomb threat causing evacuation. On February 8, hundreds of white supremacist leaflets were thrown onto driveways and placed in mailboxes in Weston, Wilton, Westport and Norwalk. On January 16 a racial slur, the n-word, was painted on the garage door of an interracial family in Stamford. On December 8, the Islamic Center of New Haven received an extremely threatening letter. During the weekend of November 12-13, Swastikas were painted on a home and parked car in Danbury, following at least five other such instances of Swastika painting in that city during November.

Of course, this is not a brand new phenomenon in Connecticut. On November 15, 2015, the Connecticut Muslim community was the victim of a very significant hate crime, when a mosque in Meriden was significantly damaged when bullets were fired into it.

The recent surge in hate crimes has not been limited to Connecticut. For example, on December 22, 2016 CNN reported that, according to the NYPD, **hate crimes in New York City increased by 31.5% from 2015 to 2016, up from 250 in 2015 to 328 in 2016. Of those, hate crimes targeting Muslims more than doubled, from 12 to 25.** Hate crimes targeting Jews rose from 102 to 111.

I believe that four other very recent 2017 hate crimes, receiving significant national attention, deserve particular mention. The first two occurred in February, when Jewish cemeteries in St. Louis, Missouri and Philadelphia, Pennsylvania were brutally vandalized, being virtually destroyed. Then, in early March, a young Sikh man in Seattle was shot in his driveway, while working on his car. A man allegedly walked up to him and shot him, saying "go back to your own country" as he pulled the trigger. The fourth horrible crime occurred just a week ago, in New York City, when an African-American gentleman was stabbed to death on the street by a murderer who surrendered to the police on Wednesday. According to the New York Times, when he surrendered the murderer stated explicitly to the police that he had just travelled from Baltimore to New York with the explicit intention of killing African-Americans, because he hated them.

In my opinion, these four hate crimes, in addition to the 2015 Meriden mosque shooting, were significant because they and other violent hate crimes like them impress on the minds of everyone that threats of violent harm, be they telephonic bomb threats or threatening letters, could very well be real. The destruction of the Jewish cemeteries in St. Louis and Philadelphia were local, organized, massive acts of anti-Semitism. The shooter in March in Seattle and the murderer last week in New York were not detached voices on the phone. Similarly, the shooter in Meriden was locally in Connecticut and used deadly force. It is not lost on the members of minority groups everywhere that any threats made to them may be very real, and that each threat, made by telephone, or writing, or spray-painted hate imagery, carries with it an extreme danger that simply cannot be ignored and rightfully causes fear and defensive actions each and every time, and evacuations most times depending on the nature of the threat.

This is the nature of a hate crime. When a person or a group is physically injured or killed, or their property visibly damaged, or they are threatened, intimidated or harassed, *because of their innate characteristics,* the fear and alarm caused by the crime spreads like a shockwave throughout the entire community -- particularly among those sharing the innate characteristic that has been targeted. In this manner it is more like terrorism than just the underlying act itself. And that is why we must punish it in Connecticut as harshly as anywhere in the country.

The Connecticut incidents listed above and others led me to examine our hate crime laws and file proposed Senate Bill 10, An Act Concerning Hate Crimes, before the session began. Co-

Chairman Tong at the same time introduced to this committee H.B. 5743, also designed to strengthen our laws against hate crimes, and together with Senator Doyle we crafted the bill before you today. We found several unacceptable gaps and weaknesses in our laws, several penalties that need to be strengthened, and other new innovations that will better serve to ensure that our constituents are protected. I want to thank Representative Tong and Senator Doyle for their deeply effective work on this issue in general and on this bill in particular. I also want to thank Senator Kissel and every member of this important committee for all you are doing and have done historically to help protect Connecticut residents.

I strongly believe that we need not only to strengthen our laws against hate crimes and plug every gap in the law, but also that we need to send a message to our constituents that, as policymakers, we will stop at nothing to protect their rights to live peacefully in Connecticut without being subjected to intimidation, threats, assault or fear based on hate and bigotry. And we also need to send a message to potential perpetrators that we will punish them as strongly as anywhere in the country. We have always done that as a General Assembly in the past, together, and I hope that we will continue to be united when it comes to making our hate crime laws the most protective in the nation**.** If enacted, H.B. 5743 would accomplish the following:

- Strengthen hate crime laws by increasing penalties for committing a hate crime *against a group* (instead of against a specific individual), making it either a class D felony under 53a-181k or a class E felony under 53a-181*l*, instead of the class A misdemeanor it is limited to currently under 53a-181*l*. As an example, under current law if a criminal spray paints a Swastika on a private home it is a class D felony under 53a-181k as a hate crime in the second degree, but if that criminal spray-paints that threatening symbol onto a synagogue itself, or a targets a mosque with a similar threatening message, it is only a class A misdemeanor as a hate crime in the third degree under 53a-181*l.* That is a distinction that must be eliminated;

- Strengthen and modernize Connecticut's hate crime laws to include hate crimes based on gender (sex), by adding "sex" to the protected classifications under 53a-181j-*l*, et.al. These statutes inexplicably protect only "gender identity or expression," not sex or gender (as opposed to 46b-58, which already protects individuals from "sex"-based discrimination, as well as the federal hate crime laws and those of many other states);

- Strengthen hate crime laws by increasing the penalty to a Class C felony (from a Class D felony) under 53a-66aa, for making a bomb threat or other threat of violence against a house of religious worship, community center affiliated with a religion, or any daycare facility – if the threat is made with the intent to terrorize another person or to cause the evacuation of the building or grounds. This puts the penalty for such bomb threats on par with violent threats made against schools;

- Strengthen hate crime laws by increasing the penalty under 46b-58 for desecrating any house of worship from a Class A misdemeanor to a Class C felony if there is more than $10,000 in damage, or a Class D felony if there is less than $10,000 in damage (under current law, such desecration is a class A misdemeanor if the damage is less than $1,000, but a class D felony for greater damage) (in a comparable example under current law, any vandalism whatsoever of any aspect of a cemetery is a class C felony, under 53a-218);

- Strengthen hate crime laws by expanding the threshold for a 1st-degree hate crime under 53a-181j from its current requirement of causing "serious physical injury" to instead causing "physical injury" (as defined in 53a-3);

- Establish a court's power to order extensive, relevant community service and/or restitution, in addition to any other penalties imposed for hate crime convictions;

- Establish a mandatory minimum fine of $1,000 for an individual convicted of a class D felony or class A misdemeanor hate crime under 46a-58 or 53a-181j-*l,* et.al., and a mandatory minimum $3,000 fine for class C felony convictions under those statutes, and direct all revenue from fines imposed under those sections to fund and publicize a new hate crimes hot line and text line established within the Division of State Police;

- Create a state-wide Hate Crimes Advisory Council which must meet at least biannually; and

- Allow an employee to take up to 16 hours of job-protected leave in one year if the employee has to leave work due to an evacuation of his or her child's school or day care facility due to a bomb threat or other threat of violence.

