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Clerk please call Calendar 171.

THE CLERK:

On page 37, Calendar Number 171, Favorable Report of the Joint Standing Committee on Judiciary. Substitute House Bill Number 5051, "AN ACT IMPROVING TRANSPARENCY OF NURSING HOME OPERATIONS.

SPEAKER SHARKEY:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Good morning, Mr. Speaker.

SPEAKER SHARKEY:

Good afternoon, Madam.

REP. ABERCROMBIE (83rd):

Oh, yeah, sorry, time flies. I move for the Joint Committee's Favorable Report, and passage of this bill.

SPEAKER SHARKEY:

The question is on acceptance of the Joint Committee's Favorable Report and passage of the bill. Will you remark?

REP. ABERCROMBIE (83rd):

Yes, Mr. Speaker. Mr. Speaker, this bill would increase transparency and financial reporting for nursing homes that are for profit.

You know, in this state long-term care is a $1.6 billion financial burden on this state, paid by taxpayers. And what this bill aims to do is to get reporting from third parties to have more transparency to see what is going on with the nursing homes to keep them viable in the state. I move adoption.

SPEAKER SHARKEY:

Thank you, Madam. The question is on adoption. Would you care to remark? Representative Cafero.

REP. CAFERO (142nd):

Through you, Mr. Speaker, thank you. I was expecting maybe a -- a tad more detail on the bill, but whatever. I will -- I will ask my questions, if I may, through you, Mr. Speaker.

SPEAKER SHARKEY:

Please proceed, sir.

REP. CAFERO (142nd):

Mr. Speaker, Representative Abercrombie has indicated that the bill, the purpose of this bill is transparency. That -- is it -- based on your last comment, it is my understanding that we are trying to prevent nursing homes from getting into financial trouble or, better put, that we are always vigilant on nursing homes being sustainable financially so they

could continue providing the health care that they do.

Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker, the Minority Leader has put it perfectly. Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Cafero.

REP. CAFERO (142nd):

Thank you, Mr. Speaker. And I guess my first question would be how many nursing homes do we have in the State of Connecticut? Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker, 227. Through you Mr. Speaker.

SPEAKER SHARKEY:

Representative Cafero.

REP. CAFERO (142nd):

And through you, Mr. Speaker, how many of those 227 nursing homes are for-profit versus non-for-profit. Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker, 154 of them are for-profit, and 73 of them are nonprofit. Through you.

SPEAKER SHARKEY:

Representative Cafero.

REP. CAFERO (142nd):

And through you, Mr. Speaker, does the bill that is before us cover both nonprofit -- non-for-profit and for-profit nursing homes? Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker, this bill only covers for-profit nursing homes.

SPEAKER SHARKEY:

Representative Cafero.

REP. CAFERO (142nd):

So, through you, Mr. Speaker, based on your calculation there are 73 not-for-profit nursing homes that would not be affected by this bill. Is that

correct? Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker, he is absolutely correct.

SPEAKER SHARKEY:

Representative Cafero.

REP. CAFERO (142nd):

And through you, Mr. Speaker, in light of the fact that transparency is desired to make sure all of our nursing homes are financially stable and sustainable, why is it that we have chosen to have this bill cover just for-profit nursing homes as opposed to all nursing homes? Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Thank you. Through you, Mr. Speaker, the purpose of the for-profits is because the IRS reporting that the for-profits does is not public information. Whereas the nonprofits have to submit to a 990 form which is public information, which is something that

could be used by DSS. Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Cafero.

REP. CAFERO (142nd):

And through you, Mr. Speaker, do I take it from that answer to mean that the information that's required here for for-profit nursing homes is already available through another source as mandated for non-for-profit nursing homes. Is that correct? Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Could the good Minority Leader please repeat that question? I'm not sure I understood what he was asking.

SPEAKER SHARKEY:

Representative Cafero, could you repeat the question?

REP. CAFERO (142nd):

Yes, I'd be glad to. Through you, Mr. Speaker, it's my understanding in answer to my question as to why for-profit nursing homes are covered by this bill but not-for-profit nursing homes are not is that you

indicated that not-for-profit nursing homes have certain requirements under federal law.

So I took it to mean that the very information we're requiring for-profit nursing homes under this bill is provided for not-for-profit -- by not-for-profit nursing homes through some federal requirement. Is that correct? Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker, that is correct.

SPEAKER SHARKEY:

Representative Cafero.

REP. CAFERO (142nd):

Thank you. Through you, Mr. Speaker, it's also my understanding that under our current law, all nursing homes, profit and non-for-profit nursing homes must file with the Department of Social Services a financial report, a rather lengthy one, indicating various aspects of that facility's finances. Is that correct? Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker, that is correct.

SPEAKER SHARKEY:

Representative Cafero.

REP. CAFERO (142nd):

And through you, Mr. Speaker, it is my understanding that that filing takes place annually, is that correct? Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker, that is correct.

SPEAKER SHARKEY:

Representative Cafero.

REP. CAFERO (142nd):

And through you, Mr. Speaker, I guess what I would ask is what information are we requiring under this bill that is not already required in the annual reporting that every nursing homes must file to the Department of Social Services, through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker, related party information that is not currently submitted to DSS. Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Cafero.

REP. CAFERO (142nd):

Thank you, Mr. Speaker. Now obviously we're very well aware that this bill has met with some opposition. It is my understanding that the nursing homes -- some of the nursing homes that might be subject -- well, I guess all nursing homes, if they're for-profit, would be subject to this. A lot of them are concerned about the burden that would be placed upon them. And not only them, but their related entities as defined in the bill. Do you recognize that to be the concerns that have been thrown out there? Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker, yes.

SPEAKER SHARKEY:

Representative Cafero.

REP. CAFERO (142nd):

Thank you. Representative Abercrombie, do you know what the position of the Department of Social Services is with regard to this bill?

SPEAKER SHARKEY:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker, they testified in favor of it through the Human Services Committee.

SPEAKER SHARKEY:

Representative Cafero.

REP. CAFERO (142nd):

Through you, Mr. Speaker, did the Commissioner of the Department of Social Services, Commissioner Bremby, was he one who testified in favor of the bill?

Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker, my recollection is yes.

SPEAKER SHARKEY:

Representative Cafero.

REP. CAFERO (142nd):

Thank you. Through you, Mr. Speaker, maybe Representative Abercrombie can help me out a little

bit. Because I've been here a while, and I know this bill has been around for a while. I know that in 2012, just two years ago, Commissioner Bremby testified on this very similar bill to this one, and he said that the bill requires what the department believes to be excessive reporting. It is not necessary for the department to have all of this information on file for every year for every provider.

We believe it is more reasonable and appropriate that facilities be required to provide detailed financial information upon request.

Did the good Commissioner, in this year's testimony, indicate why he's had a change of heart from two years ago?

SPEAKER SHARKEY:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker, I, unfortunately, was not on Human Services two years ago, so I cannot comment on why he testified that way. I can only testify to what he -- I can only comment on to what he testified this year in the committee which is why he was in favor of it. Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Cafero.

REP. CAFERO (142nd):

Fair enough. Through you, Mr. Speaker, in February of 2012, excuse me, March of 2012, during that public hearing, Commissioner Bremby, again on a very similar, if not the exact bill, indicated his second objection to had the bill, that being that the bill only requires for-profit chronic and convalescent nursing homes to provide this information for the department, and therefore excludes not-for-profit facilities. Only having the rest home with nursing supervision level of care.

We believe he was talking on behalf of the Department of Social Services, that all facilities should also be required to provide this level of detailed information upon request. Through you, Mr. Speaker, as the good Chairman indicated, this bill only covers for-profit.

Two years ago, the same Commissioner of Social Services indicated it should cover both. Is there any reason why, that you know, why the Commissioner had a change of heart with regard to that provision in this bill? Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker, unfortunately I don't know why the change through the Commissioner. I can only comment on what he testified this year in our committee. Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Cafero.

REP. CAFERO (142nd):

Thank you. Through you, Mr. Speaker, last year, 2013, similar bill was up. This very legislative body was in session. Commissioner Bremby testified once again with regard to this bill. My understanding at that public hearing he said, quote, additional financial information is not necessarily a meaningful tool to evaluate the sustainability of the industry or health of any one facility.

Through you, Mr. Speaker, I don't know if you were present during that public hearing, but is there -- was there any explanation, either then or now why the Commissioner felt one way last year, another way two years ago, and now a different way in this year? Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker, in the Commissioner's testimony, he talked about what is going on with the rebalancing and the strategic plan that the state is using. In his testimony he thought that this effort is intended to assist the state in its current rebalancing. Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Cafero.

REP. CAFERO (142nd):

Through you, Mr. Speaker, does that mean last year he did not feel that way; and this year he feels differently? Because I'm just confused as to his testimony. Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker, unfortunately I can't speak for the Commissioner as to what he was thinking last year and this year. I can only comment on what his testimony is this year. Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Cafero.

REP. CAFERO (142nd):

Thank you, through you, Mr. Speaker. I think it's interesting to note to the Chamber the evolution of our Commissioner with regard to this issue. The Commissioner represents this administration. He's appointed by the Governor. Two years ago the Commissioner said this bill is not needed. It's too much information for us to process.

Secondly, he said, if you're going to request this information wouldn't it be wise to do so for both for-profit and non-for-profit. A year later he came before the same committee. And he said, I'm not necessarily sure all this information is going to be helpful in discerning whether or not a facility is fiscally stable.

A year later, this year, completely changed. He's in favor of the bill.

You know, all of us are part-time legislators. We're the legislative branch, the administrative branch is the one who administers the rules and laws that we pass out there. And a lot of us put a lot of weight on what a Commissioner says, because they're doing this day to day. They're on the front lines. They and their staff are on the front lines.

So you can imagine my curiosity when I learn that the same Commissioner, under the same administration, has changed his mind over a period of two years, almost a 180-degree turn, not only as to the necessity of the information, but also as to who it should apply to.

Through you, Mr. Speaker, it is my understanding, based on testimony given at the public hearing this year, that we currently have in place a system wherein that financial data that is submitted by all convalescent homes is reviewed, not just by DSS, but by a team of CPAs hired by DSS. Is that correct?

Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker, that is correct.

SPEAKER SHARKEY:

Representative Cafero.

REP. CAFERO (142nd):

So, through you, Mr. Speaker, would it not be possible for that team of CPAs who, every year under current law looks at all the financial data given by every -- every nursing home, would it not be able to

them to detect some red flags that would say, aha, I think we got a bad actor here, or aha, I think we have a nursing home that is not financially stable and is in danger of being in financial trouble. Is that possible with the information currently given?

Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker, that is correct, and the reason why we need the third party is to find out where the discrepancy is. So, for example, if one year the laundry fee is $10,000, and the next year in the fee is $50,000, by requiring them to give us those financials, we're able to find out where the money is going. Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Cafero.

REP. CAFERO (142nd):

Thank you, Mr. Speaker. Ladies and gentlemen, that is exactly my point, and I think you'll see an amendment coming up that says just that. And what am I saying here? There are certain convalescent nursing homes that may be in trouble. That may have

indicators within their financial information that causes us, at the Department of Social Services, through our CPAs to say, aha, we have a problem here.

Red flag goes off. Maybe, as Representative Abercrombie indicated, it's excessive laundry costs. Last year they were only $10,000, this year they're $50,000. Maybe there's a deviation from standards saying, aha, food service in a facility of this kind should only cost $1 million a year. This facility is paying $2 million a year. Aha, red flag.

Maybe the CPAs could say, wait a minute, the capitalization of this particular facility is under industry standards. Aha, red flag. Maybe the information that we currently give them would indicate them to say, hey, you know what? This particular facility is not following generally accepted accounting principles. Aha, red flag.

But not every one of the 153 nursing homes that is receiving state aid has that aha moment. The ones that do should disclose the information that's required by this bill. But the ones that don't should not. If you're running your nursing home under generally accepted accounting principles. If

your costs are not deviating from industry standards. If you have the proper capitalization. If you're playing by the rules. If you're paying your employees properly. If you're providing them with benefits. If you're giving good quality health care to your patients, for god's sakes, leave them alone. Leave them alone. And we have a check and balance under current law. Every one of them have to put those financials just so we can make sure they don't have that aha moment.

But this bill doesn't do that. It says whether you're good, bad, rich, poor, solvent, on the brink of bankruptcy, everybody has to disclose all this information. And we wonder why we're considered the least business-friendly Legislature in the United States of America. If we are really trying to get at the bad apples. If we're really trying to discern those who are in financial jeopardy, then let's do it, but let's do it only for those, and we have, right for you, a built-in system that would check that, that would catch those troubled cases.

Right now every nursing home has to file a multipage financial affidavit that is reviewed by the Department of Social Services and outside CPAs.

We have that now. CPAs who are trained about generally accepted accounting principles, about industry standards, about capitalization. If they find in their review a nursing home that doesn't match that, bingo, grab 'em. Let this bill apply. They got to disclose. Where's this laundry money going to? Where's the food service money going to? Do you have some food service company that you're shuffling money to, and then crying poor mouth? If that's the case, let's nail them to the wall. But not everybody, folks.

We're not talking about five or six people, we're talking about 153 nursing homes. 153. That this bill requires all of them. You could have had a perfect record. A pristine model home. But now you're subject to this.

There's a better way, folks. Let's attack the problem where there's a problem. If there are other entities out there that want this information because they're afraid that nursing homes are hiding money, let's make sure they give up that information, and we can give it out to the world. To the world we could give it out.

But everybody, somebody who is following the

rules, and it would be one thing if we didn't have a system in place to catch those who weren't, but we do. That's why I just don't understand this bill. I don't understand why all the suggestions about doing what I'm suggesting, weeding out the good from the bad were just ignored. Let's get them all.

Through you, Mr. Speaker, it's my understanding that in the context of this bill, the State of Connecticut has immunity. Is that correct? Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker, that's correct.

SPEAKER SHARKEY:

Representative Cafero.

REP. CAFERO (142nd):

I know that because I watched the Judiciary Committee wherein this was a movement afoot to take the immunity clause out. I read the transcript and I tried to understand why the immunity clause was just in there. Secretary Barnes said at the public hearing, the immunity clause is in there, listen to this, because this bill requires all this

information. And it gives the nursing home and the world the impression that if there's funny business, we're going to get to the bottom of it.

And yet when asked then why does the state need to be immune from this bill, the answer is because we'll collect the information, and we might not do anything with it. And if we don't do something with it and somebody gets hurt, we don't want them coming back suing us, saying, you should have known to do something about it because you had all this information.

Boy, you talk about having your cake and eating it too. We're going to sit here and demand all the information. But if we screw up, don't come back at us. We're immune. God that bothers me.

Ladies and gentlemen of the Chamber, I'm sure there's going to be a ton of discussion on this bill over the next several minutes and/or hours. And I'll listen to the debate. But you know what? It didn't have to be this way. It didn't have to be this way. Everybody could have gotten to what they truly believe is the problem. Transparency for nursing homes that are in financial trouble, either through no fault of their own or because they're

doing some monkey business. We have everything in place to do that. To focus on the troubled nursing homes. But leave the other ones alone.

It didn't have to be this way, but it is. Thank you, Mr. Speaker.

SPEAKER SHARKEY:

Thank you, sir. Would you care to remark on the bill that's before us? Representative Wood.

REP. WOOD (141st):

Thank you, Mr. Speaker. Like the Minority Leader, when we had this three years in a row now in Human Services, and I've been on the committee for three years, there were a lot of questions, and I share the concerns of the Minority Leader in this bill. The first two years we heard this bill in committee, Commissioner Bremby didn't want anything to do with it. Didn't like it, didn't support it, didn't feel it was necessary. So all of a sudden this year he wants it.

And I just wonder, through you, Mr. Speaker, to the good Co-Chair -- to the good Chairman of Human Services if she knows -- I know she's already been asked this, if she knows any reason why Commissioner Bremby has changed his mind. Through you.

SPEAKER SHARKEY:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker, in the Commissioner's testimony he talked about what is going on right now with the rebalancing, and the strategic plan to rebalance for long-term care. So my understanding is this is part of the rebalancing to assist the state in the rebalancing efforts and to enhance the state's ability to measure quality in our long-term system. Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative.

REP. WOOD (141st):

How does requiring this related business form assure quality that's not already assured in the 40 page cost report filled out by these nursing homes every year? Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker, my understanding is with the material that they receive for the financials right now, if there's trigger that

there's some discrepancy, like I use as an example, the laundry. You know, going from the 10,000 to the 50,000, by requiring the third party they're able to look at those financials to see where that money is being dispersed. Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Wood.

REP. WOOD (141st):

Thank you. So it would be possible, in your mind, instead of having these invasive cost reports required of these nursing homes of over $10,000 to related businesses to have a trigger of a form. So if there were expenses that were out of line with regular expenses for lawn care, for laundry, for supplies, that could trigger an investigation into that company rather than a blanket approach through all the companies. Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker, could the good Ranking Member just repeat the last part of that? I apologize.

SPEAKER SHARKEY:

Representative Wood, would you mind repeating?

REP. WOOD (141st):

Sure. The cost right now, do you feel it would be better instead of requiring all the companies, the blanket approach, to fill out these related business forms for just companies whose expenses are deemed out of line by the investigators who look at the cost reports every year? Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker, I think by requiring it up front it gives DSS the ability to be able to have them at hand so that they don't have to go back to these nursing homes and require that information, and then be subject to delays in the process. Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Wood.

REP. WOOD (141st):

How would there be delays in the system if the form, if they're looking at the 40 page form and they see expenses that are out of line. It's very

clear they're out of line, and they could ask immediately for more details on that. Through you, Mr. Speaker. Is that the way you see it? Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker, I think that there could still be a delay in the system. Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Wood?

REP. WOOD (141st):

How would there be a delay in the system. Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker, right now there isn't a system in place that tells them how much time they have to submit those third party financials. I think through the -- for the nursing homes it would be beneficial to have that at hand. Through you, Madam -- Mr. Speaker. Sorry.

SPEAKER SHARKEY:

Representative Wood.

REP. WOOD (141st):

So to your mind, perhaps it would be more productive, in our least business friendly state, to have a time element on reporting requirements if more information were needed. Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker, with all the -- with all the nursing homes that the DSS has to go through, I think having the financials at hand is more beneficial. Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Wood.

REP. WOOD (141st):

One of the reasons DSS didn't, as I remember from a couple of years ago, wasn't wild about this was because of all the paperwork they were trying to get through. This adds more paperwork. Do you think this is truly going to speed along the reporting and the information to them? Through you,

Mr. Speaker.

SPEAKER SHARKEY:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker, yes, I do.

SPEAKER SHARKEY:

Representative Wood.

REP. WOOD (141st):

How will it speed along? That's what I'm trying to get to is why this is beneficial, and how it will speed it along. Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker, because they will have it right at hand. Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Wood.

REP. WOOD (141st):

But conceivably after the investigators look at the 40 page cost report they could, through legislation, through statute, we could require that they provide the information if there are expenses out of line within, say, a 30 day period. Do you

feel that's true? Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker, yes.

REP. WOOD (141st):

So that would be a middle ground and a potential solution to your mind of creating this in a way that's truly gets to the heart of the problem. Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker. I still believe that it's better to have that information on hand for DSS. Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Wood.

REP. WOOD (141st):

But we're asking 200 and -- I'm sorry, 236 nursing homes in the state receive Medicaid funding. Refresh my memory on how many are for-profit. Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker, 154 are for-profit, and 73 are nonprofit. Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Wood.

REP. WOOD (141st):

Thank you. So for the non-- for the for-profits, and that's what this bill is looking to do, although last year it was both nonprofit and for-profit. So we're asking all these companies, 154 of them, to fill out the related business -- for any expenses over $10,000 to related businesses. Don't you feel it's more efficient to ask only those companies whose expenses are out of line. Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker, so the financial reports come in. We see that something is a little off from the year before. I'll go back to my original statement. With DSS having the added related parties at hand, I think it's more an

efficient way to do business. Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Wood.

REP. WOOD (141st):

To my mind it doesn't make sense that we're asking 154 companies, for-profit nursing home companies to fill out extra reports when we all know a lot of these reports don't -- well, I'm sure the 40 page report gets looked at now, but it seems it's more efficient to have the auditors looking at the 40 page report, pick out the ones who are truly in violation or in potential violation of falsely reporting expenses or falsely channeling money to another -- to a related company.

It makes more sense, to my mind, to just require those companies, just pick out the bad ones, bad apples, if you will, rather than just requiring them all. It's fewer papers for DSS to go through. Do you feel that's true? Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker, could the -- I'm

sorry, could you repeat that? I'm sorry.

REP. WOOD (141st):

For you anything. Almost.

SPEAKER SHARKEY:

Representative.

REP. WOOD (141st):

Okay, I'm trying to think of another analogy. We're asking 154 nursing homes for all of these nursing homes to fill out related business reports, correct? Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker, correct.

SPEAKER SHARKEY:

Representative Wood.

REP. WOOD (141st):

How many of these 154 for-profit nursing homes have related businesses where they spend more than $10,000 to these related businesses. Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

If my memory is correct, I think it's about 107. Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Wood.

REP. WOOD (141st):

So 107 are big enough that they require filing the related expense report. Would that be fair to say? They're of size that they require that. Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker, that's my understanding.

SPEAKER SHARKEY:

Representative Wood.

REP. WOOD (141st):

So it's the smaller for-profit nursing homes that would not -- it's 144 of the smaller -- no, wait a minute. It's -- no, it's 44 that are smaller and would not -- do not need to fill out the related forms. Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker, it's not so much the size of the nursing home, it's whether they have related businesses. Through you, Mr. Speaker. So I can't really say for the exact number. Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Wood.

REP. WOOD (141st):

Fair point, thank you for that answer. What I'm trying to get to is the 40 page report already provides 40 pages of information. And that should be enough information when the auditor is going through the annual review, can look -- actually let me back up a minute. Do the auditors review all of these, the 40 pages every year? Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker, yes, they do, that's how they determine the rates for the nursing home. Through you.

SPEAKER SHARKEY:

Representative Wood.

REP. WOOD (141st):

And how often does it happen that the auditors read through the 40 page report and they start scratching their head going, this just doesn't look right to me, and should require further investigation. How often does that happen in any given year? Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker, I don't have that information.

SPEAKER SHARKEY:

Representative Wood.

REP. WOOD (141st):

You don't have that information, yet the reason we're doing that bill is because supposedly this is a problem. So I wonder if that's some information that we might be able to get in the near future. Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker, I guess the only comment I can make to that is the situation with HealthBridge was a perfect example of one of the bigger nursing home corporations that we have in this state who are actually from New Jersey. When they found that they had some financial discrepancies, by the time they were requesting added information they had gone to bankruptcy. And under bankruptcy, they had asked the judge to -- to do a stay on any added information that the state was requiring. Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Wood.

REP. WOOD (141st):

Thank you. And I just want a side bar for a minute that I think all of us here absolutely stand for transparency and want honest answers. And I -- often we are in here because of a few companies or a few people doing things that are out of line, unethical, and we end up making laws.

So it seems there are two nursing home companies in the last couple years, as I understand it, who have been evasive in their dealings with their nursing homes. So we are making this legislation,

writing this legislation, to correct the actions of two people who were unethical in their dealings. And that's two nursing homes in the last -- how many other times in your recent memory, through you, Mr. Speaker, has this happened? To the good Chair of Human Services.

SPEAKER SHARKEY:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker, I would agree with the Ranking Member. Twice.

SPEAKER SHARKEY:

Representative Wood.

REP. WOOD (141st):

Twice in ten years?

SPEAKER SHARKEY:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker, I don't have a time on that. Through you.

SPEAKER SHARKEY:

Representative Wood.

REP. WOOD (141st):

To my mind the time is -- how many times this

has happened is, I think, an important piece of information for writing this legislation. Because again, we're writing -- potentially we're going to be voting on legislation that affects 154 nursing homes and could be expanded at some point to include all the nursing homes that receive Medicaid dollars. And again I'm absolutely all for understanding where the dollars go, especially when they're state and federal funds. So I -- I am very strongly in favor of transparency and knowing that. But I think it needs to be done with great thought.

And I'm just thinking of an analogy called integrated pest management where, rather than putting pesticide all over your whole lawn, you just put it in spots. And that's what I'm trying to get to on this legislation is, I think, it doesn't make sense to my mind. It's not common sense to require all nursing homes to figure out an extra -- extra forms -- multiple forms -- for related businesses when in essence this has happened two times in the last ten years out of 154 nursing homes, 237 total nursing homes times ten years, that's 230 -- 2,370 times. Twice it's happened.

So again we're writing legislation that is a

very broad stroke that I am not sure will have the intended -- I am not sure it's the right way to approach this. I think there's another way to do this, the middle ground that would make sense.

Going back to Commissioner Bremby's testimony, and again I was -- when he spoke in favor of this this year it was kind of like a head scratcher. You were so opposed to this the last two years, why all of a sudden the turn around?

He mentioned he talked about rebalancing efforts. What do you mean -- what do you think he meant by rebalancing? Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker, rebalancing is a procedure that we are using that is acceptable through the federal government, whereas if we take more people out of nursing home and put them into the home care, we were able to get more financial aid from the federal government. Through you, Mr. Speaker.

REP. WOOD (141st):

So --

SPEAKER SHARKEY:

Representative Wood.

REP. WOOD (141st):

Thank you, Mr. Speaker. And thank you to the good Chair for her answer on that. Which is again to my point. We're looking at bringing back -- how will these forms, filling out these related business forms help with bringing more people back into their home and community care. Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Abercrombie.

REP. ABERCROMBIE:

Through you, Mr. Speaker, I think what it gets to is because more people with going into the home, we want to make sure that the existing nursing homes that we have stay viable. And because they are going to be taking care of the most frail and vulnerable of our population, this isn't just about dollars and sense. This is also making sure that people that are in those homes have a home to stay in. Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Wood.

REP. WOOD (141st):

Thank you. We still could -- to your mind, couldn't we still approach this by not having all the related businesses fill out -- oh, all the companies fill out the related business forms, but having the auditors, when they're doing the 40 page cost report every year, go through and look at which expenses are out of line. Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker, I think it's an added layer of protection for our most vulnerable population that are in nursing homes. Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Wood.

REP. WOOD (141st):

Does it concern you at all that -- I don't think too many of us hide from the understanding that DSS is inundated with paperwork and has, sadly, more than they can take on, more than they can do. Do you think they really have the time to go through all these related business cost reports to figure out -- is that the most efficient use of their time

going through all those cost reports? Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker, I guess what I would say is I think they have a responsibility. You know, 80 percent of the income for nursing homes comes from our taxpayers, because there are Medicaid recipients in there. So I think that DSS does have a responsibility to make sure that our nursing homes stay viable. Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Wood.

REP. WOOD (141st):

Two years ago when Commissioner Bremby spoke against this bill he said it was going to be more paperwork than they needed to have, and it was already reported in the cost report. So, through you, does it truly make sense to add these extra reports? Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Abercrombie.

REP. ABERCROMBIE:

Through you, Mr. Speaker, I apologize, I was not on Human Services at that time, so I can't speak to what the Commissioner's thought pattern was then. I can only comment on what he testified this year which is that he is in favor of this added reporting. Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Wood.

REP. WOOD (141st):

I think so often in here we write legislation to -- to solve a perceived problem. And I'm just not convinced at all that this piece of legislation we're looking at is going to solve that problem of people who own the nursing homes who are falsely channeling bigger expenses off to related businesses. I feel very, very confident that's already -- you can see that in the cost report. And that's what Commissioner did say. He even said this a year ago.

With -- with those thoughts in mind I do have an amendment. Mr. Speaker, the Clerk has an amendment. It's LCO 4248. Would you please ask the Clerk to call it, and I be allowed to summarize.

SPEAKER SHARKEY:

Madam, the Clerk informs me that it does not have that amendment. Chamber will stand at ease.

(Chamber at ease).

SPEAKER SHARKEY:

The Chamber will come back to order. So will the Clerk please call LCO 4248, which will be designated House Amendment "A."

THE CLERK:

House Amendment "A," LCO 4248 introduced by Representative Rutigliano.

REP. WOOD (141st):

No -- oh, yes, that's it. Thank you.

SPEAKER SHARKEY:

Is that the correct LCO?

REP. WOOD (141st):

Yes, that's the correct LCO, thank you, very much.

SPEAKER SHARKEY:

The gentlewoman has sought leave of the Chamber to summarize. Is there objection? Is there objection? Seeing none, you may proceed with your summarization, Madam.

REP. WOOD (141st):

Thank you. Basically what this does is it's a

strike-all. And it does establish a task force. It strikes the underlying bill. The amendment establishes a task force to study the degree of financial transparency that should be required of skilled nursing facilities that receive state Medicaid funding. Again, I think this -- this is a bill that the last couple of years so many people have opposed, including the Commissioner, and it just -- there doesn't seem to be the need for it. I think it's driven by a special interest group, and I think we really -- in full transparency for the taxpayers and the citizens of this state, I firmly believe that we should be looking at this with a task force. Through you, Mr. Speaker. Oh, and I would like to ask for a roll call vote. Thank you.

SPEAKER SHARKEY:

Thank you, Madam.

REP. WOOD (141st):

I move adoption.

SPEAKER SHARKEY:

You move adoption. You're also asking for a roll call vote?

REP. WOOD (141st):

I am.

SPEAKER SHARKEY:

The gentlewoman has asked for a roll call vote. All those in favor of a roll call vote please signify by saying aye.

REPRESENTATIVES:

Aye.

SPEAKER SHARKEY:

It is the opinion of the Chair that the 20 percent threshold has been met. When the call on House Amendment "A" is made it will be -- the vote will be taken by roll. Would you care to remark? Would you care to remark further on House Amendment "A." Representative Abercrombie?

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker, I do respect the Ranking Member's amendment, and what she is trying to get at, but I think it's pretty clear that we do have some issues going on. The state -- HealthBridge is one example. We also have another example of Haven Healthcare, which in 2007 had some issues. So I would ask my colleagues to vote this amendment down. Through you -- thank you, Mr. Speaker.

SPEAKER SHARKEY:

Thank you, Madam. Just for the Chamber's edification, there are -- were a number of people who were lined up to speak on the underlying bill. We're now on the amendment. So I'm assuming anyone on the board currently is interested in speaking on the amendment, on House Amendment "A." Representative Candelora.

REP. CANDELORA (86th):

Thank you, Mr. Speaker. I stand in support of this amendment. I think that going the route of a task force makes much more sense to try to carefully carve out the issue at hand and address the problem. I think that the underlying bill, the message that it sends, if it stands in its current form is to be afraid. We've heard over and over again businesses are afraid in the State of Connecticut of what government is going to do to them. I think this amendment makes a -- takes a much careful approach to try to address the harm that exists in our nursing homes.

The underlying bill is quite intrusive on so many levels, not just for nursing homes, but for any corporation or company that is possibly associated in a business relationship. And I think in the long

run we will begin to see contracts being frustrated. So I strongly support this amendment. I think that it's a much more balanced approach to take. I fear that the underlying bill will take us in a direction that we will not like a year from now. Thank you, Mr. Speaker.

SPEAKER SHARKEY:

Thank you, sir. Would you care to remark further on House Amendment "A"? Representative Rutigliano.

REP. RUTIGLIANO:

[Inaudible].

SPEAKER SHARKEY:

I just asked if you do not intend to speak on the amendment but on the underlying bill we could take your name off the board so we could have you recognized. Or stand, that would help as well. Representative Miner.

REP. MINER (66th:

Thank you, Mr. Speaker. I've been searching for one of those clever little funny words, but I don't have it yet. Mr. Speaker, I rise in support of the amendment. And I'm not opposed to what the underlying bill intends to get at if it is --

provides some sense of surety -- assurity, I guess, to us as a state and the people that they care for about whether they're in this for the long haul financially or whether they're not.

Clearly there are warning signs in any failing business. Whether or not the underlying bill actually gets us there or not, I've yet to make a determination. But once place that it has gotten me is to a level of concern. I mean, when I read this language, I think to myself, so are we less concerned about the solvency of not-for-profit nursing homes, and then if we are less concerned about them, why are we less concerned about them.

And then when I start to think about all the other businesses that we do business with, because they provide the same kind of care, whether in someone's home or in another facility, are we any less concerned about them?

Representative Candelora touched on a point that I had asked him with, and I can't remember the line here in the underlying bill, but it deals with disclosure of financial interests and it also deals with profit and loss statements of subcontractors, I guess, that work for nursing homes.

And I hearken back to the discussion we had about, I think it was UTC and that $400 million deal, and how desperately the state works to keep even that level of notoriety out of these conversations. So here we're going to actually have a lot of detail provided, I gather, not only to another state agency, but I'm assuming that people will take a look at it and try and make determinations, not yet determined how disclosable it is to anyone under Freedom of Information. Maybe we'll get this as this dialogue continues further.

But I've never been a big fan of task forces, but I do think they have a place. I think we have many relationships in the State of Connecticut for services such as those provided by rest homes, nursing homes, you name it, we've got them all over the State of Connecticut. And if you start to pick through our budget, it's a pretty big piece of that number. So I think supporting the amendment gets us to a place, hopefully next year, where we all can be comfortable with what it is we're asking people to disclose, and why we're asking them to disclose it. Thank you, Mr. Speaker.

SPEAKER SHARKEY:

Thank you, sir. I too am looking for that adjective, and we'll find it hopefully before the end of the day. Would you care to remark further on House Amendment "A"? Representative Klarides.

REP. KLARIDES (114th):

Thank you, Mr. Speaker. Mr. Speaker, I rise in support of this amendment, and I have some other questions on the other underlying bill which I will certainly rise to ask later.

But I guess the -- the Chairman of the Human Services Committee actually gave the best reason in her response to the Ranking Member just now, why this amendment is the best way to go. And she said, we have a lot of issues in the State of Connecticut in regards to nursing homes.

Nobody disagrees with that. Nobody disagrees with that. But when you have issues or when you have problems, the only answer and the only responsible answer is to study that.

So to jump from point A to point Z in one fell swoop is certainly not the way to go in this regard. And I'm glad that she said that. We have issues. We have to study those issues, figure out what they are and how they can be solved without having the

unintended consequences of hurting law-abiding businesses.

So, Mr. Speaker, for those reasons I support this amendment.

SPEAKER SHARKEY:

Thank you, Madam. Would you care to remark on House Amendment "A." Representative Sawyer.

REP. SAWYER (55th):

Thank you, Mr. Speaker. Many of you remember at the end of the session last year how many task forces that we came up with. And they came up with some very interesting decisions, recommendations, some of which we have swept into some language this year in different bills. Some that we discarded. Some that I think will float around for a little while longer, and we'll develop more before we put them into law.

Mr. Speaker, this is the same type of avenue that I believe we should be going towards, the same direction we should be going towards in this issue.

When you are able to point out exactly the decision making process and bring in all the players and have them sit around the table, this process is one that is extremely effective, one that will take

and look through our whole nursing home spectrum to find where those answers are, where we need to make the changes, and when we'll be able to craft the bill, I believe, next year, Mr. Speaker, that will come before the new Legislature. There will be some fresh minds here. And be able to, I believe, take the whole nursing home issue and have a very thorough decision.

If you saw in this the request to have the task force report back is January 1, in time for the next Legislature. So thank you, Mr. Speaker, I will be supporting this particular amendment for those reasons.

SPEAKER SHARKEY:

Thank you, Madam. Would you care to remark further on House Amendment "A." Representative Lavielle.

REP. LAVIELLE (143rd):

Thank you, Mr. Speaker. I have just one question. May I ask a question to the proponent of the bill when you're talking about the amendment?

SPEAKER SHARKEY:

As long as the question is germane to the amendment.