Senate Bill 364, An Act Concerning Access to Legal Counsel for Indigent Individuals in Certain Civil Matters involving Allegations of Abuse

Senate Bill 364 proposes to establish a one-year pilot program beginning January 1, 2018 to provide legal counsel to indigent individuals in proceedings involving alleged domestic violence and a resulting application for a civil restraining order under 46b-15, in at least three to-be-determined judicial districts in the state. This pilot would deliver critical legal representation to both domestic violence victims and restraining order respondents who cannot afford representation.

The pilot program would be funded by up to $1 million of funds received by the Attorney General during the fiscal year ending June 30, 2018, in connection with the settlement of or

damages collected in any lawsuit to which the state is a party. In a typical year, the Attorney General collects over $200 million dollars in this manner that are deposited into the General Fund. After the funds for this pilot are deposited into the General Fund, they would be credited to the Judicial Branch, which would provide up to $500,000 each to the Division of Public Defender Services, who would represent respondents who are indigent and request representation, and to the nonprofit legal aid organizations contracting with the Judicial Branch to participate in the pilot program, who would represent the applicants who are indigent and request representation.

This bill is supported by the Connecticut Judicial Branch, the Connecticut Bar Association (CBA), the Connecticut Bar Foundation, and the Office of the Attorney General. It was recommended by the excellent "Task Force to Improve Access to Legal Counsel in Civil Matters", which was created by Special Act 16-19 last year, and was co-chaired by Timothy Fisher, Dean of the UCONN Law School, and William Clendenen, past President of the CBA. The Task Force submitted an excellent report to this committee last December with a series of findings and recommendations regarding steps the General Assembly can take to secure meaningful access to legal representation for Connecticut residents.

This bill was the initial recommendation of the Task Force. I strongly agree with them, and the Judicial Branch, that while it is critical that we as a state do more to ensure that our residents have access to affordable legal representation, the area of domestic violence in general, and civil restraining orders in particular, likely represents the most urgent need for measures that help ensure that lawyers are part of these proceedings. Applicants for restraining orders may be facing life threatening domestic violence. Respondents to those applied-for orders face consequences that, while civil in nature from a legal perspective, are extremely significant limitations on many aspects of their lives. Therefore, it is imperative that the Court gets it right in these cases. If protection is needed, it must be given. If there are not actual grounds under the law, the respondent should not be restrained. In my opinion, there is no doubt whatsoever that justice, and our constituents, would best be served if attorneys were part of restraining order proceedings.

And yet, according to the Task Force and Judicial Branch, in 85 percent of family law cases, at least one party is self-represented. These cases include proceedings in which applicants are seeking a restraining order to protect themselves and their children from an alleged abuser and in which parties must defend themselves against allegations of domestic abuse. Without legal representation, restraining order applicants are left to navigate the complicated legal system on their own, **often ill-equipped to advocate successfully for themselves and present their case for the relief they are seeking**. As a result, victims may be denied restraining orders, putting them and their families in grave danger. Similarly, unrepresented respondents may be in danger of being unfairly subject to a restraining order because of their own difficulties with the intricacies of the legal process.

I completely understand that devoting a million dollars to this pilot program is a not insignificant amount of money given our budget deficit. However, I absolutely believe that it is something that we must do. Frankly, I believe that this issue rises to a level of critical importance that would lend itself to a statewide, blanket program of guaranteed access to counsel in 46b-15 proceedings for those who are indigent. However, given the limited funding that is even potentially available, S.B. 364 proposes a pilot program limited to 3 courthouses.

Two final points: first, the pilot program, and any funding we spend on this initiative whatsoever, could easily pay for itself by preventing certain domestic violence incidents, saving the state significant funding spent due its tragic results. The Task Force reported that "direct costs of domestic violence on both public and private entities include medical and mental health costs, costs to the State when children are placed in foster care because of domestic violence in the home, and employer costs from absenteeism and reduced productivity." Studies in our neigH.B. oring states found that providing legal counsel to domestic violence victims in New York would save the state $85 million annually, and that "each $1 of investment in civil legal services [in Massachusetts] saves at least the same amount in medical costs borne by the State based on the current Medicare reimbursement rates." Indeed, New York has already implemented a right to counsel program. As in other states, the proposed pilot program has the potential to save the state money.

Finally, it is important to remember that we already provide the right to state-funded counsel in certain civil proceedings, under at least twenty different statutes. While most of these instances involve some action being taken by the state, at least one does not. Under 46b-160(e)(2), the respondent in a civil proceeding to establish paternity is informed by his notice that "he has the right to be represented by an attorney, and if he is indigent, the court will appoint an attorney for him." Thus, the proposal contained in S.B. 364 does not wholly break new ground in our legal system. It is a necessary step forward to improve the quality and protective nature of Connecticut restraining order proceedings under 46b-15.

Thank you for your time, and your consideration of these two important bills.

SENATOR MARTIN M. LOONEY
PRESIDENT PRO TEMPORE

Eleventh District
New Haven, Hamden & North Haven

State of Connecticut
SENATE

State Capitol
Hartford, Connecticut 06106-1591
132 Fort Hale Road
New Haven, Connecticut 06512
Home: 203-468-8829
Capitol: 860-240-8600
Toll-free: 1-800-842-1420
www.SenatorLooney.cga.ct.gov

TESTIMONY BEFORE THE LABOR AND PUBLIC EMPLOYEES COMMITTEE
Senator Martin M. Looney
January 31, 2017

In Support of H.B. 5210, An Act Concerning Various Pay Equity and Fairness Matters

Sen Gomes, Representative Porter and members of the Labor and Public Employees Committee I would like to express my support for H.B. 5210 AN ACT CONCERNING VARIOUS PAY EQUITY AND FAIRNESS MATTERS

This legislation would strengthen provisions of Connecticut law concerning pay equity and fairness in an innovative way by addressing certain practices which unintentionally contribute to wage discrimination. In Connecticut, women working full time are paid 83 cents for every dollar paid to men working full time. The pay gap is even greater for African-American and Latina women[10]. This pay disparity has an adverse effect not only on the women so affected but also on our entire society. Wage equality is not just a woman's issue, it is an economic issue, and it affects the health and well-being of us all. Paying women the wages they deserve will increase household income, consumer spending, and economic growth.

Since women generally earn less than men, an employer requiring a woman to submit a salary history can inadvertently add to this gender gap because the man's prior salary would most likely be higher. Thus if the new employer planned to offer a percentage higher than the previous employment, the new employer would be continuing to contribute to the gender wage gap.

This bill, by prohibiting a potential employer from asking about wage and salary history and preventing the employer from using the prior wage and salary history as a defense in an equal pay lawsuit, will prevent certain instances of institutional wage discrimination and thus help create a more fair and equal society.

[10] NATIONAL PARTNERSHIP FOR WOMEN & FAMILIES fact sheet

In addition, this bill would protect employees from adverse adjustments of seniority pay differentials for time spent on leave due to pregnancy-related conditions or family and medical leave. An employee should not have to choose between health of self and family and employment success.

Thank you for hearing this important legislation.

SENATOR MARTIN M. LOONEY
PRESIDENT PRO TEMPORE

Eleventh District
New Haven, Hamden & North Haven

State of Connecticut
SENATE

State Capitol
Hartford, Connecticut 06106-1591
132 Fort Hale Road
New Haven, Connecticut 06512
Home: 203-468-8829
Capitol: 860-240-8600
Toll-free: 1-800-842-1420
www.SenatorLooney.cga.ct.gov

TESTIMONY BEFORE THE LABOR AND PUBLIC EMPLOYEES COMMITTEE
Senator Martin M. Looney
February 16, 2017

In Support of S.B. 1 and H.B. 5210, An Act Creating a Paid Family and Medical Leave System in the State, S.B. 13, An Act Concerning the Minimum Fair Wage, and H.B. 6208, An Act Increasing the Minimum Wage

Good afternoon, Senator Gomes, Senator Miner, Representative Porter, and members of the Labor and Public Employees Committee. Thank you for the opportunity to testify today in strong support of four important bills, Senate Bill 1, An Act Creating a Paid Family and Medical Leave System in the State; House Bill 6212, An Act Creating a Paid Family and Medical Leave System in the State; Senate Bill 13, An Act Concerning the Minimum Fair Wage; and House Bill 6208, An Act Increasing the Minimum Wage.

<u>Senate Bill 1, An Act Creating a Paid Family and Medical Leave System in the State and House Bill 6212, An Act Creating a Paid Family and Medical Leave System in the State</u>

Senate Bill 1 and House Bill 6212 each propose to establish a system that provides critically needed *paid* family and medical leave benefits to individuals employed in Connecticut. The United States is very much in the minority of developed nations that do not explicitly provide employees with the ability to take such paid leave. Individual states, on the other hand, have the authority to require this benefit to be provided to employees, and I believe we have an obligation to do so. However, as with bills on this subject that have been offered over the past two legislative sessions, I believe that the paid salary replacement benefits provided for in Senate Bill 1 should be *employee funded*, as they are in most other states that have already dealt with this issue. An employee would contribute a very small amount of his or her pay – likely less than one half of one percent – into a fund administered by the State. Thereafter, in the event the employee needs to take family or medical leave for either a serious medical condition of his or her own or to care for either a close family member suffering from such a serious medical condition or a

new baby, he or she would be eligible for *paid* benefits out of the fund in a manner laid out in the bill.

According to the 2016 Institute for Women's Policy Research (IWPR) report entitled "Implementing Paid Family Medical Leave Insurance [in] Connecticut" (the "Implementation Report"), "only 13 percent of workers have access to paid family leave through their employers and fewer than 40 percent have access to personal medical leave through employer-provided short-term disability insurance." According to the Implementation Report, for families with incomes below $25,000, 62.7 percent of leaves taken are uncompensated. While some Connecticut workers may be eligible for 12 weeks of unpaid, job-protected leave per year under the federal Family and Medical Leave Act (FMLA), many Connecticut employees are ineligible for this unpaid benefit. Even for those that are eligible, they often do not take the leave because they simply cannot afford to go without income even for a short period of time.

Given the real world make-up of our modern day workforce, filled with many, many constituents of ours who are working parents with young children, or who are working full time while taking care of aging parents, I strongly believe that providing for a reasonable level of paid family and medical leave is not just a humane adjustment – it is also essential to the health and well-being of our workers. The inability of employees to take paid time off to care for loved ones or themselves can leave them with no choice but to abandon family members in their time of need or neglect their own health. Working families should not have to face the prospect of economic ruin when presented with serious family needs such as caring for a newborn, spouse, or parent.

Providing family and medical leave benefits is critical to the health of Connecticut children and families. The Implementation Report found that "[74] percent of Connecticut children . . . live in households where all parents work." A lack of paid family and medical leave means the parents of these 550,000 children are unlikely to have the ability to take time from work to care for these children without a severe financial loss. Time spent with newborn and young children is necessary for their health, making access to parental leave an important indicator of child well-being. The excellent 2014 Family Medical Leave Insurance Taskforce report submitted to this Committee (the "Taskforce Report"), states that "[s]ubstantial research has found negative associations for children of mothers who return to work shortly after childbirth, in particular to full-time work." It has been found that when a mother takes at least 12 weeks of paid leave, the infant is "more likely to receive medical checkups, to breastfeed, and to get critical immunizations," according to the Taskforce Report.

In addition to parental leave, a large, growing number of our constituents face the often overwhelming burden of caregiving for adult family members. With roughly 777,000 people over age 60 in our state, many workers are finding themselves caring for both children and aging

parents. This extra caregiving burden can lead to a loss of more than $300,000 in wages and retirement savings for workers over the age of 50, according to the Implementation Report.

According to the Taskforce Report, "[n]early 62% of workers aged 45 to 74 provide care for a family member: 37% for a spouse or partner, 16% for a parent or parent-in-law, 6% for another adult relative…In a 2014 survey conducted by the AARP, over half of Connecticut residents age 40 and older say they have provided care…on an unpaid basis for an adult loved one who is ill, frail, elderly or has a disability…the typical family caregiver in Connecticut is a married woman in her 50s…they are just as likely to be working full-time (43%) as their non-caregiving counterparts (46%), and about 15% say they have taken more than a week off to care for a family member in the past year."

These are the realities of today's workforce. There are many more working parents and working adult caregivers than in the past. Therefore, given that these employees are more susceptible to being less productive or even leaving the workforce entirely due to these responsibilities, it is becoming clearer and clearer that a reasonable paid family and medical leave system, which is funded by employee contributions, would likely not be detrimental to Connecticut businesses. According to the Taskforce Report:

> A paid leave program can benefit employers by improving workers' attendance, productivity, morale, and reducing turnover. According to the U.S. Census Bureau, 80% of mothers who returned to work within 12 months of their child's birth returned to the same employer, and 69% had no change in pay or hours worked. After California implemented its paid leave program, it found an 89% retention rate for low-wage workers and an 81% retention rate for high-wage workers…Employers often express concern about costs and other burdens associated with employees taking FMLA leave. However, a substantial number of employers report that complying with FMLA has a positive or neutral effect on productivity…profitability…growth…and employee morale…After California implemented paid FMLA, it found similar results in its employer survey: 89% reported it had a "positive" or "no noticeable" effect on their company's productivity. Small employers responded more positively than large employers: 91% reported that it had [a] "positive" or "no noticeable" effect on profitability/performance, turnover, and worker morale…Offering a paid family leave plan could also assist businesses in providing benefits that they are not able to offer or are currently struggling to provide.