REP. LAVIELLE (143rd):

Thank you, then do I have a question, please, for the proponent of the bill. Which is simply, I believe that I understood the subject matter of both the amendment of the bill to be of extreme importance regarding our -- one of our most vulnerable populations, and also the people who serve that population.

And I just wanted to ask the good Representative how important she feels that this issue is to us today. Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Abercrombie.

REP. ABERCROMBIE:

Through you, Mr. Speaker, I truly believe that it's important to protect our most vulnerable population. I truly believe that since nursing homes, 80 percent of their income comes from the state, the taxpayers that we have an obligation to make sure that they are financially sound. Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Lavielle.

REP. LAVIELLE (143rd):

Thank you, and I thank the good Representative for her answer. It just confirms what I -- what I think and what I believe we all think in this Chamber, which to me is the best reason for giving as careful consideration to the issue as we possibly can. As many have pointed out already today, there are -- here we're discussing related businesses and their operations when it comes to nursing homes.

But there may be other factors as well that are far more important in determining how well those homes are performing, how well they're setting their rates, and whether they are serving their populations properly.

There -- there is also an opportunity here to look at those which we know are not performing. And find out what's causing that rather than simply deciding that in a limited way, knowing more about related businesses will solve all our problems. I believe Representative Cafero made that point a little while ago.

I cannot see any argument for rushing into this taking a one-sided view and going forward on the notion that one particular set of actions will solve the problems for dealing with this absolutely

critically important issue. So I think further research in a public way, where the conclusions will be made public is absolutely the appropriate way and the very most appropriate way to deal this issue. And therefore, I strongly, strongly, support adoption of this amendment. Thank you, Mr. Speaker.

SPEAKER SHARKEY:

Thank you, Madam. Would you care to remark further on House Amendment "A"? Representative Srinivasan.

REP. SRINIVASAN (31st):

Mr. Speaker. Mr. Speaker, I rise in strong support of this amendment. I've been listening to this debate and it is very clear to all of us there are issues. And that is why obviously this comes in front of us.

We also owe it and we heard that loud and clear, and each and every member here is aware that the money spent here is taxpayers' dollars, and therefore need to be properly accounted for. But having said that, it is my understanding in listening to the debate, there is a process. We do have the financial reports. We have places we can look at and then pick and choose the ones that have

deviated rather than looking at anybody and everybody for all the for-profit nursing homes across the board. That is a bit much.

So let us look, let us be focused, let us look at the ones that are the outliers where, as the good Chairwoman said, laundry was $10,000 the previous year, and suddenly it has become $50,000, has become $60,000. What is the reason behind that increase in the bill for that one service? Definitely needs to be evaluated. Definitely needs to be investigated.

But what we're looking for here is a broad brush on everybody. And what we are saying is let us see what the problems are and we heard loud and clear in the three years that my good Ranking Member has served on the Human Services Committee, if not more, I'm not sure. At least three, I know of that, there has been a change of position by our Commissioner. So obviously things are not as they used to be.

And therefore from this position to jump into something that's going to have an impact across the board is, in my mind, far-reaching. Too far-reaching, and hence creating a task force is a good first step. And we're looking at, by January of next year, we will have the report of the task

force, and then this assembly meets again, we will have that information and make an informed decision. And for that, Mr. Speaker, I support this amendment.

SPEAKER SHARKEY:

Thank you, sir. Would you care to remark? Would you care to remark further on House Amendment "A." Representative Floren.

REP. FLOREN (149th):

Thank you, Mr. Speaker. I have spent my entire legislative life on the Aging Committee. I guess it's my own iteration of aging in place. But having said that I have witnessed the new paradigm of keeping our frail elderly in their homes for as long as possible and providing support services for them in place.

As a result of this new paradigm of service, or delivery of service, there are undue pressures upon our skilled nursing homes to be cost effective, to provide really, really good service, and to do this with a lot of scrutiny from many, many different agencies. Adding this additional level, undue level to me, of paperwork is just going to cause a lot of our skilled nursing homes that we do need, it's going cause them to close. Or to become less viable

or just plain want to get out of the business.

So I stand in support of this amendment, and I do believe that people who have gone into these careers and have provided these services, it's more than just a profession or a calling. It's really a passion. So thank you.

SPEAKER SHARKEY:

Thank you, Madam. Would you care to remark further on House Amendment "A." Representative Tim LeGeyt.

REP. LEGEYT (17th):

Thank you very much, Mr. Speaker. I think this amendment is very important part of the process involving this bill. And it has to do with making a normal and rational progression of consideration for the extent to which we're going to determine the degree of financial transparency that's going to be required.

We have -- we can do it both ways. We can enact the legislation and then through the process of having all that paperwork be provided and scrutinized and determined for importance, we could then cull out a more representative cross-section of the skilled nursing facilities that need to have

this level of scrutiny.

Or, and this is a preference to me, or we could enact this amendment and have the task force make that determination before we have any number of companies and nursing facilities jump through the hoops that the bill requires.

This is a -- this is an issue that needs to be managed. Certainly we're not aiming to reach to the total universe of skilled nursing facilities or companies or related interests. But we're trying to find a level that will give us the information we need to know whether or not all of the goods, fees, and services are being fairly and properly allocated.

And if we use the bill to do that, there's going to be a lot of repetitive and unnecessary process that goes on. But this amendment will quickly consolidate and precipitate only those aspects of the relationship between companies and skilled nursing facilities that need to be monitored, need to be scrutinized so that we're not going to be wasting the state's time and wasting the nursing facility's time to overbroadly make these requests and demands for paperwork relative to transparency.

I'm a very strong advocate for this amendment. I think it's the proper procedure to have this amendment in place and the task force to operate prior to making determinations about the extent to which we have to look for transparency in skilled nursing facilities' line of work. Thank you, Mr. Speaker.

SPEAKER SHARKEY:

Thank you, sir. Would you care to remark further on House Amendment "A"? Representative Belsito.

REP. BELSITO (53rd):

Thank you, Mr. Speaker. I look at this purely for the individuals who are in the nursing home. But I also look at it at an accounting procedure.

First of all, 40 pages of documents presented by each of the facilities is far more than enough. Once you find something, then you can go back within a short period of time and get some other information. It is truly overkill what we're trying to do.

And this is just another example of the government spending our money, and it is our money, because that money that we pay to those nursing

homes is going to pay for all of the accounting work, the unnecessary accounting work that has to be done.

So at some point in time we have to say enough is enough. And I've been saying it for years. Now in order to get this done, it's truly -- it's just an accounting procedure. They have found only two -- two nursing homes that are in violation out of 154. That's a little over 1.2 percent.

So for 1.2 percent we're going to create 154 new -- new papers that are coming through -- accounting papers, balance sheets, P & L statements, all kinds of work that's going to be done for just two, which is under 2 percent of the total.

So what I'm saying is, if you really look at the statistics, it's time to stop. Let's just get ahold of -- we got 40 pages of paperwork to do, we can find out what is wrong. Thank you, Mr. Speaker.

SPEAKER SHARKEY:

Thank you, sir. Would you care to remark further on House Amendment "A"? Representative Ziobron.

REP. ZIOBRON (34th):

Thank you, Mr. Speaker, and I rise in strong

support of the amendment. I had the opportunity a few months ago to sit and visit with one of my nursing home operators, and I was pretty shocked to hear what they were telling me, which was a lot of issues with DSS not only, you know, dealing with paperwork, but really the missing paperwork, which was forcing them to cover hundreds of thousands of dollars of patient bills without any money from the State of Connecticut.

And they were constantly, you know, robbing Peter to pay Paul, so to speak. And doing it not because it was in their best interests, but because it was in the best interests of their patients.

And I was really shocked to hear the level of financial insecurity this places of business, like theirs, who, by the way, happens to be one of the largest employers in one of my towns in the 34th district.

So I rise very much in support of this. We have been very reluctant to do task force in this session. I think we just did one yesterday. I think this one is important because it brings together stakeholders, most importantly, representatives of the nursing homes.

Something else they pointed out to me was the disparity of reporting requirements between their business model and that of an assisted living facility. They're already feeling squeezed, and why would we go down this path without really understanding the ramifications of not only the business owners, but the ramifications of those they care for, our neighbors, friends, and family. So, Mr. Speaker, I -- I stand in strong support, and I urge my colleagues to do the same. Thank you.

SPEAKER SHARKEY:

Thank you, Madam. Would you care to remark? Would you care to remark further on House Amendment "A"? Representative Morin.

REP. MORIN (28th):

Thank you, Mr. Speaker, and good afternoon.

SPEAKER SHARKEY:

Good afternoon, sir.

REP. MORIN (28th):

Mr. Speaker, I wish to speak against the amendment. Thank you. I've listened -- I've been listening to the debate. I've been listening to my colleague who proposed the amendment. And the amendment says that we want to form a task force.

I've heard a lot of questions. What are we doing here? What are we doing here?

Well, in my opinion, what we're doing here is we're trying to make people -- we're trying to get some transparency. Frankly, we're trying to make sure that the people that are the most vulnerable in this state, in this world, are being treated fairly. That they're being cared for properly. I'm not prepared to support a task force on this issue. These people don't need a task force. They need to us act.

When I was a younger man, before Grace and I got married, she worked in a nursing home. An independently owned small private family nursing home. The folks that worked there, the folks that owned that home, it was a family. The patients were well cared for. The employees were well cared for. And when people went in to see their loved one, they felt that they were in a family. Folks were taken care of. That's what we're supposed to do. We're supposed to take care of our most vulnerable people.

Go a little forward. My wife's grandmother developed a serious illness. Was moved into a convalescent home in our town. She went to work in

that convalescent home because she wanted to be closer to her grandmother. She wanted to take care of her grandmother. It was not an independently owned place. It was a corporate facility again. Provided decent care, but things were changing.

The family atmosphere of taking care of the patients and the workers was a little different. You still were taking care of patients. Now the workforce is getting treated a little differently. People that came in there that put their loved ones in there noticed little things going back and forth, but nonetheless, she was able to be with her grandmother. On the day that she died she was with her grandmother. That was important.

I'll fast forward. That very same nursing home just a few years ago, bought out by one of the national corporations. Residents of Wethersfield calling me, crying because their loved ones were going to be moved. They were going to close this home because it wasn't profitable enough. The Wethersfield delegation talked to the administration. We talked to the owners of the nursing home. What can we do to help you stay in Wethersfield. You're taking care of hundreds of

residents, many people that I knew growing up, their parents were in this home.

What we found out was this corporation wasn't even interested in staying in business. They did no recruiting. They didn't go to any other hospitals and talk, and say listen, come to nursing home, we're going to take care of your loved ones. They might have played a few games with what they were doing with the staff. Sometimes the people that were the family, the workers that had been there for 25, 30 years, doing laundry, being nurses' aides, doing the jobs that nobody, virtually nobody in this chamber will do. Did. Well, things changed. All of a sudden we're not -- we're no longer interested in -- in you being part of the family. We're going to look elsewhere.

We fought. Parents, grandparents, kids, Legislators, town officials. This is important. These people are important. This is their home. For many of them, this has been their home for 20-30 years.

We weren't successful. But we had no way to know. So I guess I'd ask at this point what's a task force going to do for you? For those people,

nothing. For any other people, nothing. So on this issue I'm going to urge my colleagues to not support this amendment and to continue to move on to force the people that are taking care of our loved ones to be transparent. If they have nothing to hide, it's not a problem. It's absolutely not a problem. And I think the majority of the businesses will agree to that. And if I seem a little passionate about it, it's because I am. So I thank you very much for your time, Mr. Speaker, and again, I urge rejection of this amendment.

SPEAKER SHARKEY:

Thank you, sir. Would you care to remark? Would you care to remark further on House Amendment "A." Representative Tercyak.

REP TERCYAK (26th):

Thank you, very much, Mr. Speaker. And before I start I just would like to say that as Representative -- the good Representative across the hall gets his microphone cord longer and longer, and is able to walk anywhere, I swear mine is getting shorter, and soon I will be kneeling and talking right into my desk. I'm not saying anybody is doing it on purpose, especially not you, Mr. Speaker. I'm

sure everything's been worked out there.

But I just wanted to say as I'm stooping here over my microphone, I rise to ask my colleagues to please vote against this amendment. I'm neither pro-task force or anti-task force as task forces go. I think they have their place. They have their place particularly when we believe something is going on and we don't have a clue.

Later on I'll ask people to support creating a task force and I'll stand up and say I don't have a clue as to what's really going on in this situation. That's not what's going on here. It's been mentioned the Commissioner speaking in 2012 against a similar bill. And now he's in favor of it. I won't try and say what's in the Commissioner's mind.

But I'm aware that from 2011 to 2013 the top ten nursing home chains in the state had their payments to their related entities go up over $10 million. That was about a 9 percent increase. 2011-2013. Inflation for the exact same period was 3.6 percent.

What I say here and now and about this task force is that we know enough. We know there's a problem. We specifically see where costs are galloping away. But the information we ask for now

doesn't tell whether those charges were reasonable or not.

The information we're asking for will help the Department of Social Services tell whether those charges are reasonable or not. That's a good thing. We're talking about over a billion dollars in the budget. I think we should be responsible for it.

And that's why I think we know enough about this to say we don't need a task force to study it anymore. However, I'm not saying that this is a horrible amendment. Representative Wood is never going to bring out a horrible amendment, folks. I can disagree over whether we should vote for it, but we're going to like a few things in it. This amendment says that we should have a body that includes representation from the for-profit nursing home industry. I happen to think that's a good idea.

And convalescent home workers and owners in my district for nonprofit convalescent homes get in touch with me worried about this bill, even knowing it's not going to happen to them -- have to do with them, I look at Representative Wood's amendment here, and she includes a representative of the

nonprofit nursing home industry, and you know what? She's right again. We should have an ongoing body where we look at that. That's correct.

Unfortunately, I, as I said before, don't think it's a task force that we need. There's another amendment already filed that will bring back the Nursing Home Financial Advisory Committee and we'll -- and we'll include membership from the for-profit nursing home, membership from the nonprofit nursing homes. I look forward to speaking on that amendment, and what a good idea that advisory committee is.

But right now I reluctantly ask my colleagues to please vote no against this amendment. We know enough. It's time to move on to something more. Thank you, very much, Mr. Speaker.

SPEAKER SHARKEY:

Thank you, sir. Would you care to remark? Would you care to remark more -- further on House Amendment "A"? Representative Betts.

REP. BETTS (78th):

Thank you, and good afternoon, Mr. Speaker. Briefly I'd like to support the amendment. And it's been pretty much on the basis of the debate we've

heard on this issue. There's certainly no -- well, there's total consensus for having better transparency, and for holding nursing homes accountable for misuse of funds.

However, in this bill and during this entire debate I have yet to be convinced that the Department of Social Services, one, either has the personnel, two, the expertise, or three, the willingness to be able to devote the necessary resources to be able to take on this task, which I think is very complicated.

As you'll hear from a debate later on when we talk about the underlying bill, I think there's some issues that have not been addressed in this bill that is going to show you why this is so complicated. Suffice it to say, we all agree this is very important. But I can assure you that this is an issue that has to be taken in a very comprehensive manner if it's going to be effective, including in the very active, vocal, and visible support of the Department of Social Services. I've yet to see that surface.

And for that reason I think it's appropriate to do the task force and be able to develop the

commitment both financially and personally to meet the goal that was identified by the good Chairlady. So I thank you very much, Mr. Speaker.

SPEAKER SHARKEY:

Thank you, sir. Would you care to remark? Would you care to remark further on House Amendment "A"? If not, staff and guests [inaudible], members take your seat. The machine will be open.

THE CLERK:

House of Representatives voting by roll. The House of Representatives is voting by roll. Will members return to the chamber immediately.

SPEAKER SHARKEY:

Have all members voted? Have all members voted? Will the members please check the board to make sure your vote is properly cast. If all the members have voted, the machine will be locked, and the Clerk will take a tally.

A VOICE:

51,85,15.

SPEAKER SHARKEY:

Clerk please announce the tally.

THE CLERK:

LCO 4248, House Amendment "A."

Total number voting	136
Total necessary for passage	69
Those voting aye	51
Those voting nay	85
Absent not voting	15

SPEAKER SHARKEY:

The amendment fails. Would you care to remark further on the bill before us? Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Thank you, Mr. Speaker. Mr. Speaker, the Clerk is in possession of an amendment, LCO 4576. I ask that it be called, and I be granted leave of the Chamber to summarize.

SPEAKER SHARKEY:

Will the Clerk please call LCO 4576 which will be designated House Amendment "B."

THE CLERK:

House Amendment "B" LCO 4576 introduced by Representative Abercrombie et al.

SPEAKER SHARKEY:

Gentlewoman has sought leave of the Chamber to summarize. Is there objection? Seeing none, you may proceed with summarization, Madam.

REP. ABERCROMBIE (83rd):

Thank you, Mr. Speaker. Mr. Speaker, through the conversation around this bill in the Human Service Committee, my colleagues on the other side of the aisle had raised a couple of really good points, and we thought that this amendment would satisfy some of the inquiries that we had.

One was in statute we have a Nursing Home Financial Advisory Committee that is not been active for many years. What this amendment does is makes it active now again so that they can look at long-term care, in particular nursing homes. And it also raises the threshold from the 10,000 to the 50,000, which was an issue that was brought up by my colleagues. With that, Mr. Speaker, I move adoption, and when the vote is taken, I ask that it be taken by roll call.

SPEAKER SHARKEY:

The Chairwoman has asked for a roll call vote. All those in favor of a roll call vote on House Amendment "B" please signify which saying aye.

REPRESENTATIVES:

Aye.

SPEAKER SHARKEY:

The necessary 20 percent has been reached. When the vote is taken it will be taken by roll. Which, the question before the Chamber is adoption. Would you care to remark on House Amendment "B"? Representative Cafero.

REP. CAFERO (142nd):

Thank you, Mr. Speaker. Mr. Speaker, a few questions through you to the proponent of the amendment.

SPEAKER SHARKEY:

Please proceed, sir.

REP. CAFERO (142nd):

Thank you, Mr. Speaker. Through you to Representative Abercrombie. Representative, you indicated in bringing out this bill that The Nursing Home Financial Advisory Committee did exist at one time and is currently defunct, and the hope is to reestablish it with this amendment. Is that correct? Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker, that is correct.

SPEAKER SHARKEY:

Representative Cafero.

REP. CAFERO (142nd):

Thank you. Through you, Mr. Speaker, what was original purpose or the purpose of reestablishing the Nursing Home Financial Advisory Committee? What is their mission? Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker, to look at any issues pertaining to nursing homes. We thought that -- because the Legislature only has a long session and a short session, it's really hard for all of us to be able to meet on a regular basis to look at some of these issues that are around nursing homes.

So we thought by having the advisory they could make recommendations to us so that when we're in the legislative session we can act on that. Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Cafero.

REP. CAFERO (142nd):

Thank you. Through you, Mr. Speaker, I note that the name of the advisory committee is the

Nursing Home Financial Advisory Committee. Is the focus of the advisory committee on the finances of nursing homes? Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker, yes.

SPEAKER SHARKEY:

Representative Cafero.

REP. CAFERO (142nd):

Thank you. Through you, Mr. Speaker, how long was the original Financial Advisory Committee in existence? Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker, unfortunately I don't have that answer.

SPEAKER SHARKEY:

Representative Cafero.

REP. CAFERO (142nd):

Through you, Mr. Speaker. I appreciate the fact. I certainly don't have the answer, that's why I asked the question. Do you have a rough -- was it

around for five years? Ten years? Twenty years? Do you have any idea of that? Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker, I have been around since 2005, served on Human Services, except for briefly two years ago. My understanding is it's been in existence for that long. Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Cafero.

REP. CAFERO (142nd):

Thank you, Mr. Speaker. Is the purpose of the Nursing Home Financial Advisory Committee, as stated in the amendment, the same purpose the Nursing Home Financial Advisory Committee had in past years before it went defunct? Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker, yes, and I would think that we would also ask them to look into other

issues around nursing homes now that we have moved as a state into more home care, which was not the common practice that we used before about five years ago. Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Cafero.

REP. CAFERO (142nd):

Thank you, Mr. Speaker. Ladies and gentlemen of the Chamber, the amendment before us establishes a committee that was in existence at least up until January 10 of -- excuse me, January of 2010. It was a committee that was established by this Legislature obviously to advise us as a Legislature with regard to the finances of our state's nursing homes.

It was in charge of looking at the very issues that are at the heart of the underlying bill here. Because, you see, Representative Morin made a very passionate speech with regard it the preceding amendment. And in that speech he talked about his personal experience with family members and community members at a particular nursing home.

Representative Tercyak indicated that ten of the top nursing homes have -- their costs have gone in up excess of inflation. When asked earlier on in

the debate by Representative Wood to Representative Abercrombie, how many of these financial institutions have just refused to give financial information. I believe, and correct me if I'm wrong, the answer was two. We did not know how many -- how long a period of time those two refused to give that information.

But we're talking about 200 and -- what was the number? 227 nursing homes, 153 of which are for-profit. Two of them refused to give information when required.

You put this altogether you would think we have to have this information because we now -- now care about our aged who are in the various convalescent homes. I got news for everybody. We've cared a long time, all of us. The mere thought of our mothers or fathers or aunts or uncles or neighbors who are in nursing homes depending on a quality care all of a sudden being told that the home they're in is gone, shut down, is chilling.

We all feel the passion that Representative Morin had, all of us, every one of us. And Representative Morin said the time is now. Not in a study, now is the time. And yet this very bill

talks about an advisory committee. An advisory committee that's been in existence for quite some time and yet this caring, compassionate, General Assembly let it go defunct.

In substitution thereof we have this bill. It says not every nursing home, just some of the nursing homes need to give this financial information, as if that is going to be solace to the men and women who live in these nursing homes. You see, I would bet that they thought over the past several years that this advisory council was going to be the ticket. Was going to be the answer.

This was going to prevent and look out for nursing homes that are either bad actors or because of mismanagement are on the verge of collapsing, therefore those folks might find themselves homeless. They probably thought this was the answer. As a matter of fact, if I'm not mistaken, given the time table of Representative Morin's personal story, this advisory committee might have been in existence. And yet nothing was done. Nothing was done.

So are we to believe that by adopting this amendment to reconstitute the Nursing Home Financial

Advisory Committee on top of this bill that we can send a message out to all those residents of those nursing homes that their worries are over? I don't think so.

I appreciate the efforts. I certainly appreciate reaching out to some of the suggestions made on this side of the aisle. But I think that the mere fact that advisory council was in existence for years, and yet by the very existence of the underlying bill, we still have this perceived problem, then maybe it didn't work. Maybe it didn't work. Thank you, Mr. Speaker..

SPEAKER SHARKEY:

Thank you, sir. Would you care to remark further on House Amendment "B"? House Amendment "B"? Representative Adinolfi. Do you wish to speak on House Amendment "B"? Thank you, sir. Representative Wood on House "B"?

REP. WOOD (141st):

Thank you, Mr. Speaker. I do have a couple of questions for the proponent of the bill.

SPEAKER SHARKEY:

Please proceed, Madam.

REP. WOOD (141st):

I'm just trying to understand again a little of the history of this advisory board that was in existence. You said it was 2005? I'm trying to understand how the advisory board and how the task force that we had proposed, how they're different and how they're alike. Through you, Mr. Speaker. So the question is was it started in 2005? Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker, I don't have the exact date when it was started.

SPEAKER SHARKEY:

Representative Wood.

REP. WOOD (141st):

But that's roughly the time frame. Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker, I think what I was referring to was I was elected in 2005, and I knew that they were in existence then. I apologize if I

gave the impression that that's when the advisory board had been started. Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Wood.

REP. WOOD (141st):

2002, 2001, 2000, was it 15 years of standing? Was it 10 years of standing? I'm just trying to understand a rough ballpark. Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker, my understanding is I think they've been around since 1998. Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Wood.

REP. WOOD (141st):

And what is the history behind this Nursing Home Advisory Board being formed? Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker, unfortunately I wasn't around then, and I don't know the history of it. Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Wood.

REP. WOOD (141st):

Was there any episodes or incidents of financial mismanagement that could have prompted this? Through you, Mr. Speaker. Prompted the formation of the advisory board. Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker, again, I apologize. I wasn't here then. I don't know what the history was. Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Wood.

REP. WOOD (141st):

I always learned from my father, find out what the problem is, and then create a solution to address the problem. So that's what I'm trying to get to. The advisory board would be ongoing in this amendment? Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker, yes.

SPEAKER SHARKEY:

Representative Wood.

REP. WOOD (141st):

And how do you see it as different from the task force as we proposed? Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker, I think that it would have a much more active role, whereas a task force looks at some issues and then gives recommendation. Whereas The Financial Advisory Board would be ongoing, and as, you know, as nursing homes are changing, as we all know that we are going into a direction of more home care, I think that's why it's so vital to have them here now. Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Wood.

REP. WOOD (141st):

Thank you, for that answer. And if you were to find a problem -- if this advisory board -- Financial Advisory Board would find a problem, how could they address it? Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

I think that their recommendations would probably go through the Human Services and request some legislation. Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Wood.

REP. WOOD (141st):

Is this a strike-all from the underlying bill? The creation of this task force, and I also notice raising the limit from 10,000 to 50,000 for reporting responsibilities. Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker, no.

SPEAKER SHARKEY:

Representative Wood.

REP. WOOD (141st):

So it is not a strike-all, it's in addition to the underlying bill. Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker, yes.

SPEAKER SHARKEY:

Representative Wood.

REP. WOOD (141st):

I appreciate the amendment. I appreciate the thought behind it. I don't think it's still -- I see the task force as being much more strongly focused. There's a reason, and we don't know what this reason is, on why this Nursing Home Advisory Board fell apart? Did it fall apart? Did it just disintegrate? How is it come to its end? Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker, I don't know.

SPEAKER SHARKEY:

Representative Wood.

REP. WOOD (141st):

I think it would be helpful if we're proposing this -- if this Nursing Home Advisory Board is being proposed, I think it would be helpful to understand how it came to an end and why it came to an end. Through you, Mr. Speaker.

SPEAKER SHARKEY:

I don't believe there's a question.

REP. WOOD (141st):

Is there anybody who could provide that answer within 50 feet? Through you, Mr. Speaker.

SPEAKER SHARKEY:

I believe that question is directed to the Chair. I don't know the answer to that either.

REP. ABERCROMBIE (83rd):

I think -- the only way that I would like --

SPEAKER SHARKEY:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Oh, sorry.

SPEAKER SHARKEY:

Thank you. I'm just trying to turn the feedback down on my microphone. Would you like to ask Representative Abercrombie if she knows of anyone

else who may be able to answer your question?

REP. WOOD (141st):

Yes, that was the intent of my question.

Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker, I only see one former Chair of Human Services in the room currently, and I know that this advisory board was not in existence when he was the Chair. So I don't see anyone in the Chamber that might have been aware of it. I apologize to the good Ranking Member from Human Services.

SPEAKER SHARKEY:

Representative Wood.

REP. WOOD (141st):

All right, thank you for that answer. While I appreciate, certainly, the idea behind this, I do stand in opposition to this amendment, because I don't think it addresses the issue. We don't have a reason how it got started, why it ceased to exist, and I think we need to know those before we vote on something like this.

Again, we need to define the problem, and then create a solution that addresses that problem. So I do stand in opposition to this amendment, and I ask my colleagues on this, everyone in the Chamber to consider opposing this amendment. Thank you, Mr. Speaker, and I thank the good Chairman for her answers. Thank you.

SPEAKER SHARKEY:

Thank you, Madam. Would you care to remark further on House Amendment "B"? Representative Rutigliano.

REP. RUTIGLIANO:

Thank you, Mr. Speaker. Mr. Speaker, I have a couple questions for the proponent of the amendment.

SPEAKER SHARKEY:

Please proceed, sir.

REP. RUTIGLIANO:

Which financial information will the financial advisory board go over? Is it the same form that DSS is currently asking for? Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Could you -- could you re-ask that question, please? I'm not sure what form you are referring to. Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Rutigliano. Could you rephrase your question?

REP. RUTIGLIANO:

Thank you, Mr. Speaker. Currently the nursing homes fill out a long disclosure form that is reviewed by auditors employed by the Department of Social Services. Will the Financial Advisory Board have access to that same form or there will be a different mechanism for them to obtain financial information. Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker, I would assume that they would have access to that information. Through you.

SPEAKER SHARKEY:

Representative Rutigliano.

REP. RUTIGLIANO:

Thank you for that answer. Do they have

authorization to receive that information outside of the realm of DSS and the auditors. Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker, I -- I think they do through the legislation that was done around the Financial Advisory Board originally. Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Rutigliano.

REP. RUTIGLIANO:

Thank you for that answer. Through you, Mr. Speaker, will the Financial Advisory Board have jurisdiction to review the finances of both for-profit and nonprofit nursing homes? Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker, yes.

SPEAKER SHARKEY:

Representative Rutigliano.

REP. RUTIGLIANO:

It sort of begs to the next question, Mr. Speaker, why does the Financial Advisory Board have jurisdiction over nonprofits, but yet in the underlying bill, nonprofits don't have to disclose their third party information? It does seem slightly unfair. I was wondering if you had a reaction to that. Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker, my understanding was that the nonprofits have to fill out what's called a 990 form that is open to the public, whereas the financials that the nursing homes have to submit for IRS are not public information documents. Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Rutigliano.

REP. RUTIGLIANO:

I'd like to thank the good Chairwoman of Human Services for that answer. I have just a couple more. I was reading through the amendment. I noticed that the bill added a person to the

Financial Advisory Board from the Department of Labor. I was wondering at what relevance the Department of Labor would have over the Financial Advisory Board of a nursing home. Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker, I think it's always important to have the people that are on the front lines as part of any working group. You know, they're the ones that are in there day in and day out, and are seeing what's going on within the nursing homes, how money is being spent. So I think it's important to have them part of this working group. Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Rutigliano.

REP. RUTIGLIANO:

Thank you, Mr. Speaker. Also, the Financial Advisory Board, under this amendment, eliminates the two trade representatives. I mean, what could be more front line than representatives of the nursing home industry? It removes them from the Financial

Advisory Board, and I was wondering why that was so.

Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker, could the good gentleman tell me what line he's referring to?

SPEAKER SHARKEY:

Representative Rutigliano.

REP. RUTIGLIANO:

It's 19 through 21, Mr. Speaker, through you.

SPEAKER SHARKEY:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker, may I have a moment just to read it?

SPEAKER SHARKEY:

Certainly Madam.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker, I don't believe that we are -- I think what we're doing is instead of naming the two appointees LeadingAge and the Connecticut Association of Health Care, we are leaving it up to -- we're asking for someone from

the not-for-profit nursing homes and someone, a representative from the nursing homes. So I don't think that we are eliminating them. I think that we are having them assigned in a different way.

Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Rutigliano.

REP. RUTIGLIANO:

I want to thank the good Chairwoman for that answer. Just a comment, I'm generally supportive of reinstituting the Financial Advisory Board. I think it's a good idea. I think we should do it in lieu of the bill itself. I think I think the Financial Advisory Board would be a great clearinghouse for all the financial information for the nursing homes, and have them be the arbitrator of who is in trouble and who is not, and then have them provide the disclosure.

So I'm going to continue to listen to the debate. I like the idea of the Financial Advisory Board. I would prefer it over the bill that we are going to be voting on afterwards, and I want to thank the good Chairwoman for her time and her answers. Thanks Mr. Chairman. Mr. Speaker.

SPEAKER SHARKEY:

Thank you, sir. Would you care to remark further on House Amendment "B"? Representative Candelora.

REP. CANDELORA (86th):

Thank you, Mr. Speaker, if I may, a couple of questions to the proponent of the amendment.

SPEAKER SHARKEY:

Please proceed, sir.

REP. CANDELORA (86th):

Thank you, Mr. Speaker. In lines 30 through 41 we're sort of reconstituting this committee. And we're giving it a task to accomplish. My general question is, is the overall goal of this committee meant to dovetail into the underlying bill which is requiring disclosure information from nursing homes, would this committee have oversight over that information? Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

I'm not sure if I would use the word oversight, but they would also -- they would also have a role as to the solvency of the nursing homes. Through

you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Candelora.

REP. CANDELORA (86th):

Thank you, Mr. Speaker. Earlier we heard about the 990 forms that the nonprofits -- the not-for-profits report, and I believe that is public information. So is it contemplated that this committee, if it so chooses, could make requests for the 990s, and in addition make requests for the reports that are required in the underlying bill? Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker, yes.

SPEAKER SHARKEY:

Representative Candelora.

REP. CANDELORA (86th):

And so that authorization would be derived out of line 34 where they are required to evaluate any information and data available? Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker, I read it that way also.

SPEAKER SHARKEY:

Representative Candelora.

REP. CANDELORA (86th):

Thank you, Mr. Speaker. And then after that language they are required to look at the quality of care and nurse staffing levels and so forth. Is this committee meant to look at the overall health of Connecticut or do they have the ability to look at each individual nursing home? Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker, is -- is the good gentleman asking if this legislation is directed towards one nursing home or is it directed towards looking at all nursing homes in general? Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Candelora.

REP. CANDELORA (86th):

Thank you, Mr. Speaker. The general question, I guess, is sometimes we have a task force that would look globally at the issue in terms of, you know, our, you know, long-term care in Connecticut, overall how Connecticut is doing, you know, as sort of a general report card.

There is language here that suggests that -- that they look -- they assess the overall infrastructure and then projected needs of such nursing homes. So is this committee -- I guess, do they have both tasks of where they could look at the overall health of Connecticut's nursing homes as well as look at individual nursing homes, in particular we heard about two bad apples in the industry. Would they have the ability to sort of drill down and look at specific nursing homes, as well as the overall broad brush picture? Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker, yes, I would think it would be important considering that we have two

nursing homes that have had significant issues in the past. So I would think that they might want to go through their records to see where discrepancies were. So yes, I would think that they would have that power. Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Candelora.

SENATOR KELLY:

Thank you, Mr. Speaker. And in the underlying bill where the information is required to be disclosed, we do -- we do have some language where the Department of Social Services is given immunity for failure to take action on such information that they do receive. Would that same immunity extend to this committee? Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker, this is an advisory board. This is not DSS taking issues on financials that they're responsible for from the nursing homes. Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Candelora.

REP. CANDELORA (86th): Thank you, Mr. Speaker. So this committee is really making recommendations, and therefore we don't extend those same protections because they're merely make recommendations as opposed to DSS which takes action? Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker, yes, because they're an advisory board. Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Candelora?

REP. CANDELORA (86th): Thank you, Mr. Speaker. I don't have any further questions. I appreciate the answers to my questions. And I guess one of the concerns I have about the underlying bill which is spilling into this amendment is how this information does get disclosed, who has access to it?

We're hearing about nursing home transparency and nursing home care. But what is bill is really doing, and I think this amendment doesn't help is, it places a scarlet letter on nursing homes in that anybody who wants to have a contractual relationship

with a nursing home in the State of Connecticut needs to beware that they may be subjected to disclosing their financial information to the State of Connecticut by virtue of that contractual relationship.

And my concern is what this amendment is now doing is extending that disclosure out to a committee that's made up of not just DSS employees, but government appointments, some of which are competitors within the nursing home industry that could obtain financial data, private information that's normally held so dear in the corporate sector to now this commission.

We have fought over this issue for a long time of whether or not financial data should be released and how we need to protect it. And I think it's always been a tradition that's been well maintained in the state of Connecticut, that we'll only go so. far into corporate books.