Because it is so necessary and beneficial to our modern workforce while actually being a positive for employers, the most recent paid family leave legislation – the most comprehensive of any state in the nation – passed in a nearly unanimous, bipartisan

fashion in our neigH.B. oring state of New York in April 2016. The bipartisan New York law provides, beginning on January 1, 2018, virtually all employees in the State of New York with 8 weeks of job-protected, paid family leave, at 50 percent of their weekly pay, up to a maximum of around $650, which is half of the average weekly pay in the state. The law adds an additional two weeks of paid leave in 2019 and 2021, at higher pay levels, capping off in 2021 at 12 weeks of job-protected family leave at two thirds pay. Notably, this is on top of the already existing paid medical leave benefit provided in the State of New York, up to 26 weeks per year, albeit non-job-protected unless covered by the federal FMLA.

In addition to New York State, three other states, including our neigH.B. ors Rhode Island and New Jersey, in addition to the District of Columbia, provide paid family medical leave to their workers. New Jersey began providing 6 weeks of non-job-protected paid family leave benefits in 2009, in addition to the 26 weeks of paid medical leave they have been providing for decades. Rhode Island enacted 4 weeks of job-protected paid family leave benefits in 2013, in addition to the 30 weeks of paid medical leave they have been providing for decades. California also provides 6 weeks of non-job-protected paid family leave, in addition to the 52 weeks of paid medical leave they have been providing for decades.

Looking at the family leave benefits provided in other states, it is obvious that there is a wide range of benefit levels offered. There are differing numbers of weeks and differing pay levels. Rhode Island and New York provide job protection for family leave at employers of all sizes, while New Jersey and California only provide job protection in accordance with the federal FMLA. These are the decisions that will be made when crafting the version of Senate Bill 1 to be filed by this Committee and, I hope, favorably reported. I strongly believe that we can – and must – work together to pass a strong bill this year that finally provides a reasonable level of economic security to Connecticut workers who either stay home with their new children, take time off to care for a seriously ill loved one, or become seriously ill themselves.

<u>Senate Bill 13, An Act Concerning the Minimum Fair Wage and House Bill 6208, An Act Increasing the Minimum Wage</u>

Both Senate Bill 13, An Act Concerning the Minimum Fair Wage, and House Bill 6208, An Act Increasing the Minimum Wage have the same effect: to increase the minimum wage in Connecticut gradually, over the course of the next five years, from its current level of $10.10 per hour up to an ultimate fixed level of $15.00 per hour in the year 2022. Thereafter, the minimum wage would be indexed to rise at the rate of inflation.

As policymakers, we are all well aware that hundreds of thousands of Connecticut workers are struggling, each and every day, to support themselves and their families. According to the

excellent report delivered to this Committee this past December by the Connecticut Low Wage Employer Advisory Board (the "Report"), at least 20 percent of Connecticut's workforce – at least 336,000 workers – earn less than $15 an hour. In some of our poorest cities and towns, the percentages are far greater; in Hartford, for example, it is estimated that the majority of workers, 53 percent, earn less than that amount. Moreover, according to the Report, the sub-$15 workforce is disproportionately female, African American and Latino. A study by the Federal Reserve Bank of Boston that is referenced in the Report estimates that in our state 33.7 percent of female workers, 43.1 percent of African American workers, and 52.6 percent of Latino workers earn less than $15 an hour. Another study referenced in the Report paints a far starker picture when it comes to female workers in Connecticut: according to a study conducted jointly by the Economic Policy Institute and CT Voices for Children, ***women comprise 58.4 percent of Connecticut workers who would directly benefit from an increase in the minimum wage to $15 per hour.***

The Report further illustrates that an oft-cited misconception about minimum wage workers in Connecticut – that most are teens looking for spending money – is untrue. Instead, very significantly, ***the Report notes that the majority of Connecticut workers who earn less than $15 per hour are actually the primary breadwinners in their families***. It states that:

> According to the Federal Reserve study, "the typical worker making less than $15.00 per hour is in her mid-30's." The CT Voices/EPI analysis found that 90 percent of the workers who would benefit from a minimum wage increase to $15 are 20 years of age or older. And according to the Federal Reserve study, **32.7 percent—nearly one-third – of sub-$15 workers in Connecticut are parents with children**…Finally, contrary to the notion of minimum wage earners as teenagers living with their parents and earning pocket money, the Federal Reserve study also found that a majority of sub-$15 workers are the primary earners in their families.

(Emphasis provided).

It is thus easy to understand that requiring a sufficient minimum wage in the State of Connecticut is not a luxury. It is not a mere convenience. Instead, it is a virtually existential issue for thousands upon thousands of Connecticut families – a critically important issue for the basic health and well-being of their children and themselves. For the parents trying to make ends meet, for the single moms working two or three jobs just to provide basic necessities for their children, there may be no more important, pressing issue than earning a fair, adequate and "livable" wage. We simply cannot turn our backs on these Connecticut citizens. We must do all we reasonably can to help them support themselves and their families.

Connecticut has fallen behind the curve in enabling our residents to earn a living wage. Since 1979, the value of the state minimum wage has decreased despite an increase in the cost of living and employee productivity. A 2012 Connecticut Voices for Children report found that, though the minimum wage in Connecticut increased 184 percent in a little over three decades, from $2.91 in 1979 to $8.25 in 2012, the actual value of the minimum wage decreased by 9 percent. We recently increased the minimum wage to $10.10 in an effort to catch up with the rising cost of living, but *a minimum wage of $10.10 still has less relative value than it did in 1979*. By taking this next step to increase the minimum wage to $15, we would be closer to catching up with the cost of living, allowing our low wage workers to support themselves and their families.

It is well and troublingly illustrated in the Report that at its current $10.10 level, Connecticut's minimum wage "is insufficient to allow Connecticut's low-wage workers to live with even minimal security or dignity." It is also well illustrated that the eventual $15 an hour recommended wage itself is barely adequate, with the Report explaining at length that "a 'basic economic security' income, 'self-sufficiency' income, or 'living wage' in Connecticut – an income adequate to support a worker's basic needs at a modest standard of living – requires a minimum wage higher than $15 per hour."

However, *based on a balancing test between the needs of Connecticut citizens and the reasonable requirements to be placed on Connecticut employers*, the Low Wage Employer Advisory Board, after almost a year of gathering information and testimony, recommended to this Committee that the ultimate level of the Connecticut minimum wage be $15 an hour, and that this increase from $10.10 be implemented gradually, over 5 years. Thus, the bills being heard today adopt this recommended approach.

This gradual increase to $15 is also in keeping with other states and cities throughout the nation. *New York State has already passed legislation – in an overwhelmingly bipartisan manner -- to incrementally raise its minimum wage to $15 by 2022 in the highest cost areas of the state*, with fast food workers in New York City actually going up to $15 almost immediately, in 2018. California and Washington, D.C. also have enacted gradual increases to $15, as has the city of Seattle, Washington. Moreover, many other states, while not yet slated to go to $15, are above $10.10 already, and slated to go higher. Our neigH.B. or Massachusetts currently has a minimum wage of $11.00, and Mayor Walsh of Boston is advocating strongly for the City of Boston to go up to $15. Oregon is slated to go up to $13.50 by 2022. Maine, Arizona and Colorado are slated to go up to $12.00 by 2020.