And while it seems that we're trying to create transparency for nursing homes, we aren't just doing that. The significant step here is we are requiring the disclosure of third party information to the State of Connecticut. So if I happen to have a

laundry business or a lawn mowing business or I sell pencils and papers to a nursing home, I may be pulled into this bill and be required to disclose personal financial information to the State of Connecticut that's now going to be disclosed to this committee that's made up of all sorts of appointments.

And so I think now businesses are going to make a decision. Do I take the risk of doing businesses with nursing homes? And I certainly wouldn't. I had the unfortunate experience when the Patriot Act came into play in, you know, federally, individuals, you know, bank accounts were targeted and people were asked, and I in particular was asked to disclose very personal information from my banking institution through the Patriot Act. It was a huge violation, I felt. And it caused me to not want to do business with that institution any longer.

So I can't help but think the ramifications of this amendment and the underlying bill is going to create that scenario where corporations, businesses, companies, are going to not want to do business with nursing homes because they're not going to want to subject their companies to have to disclose their

profit and loss statements.

It's not just we are disclosing what the nursing company -- home company is paying for these services. It's going to require that laundry business or that lawn mowing business to disclose every single bit of their profits and losses of their entire business just because they may be related by definition to that nursing home which we haven't even discussed yet in the underlying bill.

But what this amendment now does is it's opening up that information and extending it, really for the world to see, because this committee is going to operate at any time in infinite to study not just the macro goals of the Connecticut nursing home, but the micro goals as well. So we have a committee that has a whole bunch of government appointments that will be free to examine a particular nursing home or the industry as a whole.

And the individual nursing homes that might get that scarlet letter put on them sort of become a target, and I think we're really going to end up losing sight of what we really want to accomplish, and that is improving patient care. So I am concerned about this amendment deeply. I think this

committee is going to go too far and I certainly oppose the amendment and the underlying bill. Thank you, Mr. Speaker.

SPEAKER SHARKEY:

Thank you, sir. Would you care to remark further on House Amendment "B"? If not, staff and guests in the well as the house, members take your seats. The machine will be open.

THE CLERK:

The House of Representatives is voting by roll. The House of Representatives is voting by roll. Will members please return to the Chamber immediately.

SPEAKER SHARKEY:

Have all members voted? Have all members voted? Will the members please check the board to determine if your vote is properly cast. If all members have voted, the machine will be locked and the Clerk will take a tally.

SPEAKER SHARKEY:

The Clerk will announce the tally.

THE CLERK:

LCO 4576, House "B."

Total number voting 139

Necessary for passage	70
Those voting aye	91
Those voting nay	48
Absent not voting	12

(Deputy Speaker Ryan in the Chair)

DEPUTY SPEAKER RYAN:

The amendment is adopted. Will you remark further on the bill as amended? Will you remark further on the bill as amended? Representative Perillo of the 113th, sir, you have the floor.

REP. PERILLO (113th):

Good afternoon, Mr. Speaker, thank you very much. If I could, sir, a few questions through you to the proponent of the bill.

DEPUTY SPEAKER RYAN:

Please proceed, sir.

REP. PERILLO (113th):

Thank you, very much. As I try to get an understanding of exactly what kind of individuals and what kind of entities would fall under this, we look at lines 4 through 14, which are changes, and that's new language. I'm wondering in line 7, it references a business association between individuals. What would a business association be?

What would be some examples?

DEPUTY SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker, I'm sorry, I had a hard time hearing. Could the Representative just say the lines again, please?

DEPUTY SPEAKER RYAN:

Just give me a second. Could members please quiet down so that the Chair of Human Services can hear the questions being directed to her by Representative Perillo, please? Representative Perillo.

REP. PERILLO (113th):

Thank you, Mr. Speaker. I was specifically looking at line 7 and the words business association. I would like to get some clarity as to what some examples of a business association might be. Through you, sir.

DEPUTY SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker, that would cover -- that would cover, like, lawn care, laundry,

businesses like that. Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Perillo.

REP. PERILLO (113th):

You know, I appreciate that, and I don't think, though, that that's what this is stating. It states that a related party includes any company related to a chronic and convalescent nursing home through family association, common ownership, control, or business association. So business association would simply be any vendor, any relationship at all? Is that correct?

DEPUTY SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker, yes, that's my understanding.

SPEAKER SHARKEY:

Representative Perillo.

REP. PERILLO (113th):

Thank you very much, and I thank her for that answer. Moving to line 10 in quotations is family association. What would be some examples, through you, Mr. Speaker, of a family association?

SPEAKER SHARKEY:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Thank you, Mr. Speaker. That would be anybody that is providing services to the nursing home. Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Perillo.

REP. PERILLO (113th):

All right, to clarify. So a family association is anyone providing services to the nursing home. That's what I think I just heard, to clarify.

SPEAKER SHARKEY:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

I'm sorry, Mr. Speaker, I misspoke, I apologize. A family association means a relationship by birth, marriage, or domestic partnership. Through you, Mr. Speaker, I apologize.

SPEAKER SHARKEY:

Representative Abercrombie -- excuse me, Representative Perillo.

REP. PERILLO (113th):

Thank you, Mr. Speaker, and I thank her for that

answer, and that is, indeed, the definition that is in the bill that is before us. But I'm wondering what some examples would be, beyond the obvious ones. Husband, wife, sibling, perhaps, child. But how far beyond that does it go? Because it simply states a relationship by birth. So I'm wondering how far that extends? Through you, sir.

DEPUTY SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

So I think the good Representative named them. Husband, wife, son, daughter, brother, sister. Those would be the relationships that I would understand under this definition. Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Perillo.

REP. PERILLO (113th):

That would include parents, cousins. Would it extend that far? Through you.

DEPUTY SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker, I believe that it's

written it could. Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Perillo.

REP. PERILLO (113th):

Thank you, very much, and I thought so. There's really for boundary here in terms of what this language says. It simply says, you know, family relationship, relationship by birth. And so there's no brackets on that. There's no limitation to that. So it could include, quite frankly, an awful lot of people. So if your cousin sells you pencils, as the Representative from North Branford said previously, that's a business relationship. And they would then become a related party. Is my understanding correct? Through you, sir.

SPEAKER SHARKEY:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker, he is correct.

DEPUTY SPEAKER RYAN:

Representative Perillo.

REP. PERILLO (113th):

And in that instance that related party, that cousin who is selling some pencils and stationary

and things of that sort, would have to present to the Department of Social Services their entire profit and loss statement. Is that correct?

DEPUTY SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker, yes.

DEPUTY SPEAKER RYAN:

Representative Perillo.

REP. PERILLO (113th):

Thank you. So would that be just the profit and loss related to the specific related party transactions or would that be the cousin's entire profit and loss statement for the entire scope of the entire business they provide as that company. Through you, sir.

DEPUTY SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker, could the good gentleman please repeat his question?

DEPUTY SPEAKER RYAN:

Representative Perillo.

REP. PERILLO (113th):

Gladly, thank you, Mr. Speaker. My question was, the related party -- the profit and loss statement that must be provided to DSS, by this related party, is it just profit and loss related to those related party transactions through that exchange of services and products with the nursing home or would it be the full profit and loss statement for that cousin, that relative's entire business? Through you, sir.

DEPUTY SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker, it would be the full profit and loss for that business.

DEPUTY SPEAKER RYAN:

Representative Perillo.

REP. PERILLO (113th):

So help me to understand. A family member, and we haven't even determined what that full scope is, perhaps even a cousin. Perhaps even beyond that, we don't know because the bill doesn't say. A family member, who simply does business with this nursing home, sells them services, sells them products. Even though that may be a very small portion of that

business' entire scope of work, they still, that relative still has to disclose to the Department of Social Services their entire profit and loss statement.

So if this cousin does $10,000 or $20,000 or $50,000 worth of business with this related party, with their relative, this nursing home, but they do $10 million worth of business, that relative has to disclose all of that, all that $10 million, the full scope of what they do. Is that correct?

DEPUTY SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker, I apologize, I was still trying to find that answer. Could you repeat the question? I apologize.

DEPUTY SPEAKER RYAN:

Representative Perillo, could you repeat the question, please?

REP. PERILLO (113th):

Gladly, Mr. Speaker. The question was if a very small portion, or quite frankly any portion, be it 10, 20, $50,000, let's use that number, is the extent of those related party transactions, yet that

relative has a much larger business. You know, $50,000 becomes the trigger, but the business is 1 million, 2 million, $10 million, that relative still needs to disclose their full profit and loss of the entire business. Is that correct?

DEPUTY SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker, if the business they're doing with the nursing home is 50,000 or more, yes, you are correct in that statement.

DEPUTY SPEAKER RYAN:

Representative Perillo.

REP. PERILLO (113th):

And then to clarify, and then that full profit and loss statement becomes public information. Is that correct?

DEPUTY SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, yes.

DEPUTY SPEAKER RYAN:

Representative Perillo.

REP. PERILLO (113th):

Even if it's a private business, and in many cases, just to clarify, you know, if you have an LLC, you're a single member LLC, and what you do is you sell stationary. You sell products and services, you sell, you know, we talked about laundry, and things of that sort.

All of that income, the revenue, the expenses, everything for that LLC runs through your tax statement. That's your life. That's your financial existence. The money you make for those products and the expenses you have associated with them, that's your life. That's everything.

And because you've got a small contract with somebody who happens to be related to you, who happens to own a nursing home, your financial life, everything you do, is now open to public scrutiny. It's out there for all to see. Is that correct?

REP. CAFERO (142nd):

Mr. Speaker.

DEPUTY SPEAKER RYAN:

Yes, Representative Cafero.

REP. CAFERO (142nd):

Mr. Speaker, I question the presence of a quorum at this time.

DEPUTY SPEAKER RYAN:

Will the Chamber please stand at ease.

(Chamber at ease).

DEPUTY SPEAKER RYAN:

Will the Clerk please announce a quorum call?

THE CLERK:

A quorum call has been called in the House of Representatives. A quorum call has been called in the House of Representatives. Will members please return to the chamber immediately.

REP. CAFERO (142nd):

Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Cafero.

REP. CAFERO (142nd):

Mr. Speaker, I am satisfied that there is the presence of a quorum. Thank you.

DEPUTY SPEAKER RYAN:

Thank you, sir. The Chamber will come back to order. Representative Perillo, I believe you had the floor.

REP. PERILLO (113th):

Thank you, very much, Mr. Speaker. So we've established so far, let's take a look. We've

established that the scope of a family relationship of a related party is very, very wide. We've even included cousins. We haven't even figured out that that's the end of it. It could go far beyond that.

And we've established that if a nursing home does business with that relative, be it cousin. I mean, ancestry.com says they can take you out, and find you 10,000 people. Could be all of them, we don't know. If that person is doing more than $50,000 worth of business, and they've got 2 million, 3 million, $10 million worth of work, all of that work, all of that profit, all that expense, everything, is now available to the public.

It's disclosed to DSS and it's out there for the world to see. Anybody. Your friends, your neighbors. They want to see how much you make, they can figure it out. They can figure it out. In fact, that profit and loss statement, in many cases, if you're an LLC is tantamount to your tax return.

Your tax return is not available from the federal government. That is not disclosed. But here we're making it so. We're making it so. Anybody can see it. Whenever they want. Just because you do $50,000 worth of business with a guy

who is your third cousin twice removed.

I have a follow-up question to that, if I may, through you, Mr. Speaker. As I read family -- I'm sorry, as I read a company it means any person, partnership, association. Is that correct? So any individual, it doesn't have to be a business, per se. Is that correct? Through you, sir.

DEPUTY SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Could you repeat your question Representative?

DEPUTY SPEAKER RYAN:

Representative Perillo.

REP. PERILLO (113th):

Gladly, Mr. Speaker. I'm trying to understand the full extent of who would be included in this. And as I see on line 8 in the definition of company, it includes the word person. So I'd like to clarify whether or not this vendor, this related party needs to be a business or if it could simply be a person, an individual. As I read the definition, it could be an individual. I would just like to clarify.

DEPUTY SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker, they would have to -- it would have to be the business that they own that is doing the business with the nursing home that has $50,000 or more transaction. Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Perillo.

REP. PERILLO (113th):

Okay, thank you, Mr. Speaker. So that would include a consultant or somebody who is sort of a temp or anything like that. So would it be an employee? Is that included? An employee? Through you, sir.

DEPUTY SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

An employee of the nursing home itself? Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Perillo.

REP. PERILLO (113th):

That is correct.

DEPUTY SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

No, they're not a related party under this definition. Through you, Mr. Speaker. They're an employee. Through you.

DEPUTY SPEAKER RYAN:

Representative Perillo.

REP. PERILLO (113th):

Okay, thank you, Mr. Speaker. But if they were a consultant, if they were contracted in some way shape or form other than being an employee, they would fall under this. Is that correct?

I ask specifically because we do have a lot of situations whereby, you know, particularly in the nursing field, there may be shortages, and people are contracted with to provide those nursing services even though they are not an employee. So in that case would they be considered a related party? Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker, if they're doing $50,000 or more of business with the nursing home

itself, yes, they would be under -- they would fall that definition as a related party. Through you.

DEPUTY SPEAKER RYAN:

Thank you, Madam. Representative Perillo.

REP. PERILLO (113th):

Thank you very much, Mr. Speaker, and that is exactly what I thought. So let's examine a scenario. I own a nursing home. I don't, but let's say I do. My third cousin twice removed is on contract with me and I pay that third cousin twice removed $55,000 to provide that service for the year.

Now my third cousin twice removed, this is the only job he's got. 55,000 is what he makes. 55,000 is what he puts on his tax return. Now, with this bill, my third cousin twice removed has to disclose everything they make, that $55,000, and that's available to everybody. Everybody who wants to see it can now access it from the State of Connecticut under the Freedom of Information Act -- Freedom of Information Act. Is that correct?

DEPUTY SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker, that is correct.

DEPUTY SPEAKER RYAN:

Representative Perillo.

REP. PERILLO (113th):

Wow. I understand the intent of this. I get it. I get it. But we just heard the unintended or perhaps an intended result of this is that innocent people, who are relatives of ours, as distant as possible, we don't even know, their financial information, their financial lives, everything they work for, everything they scrimp and save for is now available to the public. We're publishing it. We're putting it out there.

I hope that's not the intent of this bill. I hope we're not trying to expose everyone's information for all the public to see. Whether it's the intent or not, though, quite frankly, Mr. Speaker, is not material. Because it's in here. And that's what we're doing.

I understand we want transparency. We want nursing homes to be transparent. But we don't want innocent relatives to have to disclose their personal financial information in the interest of transparency. That's not what we're trying to do,

but that's what this bill does. And that, among many other reasons, Mr. Speaker, is why I would urge my colleagues to oppose this bill.

DEPUTY SPEAKER RYAN:

Thank you, Representative Perillo. The distinguished Minority Leader, Representative Cafero of the 142nd, sir, you have the floor.

REP. CAFERO (142nd):

Thank you, Mr. Speaker, I want to follow up on some questions, if I may, to Representative Abercrombie, follow up on some of the questions that were asked by Representative Perillo. Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Please proceed, sir.

REP. CAFERO (142nd):

Thank you. Representative Abercrombie, just to go through another hypothetical. Initially when we started debating this bill, we were talking about who is in and who is out, and now we're talking about the mechanics, which I think are good.

If I were a large nursing home, if I was the owner of a large nursing home, and I contracted out for laundry services, for food services, for

maintenance services, for lawn maintenance or lawn cutting, landscaping services. Linen service, maybe, et cetera. And the amount of the contract for each one of those entities was in excess of $50,000, under this bill I would have to submit the profit and loss statement of each one of those companies. Is that correct, through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker, could the -- I'm sorry, someone was speaking in my ear. Could you repeat the question? I apologize.

REP. CAFERO (142nd):

Sure.

DEPUTY SPEAKER RYAN:

Representative Cafero.

REP. CAFERO (142nd):

Thank you, Mr. Speaker. Through you, if I am a large nursing home and I have several contracts with vendors, one for food services, one for landscaping services, one for linen services, one for accounting services, et cetera. If each one of those contracts

with these third parties are in excess of $50,000, does this bill require me to submit that company's profit and loss statement to the State of Connecticut Department of Social Services? Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker, the way the third party -- I mean related party definition is, yes.

DEPUTY SPEAKER RYAN:

Representative Cafero.

REP. CAFERO (142nd):

So thank you, Mr. Speaker. This bill passes and I'm at large nursing home, and I say, I got to comply, so I call up Fred's Landscaping Service, with whom I have a contract for $50,000, and I call up Lenny's Laundry Service, with whom I have a contract for $50,000, and Freddie's Food Service, and I say, gentlemen, I need your entire profit and loss statement so I can submit that to the state so it could be FOI'd and given to whomever pleases to see it. And they say to me, what, are you kidding me? I'm not giving you that. What do I do? I

requested it, I'm trying to provide it. But I can't go into that company and rip it from them. What do I do? Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

If we are requiring you to get this information, then I would assume that you would have to go with a business who is going to give you that information. Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Cafero.

REP. CAFERO (142nd):

Thank you, Mr. Speaker. Through you, that's exactly my hypothetical. I go to that business, and I say, the State of Connecticut now requires me to give over your profit and loss statement for your entire business. May I please have it so I could submit it to the Department of Social Services. They say to me, will this be for everyone to see? I said to them, yes, it will.

Anybody in the world can see your entire profit and loss statement. They say to me, is this only because we do $50,000 worth of cutting your lawn? I

say yes, it is. They say I'm not giving you the information. What does one do in that case when the business with whom they're doing business with refuses to give them the information as required by this bill? Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker, I would assume that they would just keep requesting it and hope that they will give them that information. Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Cafero.

REP. CAFERO (142nd):

Through you, Mr. Speaker, at some point would the Department of Social Services say, hey, Cafero Nursing Home, home, where's your info? We're waiting. And I say to them, I know, I'm trying, but Lenny's Laundry won't give me the profit and loss. What do I do? What do I do? Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker, if I'm -- if I'm required to give this information to the state, to DSS, then I would no longer do business with that business, because I am not fulfilling my part of my obligation to the state which is part of the information that's required. Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Cafero.

REP. CAFERO (142nd):

Well, I guess I'm firing Lenny's Laundry. So now I go to Larry's Laundry, because I can't use Lenny because he won't give me his profit and loss statement. And frankly what I'm trying to say here is there might be a reluctance, a strong reluctance on the part of these vendors to say, hey, wait a minute. With all due respect, you're a small portion of my business. I'm not going to give up my entire profit and loss statement for my entire business to you. And if I'm forced to go back to the crux of this bill, the patients we want to protect. If the very services that help a convalescent home give those services to our most needy and frail of our citizenry, and they

are having difficulty getting those services because of what many might - many, many might perceive as a burdensome law, we have a crisis. We have a problem.

Through you, Mr. Speaker, if I may.

If a nursing home is unable or unwilling to comply with this law, what happens to that nursing home?

Through you, Mr. Speaker.

SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd:

Through you, Mr. Speaker. Could he repeat the question?

SPEAKER RYAN:

Representative Cafero, could you please repeat the question?

REP. CAFERO:

Yes, Mr. Speaker. If a nursing home is unwilling or unable to comply with this law in that they cannot obtain the profit and loss statements as required by this bill, what is the sanction against that nursing home?

Through you, Mr. Speaker.

SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd)

Through you, Mr. Speaker. I would assume that DSS would just keep with the rate that they are presently giving them. So they would not be able to adjust it based on the information that - that the nursing homes are giving them.

Through you, Mr. Speaker.

SPEAKER RYAN:

Representative Cafero.

REP. CAFERO:

Thank you. Through you, Mr. Speaker. Therefore, if I'm a nursing home trying to comply with this law, but through circumstances beyond my control, like the noncooperation of these vendors who I now have to collect their profit and loss statement from. I'm being deprived of my rightful, deserved increase in my rate.

Based on your answer, they would have to keep it at the current rate. If that would put me as a nursing home in financial jeopardy, what happens then?

Through you, Mr. Speaker.

SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE:

Through you, Mr. Speaker. If I'm a nursing home doing business, I would try very hard to get that information, if that information is so important to my nursing home staying afloat.

Through you, Mr. Speaker.

SPEAKER RYAN:

Representative Cafero.

REP. CAFERO:

Thank you, Mr. Speaker.

I guess we could prolong this back and forth and I don't want to do that. But what I'm trying to say is listen to what is being said here. You have a nursing home that by its definition does a lot of business with a lot of different vendors, and if the business they do with those vendors exceeds $50,000, this law says you, the nursing home, have to get from the vendor their profit and loss statement for their entire business.

And let them know, by the way, that that profit and loss statement is public information, can be used by any entity, the press, the public, unions, whoever wants it. Whoever wants it. And they say I'm not going to give it to you.

The answer was, "Well, you better try hard to get it." Well, as hard as I might try, I have no legal authority to go into another company, a privately -- held entity, and demand their profit and loss statement.

Now, you had suggested earlier, the good representative suggested earlier, that I could just cease to do business with them. Well, that's all well and good, but it doesn't help me when I'm going to DSS to try to apply for a rate increase.

That's what the flaw is in this law. The other thing, given the recent amendment that just passed, if I do $49,500 worth of business with each and every vendor, I don't have to give up anything. But once I spend another 500 bucks, now I'm subject to this.

Talk about an incentive for people finding another way to skin a cat. I bet you we're going to see an awful lot of $49,500 contracts out there.

Mr. Speaker, the Clerk has in his possession LCO 4582, may he call and I be allowed to summarize.

SPEAKER RYAN:

Will the Clerk please call LCO 4582, which will be designated House Amendment Schedule C?

THE CLERK:

House C, LCO 4582, introduced by Representative Cafero et al.

SPEAKER RYAN:

The Representative seeks leave of the chamber to summarize the amendment. Is there objection to summarization? Is there objection?

Hearing none Representative Cafero, you may summarize the amendment.

REP. CAFERO:

Thank you Mr. Speaker. Ladies and gentleman this is the amendment I talked about earlier on. This is the amendment that gets exactly at the heart of what we're trying to do, does so in a far and just way, red flags the bad actors or those entities that are having financial troubles, subjects them to the disclosure, but only them to the disclosure.

What this amendment says is that the current system of auditors, which we now know exists, that every single nursing home, profit or nonprofit, must submit a 40 -- page financial statement that is reviewed by third -- party auditors hired by the Department of Social Services.

Those auditors, under contract with the Department, shall, during the Department's desk

review, which they do currently, review the cost reports filed by each of the nursing homes to determine whether a nursing home has experienced significant operating losses, significant negative current working capital or undercapitalization for the last two years.

If the auditors make such a determination, that determination shall constitute probable cause, that the nursing home may not be able to continue operating as an ongoing concern. Additional evidence showing that fact, which we're all concerned about, would be including but not limited to irregularities, in generally accounting principles, deviation from industry standards.

For the purpose of this subsection the auditors shall not intend their analysis beyond the last two years, the latest year being the year associated with the cost report last filed.

Mr. Speaker, I move adoption.

SPEAKER RYAN:

The question before the chamber is adoption of House Amendment Schedule C. Will you remark on the amendment? Will you remark on the amendment? You want to push to remark further?

REP. CAFERO:

I do. Thank you, Mr. Speaker.

Ladies and gentlemen, this allows the auditors to say that aha moment. When they go through their desk review as they do right now, they will look for these indicators of financial insolvency or financial funny business, under capitalization, excess costs in a certain area, far over what it had been the year before.

A deviation from generally accepted accounting principles, a deviation from industry standards. And those nursing homes and only those nursing homes would be subject to any additional information that those auditors demand. It could be everything that's required under this bill.

And yes, it would be disclosable, so nobody's trying to hide anything from anybody. Once the probable cause trigger is met, that financial nursing home and the - excuse me, that nursing home and the financial information they give is for the world to see.

Because what we're trying to do, as I thought from the very beginning, is make sure that our nursing homes in this state are financially viable. So we do

not have the circumstance as described by Representative Morin, where people who call these homes their home are nervous and in jeopardy about being thrown out because of the mismanagement or insolvency or financial shenanigans by their nursing home.

But the other players, the ones that are abiding by generally accepted accounting principles, that are proud of the management of their place, that do not have any irregularities, do not have any deviations, they would continue as they do today.

What does that do? This amendment solves the very problem that the underlying bill purports to get at, discovering who's solvent, who's not. But it prevents the unintended consequences described by Representative Perillo and others of every nursing home having to give this information, some of this information almost impossible to get.

Not even under their direct control. How do you make a company give you information about their profit and loss statement? What do you do, put a gun to their head? They don't want to give it, they don't give it. And yet the consequence of that, through no fault of the nursing home, is traumatic.

And we're going to put that burden on every single nurse, 153 for -- profit nursing homes. If we're trying to get at a specific problem, let's get at that problem. This amendment gets at that problem, without sending a message. You know, it's funny. The other day we passed the UTC bill, and we talked about not only it's effect on UTC, but all the other venders that are going to benefit from that.

The jobs that would be created, the economic activity that would be created. You know, in every industry that's the case. Nursing homes hire linen services and food services and lawn -- cutting services and electric services; et cetera. And if that industry and its satellite industries all of a sudden have this potential cloud over it, say if you do business in this industry beware because you will subject yourself to an audit by the Department of Social Services.

Is that what we want? Is that why we're doing this bill? The reason we're doing the bill is exactly what this amendment says. We're trying to discover ahead of time those nursing homes that have financial problems. And when we do, we take action on those

nursing homes that have financial problems, not on all of them.

I urge the members to adopt this amendment.

Thank you, Mr. Speaker.

SPEAKER RYAN:

Thank you, Representative. Will you remark further on the amendment before us? Will you remark further?

REP. CAFERO:

Mr. Speaker, excuse me.

I neglected to ask that when the vote be taken it be taken by role.

SPEAKER RYAN:

The question before the chamber is on a roll call vote. All those in favor of a roll call vote please signify by saying aye.

REPRESENTATIVES:

Aye.

SPEAKER RYAN:

The requisite 20 percent have been met. When the vote is taken, it will be taken by roll. Will you remark further on the amendment before us?

Representative Abercrombie.

REP. ABERCROMBIE:

Thank you, Mr. Speaker.

Mr. Speaker, I do appreciate this amendment that was given to us by the minority leader, but I do believe that the underlying bill gets to the issue that DSS has been proposing, which is to have this information readily available at the time of the audit. So I ask my colleagues to reject this amendment.

Thank you, Mr. Speaker.

SPEAKER RYAN:

Thank you, Representative.

Will you remark further on the amendment before us?

Representative Tercyak.

REP. TERCYAK (26th):

Thank you very much, Mr. Speaker.

For show and tell, a couple of pencils, got my name on it, says State Representative New Britain. I get them from my brother.

To tell you the truth, I don't know how much money he makes or loses on this. When I get them from him, he won't really give me a good price. I give him a few hundred - an exact price. I look at what other people sell them for; I give them a little bit more

money than that and say, "I love you, John." He says, "I love you too, Peter." You know?

Now, if just like my salary, your salary, your salary, when we retire our retirement benefits and not just us, any single state employee. Just like the public has the right to look at all that money that goes to state employees just like we read on the front page of the papers, who got into retirement that somebody might think is too good, that's all public money.

And that's why we know about it. We don't know about it because these people are second -- class citizens. We don't know about it because they have fewer rights than other people. We don't know about it because they care less about talking about their money than the average person does. We know about it 'cause it's public money and that's the way it works.

Now, if we decide that Peter and everybody else up there, we want to know when you spend your own money on some little tchotchke to give the kid when they visit your office, I'll go to my brother and I'll say, "John, what's it cost? What's the profit? Or do you do it as a loss hoping it will get you more business?"

And if John says, "That's none of your business, Peter, that's my business," then John, you're fired.

I still love you. I hope you still love me, but you're fired, fired, fired. That's exactly what we're talking about here, folks. We're not talking about you go to Sunshine Laundry, which you have absolutely no connection to and give them $100,000 worth of business and we want to follow that and find out which Sunshine Laundry, which you have absolutely no connection to, is charging.

This is about family businesses. This is about related businesses. This is about businesses in common. That's why, by the way, this is about for profits. Because our not -- for -- profits, as far as we know, are not turning a profit on their related businesses.

But back to the issue at hand. When the nursing home owner goes to their brother John and says, "I need to know the profit or loss for your company because we get our pencils from you," if their brother John won't give them that information, they can fire that brother's company and that brother just as fast as I can fire mine.

And it's as fair as - every state employee having their financial information out there, every single state retiree, no matter how long ago they retired, no matter what the rules were then, every single one.

There's a website you can go and find out about it. We have a website where you can go and dig deep, deep into the state budget. One place you can't go is to see if a for -- profit nursing home, what that for -- profit nursing home is giving to that for -- profit nursing home's brother John.

I think that we have the right to look at that as much as that the public expects to have the right to look at that, as much as they expect to have the right, maybe even more then, to look at our salaries.

For those reasons, and because we all love our brothers and sisters, I hope that everybody will join me in voting against this amendment. Thank you very much, Mr. Speaker.

SPEAKER RYAN:

Thank you, Representative.

Will you remark further on the amendment? Could members help me? If you wish to speak on the amendments, as I have a list of names here, could you stand?

Representative Smith.

REP. SMITH:

Thank you, Mr. Chair, Mr. Speaker.

I just -- I must say I'm incredulous at what I just heard. Are we in the business in this chamber of terminating relationships? Are we in the business of putting people out of business? Is that what we're doing here?

I can't believe what I'm hearing. You know what? For the heck of it, why don't you just Google. We all have computers, take a little Google time and look up what the business climate here in Connecticut is. See how we're doing. It won't take long.

I could tell you how we're doing. We're doing lousy. We're doing one of the worst in the country, and we're one of the worst in the country because the legislation that continues to make doing business in Connecticut a farce.

We want to fire somebody because they don't disclose their profit and loss statement because they happen to do business with a nursing home that paid them $50,000? What about the profit and loss they have with their other vendors?

That's disclosed to the other companies. That's disclosed to the world? How is that good for competition? How is that fair? It's not. I am shocked. I must say, I am shocked. I've sat here through a lot of things and through the Labor Committee and I sit there and say God Bless. I don't know.

Everybody has the right to have an opinion. But I am shocked today, Mr. Speaker, on what I just heard.

SPEAKER RYAN:

Thank you, Representative.

Representative Wood of the 141st District. Ma'am, you have the floor.

REP. WOOD (141st):

Thank you -- Thank you, Mr. Speaker.

I do stand in very strong support of this amendment. We all agree, I think both sides, on this issue. We all agree the need for financial transparency for companies who are in financial distress and trying to hide it. I think 100 percent of us are in agreement with that.

It's really determining just cause for filing all this information. So if I may, a few questions back

to the proponent of the underlying bill, to make a case for why this amendment makes sense.

Through you, Mr. Speaker.

SPEAKER RYAN:

Representative Abercrombie.

REP. WOOD (141st):

Okay. Question.

SPEAKER RYAN:

Please proceed, ma'am. I'm sorry.

REP. WOOD (141st):

We're raising this bill because two nursing homes in 2006-2008 filed for bankruptcy; is that correct?

Through you, Mr. Speaker.

SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker.

No. This is to look at all financials of all nursing homes.

Through you, Mr. Speaker.

SPEAKER RYAN:

Representative Wood.

REP. WOOD (141st):

REP. WOOD (141st):

Something must be prompting this type of invasive, overreaching legislation, and my understanding is I thought you have mentioned earlier it was Health Bridge and Haven Healthcare -- I'm not sure what the full name is for Haven Health -- Health Haven Nursing Home? Haven. Haven Nursing Home had prompted this, yes or no to that?

Through you, Mr. Speaker.

SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker.

I think the commissioner's testimony said it was just to make sure that all nursing homes stay financially sound.

Through you, Mr. Speaker.

SPEAKER RYAN:

Representative Wood.

REP. WOOD (141st):

But we have two cases. What I had calculated earlier, just taking 10 years, in 10 years we've had two nursing homes file bankruptcy out of 2,370 nursing home years.

So two. Actuarially, that's not a high-risk pool. So I think to ask all these nursing homes for all the profit and loss statements every single year is an overreach in many ways. I think it's asking too much of DSS to have to review all that when the basic information is already in the cost report required of these nursing homes every year.

With Healthbridge and Haven, was it simultaneous that these nursing homes went bankrupt?

Through you, Mr. Speaker.

SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

No. Through you, Mr. Speaker.

SPEAKER RYAN:

Representative Wood.

REP. WOOD (141st):

When -- were there issues -- what prompted these nursing homes to file for bankruptcy?

Through you, Mr. Speaker.

SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker.

They could no longer stay in business.

Through you, Mr. Speaker.

SPEAKER RYAN:

Representative Wood.

REP. WOOD (141st):

Thank you.

Was there a labor dispute that was part of any form of that inability for them to stay into business?

Thank you. Through you, Mr. Speaker.

SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker.

I'm not that familiar with both cases, so I can't speak to that.

Through you, Mr. Speaker.

SPEAKER RYAN:

Representative Wood.

REP. WOOD (141st):

We're trying to determine why this bill makes sense, and I just -- I think we need information. If this is one of the reasons that is driving this legislation, I think it's important to have the information on what were the factors contributing to

the bankruptcy and why these financial forms, why these extra reporting forms make sense.

So that's what I'm just trying to get to to make -- I think our constituents want to know we followed common sense in writing legislation and not overburdened businesses and overburdened our agencies that can't handle the paperwork they now have. Why are we adding more paperwork to their reporting requirements and their reading requirements?

And I think this has already asked, so forgive me if it has. With these extra profit and loss statements for businesses, related businesses of over $50,000, who has access to those forms? Anyone? Could I walk off the street into DSS and ask for the forms?

Through you, Mr. Speaker.

SPEAKER RYAN:

Representative Abercrombie. Sorry.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker.

They will now become public information.

Through you.

REP. WOOD (141st):

They -- I'm sorry.

SPEAKER RYAN:

Representative Wood.

REP. WOOD (141st):

I'm sorry. They will become public information? I physically didn't hear it.

SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker.

Yes, that is correct.

SPEAKER RYAN:

Representative Wood.

REP. WOOD (141st):

Thank you. So public information means I can go to DSS and request -- of whom do I request I would like to see a certain profit and loss statement from a related entity?

SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker.

I'm not sure. I'm sure it would be they could FOI it.

Through you, Mr. Speaker.

SPEAKER RYAN:

Representative Wood.

REP. WOOD (141st):

I can imagine, DSS with all they have to do now, going -- really loving this idea of more people FOIing things from them. That's an editorial comment, I guess. Indulge that.

Representative Tercyak mentioned earlier that 10 nursing homes in the state, I think three or four years ago, had a 9 percent increase in related businesses, yet inflation only went up up 10 -- only went up 3 percent. Why was this information, when this information was seen in the cost report, why was that information not flagged and investigated further.

Through you, Mr. Speaker.

SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker.

I would like to defer to Representative Tercyak, who had made that statement.

Through you.

SPEAKER RYAN:

Representative Wood, would you refer your question to Representative Tercyak, or redirect your question?

REP. WOOD (141st):

Absolutely, thank you.

SPEAKER RYAN:

Representative Tercyak.

REP. TERCYAK (26th):

Thank you very much, Mr. Speaker.

I hope I was clear before when I said it's the top 10 chains, not just 10 homes each going up a million dollars each. The years are between 2011 and 2013. The difference is $11 million and change.

That's around 9 percent inflation for that period. The inflation, we're told, existed for our economy at large in Connecticut was 3.6 percent. 2011 was when this started. You'll see in the -- the commissioner testifying about what things cost.

2011 the commissioner didn't see the need to have this kind of detail. Two years later, $11 million goes to a handful of businesses, some chains, and the question is why. To be responsibility stewards of our money, the question is why? How? Eleven million dollars in two years.