The Report also concludes something that I believe is key: a gradual increase in the minimum wage as included in the bills being heard today, while providing an incalculable benefit to parents and children throughout the state of Connecticut, will not hurt the economy of our state. Indeed, it likely will be a benefit to our overall economy.

In past years, arguments have been made to this Committee that raising Connecticut's minimum wage would be a calamitous event for Connecticut's economy. I'm sure that many of these same arguments will be raised today. However, the Report discusses numerous studies providing evidence that gradually increasing Connecticut's minimum wage would not hurt Connecticut's overall economy and actually likely would have a positive effect on Connecticut's overall economy. Nor would such a gradual rise in the minimum wage result in a decrease in employment throughout the state. The Report discusses evidence that:

- Increasing the minimum wage will grow the Connecticut economy in ways that would broadly benefit the state and its residents;
- Raising the minimum wage will create fiscal benefits and cost savings for employers;
- Studies show that businesses will benefit from reduced turnover and costs of recruitment, increased productivity and efficiency, and increased profit from additional sales due to increased spending by low-income working families;
- Historical increases in the minimum wage have had little or no negative effect on the employment of minimum-wage workers, even during times of weakness in the labor market;
- Though wage increases may incentivize automation, studies show that this creates just as many jobs as it replaces;
- An increase in the minimum wage may result in additional state revenue from income and sales taxes while reducing spending for public assistance programs; and
- Increased earnings and other benefits to businesses, workers, and consumers outweigh any negative effects of a minimum wage increase.

I urge you to support S.B. 13 and H.B. 6208, critically important pieces of legislation that I believe will greatly enhance the quality of life for Connecticut residents while not hurting the economic well-being of our state. Thank you for your consideration.

SENATOR MARTIN M. LOONEY
President Pro Tempore

Eleventh District
New Haven, Hamden & North Haven

State of Connecticut
SENATE

State Capitol
Hartford, Connecticut 06106-1591

132 Fort Hale Road
New Haven, Connecticut 06512

Home: 203-468-8829
Capitol: 860-240-8600
Toll-free: 1-800-842-1420

www.SenatorLooney.cga.ct.gov

TESTIMONY BEFORE THE PLANNING AND DEVELOPMENT COMMITTEE
Senator Martin M. Looney
February 15, 2017

In Support of S.B. 458 An Act Concerning the Municipal Fiscal Year

Good morning Sen. Cassano, Sen. Logan and Rep. Lamar and members of the Planning and Development Committee. I would like to express my support for S.B. 458 AN ACT CONCERNING THE MUNICIPAL FISCAL YEAR. This legislation would ensure that municipalities would know the specific state funding levels that they will receive when they are creating their municipal budgets. We often hear from our cities and towns that the uncertainty in state funding levels makes accurate municipal budgeting nearly impossible. It is easy to see that this is true since the municipal fiscal year is currently the same as the state fiscal year. Creating a different fiscal year for municipalities would seem to be a common sense solution to this problem. Another option that could be used to solve this problem would be to pass legislation that would enable municipalities to suspend municipal charter provisions or ordinances that set deadlines for municipal budgets at a date prior to the end of the General Assembly session. This would allow the municipalities to have more accurate knowledge of state funding levels before crafting their final budgets. I look forward to working with you to find a solution to this critical problem and I thank you for hearing this important legislation.

SENATOR MARTIN M. LOONEY
President Pro Tempore

Eleventh District
New Haven, Hamden & North Haven

State of Connecticut
SENATE

State Capitol
Hartford, Connecticut 06106-1591

132 Fort Hale Road
New Haven, Connecticut 06512

Home: 203-468-8829
Capitol: 860-240-8600
Toll-free: 1-800-842-1420

www.SenatorLooney.cga.ct.gov

TESTIMONY BEFORE THE PLANNING AND DEVELOPMENT COMMITTEE
Senator Martin M. Looney
February 22, 2017

In Support of S.B. 115 An Act Establishing a Pilot Program to Identify Residents with Unmet Needs Based on Unpaid Water Utility Bills

Good morning Sen. Cassano, Sen. Logan, and Rep. Lemar, I would like to express my support for S.B. 115 AN ACT ESTABLISHING A PILOT PROGRAM TO IDENTIFY RESIDENTS WITH UNMET NEEDS BASED ON UNPAID WATER UTILITY BILLS. This bill would create a pilot program to identify residents with unpaid water bills as possibly being in need of other assistance as well.

Last year, S.B. 420 (File 518) would have required the Office of Policy and Management (OPM) to establish a pilot program to identify residents with unmet needs based on unpaid water utility bills for the purpose of implementing programs to assist such residents in meeting their needs. I realize that OPM opposed this legislation and I would be happy to work with OPM on other methods to achieve this goal. It might be possible to use Operation Fuel as a model. It would seem that an unpaid water bill is likely to signal a family in trouble. Water is a necessity; it is not optional. It is not cable television. Instigating collection actions against a resident with an unpaid water bill will only exacerbate an already difficult financial status.

I am attaching an article from Governing magazine that describes similar programs in other states. These voluntary programs generally identify and contact residents with unpaid water bills. These residents are then asked to participate in a program which offers financial counseling and discovers what other assistance programs (such as food stamps, Medicaid, childcare assistance, and energy assistance) for which the resident is eligible. This counseling is designed to improve the financial stability of the resident. The programs usually also offer a smaller down payment to have the water turned back on and an extended timeframe to repay the outstanding debt. I believe a program such as this would assist Connecticut families who are in dire financial circumstances and help them get back to greater financial health.

Allowing Connecticut municipalities to create such a pilot program would offer another method of recognizing residents who may be in critical need of services but who may not know how to access them. Thank you for hearing this important legislation.

SENATOR MARTIN M. LOONEY
PRESIDENT PRO TEMPORE

Eleventh District
New Haven, Hamden & North Haven

State of Connecticut
SENATE

State Capitol
Hartford, Connecticut 06106-1591
132 Fort Hale Road
New Haven, Connecticut 06512
Home: 203-468-8829
Capitol: 860-240-8600
Toll-free: 1-800-842-1420
www.SenatorLooney.cga.ct.gov

TESTIMONY BEFORE THE PLANNING AND DEVELOPMENT COMMITTEE
Senator Martin M. Looney
March 3, 2017

In Support of S.B. 602, An Act Reestablishing the Task Force on the Humane Treatment of Animals in Municipal Animal Shelters

Good morning Sen. Cassano, Sen. Logan, and Rep. Lemar, I would like to express my support for S.B. 602 AN ACT REESTABLISHING THE TASK FORCE ON THE HUMANE TREATMENT OF ANIMALS IN MUNICIPAL ANIMAL SHELTERS.