I thank the commissioner for changing his mind and deciding that he needs more information. But that's what this is about. And again, remember, we're only talking about some nursing homes, Brother John, and the business he runs.

Through you, Mr. Speaker. Thank you very much.

SPEAKER RYAN:

Thank you, Representative.

Representative Wood.

REP. WOOD (141st):

Thank you very much. Actually that was a terrific comment from Representative Tercyak and it absolutely supports why this bill makes sense, because there was a financial aberration in the cost report and this amendment would absolutely solve that issue.

It highlights that there is something in deviation of current practices, and under this amendment they could have absolutely approached that nursing home.

So that's exactly why I stand in support of this amendment and think it truly addresses the issue of financial -- a company that is deviating from financial common sense.

The other reasons I support this is it's very specific. We don't take -- I hate to go back to the integrated pest management -- but even an antibiotic, if we have a little cut on our arm, we put a little Neosporin on. We don't take a massive antibiotic through our bodies.

And I think the underlying bill is an overreach. It overstresses the department. It overreaches our sense of democracy, and this amendment will look at companies that are potentially undercapitalized. There are excess costs.

There's a deviation from industry standards, and they're not complying with GAAP accounting standards. It helps determine who's solvent and who's not, so this very specifically addresses the issue to which we all agree that we need nursing home transparency.

We need transparency and in understanding who's getting the money and where it's going. So I do stand in support of this bill, and I encourage everyone in the chamber to think, truly think about this, because this is common sense and this is why we are here.

Thank you. I thank the good chairwoman for her answers and also Representative Tercyak always for his enlightening thoughts.

And thank you, Mr. Speaker.

SPEAKER RYAN:

Thank you, ma'am.

Will you remark further on the amendment before us?

Will you remark further on the amendment before us?

Representative Lavielle of the 143rd. Ma'am, you have the floor.

REP. LAVIELLE (143rd):

Thank you very much, Mr. Speaker. Good afternoon.

SPEAKER RYAN:

Good afternoon.

REP. LAVIELLE (143rd):

I rise in strong support of this amendment because, as Representative Wood said just now, we do have an issue of transparency with nursing homes that aren't making the grade. And we do need to know what is going on there.

We do need to know why, and how they can clean up their act. And we need a lot of information to figure that out and to impose restrictions on them or changes because we are dealing with our most vulnerable populations.

This amendment addresses that issue directly and cleanly, and it aims to provide a context for doing that with nursing homes that aren't functioning well.

It also avoids the many issues raised and created by the underlying bill. If every business that works with a nursing home must disclose everything about its own profit and loss and operations, each one of those businesses might simply decide, and they have a lot of valuable experience, they might simply decide not to continue their relationships with nursing homes any further.

We have not only a tradition, but a system of laws in this country which requires publicly-listed businesses that operate on stock exchanges to disclose certain information because they are allowed to raise capital on those markets.

There are other businesses that forgo that opportunity to raise capital, and those businesses are not allowed -- are not obligated to make those disclosures.

And they therefore run their businesses without all of those additional legal constraints and staffs that prepare that operation. They are used to operating in a certain way, and they are used to being

able to keep certain information confidential so that they can continue to compete in their marketplaces.

Also sometimes they are small businesses, and when their information is disclosed, their owners have all of their personal finances out there in the open market. So if we don't confine what we're saying here, those disclosures, to just the businesses as this amendment states, that have a relationship with nursing homes that are not doing well, then we are opening this whole can of worms that obligates every single business that has a relationship with a nursing home to disclose everything.

And if we do that in this area, in this sector, then my goodness, what sort of precedent are we setting for businesses in any other sector of our economy?

And I have to say I feel like a broken record, Mr. Speaker, because I feel like almost every time I stand up I'm talking about what Connecticut is doing every day to convince the rest of the world that it has distinguished itself by its lack of understanding of the way successful economies operate.

But here we go again. I feel like I'm in some sort of a nightmare universe, where we have a Commerce

Committee that I'm ranking member of, I'm supposed to deal with economic development, but what we basically are doing is economic destruction.

Every day there's something new. We have a bill that's going through the Senate right now that talks about having the state compete with the financial sector to design retirement plans.

We have another one that's going to impose a $3 million tax on insurers that will be passed through to policy holders. We have our paid sick leave, which we had a bill to expand this year. We have another one for making it more expensive to employ people with the minimum wage.

We had another one, which fortunately was killed in the Finance Committee, that imposed a penalty on businesses if they didn't pay their lowest-paid employees enough.

We even had another one that said you couldn't apply for any tax incentives from the government if there was too big a spread between your top executives and your lowest-paid employees.

I'll say it again, what we're doing here is one more thing that helps Connecticut distinguish itself through its lack of understanding of how a successful

economy operates. Economic destruction, not economic development.

I am as shocked as Representative Smith is that this is even being proposed, and I strongly, strongly urge the chamber to adopt this amendment instead.

Thank you very much, Mr. Speaker.

SPEAKER RYAN:

Thank you, ma'am.

Representative Noujaim of the 74th. It's always a pleasure to hear from you, sir. You have the floor.

REP. NOUJAIM (74th):

Thank you, Mr. Speaker. Good afternoon to you, sir.

SPEAKER RYAN:

Good afternoon, sir.

REP. NOUJAIM (74th):

It's always good to see you and we had some great times on the Labor Committee. I'm glad to have you here too and to see you here, Mr. Speaker.

Mr. Speaker, I would like to, if I may, address this issue from a business perspective. We have laws in this country. Some of them are federal laws, some of them are state laws. And all of the laws say that if you have private enterprises that are not public

enterprises that do not have shareholders, they do not have to disclose their financials.

Those enterprises could be a one-man shop, they could be an LLC, they could be a Sub-S, they could be a C corporation. But if they are incorporated and they are a private entity, no one can force them to disclose their financials.

Everybody knows, Mr. Speaker, that in the State of Connecticut the backbone of our businesses here in our state and the backbone of our economy are the small businesses. And a great deal of small businesses are free enterprises, private enterprises.

So with all my respect to the Representative Tercyak when he says, "Fire, fire, fire, fire, fire, fire if we don't do what I want you to do or if I don't buy the pencil from you," unfortunately in business things does not work that way.

I am in business. I live in business. I work in business every day. It's not easy to say, "Fire, fire, fire. I don't want to do business with you."

If you go to a new company to get a new supplier, it's not as easy as going to a supplier and say, "I want to buy from you now." There are policies to follow through. There are procedures to follow there.

There are qualities to be checked, there are issues to be looked upon. All of those matters are very important when looking for a supplier.

So a customer might come in, and they want to do all kinds of audit on a company before they can be a supplier. They want to do about the quality processes. They want to do about supply and relation, they want to see if they are solid in the marketplace.

They want to see if they can continue dealing with them in the future. They want to see their deliveries, they want to see their quality. They want to see their prices before they become a supplier.

So it's not as easy as to drop a supplier and go find somebody else. And if this underlying bill is implemented instead of this amendment, what is going to happen is you're going to have companies, and I think Representative Cafero said it before, they will do $49,500 of business and then they just go away someplace else. And that is not right.

That is not right because it is not as easy to go find another supplier. The costs are very high. The costs to purchase, the cost to audit, the cost to invoice, the cost to ship, the cost to receive, the

cost to do quality assurance, all of these are costs that are going to escalate pricing.

So in order for us to penalize one or two companies, we are going to just take everybody and put everybody into the same boat. Everybody is going to be on the same boat just because we're going to be penalizing one or two companies.

And yes, Mr. Speaker, Labor's problem's well involved in closing convalescent homes before, nursing homes. Representative Wood asked the questions and Representative Abercrombie said she did not know if it was a labor issue.

But I can tell you, Mr. Speaker, one nursing home on the west side of Waterbury, west Main Street, was involved in a labor dispute. I would see them striking every day. They struck for a long period of time, and then before you know it, the business closed. And right now I drove just two days ago in front of that building. For about six years that building remains closed with the windows all blocked up with plywood.

So what happened to us is we chased a business out of Waterbury. We cashed a business out of the State of Connecticut, but more importantly than just a

business, what we did is that nursing home had beds and people sleeping on that bed. They had to be sourced and outsourced elsewhere.

So what we do also is not just to chase a business out, but we inconvenienced people who are elderly, who are sick, who need help. That's what we did when we do these kids of bills and laws.

It is very important for us to start looking beyond politics and beyond penalizing the entire industry just because one or two bad apples.

So I look at this and I read the amendment, and I think Representative Cafero read it before. It's very easy, lines 34 to 36, "Additional evidence constituting such probably cause include but is not limited to irregularities in general accounting principles and deviation from industry standards."

Those should be investigated. Just don't go out investigate everybody just because we have one company or two companies out of hundreds of companies that do their job every day and respond to the law every day, and do it according to appropriate practices.

So these are issues, Mr. Speaker, that we should put aside all the politics and start looking into what

makes sense. We are chasing businesses away from Connecticut.

There are companies and states from outside the state calling smaller corporations, asking them to move because people can no longer do business here in Connecticut, and if we continue doing those bills that we are doing right now, it's going to make matters worse.

And nobody will be here but people who are going to be taking aide from the State of Connecticut, which will increase the taxes of every working person, man or woman, Democrat, Republican or Independent. Taxes don't know borders.

Mr. Speaker, I do rise in support of this amendment, and I urge my colleagues to support it.

Thank you, sir.

SPEAKER RYAN:

Thank you, sir. Once again, could I ask --

Yes, Representative Carter of the 2nd, please.

REP. CARTER (2nd):

Thank you, and good afternoon, Mr. Speaker.

SPEAKER RYAN:

Good afternoon.

REP. CARTER (2nd):

You know, ladies and gentlemen, I rise in strong support of this amendment. As I've heard through the debate over the last hour or so, the goal of this is to look at these nursing homes that might have a financial issue, even though there's only been a couple that have really had any major problems.

But we're going to look at these financial issues, and we're going to try to find a way that we can mitigate the circumstances before they go under. And thereby we are protecting our constituents and the elderly in the State of Connecticut.

I think that's a good idea. It makes sense to look -- in fact, we're doing that with some of the other bills in this chamber. But the problem is the underlying bill, like without this amendment, the underlying bill goes much too far.

My good colleague from the 143rd had mentioned earlier about what happens next with this bill. See, the underlying bill is going to require these businesses -- anybody who does business with a nursing home to put everything out in public that they do, just because somehow they get a state dollar through another entity.

So because a state dollar goes to a nursing home, then when the nursing home pays that dollar to somebody, we should know what your business is about and have all your information. It's kind of like having a little hitch or a little -- a way to hold on to these businesses and find out more information.

I don't want to say bribe, because it's the other way around. But so what if we apply that to other things that we do in this chamber? What if we apply this to Medicaid dollars? Do we ask for every profit and loss statement of every business and every physician that a Medicaid dollar goes to?

What about our campaign dollars? You know, the fact that we have a citizens' elections program and we have a dollar that comes to us as part of a state grant, and then we go out and we spend it in the community or we go buy, you know, a mailer, now do we have to ask for every profit and loss statement from every company that we've ever done business with?

Because you know, at the end of the day, somewhere there has to be a line of privacy for these businesses, not only the fact does it take money and effort for these businesses to put that stuff forward,

but there's got to be some ability for them to not have to put everything out on the plate.

We've seen the same thing come through in different bills in this legislature where we've had privacy rights because when the government takes something or needs something from us on a form, then all of a sudden it become FOIable.

So this is kind of the same thing. We're taking these -- we're taking these state dollars and we're doing things to help our constituents in the state. But then all of a sudden we'll say well, it's going to come with a little bit of a hitch. You've got to give up all your private information to us.

Now that seems like a really really wrong message to send businesses and constituents in the State of Connecticut. Ladies and gentlemen, the amendment before us gets around all that controversy. It's straightforward. It has a third party auditor looking these nursing homes, and we're not going further or being heavy handed with all these major businesses.

And by the way, I've heard it said a number of times, we're talking about people who will be related to us in these businesses. The underlying bill

affects every possible business that does business with a nursing home.

So ladies and gentlemen, this is a very, very good amendment. It makes sense. It's straightforward, it makes sense. It eliminates controversy, it sends the right messages to our business that from the state's perspective we're only asking for what we need to look at these nursing homes and make a good decision to try to keep them afloat and protect our constituents.

Thank you, Mr. Speaker.

SPEAKER RYAN:

Thank you, sir.

Representative Rutigliano. You have the floor, sir.

REP. RUTIGLIANO (123rd):

Thank you. Thank you, Mr. Speaker.

In my short time here in the legislature, I've heard a lot of outrageous things, but today may take the cake. I have one question, sir, through you, to the Chairman of the Labor Committee.

SPEAKER RYAN:

Please proceed, sir. One moment. Did you say Chair of the Labor Committee?

REP. RUTIGLIANO (123rd):

Yes, sir.

SPEAKER RYAN:

Okay. That would be Representative Tercyak. Thank you, sir.

REP. RUTIGLIANO (123rd):

Yes. Through you to the good Representative. If you do not pay your brother for those pencils that you purchased, to whom does he go after for the dollars?

SPEAKER RYAN:

Representative Tercyak.

REP. TERCYAK (26th):

Thank you very much, Mr. Speaker.

Through you, hmm. I'm not sure he'd come after me. Once I say no, he probably knows it's going to stay no. But as long as we're back to talking about the pencils, since it was earlier mentioned about campaigns, by the way, we have no problem making rules about ourselves.

I can't buy those pencils from my brother with campaign funds because we decided just the appearance of giving business to relatives was bad enough to be avoiding it. And here we're not saying just the appearance. You have to do away with it, but we'd

like a little evidence that shows that it's for the best reasons, and not that we should worry about it.

Through you, Mr. Speaker.

SPEAKER RYAN:

Representative Rutigliano.

REP. RUTIGLIANO (123rd):

Well, thank you, Mr. Speaker.

I appreciate that non-answer. But the real answer is that if he does not pay his brother, his brother sues him. The fact that we would think that somebody doing business with a nursing home would sue the State of Connecticut if that nursing home doesn't pay them is outrageous.

If you're the trash contractor, the linen contractor, the food contractor, when you contract to do business with a nursing home you get paid by the nursing home and you expect the nursing home to pay you.

So if the nursing home refuses to pay or does not pay, you don't have the right to sue the State of Connecticut for payment. So I reject the argument. I reject the argument that the mere fact that they do business with a company that receives state funds makes them disclose all their information.

Thank you, Mr. Speaker.

SPEAKER RYAN:

Thank you, Representative.

Representative Belsito, did you want to speak on the amendment, sir?

REP. BELSITO (73rd):

Yes, I do.

SPEAKER RYAN:

Please proceed, sir.

REP. BELSITO (73rd):

Thank you, Mr. Speaker.

I came here in 1966, worked at G. Fox and Pratt & Whitney. At that time this was one of the best states in the nation, number one ball bearing, number two brass capital of the world, aircraft engine capital of the world, insurance capital of the world, and gun manufacturing capital of the world.

Take a look around us today. We are not number one in any of those things. We are falling behind, and this is a reason why. This is a very poor business climate.

And to the gentleman, representative who said that fire 'em, fire 'em, fire 'em, if you ran a business you just don't walk over to somebody and fire

them because if I'm running the laundry and I need you to do my laundry, I can't fire your company because there's no one else to take your place. It's going to take me a while. That means there will be no new, clean linens at the nursing home.

And it goes for food and everything else. You just can't do that. And here we have in Connecticut number one worst-run state by Baron's Magazine. Why? Because we are failing to use common sense, and common sense tells you that you should not be giving out P&L statements and all financial information to anyone who wants it.

So this is a really bad bill before us. The amendment that we have attached to it is really good. It protects everybody, and it's time to start protecting the businesses of Connecticut. Thank you very much.

SPEAKER RYAN:

Thank you, sir.

Will you remark further on the amendment before us? Will you remark further on the amendment before us?

If not, will staff and guest please come to the well of the House. Will the members please take your seats? The machine will be opened.

THE CLERK:

The House of Representatives is voting by role. Members to the chamber please. The House of Representatives is voting by role. Members to the chamber please. Have all members voted? Have all members voted? Will the members please check the board to determine if your vote is properly cast?

If all members have voted, the machine will be locked and the clerk will take the tally. Will the Clerk please announce the tally?

THE CLERK:

House Amendment C.

Total Number Voting 143

Necessary for Passage 72

Those voting Yea 56

Those voting Nay 87

Those absent and not voting 8

SPEAKER RYAN:

The amendment fails.

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

H – 1191

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Representative Candelora of the 86th, sir, you have the floor.

REP. CANDELORA (86th):

Thank you, Mr. Speaker.

Mr. Speaker, I rise in opposition to the bill, and I think it was unfortunate we didn't adopt that last amendment because I think what that amendment is trying to do is to cure a legal impossibility. I think we could argue over the policies of what these provisions may be doing, but I can't even get to the policy because the bill, as crafted, is creating literally a legal impossibility for businesses.

When we hear from our communities, and we have debates over how Connecticut does with our -- with our economic climate, a lot of times I think we all hear about uncertainty. Businesses need certainty in the State of Connecticut in order to operate, and this bill is a perfect example of how we don't give that certainty.

In particular, we've had the debate for the last hour over this definition of related party. And we're setting up nursing homes to be able to be unable to comply with the provisions of this law. And if I may, just a couple of questions to the proponent of the

bill, through you, Mr. Speaker, on this particular issue.

SPEAKER RYAN:

Please proceed, sir.

REP. CANDELORA (86th):

Thank you, Mr. Speaker.

In the definition of related party, we have language in here that refers to in Line 6, "common ownership." Is common ownership defined in the bill?

Through you, Mr. Speaker.

SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker.

No.

SPEAKER RYAN:

Representative Candelora.

REP. CANDELORA (86th):

Thank you, Mr. Speaker.

So we don't -- do we know if common ownership would constitute maybe a 5 percent joint ownership or a 10 percent joint ownership, or does it require a controlling interest, like 51 percent or more

ownership in order to fall under that definition of common ownership?

Through you, Mr. Speaker.

SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker.

It isn't stated that there is a percentage.

SPEAKER RYAN:

Representative Candelora.

REP. CANDELORA (86th):

Thank you, Mr. Speaker.

And then in lines 6 through 7, do we have a definition of control or business association?

Through you, Mr. Speaker.

SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker.

No, there isn't a definition in the bill itself.

Through you.

SPEAKER RYAN:

Representative Candelora.

REP. CANDELORA (86th):

Thank you, Mr. Speaker.

So if we have two companies where the CEOs may both be members of a local rotary club, and a lot of times with our rotary organizations, their motto not only is service above self, but they form business relationships through that organization.

If two individuals that are Rotarians in the nursing home industry, you know, one happens to own a landscaping business, the other owns a nursing home, and that person contracts with that landscaping business, does that constitute a business association so as to fall under this bill?

Through you.

SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through -- through you, Mr. Speaker.

They are a business association, but they would not classify as a related party.

Through you, Mr. Speaker.

SPEAKER RYAN:

Representative Candelora.

REP. CANDELORA (86th):

Thank you, Mr. Speaker.

And so why would they not constitute a related party?

Through you.

SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker.

Because it's through family association.

Through you, Mr. Speaker.

SPEAKER RYAN:

Representative Candelora.

REP. CANDELORA (86th):

Thank you, Mr. Speaker.

Okay. And I guess to clarify that, then, because as I'm reading lines 6 through 7, we have a definition of family association. Is it meant then that family association -- well, as I read this bill, I'm looking at family association as being one of the separate components of being a related party. As I read the definition, related party can include a family association, or common ownership, or business association.

So are we meaning then that a business association must also constitute a family association?

Through you.

SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker.

No.

SPEAKER RYAN:

Representative Candelora.

REP. CANDELORA (86th):

Thank you, Mr. Speaker.

And Mr. Speaker, in lines 4 through 5 we have language here that we often see in our statutes, "includes but is not limited to." And so as I read that, we are attempted to find a related party, but we're using language that says, "including but is not limited to."

So does that mean that essentially any relationship then potentially gets called into the reporting requirements under this bill? Or you know, how is that not narrow in scope? Through you.

SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Could he rephrase his question, please, Mr. Speaker. Through you.

SPEAKER RYAN:

Representative Candelora, could you rephrase your question?

REP. CANDELORA (86th):

Absolutely. Mr. Speaker, when we are using the definition of related party, typically when we use the definitions, you know, we will enumerate what classes of individuals fall into that definition.

You know, for instance, just looking down on lines 2, or I'm sorry, on line 8, we have company meaning any person, partner, association, holding company, limited liability company or corporation.

But in lines 4 through 5, we use the term "related party", but in that we say it, "includes but is not limited to." So I guess my question is that use of the language "including but is not limited to" suggests that related party could include anybody. Am I correct?

Through you, Mr. Speaker.

SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker.

That's not how I understand it.

Through you.

SPEAKER RYAN:

Representative Candelora.

REP. CANDELORA (86th):

Thank you, Mr. Speaker.

So that language is meant to still only include companies that have a family association, common ownership, control or business association with the nursing home? And so when we use that language of, "including but not limited to," it still means they're restricted to those three categories that's enumerated?

Through you, Mr. Speaker.

SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker.

Yes. that's my understanding.

SPEAKER RYAN:

Representative Candelora.

REP. CANDELORA (86th):

Thank you, Mr. Speaker.

I think that's helpful, to make sure we are limiting that scope. And in the reporting piece of this, where the profit and loss statements need to be submitted, I see in the definition of profit and loss statement in lines 12, we refer to it as, "the most recent annual statement on profits and losses finalized."

In the bill, we're requiring the reports -- I think they need to come December 31st. So in a situation where you might have a business that's not on a calendar year for reporting purposes. They may be on having a fiscal year like this day of July 1st through June 30th.

I would assume that an annual report therefore would be created on June 30th, so it doesn't necessarily perfectly align with a December 31st report date. If they are misaligned in that sense, where the companies aren't operating on a calendar year, as I understand the bill, would they just then be required to give the last final report?

So maybe it's December 2013, their latest report that was created might be February 1st, 2013. That report would be sufficient to comply?

Through you, Mr. Speaker.

SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker.

The way I'm reading it it says, "most recent annual statement on profit and loss finalized by a related party."

Through you, Mr. Speaker.

SPEAKER RYAN:

Representative Candelora.

REP. CANDELORA (86th):

Thank you, Mr. Speaker.

And that's how I read it. So it would be the -- I guess the latest and last statement that that company may have. That's what they need to produce, and they would be in compliance.

Through you.

SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker.

If that is the most recent, that would be my understanding also.

SPEAKER RYAN:

Representative Candelora.

REP. CANDELORA (86th):

Thank you, Mr. Speaker.

And there is language here that says finalized. So if an annual statement may be in draft form, I guess we are looking at year-ends. So just to be sure here, so it would be a profit and loss statement that has necessarily been deemed final by that particular company? I guess, is that how the determination would go? Who would be the one to make that determination?

Through you, Mr. Speaker.

SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker.

The way it's stated in the bill the most recent annual statement on profits and loss that is finalized, so I think that goes to the question that you're asking.

Through you, Mr. Speaker.

SPEAKER RYAN:

Representative Candelora.

REP. CANDELORA (86th):

Thank you, Mr. Speaker.

And Mr. Speaker, getting -- I think getting back to the issue of how a nursing home acquires these contracts, and I guess I don't have any further questions at this point, but I guess I just sort of want to speak to the mechanics of this bill.

Because I really am having great trouble with what we have crafted here for the State of Connecticut and the policy that we're setting forth.

To me this isn't about trying to cure troubles in nursing homes or creating some sort of transparency, but it really is a heightened intrusiveness that the State of Connecticut is going to take on a particular business sector.

And I understand that there may be evils out there that we need to cure, but it is how do we go about curing that evil? And this particular bill takes a great leap in attempting to make that cure.

To the point where I think that we are departing from sound public policy. What I see happening here under this bill is that nursing homes, first of all, are essentially going to need to collect profit and loss statements from every company that they do business with because the definition in and of itself

of related parties is so broad in scope that I'm not sure that they would even know how to comply.

And that's why I supported that last amendment that was proposed, because the definition of related parties was much more carefully crafted, I think, to capture what we heard talk about, Representative Tercyak talked about the brother, you know, his brother selling pencils.

You know, I think those are the relationships that we're looking at. But this definition pulls in so much more than that. It would be any contract over $50,000 where there is common ownership or family associations or business associations. You know, I'm reminded back to my days when I practiced law and we would have to -- when we took on a client we would send emails out to everybody in the company to make sure there was no conflict of interest.

You know, that's essentially what nursing homes are going to have to do, and there is a routine for the way that lawyers practice that way, and there's a reason for it. but here, what nursing homes are going to need to do is figure out who is employed at any given time, and who may have a relationship with a

third-party vendor that may affect what they need to produce.

So it is going to be so difficult for them to comply in practice, what they're going to be forced to do is have to try to get a profit and loss statement from everybody that they do business with over $50,000.

Okay, that's the policy we want to set. So then you take it to the next level. Well, how do I go about getting that profit and loss statement? And I think as Representative Cafero pointed out, a business has no legal right to demand that from another company.

And I don't care if it's my brother's company, I work in a family business. My siblings are next door to each other. They run their company; I have my business. And I think if I asked my sister for her profit and loss statement, you know, she would slap me. She's not going to give that to me.

And she's under no legal obligation to give it. And I'm just an employee of that business. I have no ownership interest. I have no right to get it.

So I don't know if I a business relationship how the heck I would ever get that profit and loss

statement from her. So that's one issue I think that nursing homes are naturally going to come up against.

The other issue is there are companies out there that don't do profit and loss statements. There are many out there, especially our small businesses. So the companies that are selling the pencils that are cutting the lawns, they collect all their paperwork up, they have their checkbook, and they dump all of their stuff onto their accountant at the end of the year to do their taxes.

And I have friends who are accountants, my brother-in-law is an accountant, and we often hear those stories. I mean, it's sort of the way business works. And in a way it's a good thing for those businesses that are cutting lawns and that are, you know, cleaning homes or doing the laundry for the nursing homes.

Some of these small entities -- and a $50,000 contract is not a lot of money -- some of these smaller entities don't have the time or the ability to hire a bookkeeper. And so this is how they operate their business. At the end of the year the accountant comes in, does their taxes and they're done.

So they don't even have a profit and loss statement. So what are they left to do? Well, as part of our sidebar discussion we had here, a profit and loss statement for those individuals who many operate as a pass-through LLC, that profit and loss statement is their income tax returns.

So we're going to go and have a nursing home expect to ask a third-party vendor to give up their tax return and make it FOIable in the State of Connecticut? It's offensive. And I wouldn't do it as a business owner, I think that's private, that is stepping into an arena that we have never been willing to step.

So what we're doing with this piece of legislation is effectively making it a requirement somehow that that nursing home pry that tax statement out of a Connecticut resident's hands and turn it over to the State of Connecticut.

And I understand what we're trying to accomplish in this bill, but all we're going to accomplish is offending that third-party vendor that doesn't understand why they have to disclose something to DSS or to a committee or to a nursing home, some other third party that is FOIable, just because they happen

to do business with a nursing home who happens to get money from the State of Connecticut.

And that's where businesses in the State of Connecticut are going to start to talk and are going to start to fear and they're going to be concerned about the State of Connecticut and what the heck we are doing.

The other piece of this, I think, are nursing homes are also going to be left, then, to try to contract this information when they do business with these third-party vendors. And make it a contractual obligation to provide profit and loss statements. Well, all that's going to do is run up the bill, because if I'm a third-party vendor and I have to produce a profit and loss statement, I'm going to charge for it.

And then I come to the final conclusion here is what is a profit and loss statement? Which isn't really outlined or defined in the bill, but as I see it, that information isn't going to give us a heck of a lot of information to determine what is really going on in a nursing home and what is really going on in the businesses.

Because, you know, a profit and loss statement is just going to show you how much is spent and how much they walked away with a net profit. It's one sheet of paper. It's the most uncomplicated document at times that you've seen. So we haven't really defined in scope necessarily if we're going to get any useful information at all, and all we've meant to do now is aggravate the public.

The other reaction to this is nursing homes, the effect of this, if they're unable to comply with this bill, which I don't see how they're going to be able to comply with it, is that now they're all going to be able to take a 10 percent hit.

So we're going to make the policy decision here today that if you're a for-profit nursing home, you're going to take a 10 percent hit in your grant from the State of Connecticut at the expense or at the discretion of the commissioner.

So when all these nursing homes in our district may or may not receive a 10 percent cut, and we all get the phone calls from our different constituent groups on why the services of these nursing homes might be affected, I hope we'll be able to answer their question.

Because we gave unfettered discretion to the commissioner to reduce the grants from a nursing home based on a vague, arbitrary law that's overreaching and is bad public policy in my opinion, that makes it impossible for these nursing homes to actually comply with.

So you know, I've heard the frustration certainly from this side of the aisle on this underlying bill. I think I don't even get to the public policy issues of how we go about tackling the problems that we've had with our nursing homes with some of the bad apples.

We really don't even get to that point in this underlying bill. And it isn't even fair to label this nursing home transparency, because it has nothing to do with that. It has everything to do with very overreaching, invasive policies on our small businesses in the State of Connecticut.

This isn't going to affect nursing homes as much as it is all their vendors. You know, and finally I think what is so frustrating for me is when sitting through a finance committee and sitting through the various bills of giving out significant bond dollars

in corporate welfare in the State of Connecticut, we have required less of those companies.

We have less transparency in DECD and those contracts that used to go out the door. We approved over $400 million for Jackson Labs, with very little oversight, very little reporting requirements. Their third-party vendors don't have to report a thing to the State of Connecticut, and they're going to get their money.

UTC, which is a bill I supported, they're going to get their money and they're not going to need to gather up profit and loss statements from all their third-party vendors. May God forbid, because that would probably be about every small business manufacturer in the State of Connecticut.

But somehow it's acceptable for us to do this in this manner. I find it very trouble. I cannot support this, and I think that this is a bill that is really going to come back to haunt the State of Connecticut.

Thank you, Mr. Speaker.

SPEAKER RYAN:

Thank you, Representative.

Representative Aman of the 14th. Sir, you have the floor.

REP. AMAN (14th):

Thank you, Mr. Speaker.

Listening to all of the discussion so far, I definitely do have some questions regarding the procedures that have to be followed by the nursing homes and the owners. So through you, Mr. Speaker, I do have some questions for the proponent.

SPEAKER RYAN:

Please proceed, sir.

REP. AMAN (14th):

Yes, earlier and it's regarding the relationship, and someone mentioned that people like the various ancestry.coms, et cetera, I remember hearing one on the radio driving home, that said that they can find thousands of relatives that belong to you.

And since the language is fairly broad about who is a related party, through you, Mr. Speaker, how is the related party determined and who makes the decision if someone is close enough to be considered a related party or if it's just a name that may have some coincidence.

Through you, Mr. Speaker.

SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker.

I would assume that the nursing home would disclose the related party. Through you.

SPEAKER RYAN:

Representative Aman

REP. AMAN (14th):

And upon the disclosure of some names from the nursing home, who is to determine if that list is complete or not from the government agency. Are they the ones that look at and say, "Oh, you forgot someone? Or how was that determined?" And if the government agency overseeing this decides that they forgot someone, how is the punishment put out?

Through you, Mr. Speaker.

SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker.

I would think that DSS, when the nursing homes disclose who the related parties are, would give them

the flexibility if they have left somebody off, to be able to add them to the list.

Through you, Mr. Speaker.

SPEAKER RYAN:

Representative Aman.

REP. AMAN (14th):

So it's a bit of a guessing game on the nursing home's part of when they're looking at people how far down the line they go. When we're talking about corporations, subchapter S company, LLCs, the relative, presuming it is someone that's close enough that everybody can identify, what percentage of the business do they have to own for this trigger to go into effect.

Through you, Mr. Speaker.

SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

It's not a percentage, it's the amount of business they do with the nursing home.

Through you, Mr. Speaker.

SPEAKER RYAN:

Representative Aman.

REP. AMAN (14th):

Okay. If you have 10 percent ownership in a company, and your company -- the company does business with the nursing home and you're actually -- the relative is actually involved in other sections of the business would this still qualify that they had to release the financial statements?

Through you, Mr. Speaker.

SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

If they're doing $50,000 or more business with the nursing home, yes.

SPEAKER RYAN:

Representative Aman.

REP. AMAN (14th):

So it doesn't make any difference the percentage of ownership, it's only amount, so if I own 1 percent of the company, the company has to release their financial statements?

Through you, Mr. Speaker.

SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker.

Could you repeat it? I'm sorry to the good representative.

REP. AMAN (14th):

Yes. I own 1 percent of a corporation that is doing work, and I'm related to the nursing home. I own 1 percent of the corporation. I am an employee of them. Does that mean that that company has to release their financial statements?

Through you, Mr. Speaker.

SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

So my understanding is if that company is still -- I'll go back to the dollar amount -- if they're spending $50,000 or more on goods, then yes, they do have to report it.

Through you, Mr. Speaker.

SPEAKER RYAN:

Representative Aman

REP. AMAN (14th):

Let me take that to a real extreme. I own 1 percent of General Motors. I work for General Motors as a mechanic at a dealership. The nursing home buys a $50,000 bus from General Motors. General Motors,

from what you just said, have to release their financial statements to the nursing home.

Do I understand that correctly?

SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker.

That's not my understanding.

Through you.

SPEAKER RYAN:

Representative Aman.

REP. AMAN (14th):

Why would they be exempt? They're doing $50,000 and there is a relationship.

Through you, Mr. Speaker.

SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

My understanding from what -- the way you phrase the question, you were talking about the corporation themselves, not the individual. Maybe I misunderstood the question.

Through you, Mr. Speaker.

SPEAKER RYAN:

Representative Aman.

REP. AMAN (14th):

So if it's a corporation, again, that I am a small stockholder, that I am working for, I am part of the company. The company is working for the nursing home, what I'm trying to find out is where the line is drawn, since it's not on a percentage of ownership. It's not on control. It's only on the $50,000 mark.

How is that determined, whether there is a true relationship and it has to be reported? From what was said, it's my interpretation that they all would have to be reported. If that's not correct, I would like to have an explanation from the proponent of the bill as to where that line is to be drawn.

Through you, Mr. Speaker.

SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker.

If I'm understanding the question, that's already current practice through DSS.

Through you.

SPEAKER RYAN:

Representative Aman.

REP. AMAN (14th):

No, I don't know if the disclosure of third parties is currently part of DSS. If it is, I'm not sure why the bill is necessary.

Through you, Mr. Speaker.

SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker.

So the way I'm understanding the question, and I apologize, is that you're questioning an employee of a business that is doing business with the nursing home if that employee himself has to report this. Is that your question, Representative? I'm a little confused. I apologize.

SPEAKER SAYERS:

Representative Aman.

REP. AMAN (14th):

Yes. Thank you, Madam Speaker.

No, if it's the company that would have to report, not the individual, to the nursing home. And so my question is how close a relationship does that have to be before the company has to report?

And what was said was that it's based completely on dollar amount, and a personal relationship of some owner of the company or someone in control of the company, and so I guess I'm again asking with a small percentage of ownership of a relative, what determines when the company has to report?

SPEAKER SAYERS:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker -- Madam Speaker, I apologize. Sorry. I was trying to concentrate on the question.

I'll be honest with you, I'm a little confused by his question. I'm not understanding what he's trying to get at.

Through you, Madam Speaker.

SPEAKER SAYERS:

Representative Aman, could you rephrase the question?

REP. AMAN (14th):

Yeah. At this point I'll go on to another question regarding the financial statements. If I'm remembering right, it says profit and loss statements. How detailed a profit and loss statement must a

related entity give to the nursing home which will then give to DSS?