In PA 14-205, the General Assembly created a task force to consider issues surrounding the humane treatment of animals in municipal shelters. The Task force worked diligently, but believes that its work is not finished. The task force has continued to meet on the range of issues involved in ensuring high quality municipal animal shelters and it would like to be formally re-established so that it can officially offer its advice to the General Assembly. I would encourage you to include the following elements in the legislation:

Re-commissioning the State Task Force on Companion Animal Welfare to continue working on initiatives designed to promote and enhance animal welfare across the state by delivering recommendations to the state annually to include but not be limited to:

a. Establishing conditions to be met prior to a licensed veterinarian euthanizing a dog or other animal captured by an animal control officer and not claimed by and released to the owner or keeper purchased as a pet.
b. Requiring the spaying and neutering of all adoptable dogs and cats as part of the adoption process.
c. Reviewing the current language in our state laws regarding Breeder Permit Licensing for improvements.
d. Encouraging regionalization of Municipal Animal Shelters with recommendations on how to incentivize municipalities to do so.

Thank you for hearing this legislation today.

SENATOR MARTIN M. LOONEY
President Pro Tempore

Eleventh District
New Haven, Hamden & North Haven

State of Connecticut
SENATE

State Capitol
Hartford, Connecticut 06106-1591

132 Fort Hale Road
New Haven, Connecticut 06512

Home: 203-468-8829
Capitol: 860-240-8600
Toll-free: 1-800-842-1420

www.SenatorLooney.cga.ct.gov

TESTIMONY BEFORE THE PUBLIC HEALTH COMMITTEE
Senator Martin M. Looney
February 10, 2017

In support of S.B. 247, An Act Permitting The Health Care Cabinet To Study And Recommend Methods To Create A Health Care Cost Growth Target

Senator Gerratana, Senator Somers, and Representative Steinberg I would like to express my support for S.B. 247, An Act Permitting The Health Care Cabinet To Study And Recommend Methods To Create A Health Care Cost Growth Target. In 2015 the General Assembly passed Public Act 15-146 which included a study to provide recommendations to improve Connecticut's healthcare system by improving quality and reducing cost.

Among the recommendations of the study (which was overseen by the Governor's Healthcare Cabinet) were some items that were included in the Governor's budget such as the creation of the Office of Health Strategy. In addition, the study suggested that the Governor's Health Care Cabinet work to define methods for the state to create a health care cost growth target. There are a number of other states (including Massachusetts and Maryland) that are already setting these targets and for some of these states the rate of healthcare cost growth has declined significantly. I strongly support the concept of creating a cost growth target for our state and I believe that allowing the Health Care Cabinet to study the best method to create this target is a sensible step forward.

In addition, I have co-introduced a similar bill with Senator Fasano and I will provide more detailed testimony on that legislation.

Thank you for hearing this important bill.

SENATOR MARTIN M. LOONEY
President Pro Tempore

Eleventh District
New Haven, Hamden & North Haven

State of Connecticut
SENATE

State Capitol
Hartford, Connecticut 06106-1591

132 Fort Hale Road
New Haven, Connecticut 06512

Home: 203-468-8829
Capitol: 860-240-8600
Toll-free: 1-800-842-1420

www.SenatorLooney.cga.ct.gov

TESTIMONY BEFORE THE PUBLIC HEALTH COMMITTEE
Senator Martin M. Looney
February 17, 2017

In support of S.B. 3, An Act Concerning the Donation of Organs and Bone Marrow

Good morning, Senator Gerratana, Senator Somers, Representative Steinberg, and members of the Public Health Committee. Thank you for the opportunity to testify today in support of Senate Bill 3, An Act Concerning the Donation of Organs and Bone Marrow.

As of 6:00 pm on February 15, there were 118,591 people in the United States who are on the national transplant waiting list. These are neighbors, family members, children, who are in need of a *lifesaving* organ transplant. Every 10 minutes, of every day, someone new is added to the national list. The list has grown by almost 50% in just the last 12 years, from a little over 80,000 individuals in need in 2003. The supply of transplantable organs is simply not keeping up with the growing demand.

Tragically, on average 22 people die each day while waiting for an organ transplant.

In 2016, around 33,000 transplants were performed. In the first month and a half of 2017, 2802 organ transplants were performed. Of the 2802 lifesaving organs that were transplanted between January 1 and February 15, 2345 came from deceased donors, and just 457 came from living donors. Just this past December, I was incredibly fortunate enough to receive a kidney from a living donor, my friend Superior Court Judge Brian Fischer.

I am profoundly aware of just how fortunate I was, and how exceedingly rare it is to receive an organ from a living donor. The process that a living donor must go through, just to find out if he or she is a match, is time consuming. Most times, the understanding and consent of the donor's family is an indispensable part of the process; personally, I am equally grateful to Judge Fischer's wife, Katie Fischer, for agreeing with him that he should make the sacrifice for me that he did.

Living donors not only have to go through a major surgical procedure; they also then have to recover. They will likely miss a not insignificant time from work, and likely suffer a loss of income. They risk complications from the surgery, and obviously have greater medical costs in the time following the surgery than they would have otherwise, even if there are no complications.

These recovery costs, as well as travel, lodging, etc., can be very expensive for a living organ donor, in addition to potential lost income from not being able to work. There are different estimates as to the average monetary cost, ranging from a couple of thousand up to twenty thousand dollars of expense and lost income for each donor.

It is illegal under federal law for someone to receive compensation for donating an organ. Because of this, there are no laws anywhere offering monetary incentives to anyone to become a deceased donor. However, there are many states that legally offer living donors a tax deduction for the necessary expenses they incur. Currently, 17 states, including our neighbors New York, Massachusetts and Rhode island, offer a personal income tax deduction, ranging between $5,000 and $10,000 (with the vast majority at $10,000), for the unreimbursed cost of travel, lodging and lost wages for organ or bone marrow donation. Two states, Utah and Louisiana, actually offer a personal income tax credit (Utah is up to $10,000, Louisiana up to $7,200). Senate Bill 3 proposes that Connecticut join this cohort of states, and establish a $10,000 personal income tax deduction for the unreimbursed cost of travel, lodging and lost wages incurred by an organ donor, beginning with donations that occur on or after January 1, 2017 (thus not including Judge Fischer). It is the right thing to do.

In addition to these 19 states that offer tax deductions and credits, both the federal government and 27 states other than Connecticut (including our neighbors New York, Massachusetts and Rhode Island) also offer their federal and state employees up to 30 paid days off, on top of their regular vacation and sick time, so they can recover after donating an organ, as well as up to 7 paid days off so they can recover after donating bone marrow. Senate Bill 3 similarly proposes that Connecticut join the majority of states across our country, and allow state employees to take up to 30 paid days off after an organ donation, and up to 7 paid days off after donating bone marrow, on top of the employees' preexisting sick time or vacation time.