Through you, Madam Speaker.

SPEAKER SAYERS:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

The way the legislation reads, it says, "the most recent annual statement on profits and loss."

Through you, Madam Speaker.

SPEAKER SAYERS:

Representative Aman.

REP. ABERCROMBIE (83rd):

Again, depending on the organization, if you had a small landscaper, for instance, his financial statement would consist of $50,000 in income, $50,000 in salary, two lines, that would be the complete financial statement. would that be acceptable?

Through you, Madam Speaker.

SPEAKER SAYERS:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Madam Speaker.

If that's what his most recent annual statement on profits and losses is, then yes, that would be acceptable.

REP. AMAN (14th):

The -- we've been talking about small people like landscapers and laundry, et cetera. Would this also include any of the professional service firms, such as attorneys, financial planners, et cetera?

Through you, Madam Speaker.

SPEAKER SAYERS:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Madam Speaker.

If they are providing services of $50,000 or more, yes.

SPEAKER SAYERS:

Representative Aman.

REP. AMAN (14th):

And what was said was the most detailed and current expenditures that they may have, and so therefore an attorney firm who is doing $50,000 worth of business, their financial statements would include the list of their clients and how much they paid them the previous year.

Is it my understanding that all of that would now become public record?

Through you, Madam Speaker.

SPEAKER RYAN:

Representative Abercrombie.

REP. AMAN (14th):

Holy switching.

REP. ABERCROMBIE (83rd):

Through you -- you guys are confusing me going back and forth with him and her.

Through you, Mr. Speaker.

Right. It's total profit and loss for the business, not the individual, if that's the question you were asking. I apologize.

REP. AMAN (14th):

No, my --

SPEAKER RYAN:

Representative Aman.

REP. AMAN (14th):

Yes. The question was it calls for the annual profit and loss financial statements, and a legal firm that is keeping good books and records, their profit and loss statement will, because it's an internal document, most of the time would list all of their

clients, how much they paid and how much they owed, a list of all of their properties, depreciations, et cetera.

So my question is would all of that become part of the public record since that is their last profit and loss statement?

Through you, Mr. Speaker.

SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker.

Whatever is listed on the profit and loss statement is what would be public information.

Through you.

SPEAKER RYAN:

Representative Aman.

REP. AMAN (14th):

I'm very worried about hearing that. Let's take the next case of a professional service organization, a medical group that fits the qualifications of a strong relationship and they have the $50,000.

Their profit and loss statement would include all of their patients, and again, how much they paid over the previous year to them, because that is also part

of the statement, would all of that medical records of how much people paid and for what treatment, it's my understanding under this bill that that would all be part of the public record?

Through you, Mr. Speaker.

SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker.

Whatever is on the profit and loss statement is public information.

SPEAKER RYAN:

Representative Aman.

REP. AMAN (14th):

Yes, and when this information was released should the HIPAA violation be the responsibility of DSS or the medical firm that was ordered to release the information?

Through you, Mr. Speaker.

SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker.

If you're listing it on a profit and loss form that you're submitting to the government, I can't imagine that the HIPAA has any relationship to that.

Through you, Mr. Speaker.

SPEAKER RYAN:

Representative Aman.

REP. AMAN (14th):

But the profit and loss form would normally never leave the medical practice as such. It would be not subject to public. So I think we have a major problem with that or the accounting firms or anything else.

And another thing we've been talking about, the contracts. And it was stated earlier that if someone doesn't want to give you the contract, give you the information, just fire them and hire someone else.

Was that a correct understanding through this -- as the suggested solution?

Through you, Mr. Speaker.

SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker.

If I was a business and I had to comply with DSS, which is what we're requiring here, and I had a

business that did not want to give me information that I need to be able to keep my business whole, then I would really think about if I'm doing business with that entity.

Through you, Mr. Speaker.

SPEAKER RYAN:

Representative Aman.

REP. AMAN (14th):

Yes, looking at this is the effective date of this bill is July 1st, 2014, in about 60 days. It's not unusual whatsoever to have a company sign a three-year contract, four-year contract. I'm thinking of something like snow plowing, you contract with someone and say I'm going to hire you to do this for the next three years.

He takes that contract to the bank and says here is a fixed-cost contract from a very good-paying nursing home, give me a loan to buy my new trucks because here is the cash flow coming from it.

At this point, you go back to them and you say, "Oh, I have to fire -- you either have to give me this information that was not in the contract," and the contractor says, "I'm not going to give it to you." And you say I'm fired, I believe that is -- unless

there is something in this bill that I don't see is an absolute violation of Connecticut contract law.

So through you, Mr. Speaker, does this bill void out any long-term contracts the nursing home has if the vendor does not want to comply?

Through you, Mr. Speaker.

SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker.

I would assume that we would just -- we would have to be in compliance with what state law is.

Through you, Mr. Speaker.

SPEAKER RYAN:

Representative Aman.

REP. AMAN (14th):

That would put -- the answer there puts the nursing home under the problem of do I violate state contract law or do I violate the law that this bill requires?

Through you, Mr. Speaker, which law would the proponent recommend the nursing home violate?

SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker.

I am not saying that we should violate any law. I am saying that we should be in compliance with what state law is.

Through you, Mr. Speaker.

SPEAKER RYAN:

Representative Aman.

REP. AMAN (14th):

Yes. And hopefully I pointed out some of the real-life problems of the way this is done. The interpretation of who is related and how much of the company ownership I think is very, very vague and while the intention is there and everybody can agree on the intention of it, we have an awful lot of attorneys in this state that will probably look at this and say, "I think that we're going to do real well in court over this one way or the other."

I'm looking at the financial disclosures and saying if I was a very large company I would have a problem with it. I'm looking at it from a contractor's point of view of one-time contracts. The nursing home wants me to put in a small addition, a paving, all of which can easily hit $50,000 but under

condition of that I'd have to release my financial statements.

What that does do for the nursing home is probably puts out a lot of the vendors that they would like to use because they have close personal relationships with them because a company looking at a relatively small part of their business is going to say I just don't want to comply with this.

I think it's one of the problems we have with businesses in general in the State of Connecticut is that we put in obstacles and say of course, they're going to want to do this and the businesses more and more often are just saying, "Yeah, if the State of Connecticut requires it, it's just easier for me not to do business here, do business with someone else."

So I do not think this legislation, even though I think the purpose is great, I don't think the way it's been drafted and written is at all possible to be acted on.

So through you, Mr. Speaker, I thank the proponent for her answers.

SPEAKER RYAN:

Thank you, Representative.

Representative Walko of the 150th district. Sir, you have the floor.

REP. WALKO (150th):

Good evening, Mr. Speaker.

A few questions through you.

SPEAKER RYAN:

Please proceed, sir.

REP. WALKO (150th):

To the good chairwoman, I'm trying to understand the math of this proposed legislation here.

Through you, Mr. Speaker, what is the average length of time that it's estimated to review each submission by a nursing home by the department?

Through you, Mr. Speaker.

SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker.

I don't have that information.

SPEAKER RYAN:

Representative Walko.

REP. WALKO (150th):

In my review of the fiscal note that was attached to this bill, it indicated that there would be no

financial impact concerning the submission of these extra forms and information.

Through you, Mr. Speaker, did the committee look at the potential for additional costs and expense related to personnel for the department to review each and every submission that would be anticipated as a result of this legislation?

SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker.

My understanding through the agency is they will not need any added staff. This is just adding another page of information that will help DSS determine rates for nursing homes.

Through you, Mr. Speaker.

SPEAKER RYAN:

Representative Walko.

REP. WALKO (150th):

Thank you, Mr. Speaker.

So if I understand your answer correctly, what we're looking at through this legislation is a one-page edition for each nursing home and what they submit to the state?

Through you, Mr. Speaker.

SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

My understanding is it's added information that would be approximately one page.

Through you, Mr. Speaker.

SPEAKER RYAN:

Representative Walko.

REP. WALKO (150th):

And so through you, Mr. Speaker, that added page, is it correct to understand that the department would not require any additional personnel to review that information?

Through you, Mr. Speaker.

SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker.

That was our understanding through the agency. That's why there is no fiscal note on this bill.

Through you, Mr. Speaker.

SPEAKER RYAN:

Representative Walko.

REP. WALKO (150th):

And now armed with this information, if the department does not review the information, or does not in fact determine that any irregularities are there and yet maybe there are, through you, Mr. Speaker, is there any process by which there is an audit of how the department has reviewed these documents?

SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Mr. Speaker, could the good representative please rephrase his question? I'm not exactly sure what he's asking.

SPEAKER RYAN:

Representative, could you rephrase your question?

REP. WALKO (150th):

Thank you, Mr. Speaker.

I'm just trying to understand the process by which the submission is made. So my understanding is that a submission is made to the department. The department then would review it, and now with this additional page of information.

Once the nursing home provides the information to the department, is there any penalty for the department or any process by which the department must act to review that information?

Through you, Mr. Speaker.

SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker.

If I'm understanding the representative's question, this would be a -- when they're looking at the cost reports, which is how they determine what the rates are going to be for the nursing homes, if they see that there's a discrepancy in that report, that's when they would go to this next filing or paperwork, saying what the profits and losses are, which would be able to help them determine if there is an issue with the nursing home.

Through you, Mr. Speaker.

SPEAKER RYAN:

Representative Walko.

REP. WALKO (150th):

I thank the good chairwoman for her response. In looking at the actual language of the legislation,

relative to the definition of related party, I see that it also discusses business association.

I believe it's line 7 if I'm reading this correctly. Through you, Mr. Speaker, there was a lot of comments and questions about Lenny's Laundry or Larry's Laundry and we've heard about pencils.

Would all vendors fall under that definition to the extent that they reach the financial threshold?

Through you, Mr. Speaker.

SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker.

No. I don't believe so.

SPEAKER RYAN:

Representative Walko.

REP. WALKO (150th):

So I guess my lack of clarity on this is what vendors would be excluded from the definition of related party to the extent again that they reach the financial threshold?

Through you, Mr. Speaker.

SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker.

It would have to be through a family association is my understanding. Through you.

SPEAKER RYAN:

Representative Walko.

REP. WALKO (150th):

So under the hypothetical of a laundry service, that is not through a family association, would not be included in the requirement to disclose the financial information?

Through you, Mr. Speaker.

SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

For an example, if they are both -- if they are both owned by the same holding company, yes, they would, because that's where the association comes in.

Through you, Mr. Speaker.

SPEAKER RYAN:

Representative Walko.

REP. WALKO (150th):

So again, just to drill down on this point, if a local Laundromat is providing the laundry service to a nursing home, that is not owned in whole or in part by the nursing home, that entity would not fall within this definition? Is that correct?

Through you, Mr. Speaker.

SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker.

If it does not fall under the definition or related party, you are correct.

SPEAKER RYAN:

Representative Walko.

REP. WALKO (150th):

Well, I guess that's my question. I can read through here at least what the language says in terms of related party, but under my hypothetical of a Laundromat that is not owned in whole or in part by the nursing home, would that Laundromat fall under the definition of related party?

Through you, Mr. Speaker.

SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker.

I'm sorry, Mr. Speaker. Through you, Mr. Speaker. I'm still trying to understand the good representative's question. So if they fall under the definition of related party, yes. If they do not fall into those categories, no.

Through you, Mr. Speaker.

SPEAKER RYAN:

Representative Walko.

REP. WALKO (150th):

Through you, Mr. Speaker.

Does a related party have to be a family association?

Through you, Mr. Speaker.

SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker.

No, they could fall under a holding company that falls under the umbrella of the nursing home.

Through you, Mr. Speaker.

SPEAKER RYAN:

Representative Walko.

REP. WALKO (150th):

So if a vendor does not fall under the umbrella that the good chairwoman just described, they're not considering a related party?

Through you, Mr. Speaker.

SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker.

If they do not fall under that definition, you are correct. Through you.

SPEAKER RYAN:

Representative Walko.

REP. WALKO (150th):

So through you, Mr. Speaker.

Many of our nursing homes have organization and business relationships with unions. Some are unionized, some are not unionized. If payments are made from the nursing home to the union, through either collective bargaining or through wages, and it meets the financial threshold, would a union be considered a related party under this agreement?

Through you.

SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker.

I'm not sure, to tell you the truth. I'm not sure on the question that you're asking.

SPEAKER RYAN:

Representative Walko.

REP. WALKO (150th):

Just trying to get some clarity as to whether or not the payments made, assuming again it reaches the threshold, I believe 50,000. If a payment of greater than $50,000 was made from a nursing home to a union pursuant to either a collective bargaining agreement or through the wages that are earned by the union members, would that union then fall under the definition of related party by which then the union would then have to disclose their profits and losses, pursuant to this legislation?

Through you, Mr. Speaker.

SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Thank you, Mr. Speaker.

Would the good representative mind if the chairman of the Labor Committee answered that? I am not that familiar with labor law. If that would be okay with the representative.

Through you, Mr. Speaker.

SPEAKER RYAN:

Representative Walko, would you mind redirecting your question to Representative Tercyak, the chairman of the Labor Committee?

REP. WALKO (150th):

Thank you, Mr. Speaker. My question again is whether or not effectively if a nursing home pays a union through collective bargaining and then the wages by their members, the union's members, and it reaches that 50,000, would a union then be considered a related party by which they would then have to issue for the public their profit and loss statements pursuant to this legislation?

Through you, Mr. Speaker.

SPEAKER RYAN:

Representative Tercyak, would you care to answer the question?

REP. TERCYAK (26th):

Yes, thank you very much, Mr. Speaker. I would care to answer. If a union is separate and not owned by the management of the company, whereas the union represents -- is made up of the workers at that company, it is the union -- this is America.

The union is not owned by the company. The union is independent. It is the members joining together collectively. There is no relationship in terms of a profitable business association, or through family, again a profitable association through family, that would make an independent union, the kind we have in America, be subject to these laws.

The classes that are subject to these laws do not change at all from what they presently are. We ask nobody who's not giving the information to DSS now to start giving information.

We ask for more information from the very same people. There is not a difference proposed here saying that we want more people who are presently not required to give information to give information.

REP. CAFERO (142nd):

Go back to the crux of this bill, the patients we want to protect. If the very services that help a convalescent home give those services to our most

needy and frail of our citizenry, and they are having difficulty getting those services because of what many might - many, many might perceive as a burdensome law, we have a crisis. We have a problem.

Through you, Mr. Speaker, if I may.

If a nursing home is unable or unwilling to comply with this law, what happens to that nursing home?

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker. Could he repeat the question?

DEPUTY SPEAKER RYAN:

Representative Cafero, could you please repeat the question?

REP. CAFERO (142nd):

Yes, Mr. Speaker. If a nursing home is unwilling or unable to comply with this law in that they cannot obtain the profit and loss statements as required by this bill, what is the sanction against that nursing home?

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker. I would assume that DSS would not be able to do their job by giving them their rates, because this is all going to be their information that they're giving gives DSS the authority to give them their rates.

So if they don't have all the information, I don't think that DSS can do their job.

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Cafero.

REP. CAFERO (142nd):

Through you, Mr. Speaker. Does that mean DSS would not give the nursing home their money?

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

No, Mr. Speaker. I think that they have most all of the nursing homes have current rates right now, but if they're coming to DSS to have them adjusted, and they cannot validate why they need that adjustment by

giving them this information, I would assume that DSS would not be able to do their job properly.

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Cafero.

REP. CAFERO (142nd):

And therefore, what would happen?

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker. I would assume that DSS would just keep with the rate that they are presently giving them. So they would not be able to adjust it based on the information that - that the nursing homes are giving them.

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Cafero.

REP. CAFERO (142nd):

Thank you. Through you, Mr. Speaker. Therefore, if I'm a nursing home trying to comply with this law, but through circumstances beyond my control, like the noncooperation of these vendors who I now have to

collect their profit and loss statement from. I'm being deprived of my rightful, deserved increase in my rate.

Based on your answer, they would have to keep it at the current rate. If that would put me as a nursing home in financial jeopardy, what happens then?

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker. If I'm a nursing home doing business, I would try very hard to get that information, if that information is so important to my nursing home staying afloat.

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Cafero.

REP. CAFERO (142nd):

Thank you, Mr. Speaker.

I guess we could prolong this back and forth and I don't want to do that. But what I'm trying to say is listen to what is being said here. You have a nursing home that by its definition does a lot of business with a lot of different vendors, and if the

business they do with those vendors exceeds $50,000, this law says you, the nursing home, have to get from the vendor their profit and loss statement for their entire business.

And let them know, by the way, that that profit and loss statement is public information, can be used by any entity, the press, the public, unions, whoever wants it. Whoever wants it. And they say I'm not going to give it to you.

The answer was, "Well, you better try hard to get it." Well, as hard as I might try, I have no legal authority to go into another company, a privately -- held entity, and demand their profit and loss statement.

Now, you had suggested earlier, the good representative suggested earlier, that I could just cease to do business with them. Well, that's all well and good, but it doesn't help me when I'm going to DSS to try to apply for a rate increase.

That's what the flaw is in this law. The other thing, given the recent amendment that just passed, if I do $49,500 worth of business with each and every vendor, I don't have to give up anything. But once I spend another 500 bucks, now I'm subject to this.

Talk about an incentive for people finding another way to skin a cat. I bet you we're going to see an awful lot of $49,500 contracts out there.

Mr. Speaker, the Clerk has in his possession LCO 4582, may he call and I be allowed to summarize.

DEPUTY SPEAKER RYAN:

Will the Clerk please call LCO 4582, which will be designated House Amendment Schedule C?

THE CLERK:

House C, LCO 4582, introduced by Representative Cafero et al.

DEPUTY SPEAKER RYAN:

The representative seeks leave of the chamber to summarize the amendment. Is there objection to summarization? Is there objection?

Hearing none Representative Cafero, you may summarize the amendment.

REP. CAFERO (142nd):

Thank you Mr. Speaker. Ladies and gentleman this is the amendment I talked about earlier on. This is the amendment that gets exactly at the heart of what we're trying to do, does so in a far and just way, red flags the bad actors or those entities that are having

financial troubles, subjects them to the disclosure, but only them to the disclosure.

What this amendment says is that the current system of auditors, which we now know exists, that every single nursing home, profit or nonprofit, must submit a 40 -- page financial statement that is reviewed by third -- party auditors hired by the Department of Social Services.

Those auditors, under contract with the Department, shall, during the Department's desk review, which they do currently, review the cost reports filed by each of the nursing homes to determine whether a nursing home has experienced significant operating losses, significant negative current working capital or undercapitalization for the last two years.

If the auditors make such a determination, that determination shall constitute probable cause, that the nursing home may not be able to continue operating as an ongoing concern. Additional evidence showing that fact, which we're all concerned about, would be including but not limited to irregularities, in generally accounting principles, deviation from industry standards.

For the purpose of this subsection the auditors shall not intend their analysis beyond the last two years, the latest year being the year associated with the cost report last filed.

Mr. Speaker, I move adoption.

DEPUTY SPEAKER RYAN:

The question before the chamber is adoption of House Amendment Schedule C. Will you remark on the amendment? Will you remark on the amendment? You want to push to remark further?

REP. CAFERO (142nd):

I do. Thank you, Mr. Speaker.

Ladies and gentlemen, this allows the auditors to say that aha moment. When they go through their desk review as they do right now, they will look for these indicators of financial insolvency or financial funny business, under capitalization, excess costs in a certain area, far over what it had been the year before.

A deviation from generally accepted accounting principles, a deviation from industry standards. And those nursing homes and only those nursing homes would be subject to any additional information that those

auditors demand. It could be everything that's required under this bill.

And yes, it would be disclosable, so nobody's trying to hide anything from anybody. Once the probable cause trigger is met, that financial nursing home and the - excuse me, that nursing home and the financial information they give is for the world to see.

Because what we're trying to do, as I thought from the very beginning, is make sure that our nursing homes in this state are financially viable. So we do not have the circumstance as described by Representative Morin, where people who call these homes their home are nervous and in jeopardy about being thrown out because of the mismanagement or insolvency or financial shenanigans by their nursing home.

But the other players, the ones that are abiding by generally accepted accounting principles, that are proud of the management of their place, that do not have any irregularities, do not have any deviations, they would continue as they do today.

What does that do? This amendment solves the very problem that the underlying bill purports to get

at, discovering who's solvent, who's not. But it prevents the unintended consequences described by Representative Perillo and others of every nursing home having to give this information, some of this information almost impossible to get.

Not even under their direct control. How do you make a company give you information about their profit and loss statement? What do you do, put a gun to their head? They don't want to give it, they don't give it. And yet the consequence of that, through no fault of the nursing home, is traumatic.

And we're going to put that burden on every single nurse, 153 for -- profit nursing homes. If we're trying to get at a specific problem, let's get at that problem. This amendment gets at that problem, without sending a message. You know, it's funny. The other day we passed the UTC bill, and we talked about not only it's effect on UTC, but all the other venders that are going to benefit from that.

The jobs that would be created, the economic activity that would be created. You know, in every industry that's the case. Nursing homes hire linen services and food services and lawn -- cutting services and electric services, et cetera. And if

that industry and its satellite industries all of a sudden have this potential cloud over it, say if you do business in this industry beware because you will subject yourself to an audit by the Department of Social Services.

Is that what we want? Is that why we're doing this bill? The reason we're doing the bill is exactly what this amendment says. We're trying to discover ahead of time those nursing homes that have financial problems. And when we do, we take action on those nursing homes that have financial problems, not on all of them.

I urge the members to adopt this amendment.

Thank you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Thank you, Representative. Will you remark further on the amendment before us? Will you remark further?

REP. CAFERO (142nd):

Mr. Speaker, excuse me.

I neglected to ask that when the vote be taken it be taken by roll.

DEPUTY SPEAKER RYAN:

The question before the chamber is on a roll call vote. All those in favor of a roll call vote please signify by saying aye.

REPRESENTATIVES:

Aye.

DEPUTY SPEAKER RYAN:

The requisite 20 percent have been met. When the vote is taken, it will be taken by roll. Will you remark further on the amendment before us?

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Thank you, Mr. Speaker.

Mr. Speaker, I do appreciate this amendment that was given to us by the minority leader, but I do believe that the underlying bill gets to the issue that DSS has been proposing, which is to have this information readily available at the time of the audit. So I ask my colleagues to reject this amendment.

Thank you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Thank you, Representative.

Will you remark further on the amendment before us?

Representative Tercyak.

REP. TERCYAK (26th):

Thank you very much, Mr. Speaker.

For show and tell, a couple of pencils, got my name on it, says State Representative New Britain. I get them from my brother.

To tell you the truth, I don't know how much money he makes or loses on this. When I get them from him, he won't really give me a good price. I give him a few hundred - an exact price. I look at what other people sell them for; I give them a little bit more money than that and say, "I love you, John." He says, "I love you too, Peter." You know?

Now, if just like my salary, your salary, your salary, when we retire our retirement benefits and not just us, any single state employee. Just like the public has the right to look at all that money that goes to state employees just like we read on the front page of the papers, who got into retirement that somebody might think is too good, that's all public money.

And that's why we know about it. We don't know about it because these people are second -- class citizens. We don't know about it because they have

fewer rights than other people. We don't know about it because they care less about talking about their money than the average person does. We know about it 'cause it's public money and that's the way it works.

Now, if we decide that Peter and everybody else up there, we want to know when you spend your own money on some little tchotchkes to give the kid when they visit your office, I'll go to my brother and I'll say, "John, what's it cost? What's the profit? Or do you do it as a loss hoping it will get you more business?"

And if John says, "That's none of your business, Peter, that's my business," then John, you're fired.

I still love you. I hope you still love me, but you're fired, fired, fired. That's exactly what we're talking about here, folks. We're not talking about you go to Sunshine Laundry, which you have absolutely no connection to and give them $100,000 worth of business and we want to follow that and find out which Sunshine Laundry, which you have absolutely no connection to, is charging.

This is about family businesses. This is about related businesses. This is about businesses in common. That's why, by the way, this is about for

profits. Because our not -- for -- profits, as far as we know, are not turning a profit on their related businesses.

But back to the issue at hand. When the nursing home owner goes to their brother John and says, "I need to know the profit or loss for your company because we get our pencils from you," if their brother John won't give them that information, they can fire that brother's company and that brother just as fast as I can fire mine.

And it's as fair as - every state employee having their financial information out there, every single state retiree, no matter how long ago they retired, no matter what the rules were then, every single one.

There's a website you can go and find out about it. We have a website where you can go and dig deep, deep into the state budget. One place you can't go is to see if a for -- profit nursing home, what that for -- profit nursing home is giving to that for -- profit nursing home's brother John.

I think that we have the right to look at that as much as that the public expects to have the right to look at that, as much as they expect to have the right, maybe even more then, to look at our salaries.

For those reasons, and because we all love our brothers and sisters, I hope that everybody will join me in voting against this amendment. Thank you very much, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Thank you, Representative.

Will you remark further on the amendment? Could members help me? If you wish to speak on the amendments, as I have a list of names here, could you stand?

Representative Smith.

REP. SMITH (108th):

Thank you, Mr. Chair, Mr. Speaker.

I just -- I must say I'm incredulous at what I just heard. Are we in the business in this chamber of terminating relationships? Are we in the business of putting people out of business? Is that what we're doing here?

I can't believe what I'm hearing. You know what? For the heck of it, why don't you just Google. We all have computers, take a little Google time and look up what the business climate here in Connecticut is. See how we're doing. It won't take long.

I could tell you how we're doing. We're doing lousy. We're doing one of the worst in the country, and we're one of the worst in the country because the legislation that continues to make doing business in Connecticut a farce.

We want to fire somebody because they don't disclose their profit and loss statement because they happen to do business with a nursing home that paid them $50,000? What about the profit and loss they have with their other vendors?

That's disclosed to the other companies. That's disclosed to the world? How is that good for competition? How is that fair? It's not. I am shocked. I must say, I am shocked. I've sat here through a lot of things and through the Labor Committee and I sit there and say God Bless. I don't know.

Everybody has the right to have an opinion. But I am shocked today, Mr. Speaker, on what I just heard.

DEPUTY SPEAKER RYAN:

Thank you, Representative.

Representative Wood of the 141st District. Ma'am, you have the floor.

REP. WOOD (141st):

Thank you -- Thank you, Mr. Speaker.

I do stand in very strong support of this amendment. We all agree, I think both sides, on this issue. We all agree the need for financial transparency for companies who are in financial distress and trying to hide it. I think 100 percent of us are in agreement with that.

It's really determining just cause for filing all this information. So if I may, a few questions back to the proponent of the underlying bill, to make a case for why this amendment makes sense.

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Abercrombie.

REP. WOOD (141st):

Okay. Question.

DEPUTY SPEAKER RYAN:

Please proceed, ma'am. I'm sorry.

REP. WOOD (141st):

We're raising this bill because two nursing homes in 2006-2008 filed for bankruptcy; is that correct?

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker.

No. This is to look at all financials of all nursing homes.

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Wood.

REP. WOOD (141st):

Something must be prompting this type of invasive, overreaching legislation, and my understanding is I thought you have mentioned earlier it was Health Bridge and Haven Healthcare -- I'm not sure what the full name is for Haven Health -- Health Haven Nursing Home? Haven. Haven Nursing Home had prompted this, yes or no to that?

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker.

I think the commissioner's testimony said it was just to make sure that all nursing homes stay financially sound.

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Wood.

REP. WOOD (141st):

But we have two cases. What I had calculated earlier, just taking 10 years, in 10 years we've had two nursing homes file bankruptcy out of 2,370 nursing home years.

So two. Actuarially, that's not a high-risk pool. So I think to ask all these nursing homes for all the profit and loss statements every single year is an overreach in many ways. I think it's asking too much of DSS to have to review all that when the basic information is already in the cost report required of these nursing homes every year.

With Healthbridge and Haven, was it simultaneous that these nursing homes went bankrupt?

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

No. Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Wood.

REP. WOOD (141st):

When -- were there issues -- what prompted these nursing homes to file for bankruptcy?

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker.

They could no longer stay in business.

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Wood.

REP. WOOD (141st):

Thank you.

Was there a labor dispute that was part of any form of that inability for them to stay into business?

Thank you. Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker.

I'm not that familiar with both cases, so I can't speak to that.

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Wood.

REP. WOOD (141st):

We're trying to determine why this bill makes sense, and I just -- I think we need information. If this is one of the reasons that is driving this legislation, I think it's important to have the information on what were the factors contributing to the bankruptcy and why these financial forms, why these extra reporting forms make sense.

So that's what I'm just trying to get to to make -- I think our constituents want to know we followed common sense in writing legislation and not overburdened businesses and overburdened our agencies that can't handle the paperwork they now have. Why are we adding more paperwork to their reporting requirements and their reading requirements?

And I think this has already asked, so forgive me if it has. With these extra profit and loss statements for businesses, related businesses of over $50,000, who has access to those forms? Anyone? Could I walk off the street into DSS and ask for the forms?

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Abercrombie. Sorry.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker.

They will now become public information.

Through you.

REP. WOOD (141st):

They -- I'm sorry.

DEPUTY SPEAKER RYAN:

Representative Wood.

REP. WOOD (141st):

I'm sorry. They will become public information? I physically didn't hear it.

DEPUTY SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker.

Yes, that is correct.

DEPUTY SPEAKER RYAN:

Representative Wood.

REP. WOOD (141st):

Thank you. So public information means I can go to DSS and request -- of whom do I request I would like to see a certain profit and loss statement from a related entity?

DEPUTY SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker.

I'm not sure. I'm sure it would be they could FOI it.

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Wood.

REP. WOOD (141st):

I can imagine, DSS with all they have to do now, going -- really loving this idea of more people FOIing things from them. That's an editorial comment, I guess. Indulge that.

Representative Tercyak mentioned earlier that 10 nursing homes in the state, I think three or four years ago, had a 9 percent increase in related businesses, yet inflation only went up up 10 -- only went up 3 percent. Why was this information, when this information was seen in the cost report, why was that information not flagged and investigated further.

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker.

I would like to defer to Representative Tercyak, who had made that statement.

Through you.

DEPUTY SPEAKER RYAN:

Representative Wood, would you refer your question to Representative Tercyak, or redirect your question?

REP. WOOD (141st):

Absolutely, thank you.

DEPUTY SPEAKER RYAN:

Representative Tercyak.

REP. TERCYAK (26th):

Thank you very much, Mr. Speaker.

I hope I was clear before when I said it's the top 10 chains, not just 10 homes each going up a million dollars each. The years are between 2011 and 2013. The difference is $11 million and change.

That's around 9 percent inflation for that period. The inflation, we're told, existed for our economy at large in Connecticut was 3.6 percent. 2011 was when this started. You'll see in the -- the commissioner testifying about what things cost.

2011 the commissioner didn't see the need to have this kind of detail. Two years later, $11 million goes to a handful of businesses, some chains, and the question is why. To be responsibility stewards of our money, the question is why? How? Eleven million dollars in two years.

I thank the commissioner for changing his mind and deciding that he needs more information. But that's what this is about. And again, remember, we're only talking about some nursing homes, Brother John, and the business he runs.

Through you, Mr. Speaker. Thank you very much.

DEPUTY SPEAKER RYAN:

Thank you, Representative.

Representative Wood.

REP. WOOD (141st):

Thank you very much. Actually that was a terrific comment from Representative Tercyak and it absolutely supports why this bill makes sense, because there was a financial aberration in the cost report and this amendment would absolutely solve that issue.

It highlights that there is something in deviation of current practices, and under this

amendment they could have absolutely approached that nursing home.

So that's exactly why I stand in support of this amendment and think it truly addresses the issue of financial -- a company that is deviating from financial common sense.

The other reasons I support this is it's very specific. We don't take -- I hate to go back to the integrated pest management -- but even an antibiotic, if we have a little cut on our arm, we put a little Neosporin on. We don't take a massive antibiotic through our bodies.

And I think the underlying bill is an overreach. It overstresses the department. It overreaches our sense of democracy, and this amendment will look at companies that are potentially undercapitalized. There are excess costs.

There's a deviation from industry standards, and they're not complying with GAAP accounting standards. It helps determine who's solvent and who's not, so this very specifically addresses the issue to which we all agree that we need nursing home transparency.

We need transparency and in understanding who's getting the money and where it's going. So I do stand

in support of this bill, and I encourage everyone in the chamber to think, truly think about this, because this is common sense and this is why we are here.

Thank you. I thank the good chairwoman for her answers and also Representative Tercyak always for his enlightening thoughts.

And thank you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Thank you, ma'am.

Will you remark further on the amendment before us?

Will you remark further on the amendment before us?

Representative Lavielle of the 143rd. Ma'am, you have the floor.

REP. LAVIELLE (143rd):

Thank you very much, Mr. Speaker. Good afternoon.

DEPUTY SPEAKER RYAN:

Good afternoon.

REP. LAVIELLE (143rd):

I rise in strong support of this amendment because, as Representative Wood said just now, we do have an issue of transparency with nursing homes that aren't making the grade. And we do need to know what is going on there.

We do need to know why, and how they can clean up their act. And we need a lot of information to figure that out and to impose restrictions on them or changes because we are dealing with our most vulnerable populations.

This amendment addresses that issue directly and cleanly, and it aims to provide a context for doing that with nursing homes that aren't functioning well.

It also avoids the many issues raised and created by the underlying bill. If every business that works with a nursing home must disclose everything about its own profit and loss and operations, each one of those businesses might simply decide, and they have a lot of valuable experience, they might simply decide not to continue their relationships with nursing homes any further.

We have not only a tradition, but a system of laws in this country which requires publicly-listed businesses that operate on stock exchanges to disclose certain information because they are allowed to raise capital on those markets.

There are other businesses that forgo that opportunity to raise capital, and those businesses are

not allowed -- are not obligated to make those disclosures.

And they therefore run their businesses without all of those additional legal constraints and staffs that prepare that operation. They are used to operating in a certain way, and they are used to being able to keep certain information confidential so that they can continue to compete in their marketplaces.

Also sometimes they are small businesses, and when their information is disclosed, their owners have all of their personal finances out there in the open market. So if we don't confine what we're saying here, those disclosures, to just the businesses as this amendment states, that have a relationship with nursing homes that are not doing well, then we are opening this whole can of worms that obligates every single business that has a relationship with a nursing home to disclose everything.

And if we do that in this area, in this sector, then my goodness, what sort of precedent are we setting for businesses in any other sector of our economy?

And I have to say I feel like a broken record, Mr. Speaker, because I feel like almost every time I

stand up I'm talking about what Connecticut is doing every day to convince the rest of the world that it has distinguished itself by its lack of understanding of the way successful economies operate.

But here we go again. I feel like I'm in some sort of a nightmare universe, where we have a Commerce Committee that I'm ranking member of, I'm supposed to deal with economic development, but what we basically are doing is economic destruction.

Every day there's something new. We have a bill that's going through the Senate right now that talks about having the state compete with the financial sector to design retirement plans.

We have another one that's going to impose a $3 million tax on insurers that will be passed through to policy holders. We have our paid sick leave, which we had a bill to expand this year. We have another one for making it more expensive to employ people with the minimum wage.

We had another one, which fortunately was killed in the Finance Committee, that imposed a penalty on businesses if they didn't pay their lowest-paid employees enough.

We even had another one that said you couldn't apply for any tax incentives from the government if there was too big a spread between your top executives and your lowest-paid employees.

I'll say it again, what we're doing here is one more thing that helps Connecticut distinguish itself through its lack of understanding of how a successful economy operates. Economic destruction, not economic development.

I am as shocked as Representative Smith is that this is even being proposed, and I strongly, strongly urge the chamber to adopt this amendment instead.

Thank you very much, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Thank you, ma'am.

Representative Noujaim of the 74th. It's always a pleasure to hear from you, sir. You have the floor.

REP. NOUJAIM (74th):

Thank you, Mr. Speaker. Good afternoon to you, sir.

DEPUTY SPEAKER RYAN:

Good afternoon, sir.

REP. NOUJAIM (74th):

It's always good to see you and we had some great times on the Labor Committee. I'm glad to have you here too and to see you here, Mr. Speaker.

Mr. Speaker, I would like to, if I may, address this issue from a business perspective. We have laws in this country. Some of them are federal laws, some of them are state laws. And all of the laws say that if you have private enterprises that are not public enterprises that do not have shareholders, they do not have to disclose their financials.

Those enterprises could be a one-man shop, they could be an LLC, they could be a Sub-S, they could be a C corporation. But if they are incorporated and they are a private entity, no one can force them to disclose their financials.

Everybody knows, Mr. Speaker, that in the State of Connecticut the backbone of our businesses here in our state and the backbone of our economy are the small businesses. And a great deal of small businesses are free enterprises, private enterprises.

So with all my respect to the Representative Tercyak when he says, "Fire, fire, fire, fire, fire, fire if we don't do what I want you to do or if I

don't buy the pencil from you," unfortunately in business things does not work that way.

I am in business. I live in business. I work in business every day. It's not easy to say, "Fire, fire, fire. I don't want to do business with you."

If you go to a new company to get a new supplier, it's not as easy as going to a supplier and say, "I want to buy from you now." There are policies to follow through. There are procedures to follow there. There are qualities to be checked, there are issues to be looked upon. All of those matters are very important when looking for a supplier.

So a customer might come in, and they want to do all kinds of audit on a company before they can be a supplier. They want to do about the quality processes. They want to do about supply and relation, they want to see if they are solid in the marketplace.

They want to see if they can continue dealing with them in the future. They want to see their deliveries, they want to see their quality. They want to see their prices before they become a supplier.

So it's not as easy as to drop a supplier and go find somebody else. And if this underlying bill is implemented instead of this amendment, what is going

to happen is you're going to have companies, and I think Representative Cafero said it before, they will do $49,500 of business and then they just go away someplace else. And that is not right.

That is not right because it is not as easy to go find another supplier. The costs are very high. The costs to purchase, the cost to audit, the cost to invoice, the cost to ship, the cost to receive, the cost to do quality assurance, all of these are costs that are going to escalate pricing.

So in order for us to penalize one or two companies, we are going to just take everybody and put everybody into the same boat. Everybody is going to be on the same boat just because we're going to be penalizing one or two companies.

And yes, Mr. Speaker, Labor's problem's well involved in closing convalescent homes before, nursing homes. Representative Wood asked the questions and Representative Abercrombie said she did not know if it was a labor issue.

But I can tell you, Mr. Speaker, one nursing home on the west side of Waterbury, west Main Street, was involved in a labor dispute. I would see them striking every day. They struck for a long period of

time, and then before you know it, the business closed. And right now I drove just two days ago in front of that building. For about six years that building remains closed with the windows all blocked up with plywood.

So what happened to us is we chased a business out of Waterbury. We cashed a business out of the State of Connecticut, but more importantly than just a business, what we did is that nursing home had beds and people sleeping on that bed. They had to be sourced and outsourced elsewhere.

So what we do also is not just to chase a business out, but we inconvenienced people who are elderly, who are sick, who need help. That's what we did when we do these kids of bills and laws.

It is very important for us to start looking beyond politics and beyond penalizing the entire industry just because one or two bad apples.

So I look at this and I read the amendment, and I think Representative Cafero read it before. It's very easy, lines 34 to 36, "Additional evidence constituting such probably cause include but is not limited to irregularities in general accounting principles and deviation from industry standards."

Those should be investigated. Just don't go out investigate everybody just because we have one company or two companies out of hundreds of companies that do their job every day and respond to the law every day, and do it according to appropriate practices.

So these are issues, Mr. Speaker, that we should put aside all the politics and start looking into what makes sense. We are chasing businesses away from Connecticut.

There are companies and states from outside the state calling smaller corporations, asking them to move because people can no longer do business here in Connecticut, and if we continue doing those bills that we are doing right now, it's going to make matters worse.

And nobody will be here but people who are going to be taking aide from the State of Connecticut, which will increase the taxes of every working person, man or woman, Democrat, Republican or Independent. Taxes don't know borders.

Mr. Speaker, I do rise in support of this amendment, and I urge my colleagues to support it.

Thank you, sir.

DEPUTY SPEAKER RYAN:

Thank you, sir. Once again, could I ask --

Yes, Representative Carter of the 2nd, please.

REP. CARTER (2nd):

Thank you, and good afternoon, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Good afternoon.

REP. CARTER (2nd):

You know, ladies and gentlemen, I rise in strong support of this amendment. As I've heard through the debate over the last hour or so, the goal of this is to look at these nursing homes that might have a financial issue, even though there's only been a couple that have really had any major problems.

But we're going to look at these financial issues, and we're going to try to find a way that we can mitigate the circumstances before they go under. And thereby we are protecting our constituents and the elderly in the State of Connecticut.

I think that's a good idea. It makes sense to look -- in fact, we're doing that with some of the other bills in this chamber. But the problem is the underlying bill, like without this amendment, the underlying bill goes much too far.

My good colleague from the 143rd had mentioned earlier about what happens next with this bill. See, the underlying bill is going to require these businesses -- anybody who does business with a nursing home to put everything out in public that they do, just because somehow they get a state dollar through another entity.

So because a state dollar goes to a nursing home, then when the nursing home pays that dollar to somebody, we should know what your business is about and have all your information. It's kind of like having a little hitch or a little -- a way to hold on to these businesses and find out more information.

I don't want to say bribe, because it's the other way around. But so what if we apply that to other things that we do in this chamber? What if we apply this to Medicaid dollars? Do we ask for every profit and loss statement of every business and every physician that a Medicaid dollar goes to?

What about our campaign dollars? You know, the fact that we have a citizens' elections program and we have a dollar that comes to us as part of a state grant, and then we go out and we spend it in the community or we go buy, you know, a mailer, now do we

have to ask for every profit and loss statement from every company that we've ever done business with?

Because you know, at the end of the day, somewhere there has to be a line of privacy for these businesses, not only the fact does it take money and effort for these businesses to put that stuff forward, but there's got to be some ability for them to not have to put everything out on the plate.

We've seen the same thing come through in different bills in this legislature where we've had privacy rights because when the government takes something or needs something from us on a form, then all of a sudden it become FOIable.

So this is kind of the same thing. We're taking these -- we're taking these state dollars and we're doing things to help our constituents in the state. But then all of a sudden we'll say well, it's going to come with a little bit of a hitch. You've got to give up all your private information to us.

Now that seems like a really really wrong message to send businesses and constituents in the State of Connecticut. Ladies and gentlemen, the amendment before us gets around all that controversy. It's straightforward. It has a third party auditor looking

these nursing homes, and we're not going further or being heavy handed with all these major businesses.

And by the way, I've heard it said a number of times, we're talking about people who will be related to us in these businesses. The underlying bill affects every possible business that does business with a nursing home.

So ladies and gentlemen, this is a very, very good amendment. It makes sense. It's straightforward, it makes sense. It eliminates controversy, it sends the right messages to our business that from the state's perspective we're only asking for what we need to look at these nursing homes and make a good decision to try to keep them afloat and protect our constituents.

Thank you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Thank you, sir.

Representative Rutigliano. You have the floor, sir.

REP. RUTIGLIANO (123rd):

Thank you. Thank you, Mr. Speaker.

In my short time here in the legislature, I've heard a lot of outrageous things, but today may take

the cake. I have one question, sir, through you, to the Chairman of the Labor Committee.

DEPUTY SPEAKER RYAN:

Please proceed, sir. One moment. Did you say Chair of the Labor Committee?

REP. RUTIGLIANO (123rd):

Yes, sir.

DEPUTY SPEAKER RYAN:

Okay. That would be Representative Tercyak. Thank you, sir.

REP. RUTIGLIANO (123rd):

Yes. Through you to the good representative. If you do not pay your brother for those pencils that you purchased, to whom does he go after for the dollars?

DEPUTY SPEAKER RYAN:

Representative Tercyak.

REP. TERCYAK (26th):

Thank you very much, Mr. Speaker.

Through you, hmm. I'm not sure he'd come after me. Once I say no, he probably knows it's going to stay no. But as long as we're back to talking about the pencils, since it was earlier mentioned about campaigns, by the way, we have no problem making rules about ourselves.

I can't buy those pencils from my brother with campaign funds because we decided just the appearance of giving business to relatives was bad enough to be avoiding it. And here we're not saying just the appearance. You have to do away with it, but we'd like a little evidence that shows that it's for the best reasons, and not that we should worry about it.

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Rutigliano.

REP. RUTIGLIANO (123rd):

Well, thank you, Mr. Speaker.

I appreciate that non-answer. But the real answer is that if he does not pay his brother, his brother sues him. The fact that we would think that somebody doing business with a nursing home would sue the State of Connecticut if that nursing home doesn't pay them is outrageous.

If you're the trash contractor, the linen contractor, the food contractor, when you contract to do business with a nursing home you get paid by the nursing home and you expect the nursing home to pay you.

So if the nursing home refuses to pay or does not pay, you don't have the right to sue the State of Connecticut for payment. So I reject the argument. I reject the argument that the mere fact that they do business with a company that receives state funds makes them disclose all their information.

Thank you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Thank you, Representative.

Representative Belsito, did you want to speak on the amendment, sir?

REP. BELSITO (73rd):

Yes, I do.

DEPUTY SPEAKER RYAN:

Please proceed, sir.

REP. BELSITO (73rd):

Thank you, Mr. Speaker.

I came here in 1966, worked at G. Fox and Pratt & Whitney. At that time this was one of the best states in the nation, number one ball bearing, number two brass capital of the world, aircraft engine capital of the world, insurance capital of the world, and gun manufacturing capital of the world.

Take a look around us today. We are not number one in any of those things. We are falling behind, and this is a reason why. This is a very poor business climate.

And to the gentleman, representative who said that fire 'em, fire 'em, fire 'em, if you ran a business you just don't walk over to somebody and fire them because if I'm running the laundry and I need you to do my laundry, I can't fire your company because there's no one else to take your place. It's going to take me a while. That means there will be no new, clean linens at the nursing home.

And it goes for food and everything else. You just can't do that. And here we have in Connecticut number one worst-run state by Baron's Magazine. Why? Because we are failing to use common sense, and common sense tells you that you should not be giving out P&L statements and all financial information to anyone who wants it.

So this is a really bad bill before us. The amendment that we have attached to it is really good. It protects everybody, and it's time to start protecting the businesses of Connecticut. Thank you very much.

DEPUTY SPEAKER RYAN:

Thank you, sir.

Will you remark further on the amendment before us? Will you remark further on the amendment before us?

If not, will staff and guest please come to the well of the House. Will the members please take your seats? The machine will be opened.

THE CLERK:

The House of Representatives is voting by role. Members to the chamber please. The House of Representatives is voting by role. Members to the chamber please. Have all members voted? Have all members voted? Will the members please check the board to determine if your vote is properly cast?

If all members have voted, the machine will be locked and the clerk will take the tally. Will the Clerk please announce the tally?

THE CLERK:

House Amendment C.

Total Number Voting	143
Necessary for Passage	72
Those voting Yea	56
Those voting Nay	87

Those absent and not voting 8

DEPUTY SPEAKER RYAN:

The amendment fails.

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

Representative Candelora of the 86th, sir, you have the floor.

REP. CANDELORA (86th):

Thank you, Mr. Speaker.

Mr. Speaker, I rise in opposition to the bill, and I think it was unfortunate we didn't adopt that last amendment because I think what that amendment is trying to do is to cure a legal impossibility. I think we could argue over the policies of what these provisions may be doing, but I can't even get to the policy because the bill, as crafted, is creating literally a legal impossibility for businesses.

When we hear from our communities, and we have debates over how Connecticut does with our -- with our economic climate, a lot of times I think we all hear about uncertainty. Businesses need certainty in the State of Connecticut in order to operate, and this bill is a perfect example of how we don't give that certainty.

In particular, we've had the debate for the last hour over this definition of related party. And we're setting up nursing homes to be able to be unable to comply with the provisions of this law. And if I may, just a couple of questions to the proponent of the bill, through you, Mr. Speaker, on this particular issue.

DEPUTY SPEAKER RYAN:

Please proceed, sir.

REP. CANDELORA (86th):

Thank you, Mr. Speaker.

In the definition of related party, we have language in here that refers to in Line 6, "common ownership." Is common ownership defined in the bill?

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker.

No.

DEPUTY SPEAKER RYAN:

Representative Candelora.

REP. CANDELORA (86th):

Thank you, Mr. Speaker.

So we don't -- do we know if common ownership would constitute maybe a 5 percent joint ownership or a 10 percent joint ownership, or does it require a controlling interest, like 51 percent or more ownership in order to fall under that definition of common ownership?

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker.

It isn't stated that there is a percentage.

DEPUTY SPEAKER RYAN:

Representative Candelora.

REP. CANDELORA (86th):

Thank you, Mr. Speaker.

And then in lines 6 through 7, do we have a definition of control or business association?

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker.

No, there isn't a definition in the bill itself.

Through you.

DEPUTY SPEAKER RYAN:

Representative Candelora.

REP. CANDELORA (86th):

Thank you, Mr. Speaker.

So if we have two companies where the CEOs may both be members of a local rotary club, and a lot of times with our rotary organizations, their motto not only is service above self, but they form business relationships through that organization.

If two individuals that are Rotarians in the nursing home industry, you know, one happens to own a landscaping business, the other owns a nursing home, and that person contracts with that landscaping business, does that constitute a business association so as to fall under this bill?

Through you.

DEPUTY SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through -- through you, Mr. Speaker.

They are a business association, but they would not classify as a related party.

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Candelora.

REP. CANDELORA (86th):

Thank you, Mr. Speaker.

And so why would they not constitute a related party?

Through you.

DEPUTY SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker.

Because it's through family association.

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Candelora.

REP. CANDELORA (86th):

Thank you, Mr. Speaker.

Okay. And I guess to clarify that, then, because as I'm reading lines 6 through 7, we have a definition of family association. Is it meant then that family association -- well, as I read this bill, I'm looking at family association as being one of the separate components of being a related party. As I read the definition, related party can include a family

association, or common ownership, or business association.

So are we meaning then that a business association must also constitute a family association?

Through you.

DEPUTY SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker.

No.

DEPUTY SPEAKER RYAN:

Representative Candelora.

REP. CANDELORA (86th):

Thank you, Mr. Speaker.

And Mr. Speaker, in lines 4 through 5 we have language here that we often see in our statutes, "includes but is not limited to." And so as I read that, we are attempted to find a related party, but we're using language that says, "including but is not limited to."

So does that mean that essentially any relationship then potentially gets called into the reporting requirements under this bill? Or you know, how is that not narrow in scope? Through you.

DEPUTY SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Could he rephrase his question, please, Mr. Speaker. Through you.

DEPUTY SPEAKER RYAN:

Representative Candelora, could you rephrase your question?

REP. CANDELORA (86th):

Absolutely. Mr. Speaker, when we are using the definition of related party, typically when we use the definitions, you know, we will enumerate what classes of individuals fall into that definition.

You know, for instance, just looking down on lines 2, or I'm sorry, on line 8, we have company meaning any person, partner, association, holding company, limited liability company or corporation.

But in lines 4 through 5, we use the term "related party", but in that we say it, "includes but is not limited to." So I guess my question is that use of the language "including but is not limited to" suggests that related party could include anybody. Am I correct?

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker.

That's not how I understand it.

Through you.

DEPUTY SPEAKER RYAN:

Representative Candelora.

REP. CANDELORA (86th):

Thank you, Mr. Speaker.

So that language is meant to still only include companies that have a family association, common ownership, control or business association with the nursing home? And so when we use that language of, "including but not limited to," it still means they're restricted to those three categories that's enumerated?

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker.

Yes. that's my understanding.

DEPUTY SPEAKER RYAN:

Representative Candelora.

REP. CANDELORA (86th):

Thank you, Mr. Speaker.

I think that's helpful, to make sure we are limiting that scope. And in the reporting piece of this, where the profit and loss statements need to be submitted, I see in the definition of profit and loss statement in lines 12, we refer to it as, "the most recent annual statement on profits and losses finalized."

In the bill, we're requiring the reports -- I think they need to come December 31st. So in a situation where you might have a business that's not on a calendar year for reporting purposes, they may be on having a fiscal year like this day of July 1st through June 30th.

I would assume that an annual report therefore would be created on June 30th, so it doesn't necessarily perfectly align with a December 31st report date. If they are misaligned in that sense, where the companies aren't operating on a calendar year, as I understand the bill, would they just then be required to give the last final report?

So maybe it's December 2013, their latest report that was created might be February 1st, 2013. That report would be sufficient to comply?

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker.

The way I'm reading it it says, "most recent annual statement on profit and loss finalized by a related party."

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Candelora.

REP. CANDELORA (86th):

Thank you, Mr. Speaker.

And that's how I read it. So it would be the -- I guess the latest and last statement that that company may have. That's what they need to produce, and they would be in compliance.

Through you.

DEPUTY SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker.

If that is the most recent, that would be my understanding also.

DEPUTY SPEAKER RYAN:

Representative Candelora.

REP. CANDELORA (86th):

Thank you, Mr. Speaker.

And there is language here that says finalized. So if an annual statement may be in draft form, I guess we are looking at year-ends. So just to be sure here, so it would be a profit and loss statement that has necessarily been deemed final by that particular company? I guess, is that how the determination would go? Who would be the one to make that determination?

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker.

The way it's stated in the bill the most recent annual statement on profits and loss that is finalized, so I think that goes to the question that you're asking.

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Candelora.

REP. CANDELORA (86th):

Thank you, Mr. Speaker.

And Mr. Speaker, getting -- I think getting back to the issue of how a nursing home acquires these contracts, and I guess I don't have any further questions at this point, but I guess I just sort of want to speak to the mechanics of this bill.

Because I really am having great trouble with what we have crafted here for the State of Connecticut and the policy that we're setting forth.

To me this isn't about trying to cure troubles in nursing homes or creating some sort of transparency, but it really is a heightened intrusiveness that the State of Connecticut is going to take on a particular business sector.

And I understand that there may be evils out there that we need to cure, but it is how do we go about curing that evil? And this particular bill takes a great leap in attempting to make that cure.

To the point where I think that we are departing from sound public policy. What I see happening here under this bill is that nursing homes, first of all,

are essentially going to need to collect profit and loss statements from every company that they do business with because the definition in and of itself of related parties is so broad in scope that I'm not sure that they would even know how to comply.

And that's why I supported that last amendment that was proposed, because the definition of related parties was much more carefully crafted, I think, to capture what we heard talk about, Representative Tercyak talked about the brother, you know, his brother selling pencils.

You know, I think those are the relationships that we're looking at. But this definition pulls in so much more than that. It would be any contract over $50,000 where there is common ownership or family associations or business associations. You know, I'm reminded back to my days when I practiced law and we would have to -- when we took on a client we would send emails out to everybody in the company to make sure there was no conflict of interest.

You know, that's essentially what nursing homes are going to have to do, and there is a routine for the way that lawyers practice that way, and there's a reason for it. But here, what nursing homes are going

to need to do is figure out who is employed at any given time, and who may have a relationship with a third-party vendor that may affect what they need to produce.

So it is going to be so difficult for them to comply in practice, what they're going to be forced to do is have to try to get a profit and loss statement from everybody that they do business with over $50,000.

Okay, that's the policy we want to set. So then you take it to the next level. Well, how do I go about getting that profit and loss statement? And I think as Representative Cafero pointed out, a business has no legal right to demand that from another company.

And I don't care if it's my brother's company, I work in a family business. My siblings are next door to each other. They run their company; I have my business. And I think if I asked my sister for her profit and loss statement, you know, she would slap me. She's not going to give that to me.

And she's under no legal obligation to give it. And I'm just an employee of that business. I have no ownership interest. I have no right to get it.

So I don't know if I a business relationship how the heck I would ever get that profit and loss statement from her. So that's one issue I think that nursing homes are naturally going to come up against.

The other issue is there are companies out there that don't do profit and loss statements. There are many out there, especially our small businesses. So the companies that are selling the pencils that are cutting the lawns, they collect all their paperwork up, they have their checkbook, and they dump all of their stuff onto their accountant at the end of the year to do their taxes.

And I have friends who are accountants, my brother-in-law is an accountant, and we often hear those stories. I mean, it's sort of the way business works. And in a way it's a good thing for those businesses that are cutting lawns and that are, you know, cleaning homes or doing the laundry for the nursing homes.

Some of these small entities -- and a $50,000 contract is not a lot of money -- some of these smaller entities don't have the time or the ability to hire a bookkeeper. And so this is how they operate

their business. At the end of the year the accountant comes in, does their taxes and they're done.

So they don't even have a profit and loss statement. So what are they left to do? Well, as part of our sidebar discussion we had here, a profit and loss statement for those individuals who many operate as a pass-through LLC, that profit and loss statement is their income tax returns.

So we're going to go and have a nursing home expect to ask a third-party vendor to give up their tax return and make it FOIable in the State of Connecticut? It's offensive. And I wouldn't do it as a business owner, I think that's private, that is stepping into an arena that we have never been willing to step.

So what we're doing with this piece of legislation is effectively making it a requirement somehow that that nursing home pry that tax statement out of a Connecticut resident's hands and turn it over to the State of Connecticut.

And I understand what we're trying to accomplish in this bill, but all we're going to accomplish is offending that third-party vendor that doesn't understand why they have to disclose something to DSS

or to a committee or to a nursing home, some other third party that is FOIable, just because they happen to do business with a nursing home who happens to get money from the State of Connecticut.

And that's where businesses in the State of Connecticut are going to start to talk and are going to start to fear and they're going to be concerned about the State of Connecticut and what the heck we are doing.

The other piece of this, I think, are nursing homes are also going to be left, then, to try to contract this information when they do business with these third-party vendors. And make it a contractual obligation to provide profit and loss statements. Well, all that's going to do is run up the bill, because if I'm a third-party vendor and I have to produce a profit and loss statement, I'm going to charge for it.

And then I come to the final conclusion here is what is a profit and loss statement? Which isn't really outlined or defined in the bill, but as I see it, that information isn't going to give us a heck of a lot of information to determine what is really going

on in a nursing home and what is really going on in the businesses.

Because, you know, a profit and loss statement is just going to show you how much is spent and how much they walked away with a net profit. It's one sheet of paper. It's the most uncomplicated document at times that you've seen. So we haven't really defined in scope necessarily if we're going to get any useful information at all, and all we've meant to do now is aggravate the public.

The other reaction to this is nursing homes, the effect of this, if they're unable to comply with this bill, which I don't see how they're going to be able to comply with it, is that now they're all going to be able to take a 10 percent hit.

So we're going to make the policy decision here today that if you're a for-profit nursing home, you're going to take a 10 percent hit in your grant from the State of Connecticut at the expense or at the discretion of the commissioner.

So when all these nursing homes in our district may or may not receive a 10 percent cut, and we all get the phone calls from our different constituent groups on why the services of these nursing homes

might be affected, I hope we'll be able to answer their question.

Because we gave unfettered discretion to the commissioner to reduce the grants from a nursing home based on a vague, arbitrary law that's overreaching and is bad public policy, in my opinion, that makes it impossible for these nursing homes to actually comply with.

So you know, I've heard the frustration certainly from this side of the aisle on this underlying bill. I think I don't even get to the public policy issues of how we go about tackling the problems that we've had with our nursing homes with some of the bad apples.

We really don't even get to that point in this underlying bill. And it isn't even fair to label this nursing home transparency, because it has nothing to do with that. It has everything to do with very overreaching, invasive policies on our small businesses in the State of Connecticut.

This isn't going to affect nursing homes as much as it is all their vendors. You know, and finally I think what is so frustrating for me is when sitting through a finance committee and sitting through the

various bills of giving out significant bond dollars in corporate welfare in the State of Connecticut, we have required less of those companies.

We have less transparency in DECD and those contracts that used to go out the door. We approved over $400 million for Jackson Labs, with very little oversight, very little reporting requirements. Their third-party vendors don't have to report a thing to the State of Connecticut, and they're going to get their money.

UTC, which is a bill I supported, they're going to get their money and they're not going to need to gather up profit and loss statements from all their third-party vendors. May God forbid, because that would probably be about every small business manufacturer in the State of Connecticut.

But somehow it's acceptable for us to do this in this manner. I find it very trouble. I cannot support this, and I think that this is a bill that is really going to come back to haunt the State of Connecticut.

Thank you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Thank you, Representative.

Representative Aman of the 14th. Sir, you have the floor.

REP. AMAN (14th):

Thank you, Mr. Speaker.

Listening to all of the discussion so far, I definitely do have some questions regarding the procedures that have to be followed by the nursing homes and the owners. So through you, Mr. Speaker, I do have some questions for the proponent.

DEPUTY SPEAKER RYAN:

Please proceed, sir.

REP. AMAN (14th):

Yes, earlier and it's regarding the relationship, and someone mentioned that people like the various ancestry.coms, et cetera, I remember hearing one on the radio driving home, that said that they can find thousands of relatives that belong to you.

And since the language is fairly broad about who is a related party, through you, Mr. Speaker, how is the related party determined and who makes the decision if someone is close enough to be considered a related party or if it's just a name that may have some coincidence.

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker.

I would assume that the nursing home would disclose the related party. Through you.

DEPUTY SPEAKER RYAN:

Representative Aman

REP. AMAN (14th):

And upon the disclosure of some names from the nursing home, who is to determine if that list is complete or not from the government agency. Are they the ones that look at and say, "Oh, you forgot someone? Or how was that determined?" And if the government agency overseeing this decides that they forgot someone, how is the punishment put out?

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker.

I would think that DSS, when the nursing homes disclose who the related parties are, would give them

the flexibility if they have left somebody off, to be able to add them to the list.

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Aman.

REP. AMAN (14th):

So it's a bit of a guessing game on the nursing home's part of when they're looking at people how far down the line they go. When we're talking about corporations, subchapter S company, LLCs, the relative, presuming it is someone that's close enough that everybody can identify, what percentage of the business do they have to own for this trigger to go into effect.

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

It's not a percentage, it's the amount of business they do with the nursing home.

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Aman.

REP. AMAN (14th):

Okay. If you have 10 percent ownership in a company, and your company -- the company does business with the nursing home and you're actually -- the relative is actually involved in other sections of the business would this still qualify that they had to release the financial statements?

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

If they're doing $50,000 or more business with the nursing home, yes.

DEPUTY SPEAKER RYAN:

Representative Aman.

REP. AMAN (14th):

So it doesn't make any difference the percentage of ownership, it's only amount, so if I own 1 percent of the company, the company has to release their financial statements?

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker.

Could you repeat it? I'm sorry to the good representative.

REP. AMAN (14th):

Yes. I own 1 percent of a corporation that is doing work, and I'm related to the nursing home. I own 1 percent of the corporation. I am an employee of them. Does that mean that that company has to release their financial statements?

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

So my understanding is if that company is still -- I'll go back to the dollar amount -- if they're spending $50,000 or more on goods, then yes, they do have to report it.

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Aman

REP. AMAN (14th):

Let me take that to a real extreme. I own 1 percent of General Motors. I work for General Motors as a mechanic at a dealership. The nursing home buys a $50,000 bus from General Motors. General Motors,

from what you just said, have to release their financial statements to the nursing home.

Do I understand that correctly?

DEPUTY SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker.

That's not my understanding.

Through you.

DEPUTY SPEAKER RYAN:

Representative Aman.

REP. AMAN (14th):

Why would they be exempt? They're doing $50,000 and there is a relationship.

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

My understanding from what -- the way you phrase the question, you were talking about the corporation themselves, not the individual. Maybe I misunderstood the question.

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Aman.

REP. AMAN (14th):

So if it's a corporation, again, that I am a small stockholder, that I am working for, I am part of the company. The company is working for the nursing home, what I'm trying to find out is where the line is drawn, since it's not on a percentage of ownership. It's not on control. It's only on the $50,000 mark.

How is that determined, whether there is a true relationship and it has to be reported? From what was said, it's my interpretation that they all would have to be reported. If that's not correct, I would like to have an explanation from the proponent of the bill as to where that line is to be drawn.

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker.

If I'm understanding the question, that's already current practice through DSS.

Through you.

DEPUTY SPEAKER RYAN:

Representative Aman.

REP. AMAN (14th):

No, I don't know if the disclosure of third parties is currently part of DSS. If it is, I'm not sure why the bill is necessary.

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker.

So the way I'm understanding the question, and I apologize, is that you're questioning an employee of a business that is doing business with the nursing home if that employee himself has to report this. Is that your question, Representative? I'm a little confused. I apologize.

(Deputy Speaker Sayers in the Chair.)

DEPUTY SPEAKER SAYERS:

Representative Aman.

REP. AMAN (14th):

Yes. Thank you, Madam Speaker.

No, if it's the company that would have to report, not the individual, to the nursing home. And

so my question is how close a relationship does that have to be before the company has to report?

And what was said was that it's based completely on dollar amount, and a personal relationship of some owner of the company or someone in control of the company, and so I guess I'm again asking with a small percentage of ownership of a relative, what determines when the company has to report?

DEPUTY SPEAKER SAYERS:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker -- Madam Speaker, I apologize. Sorry. I was trying to concentrate on the question.

I'll be honest with you, I'm a little confused by his question. I'm not understanding what he's trying to get at.

Through you, Madam Speaker.

DEPUTY SPEAKER SAYERS:

Representative Aman, could you rephrase the question?

REP. AMAN (14th):

Yeah. At this point I'll go on to another question regarding the financial statements. If I'm

remembering right, it says profit and loss statements. How detailed a profit and loss statement must a related entity give to the nursing home which will then give to DSS?

Through you, Madam Speaker.

DEPUTY SPEAKER SAYERS:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

The way the legislation reads, it says, "the most recent annual statement on profits and loss."

Through you, Madam Speaker.

DEPUTY SPEAKER SAYERS:

Representative Aman.

REP. ABERCROMBIE (83rd):

Again, depending on the organization, if you had a small landscaper, for instance, his financial statement would consist of $50,000 in income, $50,000 in salary, two lines, that would be the complete financial statement. Would that be acceptable?

Through you, Madam Speaker.

DEPUTY SPEAKER SAYERS:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Madam Speaker.

If that's what his most recent annual statement on profits and losses is, then yes, that would be acceptable.

REP. AMAN (14th):

The -- we've been talking about small people like landscapers and laundry, et cetera. Would this also include any of the professional service firms, such as attorneys, financial planners, et cetera?

Through you, Madam Speaker.

DEPUTY SPEAKER SAYERS:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Madam Speaker.

If they are providing services of $50,000 or more, yes.

DEPUTY SPEAKER SAYERS:

Representative Aman.

REP. AMAN (14th):

And what was said was the most detailed and current expenditures that they may have, and so therefore an attorney firm who is doing $50,000 worth of business, their financial statements would include the list of their clients and how much they paid them the previous year.

Is it my understanding that all of that would now become public record?

Through you, Madam Speaker.

(Deputy Speaker Ryan in the Chair.)

DEPUTY SPEAKER RYAN:

Representative Abercrombie.

REP. AMAN (14th):

Holy switching.

REP. ABERCROMBIE (83rd):

Through you -- you guys are confusing me going back and forth with him and her.

Through you, Mr. Speaker.

Right. It's total profit and loss for the business, not the individual, if that's the question you were asking. I apologize.

REP. AMAN (14th):

No, my --

DEPUTY SPEAKER RYAN:

Representative Aman.

REP. AMAN (14th):

Yes. The question was it calls for the annual profit and loss financial statements, and a legal firm

that is keeping good books and records, their profit and loss statement will, because it's an internal document, most of the time would list all of their clients, how much they paid and how much they owed, a list of all of their properties, depreciations, et cetera.

So my question is would all of that become part of the public record since that is their last profit and loss statement?

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker.

Whatever is listed on the profit and loss statement is what would be public information.

Through you.

DEPUTY SPEAKER RYAN:

Representative Aman.

REP. AMAN (14th):

I'm very worried about hearing that. Let's take the next case of a professional service organization, a medical group that fits the qualifications of a strong relationship and they have the $50,000.

Their profit and loss statement would include all of their patients, and again, how much they paid over the previous year to them, because that is also part of the statement, would all of that medical records of how much people paid and for what treatment, it's my understanding under this bill that that would all be part of the public record?

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker.

Whatever is on the profit and loss statement is public information.

DEPUTY SPEAKER RYAN:

Representative Aman.

REP. AMAN (14th):

Yes, and when this information was released should the HIPAA violation be the responsibility of DSS or the medical firm that was ordered to release the information?

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker.

If you're listing it on a profit and loss form that you're submitting to the government, I can't imagine that the HIPAA has any relationship to that.

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Aman.

REP. AMAN (14th):

But the profit and loss form would normally never leave the medical practice as such. It would be not subject to public. So I think we have a major problem with that or the accounting firms or anything else.

And another thing we've been talking about, the contracts. And it was stated earlier that if someone doesn't want to give you the contract, give you the information, just fire them and hire someone else.

Was that a correct understanding through this -- as the suggested solution?

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker.

If I was a business and I had to comply with DSS, which is what we're requiring here, and I had a business that did not want to give me information that I need to be able to keep my business whole, then I would really think about if I'm doing business with that entity.

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Aman.

REP. AMAN (14th):

Yes, looking at this is the effective date of this bill is July 1st, 2014, in about 60 days. It's not unusual whatsoever to have a company sign a three-year contract, four-year contract. I'm thinking of something like snow plowing, you contract with someone and say I'm going to hire you to do this for the next three years.

He takes that contract to the bank and says here is a fixed-cost contract from a very good-paying nursing home, give me a loan to buy my new trucks because here is the cash flow coming from it.

At this point, you go back to them and you say, "Oh, I have to fire -- you either have to give me this information that was not in the contract," and the

contractor says, "I'm not going to give it to you." And you say I'm fired, I believe that is -- unless there is something in this bill that I don't see is an absolute violation of Connecticut contract law.

So through you, Mr. Speaker, does this bill void out any long-term contracts the nursing home has if the vendor does not want to comply?

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker.

I would assume that we would just -- we would have to be in compliance with what state law is.

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Aman.

REP. AMAN (14th):

That would put -- the answer there puts the nursing home under the problem of do I violate state contract law or do I violate the law that this bill requires?

Through you, Mr. Speaker, which law would the proponent recommend the nursing home violate?

DEPUTY SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker.

I am not saying that we should violate any law. I am saying that we should be in compliance with what state law is.

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Aman.

REP. AMAN (14th):

Yes. And hopefully I pointed out some of the real-life problems of the way this is done. The interpretation of who is related and how much of the company ownership I think is very, very vague and while the intention is there and everybody can agree on the intention of it, we have an awful lot of attorneys in this state that will probably look at this and say, "I think that we're going to do real well in court over this one way or the other."

I'm looking at the financial disclosures and saying if I was a very large company I would have a problem with it. I'm looking at it from a contractor's point of view of one-time contracts. The

nursing home wants me to put in a small addition, a paving, all of which can easily hit $50,000 but under condition of that I'd have to release my financial statements.