I hope that you will join me in supporting this legislation, which would help ease the burden for those who are inclined to become life-saving, living organ donors. Thank you for your consideration.

SENATOR MARTIN M. LOONEY
PRESIDENT PRO TEMPORE

Eleventh District
New Haven, Hamden & North Haven

State of Connecticut
SENATE

State Capitol
Hartford, Connecticut 06106-1591
132 Fort Hale Road
New Haven, Connecticut 06512
Home: 203-468-8829
Capitol: 860-240-8600
Toll-free: 1-800-842-1420
www.SenatorLooney.cga.ct.gov

TESTIMONY BEFORE THE PUBLIC HEALTH COMMITTEE
Senator Martin M. Looney
February 17, 2017

In Support of S.B. 438, An Act Assisting Community Health Care Providers, S.B. 447, An Act Concerning the Bidirectional Exchange of Patient Electronic Health Records, S.B. 451, An Act Protecting Patients From Unreasonable Medical Bills, S.B. 443, An Act Concerning the Monitoring of Health Care Trends by the Attorney General, S.B. 444, An Act Requiring the Health Care Cabinet to Study Establishing a Health Care Cost Growth Target and Report on Total State-Wide Health Care Spending, S.B. 437, An Act Increasing, Engagement on the State Health Information Technology Advisory Council, S.B. 316, An Act Prohibiting Health Care Providers from Referring Patients to Certain Health Care Facilities, S.B. 248, An Act Requiring a Certificate of Need for the Reduction of Services at a Hospital, S.B. 250, An Act Concerning Clinical Placements for In-State Medical Students, H.B. 6496, An Act Concerning Clinical Training Opportunities with Connecticut Hospitals

Good morning Senator Gerratana, Senator Somers, and Representative Steinberg I would like to express my support for eight bills on the agenda today. The first six of these are bipartisan bills that I am co-introducing with Sen. Fasano

S.B. 438 AN ACT ASSISTING COMMUNITY HEALTH CARE PROVIDERS would facilitate physicians' use of the Small Business Express (SBE) program. When the Roundtable for Hospitals and Healthcare held hearings which led to PA 15-146 it became clear that one of the factors that made it difficult for physicians to remain independent was a lack of available financing. These independent physicians are often able to offer patients high quality care at an affordable rate and so it behooves us to encourage these physicians to remain independent. We have worked to offer several alternative methods for these practices and ensuring access to the SBE program is simply adding another option. You might also consider including some of the recommendations made by CHEFA's report on assisting community hospitals.

S.B. 447 AN ACT CONCERNING THE BIDIRECTIONAL EXCHANGE OF PATIENT ELECTRONIC HEALTH RECORDS. Similarly, PA 15-146 addressed the issue of information blocking in regard to patient electronic medical records. From reports we have received from

constituents it appears that this language needs some strengthening. I am including a letter from a non-hospital owned radiology center in my district which explains the continued struggle to achieve bidirectional information flow with a local hospital. In addition there are several other small changes that would improve the effect of PA 15-146 that I look forward to working with you to change.

S.B. 451 AN ACT PROTECTING PATIENTS FROM UNREASONABLE MEDICAL BILLS. This bill would tighten up the regulation of facility fees in PA 15-146. It appears that there are certain practices that while they are "affiliated" rather than owned by a hospital nonetheless bill under the hospital's tax ID# and thus charge facility fees. The definition of "hospital based facility" should be expanded to include these entities to ensure that they send the required notices to patients regarding facility fees. Some entities that do send notices are sending notices with an absurdly broad range of possible fees (e.g. between $50 and $1000). The law needs to be clear that the notice must have an accurate statement about the facility fee. In addition, the definition of "Emergency Department" should be made consistent with the definition under federal regulations.

S.B. 443 AN ACT CONCERNING THE MONITORING OF HEALTH CARE TRENDS BY THE ATTORNEY GENERAL. This bill is taken from the recommendations from the Bailit study that was required by PA 15-146. It would increase the ability of the Attorney General to monitor health care market trends by collecting information from any health care provider, health care provider organization or private or public health care payer through document production, interrogatories and testimony under oath regarding health care cost, cost trends and factors that contribute to cost growth in the state's health care system and the relationship between provider costs and payer premium rates. In order to regulate health policy in a rational way, the state needs information about the healthcare system. The Attorney General's office is well versed and well respected in this arena and will be an invaluable ally and source of information.

S.B. 444 AN ACT REQUIRING THE HEALTH CARE CABINET TO STUDY ESTABLISHING A HEALTH CARE COST GROWTH TARGET AND REPORT ON TOTAL STATE-WIDE HEALTH CARE SPENDING is another recommendation from the Bailit report to have the Health Care Cabinet study methods of establishing a health care cost growth target and to monitor and report on total state-wide health care spending. There are a number of other states (including Massachusetts and Maryland) that are already setting these targets and for some of these states the rate of healthcare cost growth has declined significantly. I strongly support the concept of creating a cost growth target for our state and I believe that allowing the Health Care Cabinet to study the best method to create this target is a sensible step forward
Among the recommendations of the study (which was overseen by the Governor's Healthcare Cabinet) were some items that were included in the Governor's budget such as the creation of the Office of Health Strategy (OHS). The Cabinet may want to share the work on this project with

OHS . I believe the bill should be permissive rather than mandatory for the Cabinet and allow the cabinet to work jointly with OHS.

S.B. 437 AN ACT INCREASING ENGAGEMENT ON THE STATE HEALTH INFORMATION TECHNOLOGY ADVISORY COUNCIL. This bill would correct an oversight in the original formation of the Health Information Technology Advisory Committee by adding two members: the Comptroller and a representative of the health insurance industry.

S.B. 316 AN ACT PROHIBITING HEALTH CARE PROVIDERS FROM REFERRING PATIENTS TO CERTAIN HEALTH CARE FACILITIES. This bill addresses the situation in which providers (or family members) have an ownership or beneficial interest in an entity to which the provider refers patients. Maryland currently has a very strong law which regulates this conduct. I am enclosing information on that law as well as language suggested by a physician who was a member of the CON Task Force. I realize that self-referral is mentioned in the bill from the CON Task Force, but I believe stronger language is needed.

S.B. 248 AN ACT REQUIRING A CERTIFICATE OF NEED FOR THE REDUCTION OF SERVICES AT A HOSPITAL. This legislation would strengthen Connecticut's CON laws which require a CON for termination of services but not for (even nearly complete) reductions in services. I believe that the CON bill that is based on the recommendations of the CON task force also would make this change. Current law allows some hospitals to reduce services to near zero without receiving a CON. The current trend toward consolidation has created an untenable situation for residents in surrounding towns who have had to travel an unreasonable distance to receive needed care.