What that does do for the nursing home is probably puts out a lot of the vendors that they would like to use because they have close personal relationships with them because a company looking at a relatively small part of their business is going to say I just don't want to comply with this.

I think it's one of the problems we have with businesses in general in the State of Connecticut is that we put in obstacles and say of course, they're going to want to do this and the businesses more and more often are just saying, "Yeah, if the State of Connecticut requires it, it's just easier for me not to do business here, do business with someone else."

So I do not think this legislation, even though I think the purpose is great, I don't think the way it's been drafted and written is at all possible to be acted on.

So through you, Mr. Speaker, I thank the proponent for her answers.

DEPUTY SPEAKER RYAN:

Thank you, Representative.

Representative Walko of the 150th district. Sir, you have the floor.

REP. WALKO (150th):

Good evening, Mr. Speaker.

A few questions through you.

DEPUTY SPEAKER RYAN:

Please proceed, sir.

REP. WALKO (150th):

To the good chairwoman, I'm trying to understand the math of this proposed legislation here.

Through you, Mr. Speaker, what is the average length of time that it's estimated to review each submission by a nursing home by the department?

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker.

I don't have that information.

DEPUTY SPEAKER RYAN:

Representative Walko.

REP. WALKO (150th):

In my review of the fiscal note that was attached to this bill, it indicated that there would be no financial impact concerning the submission of these extra forms and information.

Through you, Mr. Speaker, did the committee look at the potential for additional costs and expense related to personnel for the department to review each and every submission that would be anticipated as a result of this legislation?

DEPUTY SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker.

My understanding through the agency is they will not need any added staff. This is just adding another page of information that will help DSS determine rates for nursing homes.

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Walko.

REP. WALKO (150th):

Thank you, Mr. Speaker.

So if I understand your answer correctly, what we're looking at through this legislation is a one-

page edition for each nursing home and what they submit to the state?

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

My understanding is it's added information that would be approximately one page.

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Walko.

REP. WALKO (150th):

And so through you, Mr. Speaker, that added page, is it correct to understand that the department would not require any additional personnel to review that information?

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker.

That was our understanding through the agency. That's why there is no fiscal note on this bill.

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Walko.

REP. WALKO (150th):

And now armed with this information, if the department does not review the information, or does not in fact determine that any irregularities are there and yet maybe there are, through you, Mr. Speaker, is there any process by which there is an audit of how the department has reviewed these documents?

DEPUTY SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Mr. Speaker, could the good representative please rephrase his question? I'm not exactly sure what he's asking.

DEPUTY SPEAKER RYAN:

Representative, could you rephrase your question?

REP. WALKO (150th):

Thank you, Mr. Speaker.

I'm just trying to understand the process by which the submission is made. So my understanding is that a submission is made to the department. The

department then would review it, and now with this additional page of information.

Once the nursing home provides the information to the department, is there any penalty for the department or any process by which the department must act to review that information?

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker.

If I'm understanding the representative's question, this would be a -- when they're looking at the cost reports, which is how they determine what the rates are going to be for the nursing homes, if they see that there's a discrepancy in that report, that's when they would go to this next filing or paperwork, saying what the profits and losses are, which would be able to help them determine if there is an issue with the nursing home.

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Walko.

REP. WALKO (150th):

I thank the good chairwoman for her response. In looking at the actual language of the legislation, relative to the definition of related party, I see that it also discusses business association.

I believe it's line 7 if I'm reading this correctly. Through you, Mr. Speaker, there was a lot of comments and questions about Lenny's Laundry or Larry's Laundry and we've heard about pencils.

Would all vendors fall under that definition to the extent that they reach the financial threshold?

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker.

No. I don't believe so.

DEPUTY SPEAKER RYAN:

Representative Walko.

REP. WALKO (150th):

So I guess my lack of clarity on this is what vendors would be excluded from the definition of related party to the extent again that they reach the financial threshold?

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker.

It would have to be through a family association is my understanding. Through you.

DEPUTY SPEAKER RYAN:

Representative Walko.

REP. WALKO (150th):

So under the hypothetical of a laundry service, that is not through a family association, would not be included in the requirement to disclose the financial information?

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

For an example, if they are both -- if they are both owned by the same holding company, yes, they would, because that's where the association comes in.

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Walko.

REP. WALKO (150th):

So again, just to drill down on this point, if a local Laundromat is providing the laundry service to a nursing home, that is not owned in whole or in part by the nursing home, that entity would not fall within this definition? Is that correct?

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker.

If it does not fall under the definition or related party, you are correct.

DEPUTY SPEAKER RYAN:

Representative Walko.

REP. WALKO (150th):

Well, I guess that's my question. I can read through here at least what the language says in terms of related party, but under my hypothetical of a Laundromat that is not owned in whole or in part by the nursing home, would that Laundromat fall under the definition of related party?

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker.

I'm sorry, Mr. Speaker. Through you, Mr. Speaker. I'm still trying to understand the good representative's question. So if they fall under the definition of related party, yes. If they do not fall into those categories, no.

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Walko.

REP. WALKO (150th):

Through you, Mr. Speaker.

Does a related party have to be a family association?

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker.

No, they could fall under a holding company that falls under the umbrella of the nursing home.

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Walko.

REP. WALKO (150th):

So if a vendor does not fall under the umbrella that the good chairwoman just described, they're not considering a related party?

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker.

If they do not fall under that definition, you are correct. Through you.

DEPUTY SPEAKER RYAN:

Representative Walko.

REP. WALKO (150th):

So through you, Mr. Speaker.

Many of our nursing homes have organization and business relationships with unions. Some are unionized, some are not unionized. If payments are made from the nursing home to the union, through either collective bargaining or through wages, and it meets the financial threshold, would a union be considered a related party under this agreement?

Through you.

DEPUTY SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker.

I'm not sure, to tell you the truth. I'm not sure on the question that you're asking.

DEPUTY SPEAKER RYAN:

Representative Walko.

REP. WALKO (150th):

Just trying to get some clarity as to whether or not the payments made, assuming again it reaches the threshold, I believe 50,000. If a payment of greater than $50,000 was made from a nursing home to a union pursuant to either a collective bargaining agreement or through the wages that are earned by the union members, would that union then fall under the definition of related party by which then the union would then have to disclose their profits and losses, pursuant to this legislation?

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Thank you, Mr. Speaker.

Would the good representative mind if the chairman of the Labor Committee answered that? I am not that familiar with labor law. If that would be okay with the Representative.

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Walko, would you mind redirecting your question to Representative Tercyak, the chairman of the Labor Committee?

REP. WALKO (150th):

Thank you, Mr. Speaker. My question again is whether or not effectively if a nursing home pays a union through collective bargaining and then the wages by their members, the union's members, and it reaches that 50,000, would a union then be considered a related party by which they would then have to issue for the public their profit and loss statements pursuant to this legislation?

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Tercyak, would you care to answer the question?

REP. TERCYAK (26th):

Yes, thank you very much, Mr. Speaker. I would care to answer. If a union is separate and not owned by the management of the company, whereas the union represents -- is made up of the workers at that company, it is the union -- this is America.

The union is not owned by the company. The union is independent. It is the members joining together collectively. There is no relationship in terms of a profitable business association, or through family, again a profitable association through family, that would make an independent union, the kind we have in America, be subject to these laws.

The classes that are subject to these laws do not change at all from what they presently are. We ask nobody who's not giving the information to DSS now to start giving information.

We ask for more information from the very same people. There is not a difference proposed here saying that we want more people who are -- who are presently not required to give information to give information.

We do want the people who are presently required to give information to get a bit more information from their related entities whether they are related

through -- through common ownership or benefit of business or whether they are related familial.

Through you, Mr. Speaker, thank you very much.

DEPUTY SPEAKER RYAN:

Representative Walko, did he answer your question?

REP. WALKO (150th):

Thank you, Mr. Speaker.

Yes and I think back to the good Chairwoman. Curious about the timing of the -- the process again. There's been stated a couple of times here that it's important to have the data and have the data relevant and timely.

And so through you, Mr. Speaker, what would be the -- the timing from submission to the analysis as to any rate increases?

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker, is the good Representative asking how long it takes DSS to evaluate the information they're given? I'm -- I'm not sure what the question is.

DEPUTY SPEAKER RYAN:

Representative Walko, can you clarify your question please.

REP. WALKO (150th):

Thank you, Mr. Speaker.

There's been a lot of discussion here tonight about -- about how we want this information, when we want it because it needs to be relevant and it needs to be there in a timely fashion.

And so relative to that analysis that goes into this, from the -- from the standpoint where DSS accepts the information and then makes a decision concerning any rate increases, does the good Chairwoman have any understanding with respect to how long that process will take?

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker, I don't know how long it takes DSS to evaluate the financials when they receive them from the nursing homes but I would assume that it's done in a timely manner because it goes to what their rates are going to be for the nursing home.

So the nursing home cannot get their either new rates or the current rates without that information.

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Walko.

REP. WALKO (150th):

Thank you, Mr. Speaker.

You know as I -- as I listen to the discussion here today, I -- I still can't quite understand how, in fact, this bill helps our nursing homes and, in fact, helps the residents of those nursing homes.

We had obviously a system in place prior. For whatever reason that defunct organization was eliminated. We're now in a situation where we're trying to recreate the wheel, we're trying to put a greater burden on our nursing homes and I have yet to hear the -- the true correlation between what this bill does or intends to do and how it will actually help the residents of the nursing homes.

And so I would urge my colleagues here to think long and hard about the impact of this and not simply the -- the words behind this legislation. It's important to understand that practically we are putting a greater burden on our employers with what I

consider to be no clear direction as to how that will actually help Connecticut's nursing home industry.

Thank you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Thank you, sir.

Next we have Representative Srinivasan of the 31st and I hope I said your name as well as the Deputy Speaker the other day did, sir. Thank you.

REP. SRINIVASAN (31st):

Thank you, Mr. Speaker. Good evening, Mr. Speaker, and you definitely have always said the name correctly.

Thank you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Thank you.

REP. SRINIVASAN (31st):

Through you, Mr. Speaker, a few questions to the proponent of the bill as it is amended.

DEPUTY SPEAKER RYAN:

Please proceed, sir.

REP. SRINIVASAN (31st):

Through you, Mr. Speaker, the current nursing home rates, we have been talking about the nursing

home rates for a while, if this bill -- prior to this bill, how are those nursing home rates determined?

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker, by the financials that are sent to DSS. They determine what the financial state is of the nursing home.

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Srinivasan.

REP. SRINIVASAN (31st):

Through you, Mr. Speaker, am I to understand if the financials of a nursing home is not in -- is not the same as another nursing home, the rates would be different for Nursing Home A and Nursing Home B?

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speak -- through you, Mr. Speaker, and I apologize, yes they are on an individual basis.

Through you.

DEPUTY SPEAKER RYAN:

Representative Srinivasan.

REP. SRINIVASAN (31st):

And through you, Mr. Speaker, those rates are determined on the financials of the nursing home or the vendors of the nursing home?

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker, I heard the first part, the financials, I -- I'm sorry I didn't hear what was the other equation that you were using to determine those rates.

DEPUTY SPEAKER RYAN:

Representative Srinivasan.

REP. SRINIVASAN (31st):

Through you, Mr. Speaker, are the nursing home rates determined by the financials of the nursing home or of the nursing home's vendors?

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker, there is a -- a list of issues that the -- that DSS looks at: the size of the nursing home, how many beds are being utilized and it also looks at what the current financial is of the nursing home to determine the rate.

I -- I hope that answers the question from the good Representative.

DEPUTY SPEAKER RYAN:

Representative Srinivasan.

REP. SRINIVASAN (31st):

Through you, Mr. Speaker, it does in part, the first part that it is related to the financials of the nursing home. I get that part. But my question -- the second part of the question maybe I was not clear and you were not able to hear me.

Through you, Mr. Speaker, is -- if the nursing home -- every nursing home obviously has multiple vendors and the financials of the vendors would that have an impact on what the nursing home rates would be?

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker, so I think the good Representative is asking if the rates are based on just the financials or if the -- the vendors are also taken into consideration.

I'm sorry he's shaking his head at me. That's what he's looking at.

REP. SRINIVASAN (31st):

Right.

REP. ABERCROMBIE (83rd):

So -- so I think what it -- what the DSS determines for the rates is the whole package of what it takes to run the nursing home.

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Srinivasan.

REP. SRINIVASAN (31st):

So through you, Mr. Speaker, if a nursing home does -- we've heard this famous example of a landscaping business and that landscaping business is a small-time, you know, landscaping business and their profit and loss statements run in let's say $100,000.

As opposed to another nursing home which does business with landscaping and their landscaping

business. I'm not talking about what they pay the landscaping business but the net worth profit and loss of that landscaping business is in hundreds of thousands of dollars.

Would that make a difference in the rate of reimbursement for that nursing home?

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

I -- I think what -- I think what the good Representative is asking is when they do the financials do they take into account what they pay their vendors? If that is the question he's answering, yes that is part of it when they determine the rate.

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Srinivasan.

REP. SRINIVASAN (31st):

Through you, Mr. Speaker, no that is not the question, Mr. Speaker. My question is not what they pay the vendors but what is the profit and loss margin of the vendor's business in total?

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

I'm sorry, Mr. Speaker, I -- I don't understand what the question is. I -- I apologize. If you could rephrase it another way. I'm not sure what you're asking.

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Srinivasan, could you clarify the question please.

REP. SRINIVASAN (31st):

Through you, Mr. Speaker, I will definitely try one more time, or maybe many times.

My question is when a nursing home does a business, does it make a difference as far as the nursing home rates are concerned whether that entity with which the nursing home does business is a small business, a large business or a very large business?

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

No.

DEPUTY SPEAKER RYAN:

Representative Srinivasan.

REP. SRINIVASAN (31st):

Thank you, Mr. Speaker.

Through you, Mr. Speaker, I'm looking at lines 11 where we're talking about marriage being one of the ways by which obviously the relationship (inaudible).

If that marriage, through you, Mr. Speaker, is dissolved, are then they considered -- and they're still doing business with a distant relative through marriage, but the marriage is dissolved, would that -- would they be still considered relatives or family?

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker, I would say yes.

DEPUTY SPEAKER RYAN:

Representative Srinivasan.

REP. SRINIVASAN (31st):

Through you, Mr. Speaker, let me get this straight. This -- this cousin, through marriage, has a landscaping business and -- and the nursing home is

doing business with that cousin, and now that marriage between -- for the nursing home as far as the owners are concerned, is no longer -- that marriage is dissolved, but even then would that distant cousin through marriage be considered a relative and have to comply with all these rules and regulations?

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

I would say yes.

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Srinivasan.

REP. SRINIVASAN (31st):

Through you, Mr. Speaker, a new threshold is 50,000. So if the vendors with whom the nursing home does business is less than that, 45,000, 48,000, would these rules and regulations apply?

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker, no.

DEPUTY SPEAKER RYAN:

Representative Srinivasan.

REP. SRINIVASAN (31st):

Through you, Mr. Speaker, if a business entity has multiple partners and the nursing home is doing business with that entity, would this 45,000 or 48,000, the -- the limit of the 50,000, would it apply per owner of that business or to the business in total?

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through the person that they have the contact with.

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Srinivasan.

REP. SRINIVASAN (31st):

Through you, Mr. Speaker, they -- it is one landscaping company owned by three people and the nursing home goes into a contract with each and every one of them, under the umbrella of the big company which is the parent company.

So would it then be a threshold of 50 times 3, $150,000, or would it be the standard threshold of $50,000?

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker, I think that the -- it's who the contract is with. So if it's divided between the three, then it would be whoever's name is on the contract. So if it's all of them, then I would say yes.

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Srinivasan.

REP. SRINIVASAN (31st):

So through you, Mr. Speaker, in -- going back to our landscaping business, if that landscaping business is owned by let's say six people and the nursing home now has the option of going to each and every one of them and signing a contract and each contract could be up to 50,000 before these rules and regulations kick in.

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

If the good Representative is asking if they're separate businesses, then yes. I'm not exactly sure on the question.

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Srinivasan.

REP. SRINIVASAN (31st):

Through you, Mr. Speaker, it's not separate businesses. I want to make sure we are clear on that. It's one landscaping business and in that landscaping business there are six partners to that particular business.

And the nursing home then goes and writes up a contract with each partner of the six partners that are there in the landscaping business. It is one umbrella, one landscaping business with six partners.

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker, then if they have the contract with the one business that has six partners and they're only submitting one profit and loss statement, then the 50,000 would be with the contract with the one vendor.

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Srinivasan.

REP. SRINIVASAN (31st):

Through you, Mr. Speaker, it is now my turn not to understand the answer.

Through you, Mr. Speaker, if the good Chairwoman could be more clear so I can understand what she was trying to say.

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Abercrombie, could you clarify your answer.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker, if I understand the good Representative's question, if you have a landscaping business that has three partners who has a contract with a nursing home to do that job and the contract is over $50,000, then whatever that business

submits as a profit and loss financial is what would be required under DSS.

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Srinivasan, was that better?

REP. SRINIVASAN (31st):

It -- thank you, Mr. Speaker. It is definitely better but that was not my question. My question was -- my question was if there are three partners, we'll make it simple, if there are three partners, each of them having a contract with the nursing home, is now the threshold $150,000 or is it still $50,000?

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

So -- so my question to the good Representative is -- is each one of those individuals contracting as a separate unit with the nursing home? If so, yes, but if they're going under the one company of the landscaping, then no.

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Srinivasan.

REP. SRINIVASAN (31st):

Thank you, Mr. Speaker.

That was very clear and I appreciate that answer.

Through you, Mr. Speaker, in these nursing homes, as you are well aware of, taking care of patients, you know physicians offer their services to the nursing homes and this contract between a physician and the nursing home comes in various forms.

In some cases it is a fee for service. You go in there. You perform your service, whatever that service be, and you get paid for what the services are. But there are other nursing homes where it is a flat rate. So you are employed by them to come in once a week, two times a week, and whatever the -- the contract is between the physician and the nursing home.

And if that contract for that physician for offering services to the nursing home exceeds the $50,000 limit that we have established here today, would all these rules and regulations about profit and loss apply?

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker, if they fit the definition of related party, then yes.

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Srinivasan.

REP. SRINIVASAN (31st):

Through you, Mr. Speaker, this is a practice and in this group practice one of them is a related party, one member is a related party, the others are not and, in that case, when these services exceed 50,000, would the profit and loss statement of the entire practice have to be given to DSS so that the nursing rates can be established?

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

It would be who has the contract with the nursing home.

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Srinivasan.

REP. SRINIVASAN (31st):

So through you, Mr. Speaker, so that I'm clear, let us take an example that I'm the related party. I'm the physician offering services to the nursing home but I work under a group, or work with a group, I'm sorry. I work with a group of five physicians. So will the profit and loss statement, essentially my tax returns, be only of mine or will it be of the group and my partners?

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker, I guess it would depend on the relationship if the individual, the doctor, had -- if the doctor goes under the definition of related party.

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Srinivasan.

REP. SRINIVASAN (31st):

Through you, Mr. Speaker, yes the question arises because the doctor is a related party. The doctor is related let us say for example through marriage and the doctor -- one doctor is a related party and at the

end of the year, in terms of profit and loss, would they have to submit the profit and loss statements of every partner in that medical corporation?

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker, if the individual doctor is related to the owner of the nursing home and is the -- and is supplying this service that is over $50,000, then he would be responsible to supply the added information of the profit and loss statement.

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Srinivasan.

REP. SRINIVASAN (31st):

Through you, Mr. Speaker, that he -- is it his own individual or is it for the entire practice? That was what I was trying to get at. I do understand. If I'm providing services in excess of 50,000, my profit and loss statement would have to be given to DSS. I definitely get that.

But my question is not for me. My question is for my associates, for my partners. Would they be

dragged into giving their profit and loss statement because I happen to be related and I happen to provide services in excess of 50,000?

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker, I guess it would go to -- the question would be who submits a profit and loss statement. Is it the individual doctor or is it the whole practice?

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Srinivasan.

REP. SRINIVASAN (31st):

Through you, Mr. Speaker, that's exactly my question. Who submits the profit and loss? Is it the individual doctor or is it the group? That was my question, through you, Mr. Speaker, to the good Chairwoman.

DEPUTY SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker, my understanding and is current policy is that third party, under DSS, up to the $50,000 has to disclose. So I'm not -- I'm not sure if it's the whole unit or if it's just the individual doctor. It would depend how they disclose their profit and loss statement.

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Srinivasan.

REP. SRINIVASAN (31st):

Through you, Mr. Speaker, in a professional corporation like say in a group practice of physicians, the profit and loss statement is for the entire group. The entire group will have a profit and loss statement.

What each individual takes home, that's a different story altogether. So my question to you, through you, Mr. Speaker, is will it be the individual's tax returns which will now become public information because it has to be submitted to DSS through this relationship, or will it be public information of the entire professional corporation?

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker, I -- I think the good Representative just answered that question. If they're only doing one profit and loss statement through the business itself, then that would be the statement that they would be using.

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Srinivasan.

REP. SRINIVASAN (31st):

So through you, Mr. Speaker, since one profit and loss statement is only used, it would mean that every person who is working in the corporation their components of the profit and loss would be included in this information that we now send to DSS.

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

If they fall under the definition of related party, yes.

DEPUTY SPEAKER RYAN:

Representative Srinivasan.

REP. SRINIVASAN (31st):

Through you, Mr. Speaker, as was said very eloquently much -- many hours earlier by our Minority Leader, if the associates, the partners, say we do not want our information to be public, I'm not -- I -- I -- I'm not giving any services to the nursing home, my associates, my partners, and therefore I do not want my information to be public and therefore me, as a provider to the nursing home, cannot obviously submit my profit and loss statement.

What then happens, through you, Mr. Speaker?

DEPUTY SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

I would assume that the nursing home will try and get that information so that they can comply with rules of DSS.

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Srinivasan.

REP. SRINIVASAN (31st):

Through you, Mr. Speaker, for the last 25 years or more, as an example, a physician has had a wonderful working relationship with that nursing home.

The -- the relationship is built and the nursing home is very much in love with that physician because of the services he provides.

But now because his whole group does not want that information to be public, will that mean that that physician will no longer be able to give services to the patients who is -- and the patients are what we are most concerned about, to the patients in that nursing home?

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker, I would assume that the doctor who is doing this work, who are physicians who a great job at our nursing home, would be more interested in complying with what the rules are so that they can better service their clients under this legislation.

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Srinivasan.

REP. SRINIVASAN (31st):

Through you, Mr. Speaker, there are two different issues here. Service is one thing but making information public information is a different thing altogether. So the good doctor still wants to provide the excellent on-going services for over 25 years and he or she wants to continue to do that but suddenly we are handcuffing them by saying that all of this information needs to be public knowledge as well.

And that is where there is a little bit of discord between the services, which are phenomenal and excellent, and we are, in the end result, short changing these poor patients in the nursing home because that physician -- if his associates do not want that information to be public information, obviously the nursing home cannot continue to engage the physician in the services and will have to go somewhere else.

Will that be the scenario if this information is not provided because they do not want it to be public information?

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker, current law is if DSS requires information on their cost reports and do not receive that, they can reduce the rates by 10 -- by 10 percent so that is current law right now.

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Srinivasan.

REP. SRINIVASAN (31st):

Through you, Mr. Speaker, I know we are here for transparency. All of us are. Each and every member here in the Chamber this -- this afternoon through the evening is very keen to have a transparent system. No question about that at all.

But the issue is not transparency here. The issue is information that is becoming public knowledge, information that has got nothing to do with the relevance of services that are being rendered, whether it be medical or nonmedical services to the nursing home.

Through you, Mr. Speaker -- through you, Mr. Speaker, if my books as a provider show that I have rendered $50,000 -- excess of $50,000 of service and that is what the accountant attests to, maybe we can even notarize that, saying that the services rendered

by this particular person to the nursing home has been, let us say, $60,000.

Would that be enough of would they still need the profit and loss statement?

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker, the current legislation before us states that if the provider is providing services over $50,000, then yes they would have to, if DSS required it, submit a profit and loss form.

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Srinivasan.

REP. SRINIVASAN (31st):

Through you, Mr. Speaker, if the nursing home's providers do not give that information to the nursing home, as our Minority Leader talked about earlier in the afternoon, would then those services -- would not the nursing home cannot engage with those service providers?

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker, this legislation does not go to the relationship between the nursing home and their vendors. This is the relationship between the nursing home and DSS.

So what happens is if DSS does not get the current laws, if they do not get the information they need on their cost reports, then they can reduce their rates by 10 percent. So that -- that's what the relationship is.

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Srinivasan.

REP. SRINIVASAN (31st):

Through you, Mr. Speaker, the good Chairwoman makes it look like a two-way relationship between the nursing home and DSS. But that is not how I see that. I see that as a three-way relationship between the nursing home, the people who provide services to the nursing home and of course the vendors.

And the poor nursing home here, in -- in the name of transparency, is being held hostage because if the service providers are not ready to divulge their

profit and loss statement and therefore the nursing home is now being given a 10 percent reduction in what their reimbursement services are, and that I think, in the name of transparency, is extremely unfair to the nursing homes.

Because as I see this I do understand transparency of the nursing home. I do understand that their profit and loss or their financial statements needs to be scrutinized, no question about that at all. But to go into the depths, to go into the details of the profit and loss of every person who provides services to the nursing home, I do not see the rationale in that at all.

And for that reason, Mr. Speaker, for obvious reasons, and I'm sure you must have guessed by now, I would not be able to support this bill as amended.

Thank you, Mr. Speaker.

And I want to thank the Chairwoman for her tenacity for being here out for this many hours. We appreciate that very much.

DEPUTY SPEAKER RYAN:

Thank you, Representative.

Representative Klarides of the 114th, Ma'am, you have the floor.

REP. KLARIDES (114th):

Thank you, Mr. Speaker.

Mr. Speaker, we've heard a lot of talk about nursing home transparencies this afternoon going into this evening. And I know that my colleague, Representative Candelora, said that it's a shame the last amendment didn't pass. I think it's a shame that a lot of the amendments didn't pass, if not all of them.

And it's a shame for one reason and it's what I go back to Representative Abercrombie's answer, many hours ago now, when asked why we're doing this bill and she answered because we're -- we have issues with nursing homes which I think we all agree with.

There certainly are issues. But when there are issues you try and figure out what they are and what the best solution is. It's not taking a broad brush and going across every single nursing home and putting undue burdens on -- on them all where the problem is only in a few.

Somebody else mentioned, I don't know if it was the good Representative or someone else, the HealthBridge issue and how that may have affected this. That wouldn't have had anything to do with

this. There were clearly management issues in that regard and it would be hard to stretch this to say that this would have stopped that.

I do have a few questions though, Mr. Speaker, through you, to the good Chairwoman.

DEPUTY SPEAKER RYAN:

Representative Abercrombie, prepare yourself.

Representative Klarides, you can proceed.

REP. KLARIDES (114th):

Thank you, Mr. Speaker.

Earlier on in the day, there were some questions about what would happen if -- when the nursing home asks the businesses for their reports and they were not given the reports what the results of that was.

If the Chairwoman could answer that question again for me, through you.

DEPUTY SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

My understanding is current law is if DSS does not receive the cost reports from the nursing homes, they are at the liberty to do a 10 percent reduction in their rates.

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Klarides.

REP. KLARIDES (114th):

Thank you, Mr. Speaker.

I do see in line 74 that it -- it says that the Commissioner may reduce the rate in effect for the facility if it fails to report up to 10 percent.

I guess my next question would be if they may do it, what circumstance would there be wherein they would not do it? If somebody failed to report, if somebody failed to report -- to give the reports, why would -- why -- why wouldn't it be shall? They shall be -- that shall happen?

Through you.

DEPUTY SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker, so the way that I read that line, if the good woman is talking about line 74, right, the Commissioner may reduce. If you say shall, then the Commissioner automatically has to reduce it. I think it would -- it gives the Commissioner flexibility as to what the circumstances are why they haven't received these cost reports.

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Klarides.

REP. KLARIDES (114th):

Thank you, Mr. Speaker.

It just -- it just seems very confusing the way it's written. I under -- I certainly understand the difference between may and shall. I guess what I don't understand is, and I know this has been discussed earlier in the day, but it -- it kind of sticks with me that if I own a nursing home and I need to get reports from company A, company B, company C, company D and so on and I request those reports and I don't get them, through no fault of my own, how the Commissioner has -- has that ability to make a decision on what -- how -- how we can differentiate, maybe will be treated differently in each circumstance and I guess that's confusing to me if the whole point of this is transparency.

Through you.

DEPUTY SPEAKER RYAN:

I'm not sure there's -- was there a question in there, Ma'am?

REP. KLARIDES (114th):

Yeah there is -- was. I can see how it was not that clear.

I don't understand how the penalty may be different, in different circumstances, if the Chairwoman has any understanding of why that might not be. I understand she had stated earlier that it was because the -- the Commissioner has discretion that's why it's a may.

I understand that on a pure sense of the definition of the word. But if different companies are not reporting and I own the nursing home and I have no control over them as to when they are giving me the reports, or submitting them to DSS, when DSS is getting the reports, how could each situation -- I mean of -- if it's may, that means technically speaking each circumstance could be treated differently.

Is that an accurate representation, through you?

DEPUTY SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker, the represented -- Representative, sorry, is exactly right. It's at the discretion of the Commissioner.

Through you.

DEPUTY SPEAKER RYAN:

Representative Klarides.

REP. KLARIDES (114th):

Thank you, Mr. Speaker.

And -- and I think that she had answered this earlier with one of my colleagues but I -- I wasn't clear on the answer. If -- if one of those businesses, company A, company B, company C, refuses to give their reports, how am I, as the nursing home owner, or the person that runs the nursing home, how am I supposed to get them from those companies if they are not -- if after being asked repeatedly say are not producing them?

Through you.

DEPUTY SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker, I am a nursing home. I am a business. In order to run my business I need to get my rate through DSS. I would think that I would do everything in my power to get that information from the vendors that I am using.

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Klarides.

REP. KLARIDES (114th):

Thank you, Mr. Speaker.

Well I would -- I would think so also but unfortunately we are -- we do operate in a legal manner and if I ask somebody repeatedly for a report, then I go to their business and I knock on their door and I knock on their door and I keep asking them, you know, I'm on the hook if I don't -- if I can't get that because it's my responsibility to disclose that information from these companies correct?

Through you.

It's my responsibility, Mr. Speaker, as the nursing home owner to make sure that all the companies I do business with, over the certain amount of dollars that's enumerated in the bill, to get the information from these businesses. And I don't know what I would do if I can't get them no matter how much due diligence I do in trying to get them.

Through you.

DEPUTY SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker, so the related parties, under that definition, is family association. So I would assume that if I am hiring a brother-in-law to do lawn care for me and he has a contract with me for over $50,000 and I'm required, under this legislation to give DSS these financials, I would assume that I'm going to make sure that my brother-in-law gives me that information. If not, you may not want to do business with that person.

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Klarides.

REP. KLARIDES (114th):

Thank you, Mr. Speaker.

Well although I -- I believe that the good Representative believes that, she maybe has not ever been involved in a family business because as Representative Candelora mentioned that his sister would hit him, my sister would respond in a way that I cannot repeat on the floor of the House of Representatives.

If she didn't want to do something and unfortunately a lot of us who are parts of family businesses, or have been parts of family businesses,

understand that many times those relationships are more difficult than being in a -- in a business with a nonfamily member and I could tell you stories you don't even want to know. I could. I'm sure we all could.

So although I believe the Representative believes that, I feel that that's a very naïve way of looking at the reality of the situation and I think that it's very unfair, very unfair, to put that burden on the nursing home owner to do that.

Mr. Speaker, I know we call this nursing home transparency and I understand the intention and it is certainly a good intentioned bill. As my colleagues have mentioned, time and time today, there are other ways to do this that we could accomplish our goal.

Just as one example of how I'm supposed to go to a family member if that family member is not in the mood because they don't have that relationship with me at that time and it is now my responsibility to get it, in and of itself, that one little part of this bill, one little part of this bill, is unrealistic.

Not to mention, and I won't, all the other parts that my colleagues have talked about today. We are wanting transparency as we should have, as we

absolutely should have, making nursing home owners ultimately bounty hunters in so far as they have to go chase people down for money if they've asked and asked and asked and called and emailed and done everything within their power that a reasonable man would, you can't get it, you can't get it.

People have no -- these people that own these nursing homes -- and we have said today the majority of them are good people, good businesses and doing exactly what they should be doing. There are some that are not.

This is not the way to get there. And I guess it's just -- it's almost an embarrassment to me that that's how this body has decided we're going to solve a problem of a certain percentage of a group of people, paint a broad brush over the whole thing and say you know what you guys can do what you want with it. You have to chase people down for money, that's your problem.

You have to beg people for money, that's your problem because somehow that's going to make nursing home more transparent? I don't think so, Mr. Speaker.

Thank you.

DEPUTY SPEAKER RYAN:

Thank you, Ma'am.

Representative Noujaim of the 74th, sir, you have the floor.

REP. NOUJAIM (74th):

Thank you, Mr. Speaker, and good evening, sir.

Mr. Speaker, I really don't know what Representative Klarides's cousin would say or Representative Candelora's sister would say. I could tell you what my brother would say.

But -- but seriously, Mr. Speaker, I know we've been discussing this topic for quite some time and please allow me, this is not politics, this is not Republican, this is not Democrats, this is business. This is what the law says.

And through you, Mr. Speaker, I do have a couple of clarifications to the Chairwoman of the Human Finances Committee so that I can get to my point.

Through you, Mr. Speaker, to Representative Abercrombie.

DEPUTY SPEAKER RYAN:

Representative Noujaim, you mean the Human Services Committee?

REP. NOUJAIM (74th):

Yes, sir. What did I say?

DEPUTY SPEAKER RYAN:

I think you said Human Finances.

REP. NOUJAIM (74th):

I apologize.

DEPUTY SPEAKER RYAN:

All right. So, Representative Abercrombie --

REP. NOUJAIM (74th):

Finance is too much in my mind, Mr. Speaker.

Mr. Speaker, to Representative Abercrombie, in line 8, the piece of legislation say the word company. It says company means any person, partnership, association, holding company, limited liability company or corporation.

So by this, through you, Mr. Speaker, could this be a manufacturing company?

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

If they have a contract with the nursing home, yes.

DEPUTY SPEAKER RYAN:

Representative Noujaim.

REP. NOUJAIM (74th):

Thank you, Mr. Speaker.

So through you, Mr. Speaker, if I am a manufacturing company and there is a nursing home that is building their new building and they need to buy some tools from me and the tools are $50,000 or over, would they -- would this make me part of this agreement of this bill?

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker, if the owner of the manufacturing company fits the definition of a related party, and the contract that they have is over $50,000, yes that would be part of this legislation.

DEPUTY SPEAKER RYAN:

Representative Noujaim.

REP. NOUJAIM (74th):

Thank you, Mr. Speaker.

And that's exactly what I'm trying to lead to. So this would be part of this legislation and you have a manufacturing company that is a private entity and in business I will let you know, or I will say, where

a private entity is forced to reveal their financial information and that's what the law says.

I've been in business for 38 years. The law says that if the IRS asks you for your financials, you will provide it and if any federal agency asks you for it for -- for financial support or if you are seeking financial support, like through DECD, our DECD per se, that's when you disclose it but not everyone can just come to you and say I would like to know your financials.

If you are a private entity, you could be a company that has 500 employees, 2,000 employees or one employee, a person who just cuts loans, and this person is either LLC, limited liability company, LLC, partnership, association or company -- or holding corporation and it is a private enterprise, the private enterprise there is no much -- so much knocking on doors.