I would also like to express my interest in working with Sen. Fasano and Rep. Ritter on their bills to address clinical training opportunities in Connecticut hospitals. S.B. 250 AN ACT CONCERNING CLINICAL PLACEMENTS FOR IN-STATE MEDICAL STUDENTS and H.B. 6496 AN ACT CONCERNING CLINICAL TRAINING OPPORTUNITIES WITH CONNECTICUT HOSPITALS strive to ensure that students at Connecticut medical schools have sufficient opportunity for placement in Connecticut hospitals. It is concerning that apparently some foreign medical schools that may not have the same credentials as medical schools in the United States pay hospitals to place their students. I would support limiting or eliminating the pay to play arrangements.

Thank you for hearing these important bills.

Maryland self-referral law
http://mhcc.maryland.gov/mhcc/pages/home/workgroups/documents/pcw/PCW_Background_Maryland_Self_referral_Law_and_Stark_Law_prst_20150624.pdf

SENATOR MARTIN M. LOONEY
President Pro Tempore

Eleventh District
New Haven, Hamden & North Haven

State of Connecticut
SENATE

State Capitol
Hartford, Connecticut 06106-1591

132 Fort Hale Road
New Haven, Connecticut 06512

Home: 203-468-8829
Capitol: 860-240-8600
Toll-free: 1-800-842-1420

www.SenatorLooney.cga.ct.gov

TESTIMONY BEFORE THE PUBLIC HEALTH COMMITTEE
Senator Martin M. Looney
March 7, 2017

In Support of S.B. 442, An Act Prohibiting Predatory Pricing of Pharmaceuticals, S.B. 445, An Act Concerning Pharmaceutical Price Transparency and Disclosure, and S.B. 117, An Act Concerning Community Benefits Plans

Good morning Senator Gerratana, Senator Somers, and Representative Steinberg. I would like to express my support for S.B. 442 AN ACT PROHIBITING PREDATORY PRICING OF PHARMACEUTICALS, S.B. 445 AN ACT CONCERNING PHARMACEUTICAL PRICE TRANSPARENCY AND DISCLOSURE, and S.B. 117 AN ACT CONCERNING COMMUNITY BENEFITS PLANS.

S.B. 442 and S.B. 445 are another bipartisan collaboration with Senator Fasano. When we all worked on S.B. 811 in 2015, one large issue that we did not include was prescription drug coverage. It is evident to all that the rights of patients purchasing prescription drugs need to be established and protected.

S.B. 442 would make predatory pricing of pharmaceuticals a Connecticut Unfair Trade Practice Act (CUTPA) violation. This concept was to increase the ability of the state Attorney General to regulate abusive pricing of pharmaceuticals. The Attorney General. however, has suggested that the passage of an Illinois Brick Repealer (limited to pharmaceuticals) would be more effective than making predatory pricing a CUPTA violation. An Illinois Brick Repealer would grant standing to indirect purchasers of pharmaceuticals in anti-trust cases. I have included language for this and I strongly support passage of an Illinois Brick repealer

S.B. 445 would increase pharmaceutical price transparency and disclosure and protect patients with prescription drug coverage. Comptroller Lembo's proposals in S.B. 925, AN ACT CONCERNING THE COST OF PRESCRIPTION DRUGS AND VALUE-BASED INSURANCE DESIGN contain some similar elements and I plan to work with the Comptroller on these issues.

Among the measures to protect patients that should be included in S.B. 445 is mandating that if a health insurance plan has a prescription drug co-pay that is a percentage of the cost of the drug, that the copay be calculated off the net price not the retail price. The net price should be calculated not only to include the discount off the retail price that the insurer pays up front but also by the rebate that the insurer gets from the pharmaceutical company for selecting the specific drug. Another common sense action to protect consumers would be to ensure that pharmacists can advise patients on drug costs especially in situations in which the patient's co-pay is actually higher than the cost of the drug. It is my understanding that under certain insurance plans patients can end up paying a co-pay that is higher than the total drug cost and some contracts do not allow pharmacists to raise the issue to the patient. Connecticut law must encourage pharmacists to inform patients when their co-pays are higher than the drug costs. In addition, many PBM contracts include a claw-back provision such that the overpayment by the patient to the pharmacy goes back to the PBM[11]. Both the overpayment and the claw-back should be prohibited. Another patient protection would be disallowing insurers from reimbursing for drugs given in physicians' offices at a percentage of the cost of the drug. The cost of infusions services would seem to be unrelated to the cost of the drug and it would seem that a flat fee for infusion services would be more rational. Basing the reimbursement on the drug cost would appear to create an incentive for the use of more expensive drugs.

This legislation should also increase transparency in drug pricing especially for the very expensive specialty drugs and for any drug that has a sudden dramatic increase in price. S.B. 925 has language that does this and there are a number of proposals in other states on this topic. There should be a requirement for the pharmaceutical companies to provide a report with an explanation to the state on extraordinarily expensive drugs and on drugs that see extraordinary price increases. The sunshine alone may well affect corporate behavior.

Any pharmaceutical transparency bill must also address transparency regarding pharmacy benefits managers (PBM). A PBM is an entity (a middleman) that administers the prescription drug coverage of a health insurance plan. These entities negotiate prices off the retail price for the employers that use them. They also receive rebates from the pharmaceutical companies for use of that company's drug. There is debate on whether these entities actually lower drug costs. PBMs should be required to disclose not only the negotiated price paid for the product but also the amount of the rebate from the drug manufacturer (including data at the claims level). I would support including this information for the top 50 drugs on the transparency website.

While the system for pharmaceutical transparency is being designed, I would suggest that the state add to the transparency website on healthcare pricing (created in PA 15-146) information

[11] http://www.courant.com/business/hc-drugstores-stay-silent-20170224-story.html

on the state's prescription drug costs (including state employees, retirees, and DSS) . That information could serve as a valuable initial step on drug pricing for our state while the more complete version is being created.

S.B. 117 would require hospitals to include in their community benefits plans measures to address social determinants of health. There are already some hospitals that have created innovative plans such as Stamford Hospital's involvement with the Vita Health and Wellness District which addresses housing, nutrition, and healthcare. The idea of hospital community benefits plans was encouraged in the Affordable Care Act and I have been in contact with the SIM (state innovation model) in Connecticut which is interested in working on this issue. Improving the social determinants of health for the surrounding community would improve the quality of life for residents.

Thank you for hearing these important bills.

Illinois Brick Repealer language:

(NEW) In any action brought by the Attorney General under subsection (c) of section 35-32 or section 35-35 of the general statutes, a defendant that sells, distributes, or otherwise disposes of any drug, medicine, or medical device:
(1) May not assert as a defense that the defendant did not deal directly with the person on whose behalf the action is brought; and
(2) May prove, as a partial or complete defense against a damage claim, in order to avoid duplicative liability, that all or any part of an alleged overcharge ultimately was passed on to another person by a purchaser or seller in the chain of manufacture, production, or distribution who paid the alleged overcharge.