I know that Representative Klarides was talking about knocking on doors. There is no knocking on doors. The law says they do not have to give or provide the financial information period. There is no other discussion.

So when I look in here and I read on lines 68, 69 and 50, provide a profit and loss statement from each related party that receives from such chronic -- from such chronic and convalescent nursing home now with this $50,000 or more per year for goods, fees and services.

You can't reveal it. You can't, you just can't ask for it. A private company will not provide it, will not give it. It's as simply as this. You can knock on their door 600 times. The person can be your brother, can be your enemy, can be whoever. They will not provide it. Tons of times in my career I was ask for financials and tons of times I said no I'm not going to provide it.

So it's as simple as this. You can knock on doors all you want but that's what the law says. And right now all we do in this building we are just circumventing the law because when you say I want to go in and I want to ask you for this, the -- the company can say I'm not going to give it to you because the law says that I am -- I am not obligated to provide this information and it's as simple as this.

So I don't know why you keep -- we keep just nibbling around the edges of this -- of this process. We just keep nibbling around the edges without really getting to the point. And the point is that there is no way a private entity, by law, is obligated to provide the financials. That's it. There's no other way to describe it. So we can discuss it until tomorrow morning and it's not going to change.

And, Mr. Speaker, I look at the title in here -- what does the title say, transparency of nursing home operations. Yeah, who's going to fight against transparency? Who's going to argue against transparency? Not me. But that's not what the bill is.

If you look deep into this bill and then I will tell you, before anybody votes on this bill, whether it's Republicans or Democrats, I would like you take a trip to Representative Jeffrey Berger's district in the west side of Waterbury and take a look at the convalescent home that shut down six years ago and there's a building that is just sitting there idle, plywood on the doors because of labor problems they have.

And that's exactly what this bill is. Let's call it -- let's call the duck a duck. That's what it says and let's say we are just trying to make sure that -- that we have labor agreements in place in order for those -- for those entities to operate.

So let's call a spade a spade and call it what it is.

Thank you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Thank you, Representative.

Representative -- Representative Miner of the 66th.

REP. MINER (66th):

Thank you -- thank you, Mr. Speaker, good evening.

I have a couple of questions if I might, through you, to the proponent of the bill please.

DEPUTY SPEAKER RYAN:

Please proceed, sir.

REP. MINER (66th):

Thank you, Mr. Speaker.

There's been a lot of discussion here about nursing homes, for-profit nursing homes, and I know that within the State of Connecticut we are what I

would say going through an evolution with regard to healthcare and, in some cases, healthcare includes a nursing home.

And if I could, through you, Mr. Speaker, if -- if a not-for-profit hospital owns a for-profit nursing home, how would that apply? How would this -- how would this law apply?

Through you.

DEPUTY SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker, I'm not sure which part would -- he's asking would they apply to.

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Miner.

REP. MINER (66th):

So my question is then -- then under the scenario where a not-for-profit hospital actually is the owner and operator of a for-profit nursing home, which maybe the case here already in the State of Connecticut, are they required to go through this reporting process because the nursing home is for-profit?

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

So if you're a not-for-profit hospital that owns a for-profit nursing home, you are the owner, then you are required to submit this information.

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Miner.

REP. MINER (66th):

Thank you, Mr. Speaker.

And I have been listening with regard to the definition as it pertains to who would be that group that would have to submit information to the for-profit hospital -- I mean the for-profit nursing home on request. And I know that Representative Tercyak spoke about the pencil concept.

My read of the bill is that it's broader than businesses with whom they may have a family relationship one way or the other. Is -- would the Gentle Lady confirm for me that that, in fact, is correct?

DEPUTY SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Could the -- could the good gentleman just repeat that question again?

Through -- through you, Mr. Speaker. I apologize.

DEPUTY SPEAKER RYAN:

Representative Miner.

REP. MINER (66th):

Certainly, Mr. Speaker.

My understand is that there have been some examples cited where the relationship has to be familial. So it would be my brother that might do the laundry, for instance. So his company would be the laundry company and therefore, because of the relationship between my brother and myself, that triggers, in addition to the $50,000, the reporting requirement.

Through you.

DEPUTY SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Yes, through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Miner.

REP. MINER (66th):

And -- and my read of the language also would include that same service, laundry service, in excess of 50,000, even if I was not related to that person and that person had no business interest in my for-profit nursing home other than that contract for providing the laundry service. Is that correct?

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

If I'm understanding the question, and I apologize it's been a long afternoon, if there isn't a relationship there, under the related party definition, then no they would not have to even if they met the criteria of the $50,000, if that's the question.

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Miner.

REP. MINER (66th):

Thank you, Mr. Speaker.

I think that's the crux of the problem here. Maybe I'm missing some more of it. I remember that

there was an amendment offered that -- that redefined related party as meaning a relationship between the nursing home and entities that were in the same immediate family, common ownership or control and that to me is far more clear than the way the bill is drafted because it uses the phrase not limited to.

And so my -- my concern, Mr. Speaker, is that I -- I think we are attempting to establish which groups have a compliance obligation and it's very unclear.

So some of the answers I think I've heard include that non-familial relationship and that the requirement still exists. But I think I just heard that that's the only trigger. That it's 50,000 and you have to be a relative.

So as we go forward, I mean this is one of those pieces of legislation that I think has great value to the state both because I think it does seek to protect the people that many have spoken about, our aged.

We want them to get the services that we hope they get when we -- when we go to visit them there and when we're not there visiting. But I know that there's an underlying interest in this bill which has to do with organized labor and I think the argument has been made, maybe wrong, that organized labor

believes the basis upon which they make their claim that someone could pay for the benefits and wage increase is somehow sheltered.

That because of these relationships between somebody who might be a principal in a for-profit nursing home somehow shelters earnings in some way by having a contract with someone with whom they don't have to disclose that relationship.

And so my fear about this bill is that it goes much farther than maybe the authors intended. And I know a suggestion was made some hours ago that people look at this language and try and determine whether or not that, in fact, is true.

Last year we had a conversation about a very controversial bill. Has nothing to do with this. But we attempted to establish legislative intent because the reading of the bill was not clear. I think the same thing exists here. It's not clear.

I think there are members of our side of the aisle that believe that the request for information, the demand for information, is not limited to whether it's my brother that put the roof on or my sister who may provide some accounting services, it really is far broader than that.

And I know some people may argue that that -- that is not the intent of this language but I think the language is fairly clear that it is that broad. And if that is the intent, I think we ought to make it known that that's what the intent is because then I do think we get into the problem that some here have suggested we're going to have which is, despite what you ask for, you're not necessarily entitled to it and, more than that, is that really what the state is about?

Are we really asking people to open up their books just because they do business with the State of Connecticut? And that's a scary path I think for us to go down because I can clearly see a connection between this situation and those that provide for-profit services to any of the other agencies that we have in the State of Connecticut for people who may have some intellectual disability, people who may have some other physical disability.

Those contracts clearly reach these thresholds. So this is -- this is a pretty I think frightening path that we're headed down because of the disclosure requirements. I understand -- I think I understand what we're after and I understand, I think on -- on

the part of the organized labor issue, that they believe that there's something hidden here.

But I do believe, much like the other bill to which I referred, we're going to find out sooner rather than later that this is far broader than what may have been intended by the authors.

Thank you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Thank you, sir.

Representative Alberts of the 50th District, you have the floor.

REP. ALBERTS (50th):

Good evening, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Good evening.

REP. ALBERTS (50th):

If I may, several questions to the proponent of the bill.

DEPUTY SPEAKER RYAN:

Please proceed, sir.

REP. ALBERTS (50th):

Thank you, Mr. Speaker.

And I guess I have some of the same concerns of my colleagues and I've listened to this long enough

and at different times my hair started hurting and I'm sure the proponent may have that same perspective as well.

Looking at lines 10 and 11 of the bill that's before us, and I just want to give an example to see if I can get clarification on family association, when we refer to family association here in terms of relationship by birth, marriage or domestic partnership, please correct me if I'm wrong, but we're talking about with the principal or owner of the firm, is that not correct?

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker, that is correct.

DEPUTY SPEAKER RYAN:

Representative Alberts.

REP. ALBERTS (50th):

Thank you, Mr. Speaker.

And one of the things I noted as I was looking here it seems as the references to fiscal -- the references to year-end, are all of those references to calendar year-end?

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker, can you tell me which line that you are referring to just so I can make sure that we're looking at the same information?

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Alberts.

REP. ALBERTS (50th):

Thank you, Mr. Speaker.

In looking at many of the different lines in the text, it makes reference to different statements that will be provided and, for example, looking at line 70, there's a reference to $50,000 now utilizing the amended language, or more per year for goods, fees and services.

There's references on line 75 and line 76 to December 31st and I'm anticipating that the real intent here is whenever possible to try to comply with calendar year reporting.

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker, I'm sorry, could you just repeat that? I -- I so apologize. I'm just getting a little punchy here.

DEPUTY SPEAKER RYAN:

Representative Alberts, could you repeat it because she's getting punchy?

REP. ALBERTS (50th):

I am and I'm -- I'm glad, for the record, that there's many seats between the two of us. I know she won't direct her punchiness toward me.

There are several references in the bill that's before us in terms of line 12 for example, most recent annual statement. Line 70 which makes reference to $50,000 per year. Line 75 and 76 that reference a report or before December 31st.

And those all suggest to me that -- that the intent of the bill is to try to use a calendar year as the reporting mechanism and I just wanted to clarify that.

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker, I agree.

DEPUTY SPEAKER RYAN:

Representative Alberts.

REP. ALBERTS (50th):

Thank you, Mr. Speaker.

Now some of the contractors that may be obligated, under this legislation, to provide reporting, some of the folks that were looking to collect that data may not have a profit and loss statement that's been put together or compiled on a calendar year basis.

For example, their fiscal year may be completely different. It may be through June 30th of a particular year. If that entity wanted to do some type of reporting on something that -- for example like a QuickBooks format that met the standard of being a profit and loss statement, would that suffice?

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

If it's a profit and loss statement that they would be submitting, yes I would think it would.

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Alberts.

REP. ALBERTS (50th):

Well thank you, Mr. Speaker.

I think that answers my questions. Those were very narrow and I do appreciate the intent of this bill. I will continue to listen for the discussion as we proceed.

Thank you.

DEPUTY SPEAKER RYAN:

Thank you, sir.

Representative Shaban of the 135th, sir, you have the floor.

REP. SHABAN (135th):

Thank you, Mr. Speaker.

If I may, a few questions, through you, to the proponent.

DEPUTY SPEAKER RYAN:

Please proceed, sir.

REP. SHABAN (135th):

Thank you, sir.

Following up on the topic that Representative Alberts just hit upon, you talk about yearly profit

and loss report that I guess are going to have to be filed. I'm not sure I heard the right answer. Who's fiscal year are we looking to?

Through you.

DEPUTY SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

The way that the legislation is written it's the most recent annual statement that they have submitted.

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Shaban.

REP. SHABAN (135th):

Submitted to whom?

Through you.

DEPUTY SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker, the -- to do -- I'm sorry, to DSS.

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Shaban.

REP. SHABAN (135th):

All right. Well I -- I think I -- maybe we're two ships passing in the night here and I appreciate the Representative has been standing up most of the afternoon.

So -- but when we're talking about submitting the profit and loss statement from each related party, the question is, for the preceding year, it is the fiscal year of the nursing home that's the connection to that profit and loss statement or the fiscal year of the service provider that's the connection to that profit and loss statement?

Thank you. Through you.

DEPUTY SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

So through you, Mr. Speaker, the -- the nursing home is required currently to submit their financial report to a -- to DSS by the end of December on every -- every year so that they can get their rate increase if they're looking for or adjustment in their rate. So I think what you're asking is that timeline.

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Shaban.

REP. SHABAN (135th):

Well thank you, Mr. Speaker.

And through you, well really I guess I'm focused on line 12. It says profit and loss statement means the most recent annual statement on profits and losses finalized by a related party before the annual report.

I understand you're saying for the annual report of the nursing home they have to do it by a certain timeline. My question is if the annual report -- or the annual profit and loss statement by the related party is different than that of the nursing home, what is one to do under this bill?

Through you.

DEPUTY SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker, this current legislation before us does not change current practice.

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Shaban.

REP. SHABAN (135th):

Thank you, Mr. Speaker.

But I'm not sure it's current practice that related entities have to submit profit -- their annual profit and loss statements to their recipient of services to get receive -- to push through to DSS.

So -- what -- what I'm -- I mean -- and let me give you a hypothetical just to try and make it simpler because some businesses use a fiscal year that's on the calendar, which I think more and more people are going to it, some don't.

Some start their fiscal year on July 1. So if on December 31st the nursing home is filing their annual report and, pursuant to this bill, they are required to file the profit and loss statement of the service provider, but that service provider in fact -- the profit and loss statement isn't from the -- the preceding six months, it's from a year and six months before because the difference in fiscal years.

Is that -- through you, Mr. Speaker, if that's the case, is that compliant with the bill in front of us?

Through you.

DEPUTY SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker, so if you look at line 12 and 13 where it talks about the profit and loss statement, the most recent statement is when they have to -- is the one that they have to use for DSS to be in compliance.

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Shaban.

REP. SHABAN (135th):

Thank you, Mr. Speaker.

And what does that profit and loss statement need to look like? And -- and I'll -- I'll expound on the question just to speed things up. Because some of -- some of this was talked about before and I'm not sure we really got the answer because not all businesses do P&Ls. They don't. It could be a -- a small outfit. It could be, like we were saying, landscaper. It could be a security company. It could be anything.

I mean would a -- would a -- a checkbook ledger qualify under this?

Through you.

DEPUTY SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker, I would think that there is a standard that's used for profit and loss reporting and that's what would be required under this legislation.

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Shaban.

REP. SHABAN (135th):

Thank you, Mr. Speaker.

Well I guess my question really goes to when there isn't a profit and loss statement and I could -- I could tell you first-hand from clients of mine, because I represent sole -- sole -- solos or, you know, individually employed people, not all of them have profit and loss statements. They don't do them. They don't need to. They don't have shareholders. They're not a public company. Their bank may or may not require them depending on whether or not they have loans out there.

So again, through you, Mr. Speaker, if it -- if it's a circumstance where the vendor, the service provider, doesn't in fact have a formal profit and loss statement, what is the nursing home to do?

Through you.

DEPUTY SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker, the vendor would be required to supply one.

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Shaban.

REP. SHABAN (135th):

I'm sorry, Mr. Speaker, I -- I didn't hear the answer. I was -- I was being summoned by someone else over here.

If -- through you, Mr. Speaker, I'm sorry, would the Gentle Lady repeat that response please?

DEPUTY SPEAKER RYAN:

Representative Abercrombie, would you like to repeat your response?

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker, if I remember the question, so I apologize. They would have to submit the standard profit and loss financials if that was your question. I'm so sorry.

DEPUTY SPEAKER RYAN:

Representative Shaban.

REP. SHABAN (135th):

Fair enough. And I -- and I appreciate the -- the Representative has been doing this for a long time.

My -- my question goes to the situation when there are no profit and loss statements and that is -- and it's not a hypothetical because this, in fact, happens with small businesses. They do not do formal -- some of them do not do formal profit and loss statements. But some of them, landscapers, security providers, roofers, lawyers -- a lawyer for instance, I don't do a profit and loss statement.

You know if I'm a solo practitioner, I probably wouldn't have a profit and loss statement but under this bill, if I provide $50,000 of services to a nursing home, I'm -- the nursing home is required to have me produce something.

So in the -- in the absence of a profit and loss statement that is finalized, what is a nursing home to do? What -- what can fit the bill here?

Through you.

DEPUTY SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

You almost forgot, Mr. Speaker?

Through you, Mr. Speaker, they would have to submit a profit and loss statement so they would have to get one.

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Shaban.

REP. SHABAN (135th):

Thank you, Mr. Speaker.

So if I understand the Representative's response, this bill is now imposing a new financial reporting requirement on the vendors of nursing homes in the event they don't have a profit and loss statement finalized because that's not their business practice, now they're going to be required to do a profit and loss statement pursuant to this bill?

Through you.

DEPUTY SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker, yes.

DEPUTY SPEAKER RYAN:

Representative Shaban.

REP. SHABAN (135th):

Thank you, Mr. Speaker.

(Inaudible) I don't recall, did this bill go through either Judich or Banks?

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker, this bill did go through Judich and Human Services and, if I'm not mistaken, Appropriations I think.

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Shaban.

REP. SHABAN (135th):

Thank you, Mr. Speaker.

I'm -- I just pulled it up. I see Judich and Human Services but not Banks. Yet clearly whether or not we're requiring businesses a new regiment of financial reporting may or may not have either gone -- well that wasn't consider in Judich because I'm on Judich. I'm curious whether that needed to go through Banking, but I'll move on.

Still on the first page of the bill, line 11, family association means a relationship by birth, marriage or domestic partnership.

Through you, Mr. Speaker, what is a domestic partnership?

DEPUTY SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Could the good Representative tell me what line he is referring to please?

DEPUTY SPEAKER RYAN:

Yes, Representative Shaban, what line is that on?

REP. SHABAN (135th):

That's line 11, sir.

Through you.

DEPUTY SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Sorry, Mr. Speaker. The question was domestic partnership?

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Shaban.

REP. SHABAN (135th):

Yes, Mr. Speaker.

And -- and I'll -- let me gel the question a little more to the Representative. We did a search -- I did a search of the statutes to try and -- first I looked at the bill to see if domestic partnership was defined and I -- I didn't see it in here, correct me if I'm wrong.

But then we searched the statues to see if domestic partnership is defined in statute and I didn't see it. So, through you, Mr. Speaker, do we know what a domestic partnership is?

Through you.

DEPUTY SPEAKER RYAN:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker, I would assume it's the definition that we are currently using which I don't know off the top of my head what it is.

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Shaban.

REP. SHABAN (135th):

Thank you, Mr. Speaker.

Well that's -- that's -- there's the rub because I don't believe there is a definition. There's certainly not one in the bill and I didn't see one in the statutes. We, in fact, we're -- we're continuing the search as we speak. We -- we searched under family law. We searched under different marital laws. We searched under some -- some of the new laws that allow different types of marriages.

But the term domestic partnership is, in fact -- we didn't -- I didn't find it in the statute. So if -- if the -- if the Gentle Lady is under the impression that there's a current use, through you, Mr. Speaker -- Madam Speaker now, through you, Madam Speaker, could you point me to where that term is defined, whether in common law usage, where that is?

Through you.

(Deputy Speaker Orange in the Chair.)

DEPUTY SPEAKER ORANGE:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Madam Speaker, very nice to see you tonight.

DEPUTY SPEAKER ORANGE:

Nice to see you.

REP. ABERCROMBIE (83rd):

My understanding is we do have a formal definition of domestic partnership which it refers to civil unions since we were a state that allowed -- that we are a state that allows gay marriage.

Through you, Mr. Speaker -- Madam Speaker, I apologize.

DEPUTY SPEAKER ORANGE:

Representative Shaban.

REP. SHABAN (135th):

Thank you, Madam Speaker.

So I guess, for legislative intent, if for nothing else, if -- is it the will of this Legislature then, if this bill was to pass, that domestic partnership is the same thing as a civil union for purposes of this statute?

Through you.

DEPUTY SPEAKER ORANGE:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Yes.

DEPUTY SPEAKER ORANGE:

Representative Shaban.

REP. SHABAN (135th):

Thank you, thank you, Madam Speaker.

So domestic partnership would not include then a common law marriage for -- for sake of -- for argument or any other type of long-term living relationship that was not memorialized in one of our statutes?

Through you.

DEPUTY SPEAKER ORANGE:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Madam Speaker, that is my understanding.

DEPUTY SPEAKER ORANGE:

Representative Shaban.

REP. SHABAN (135th):

Thank you, Madam Speaker.

Similar to -- following up on a couple of the questions but trying again -- definitely trying not to be repetitive, the -- the issue I have -- we talked about this before and I think Representative Cafero and a couple of other people said what if the vendor just says no, I'm not giving you that.

And I believe the response was well basically you've got to fire them or you can't use them anymore because you're going to get in trouble.

My question is a little different than that. Through you, Madam Speaker, what if the vendor provides a false financial -- or a false profit and loss statement?

Through you, Madam Speaker.

DEPUTY SPEAKER ORANGE:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Madam Speaker, because this is a Medicaid -- Medicaid service that we are talking about and you are supplying DSS with false information, I would assume that that would go to fraud.

Through you, Madam Speaker.

DEPUTY SPEAKER ORANGE:

Representative Shaban.

REP. SHABAN (135th):

Thank you, Madam Speaker.

So -- well how about if the financial report was just mistaken or sloppy? I -- it goes back to the discussion of the hypothetical I had before where you

have businesses, small businesses especially, that don't do profit and loss statements.

The Representative has stated, for legislative purpose, that now we're going to impose a new financial disclosure requirement on these new small businesses which may or may not have some other legal implications, but for the sake of this discussion, what if that profit and loss statement was just recklessly wrong?

Are the -- are -- is the vendor now subject to prosecution for Medicare fraud?

Through you, Madam Speaker.

DEPUTY SPEAKER ORANGE:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Madam Speaker, I'm not sure to tell you the truth. I would assume so. We're talking about a business, a nursing home, that in order to get their rates, which is all state money, 80 percent of the money that comes in to them is state money because they are Medicaid providers, so for them to get their rate this is -- this requires them to supply this information to DSS.

If their vendors are supplying them with false information, I would assume that that would go towards fraud.

Through you, Madam Speaker.

DEPUTY SPEAKER ORANGE:

Representative Shaban.

REP. SHABAN (135th):

Thank you, Madam Speaker.

Well I guess and I -- and I thank that the -- the Chairwoman for her -- her input. I guess the -- really the question is, you know, fraud being an intentional crime, I -- I'm purposely trying to give you false information, my question really goes to more if you just were recklessly wrong because you had -- if these vendors either are just bad at math, bad at profit and loss statements, have never done one before, or just don't care. They just don't care.

So you know I just want to have this contract. Yeah here's a P&L. I'll whip one up. I send it in and the thing is wrong because they just don't care.

The issue being -- the question being, through you, Madam Speaker, is whether or not -- at least did -- did the Committee consider the fact of whether there's going to be criminal or civil liability with

respect to that vendor and that inaccurate financial disclosure?

Through you, Madam Speaker.

DEPUTY SPEAKER ORANGE:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Madam Speaker, was not raised in the public hearing.

Through you.

DEPUTY SPEAKER ORANGE:

Representative Shaban.

REP. SHABAN (135th):

Thank you, Madam Speaker.

And I -- I -- I don't recall it being raised in Judiciary either because I'm not sure anyone would really drill down on this issue because we're learning only now, only now, that now apparently these vendors have a new undisclosed but now a required financial disclosure which was not on the face of the bill. Perhaps another issue that needs to get ironed out.

Moving on in the bill, if I may. Through you, Madam Speaker, the definition of company, lines 8 through 10, is this an exclusive list, Madam Speaker?

Of is this an exclusive list, through you, Madam Speaker.

DEPUTY SPEAKER ORANGE:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Madam Speaker, I would say yes.

DEPUTY SPEAKER ORANGE:

Representative Shaban.

REP. SHABAN (135th):

Thank you, Madam Speaker.

So then if -- if the -- the vendor is a joint venture, for instance, whether a landscaper and landscaper, landscaper and roofer, builder and architect which actually happens quite often, a builder and an architect, they're a joint venture, they enter into a joint ventureship arrangement to do some kind of construction at the nursing home, they receive $50,001, at least by the text of the bill, and by -- by the responses we just -- just heard, they don't have to give their profit and loss statement.

They don't have to give their profit and loss statement. Now I'm not sure if that's a good thing or a bad thing but it's something that I think we need to run up the flagpole because again it's another flaw in

this design. Obviously not the goal is -- is laudable but this design.

Moving on, if I may.

DEPUTY SPEAKER ORANGE:

Please continue.

REP. SHABAN (135th):

I'm trying to read my own writing, Madam Speaker. The information that's being filed with the vendors, the vendor information going to the nursing home, then getting filed with DSS, I believe there was Q&A whether nor not that information is FOIA'able and I believe the response was yes.

Through you, Madam Speaker, is there a way that the profit and loss statements can be protected as confidential?

Through you.

DEPUTY SPEAKER ORANGE:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Not currently under this legislation. If you're asking if, under this legislation, it's FOIA-able, yes it is if that's your question.

Through you, Madam Speaker.

DEPUTY SPEAKER ORANGE:

Representative Shaban.

REP. SHABAN (135th):

Thank you, Madam Speaker.

Then again I go back to the hypothetical I used before of -- if it's an attorney. Somebody's brother, his sister owns a nursing home, brother is the attorney. They do $50,001 of work in -- in a year, we're not sure which year applies, but for the assumption of this question some -- some applicable year and they don't have a profit and loss statement.

Well, for the purpose of this bill, and I'll let the -- rather than ask a question, I'll just do a little bit of an rant to give the Gentle Lady a little bit of a -- of a break.

Under the -- under the wording of -- under this bill, without the profit and loss statement, that attorney is going to be faced with kind of -- of quandary. Do I produce my bills which are arguably privileged in certain respects? Do I redact my bills and send them in?

Are these profit and loss statements? Maybe they are and maybe they're not. What if they're wrong? Well now we have a new undisclosed financial disclose -- financial reporting by businesses heretofore have

not had to have financial reporting to the State of Connecticut but now they do just by virtue of being in business for even on one project with a -- with a nursing home.

So they either -- they have a new financial reporting. They potentially face liability apparently for Medicaid fraud if those bills or the profit and loss statement is somehow misleading, whether by mistake or otherwise and we're not quite sure what year applies.

So, you know, again I -- I know the -- I know the Representative's been up talking about this bill for a long, long time and I appreciate her -- her resiliency and her stamina. It's certainly laudable as is the goal of the bill, as is the goal of the bill.

If people are dipping -- you know -- if -- if the state -- if state money is being misused we ought to know about it but we tried to get there through some pretty simple and straightforward amendments that were rejected.

Instead what we have is a ham-fisted overreach that is implying -- that -- that is exposing businesses to financial disclosures. They've never had to do that before. That is exposing businesses to

liability that they've never had before and is exposing businesses to uncertainty yet again because they're just here in Connecticut. They just happen to be here in Connecticut.

One of the questions I was going to ask the -- the Gentle Lady, but I won't, I'll ask it as hypothetical. Stay down, you're good. What if -- what if the -- the vendor is out of state? Oh I bet we don't know the answer to that.

What if the -- what if the -- the related entity is a New York entity that supplies, you know, services, whatever it is? Do they have to comply with this law? Well I'll tell you as an attorney I bet they don't because the State of Connecticut doesn't have the -- I don't think would have the ability to -- to force that business to do something.

Well, you know, it's okay so who gets in trouble, the nursing home. That's a bad model. That is a bad model to get to the information that we're trying to get to.

With that, Madam Speaker, I will -- I'll rest my comments and I'll -- I'll -- and I'll talk slowly so the Representative can continue to rest. But I -- I think you take it from the tone and the -- and the

direction of my -- of my Q&A and my statements that I too cannot support this bill.

It -- it is -- it is a bad idea that's executed in a vague and uncertain way and is -- is yet another example of things that government, while they can do something, shouldn't always do something.

Thank you, Madam Speaker.

DEPUTY SPEAKER ORANGE:

Thank you, sir.

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

Representative Smith, good evening, sir.

REP. SMITH (108th):

Good evening, Madam Speaker, nice to see you. It's been a long day.

There's been some very heated discussion and debate throughout the day and into the evening. And as we, I don't know, try to wrap this up, and I'm certainly not wrapping it up, I'm just saying hopefully we'll get to a wrap up soon, I had a few questions for the proponent and really I only have a few and I think there's a few that we can agree upon.

Before I ask the questions, I -- I do sincerely want to commend the good Representative. She has handled herself with distinction which is no surprise. She's answered the questions as best she could. She's endured long beyond the call of duty. So I commend you.

The questions I think we can agree upon, Madam Speaker, and just to confirm that we are in agreement, that I believe there's been a lot of talk about transparency here throughout the day and I think we can agree that this bill, at least a major component of this bill, is transparency.

And would my statement be correct and -- through you, Madam Speaker?

DEPUTY SPEAKER ORANGE:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Madam Speaker, first I'd like to thank the good Representative for his kind words and yes he is correct in the -- in his explanation.

DEPUTY SPEAKER ORANGE:

Representative Smith.

REP. SMITH (108th):

Thank you, Madam Speaker.

And I would also think that not only the good Chairwoman would agree but I -- I suspect throughout the Chamber that we would all agree that transparency is good, not only here in this bill, but throughout government.

Would she agree with that statement?

Through you, Madam Speaker.

DEPUTY SPEAKER ORANGE:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Madam Speaker, the good gentleman is two for two.

DEPUTY SPEAKER ORANGE:

Representative Smith.

REP. SMITH (108th):

I wish I was playing baseball and -- but I'm not so -- but thank you.

So in that regard, Madam Speaker, I do have -- the Clerk has an amendment. It's LCO Number 4231 and I would ask the Clerk to call it and I be allowed to summarize.

DEPUTY SPEAKER ORANGE:

Will the Clerk please call LCO Number 4231 which will be designated as House Amendment Schedule "D".

THE CLERK:

House Amendment "D", LCO 4231, offered by Representative Wood, et al.

DEPUTY SPEAKER ORANGE:

Will the Chamber please stand at ease while the amendment is being passed out?

(Chamber at ease.)

DEPUTY SPEAKER ORANGE:

Will the Chamber please come back to order.

And Representative Smith has called LCO 4231 which is designated as House Amendment Schedule "D". The Clerk has called the amendment and the Representative seeks leave of the Chamber to summarize.

So, Representative Smith, without objection, seeing none, you have the floor, sir.

REP. SMITH (108th):

Madam Speaker, thank you very much.

This amendment is all about transparency. It's what we've just have been talking about throughout the day into the evening. It's an amendment that makes

certain reports regarding labor organizations open to the public inspection and increases the penalty for failure to comply with the reporting requirements.

I move adoption and ask that the roll be taken by -- or that the vote be taken by roll.

DEPUTY SPEAKER ORANGE:

The question before the Chamber is on adoption of House Amendment "D" and there has been a request for a roll call vote.

So all those in favor of a roll call vote please indicate by saying aye.

REPRESENTATIVES:

Aye.

DEPUTY SPEAKER ORANGE:

Those opposed, nay?

Did I hear that right, Representative Piscopo?

A VOICE:

(Inaudible).

DEPUTY SPEAKER ORANGE:

Okay, the ayes have it. When the vote is taken it will taken by roll.

Representative Smith, you have the floor, sir.

REP. SMITH (108th):

Madam Speaker, we have a -- a statute in the books right now. It's -- I believe it's 31-77. It requires our public unions to file reports with the state on an annual basis. It's been in the books since 1959. Eleven out of the sixteen unions under the SEBAC arrangement have not filed the reports.

In fact, no report has been filed pursuant to 31-77 for at least 20 years. So in the idea of being transparent, and open for everybody's inspection, I think it's only fair that everybody comply with the reporting requirements and let's take a look to see what going on.

So with that, Madam Speaker, I -- I urge my colleagues to support it. If there's nothing to hide, then why would we -- we be against it?

Thank you, Madam Speaker.

DEPUTY SPEAKER ORANGE:

Thank you, sir.

Will you care to remark further on House Amendment "D"?

Now I see that we have people on the board here. So if you're talking on Amendment "D", oh hi Representative Alberts, Amendment "D".

REP. ALBERTS (50th):

So good to see you tonight, Madam Speaker.

DEPUTY SPEAKER ORANGE:

You too.

REP. ALBERTS (50th):

If I may to the proponent of the amendment.

DEPUTY SPEAKER ORANGE:

Please proceed, sir.

Representative Smith, prepare yourself.

REP. ALBERTS (50th):

Thank you.

I see in the amendment that's before us in line 31 and 32 there's reference to regular business hours and upon request of any member of the public.

How would that work exactly?

Through you, Madam Speaker.

DEPUTY SPEAKER ORANGE:

Representative Smith.

REP. SMITH (108th):

Well the reports are filed with the state so they would have the opportunity to go to the State Department where it's filed and take a look at those reports.

Through you, Madam Speaker.

DEPUTY SPEAKER ORANGE:

Representative Alberts.

REP. ALBERTS (50th):

Thank you, Madam Speaker.

And would it be the proponent's goal to somehow get these online so that they would be accessible via Internet?

Through you, Madam Speaker.

DEPUTY SPEAKER ORANGE:

Representative Smith.

REP. SMITH (108th):

Absolutely. We live in an age of technology where everything pretty much is online. We've been talking about that today as well so I think that would be a great idea and hopefully that will occur.

Thank you, Madam Speaker.

DEPUTY SPEAKER ORANGE:

Thank you, sir.

Representative Alberts.

REP. ALBERTS (50th):

Thank you, Madam Speaker.

Then looking at line 42, there's contemplated a very significant increase in the penalty that apparently has not been -- it sounds like it has not

been assessed in some time. What's the rationale for that increase?

Through you, Madam Speaker.

DEPUTY SPEAKER ORANGE:

Representative Smith.

REP. SMITH (108th):

And I thank the gentleman for his question. The rationale was simple. The -- the fine right now is $25. It's been a fine for $25 since the bill was enacted back in 1959. It has not changed one bit.

The amount of $500 is in line with what we have been putting on -- as penalties for businesses who fail to report or fail to comply with our reporting requirements. So we thought it would be fair to keep in line with what the business world is doing and that's where that number came from.

Through you, Madam Speaker.

DEPUTY SPEAKER ORANGE:

Representative Alberts.

REP. ALBERTS (50th):

Thank you, Madam Speaker.

Then the -- the subsequent fine is a new -- is new language. Is that correct?

Through you, Madam Speaker.

DEPUTY SPEAKER ORANGE:

Representative Smith.

REP. SMITH (108th):

Yes it is new language and it -- again that line which imposes a fine of an additional $1,000 for a second failure to comply, is in line with the same type of rationale for businesses.

Through you, Madam Speaker.

DEPUTY SPEAKER ORANGE:

Representative Alberts.

REP. ALBERTS (50th):

Thank you, Madam Speaker.

So the subsequent failures would be for each successive annual year? Is -- do I understand that correctly?

Through you, Madam Speaker.

DEPUTY SPEAKER ORANGE:

Representative Smith.

REP. SMITH (108th):

That's how I read the bill, yes.

Through you, Madam Speaker.

DEPUTY SPEAKER ORANGE:

Representative Alberts.

REP. ALBERTS (50th):

Thank you, Madam Speaker.

While I'm intrigued by this amendment, I -- I think I will be supporting it and I appreciate the candid remarks of the proponent.

Thank you.

DEPUTY SPEAKER ORANGE:

Thank you, sir.

Would you care to remark further on House Amendment "D"?

I see people on the board. I see Representative O'Dea. Do you want to speak about Amendment "D"?

REP. O'DEA (125th):

No thank you, Madam Speaker. I'm going to speak on the -- the bill assuming the amendment doesn't pass.

DEPUTY SPEAKER ORANGE:

Okay.

Vinny Candelora, did you want to speak on "D"?

REP. CANDELORA (86th):

Thank you, Madam Speaker. Good evening.

DEPUTY SPEAKER ORANGE:

Good evening.

REP. CANDELORA (86th):

If I may, a couple of questions to the proponent of the amendment.

DEPUTY SPEAKER ORANGE:

Representative Smith, prepare yourself.

Representative Caldelora, please continue.

REP. CANDELORA (86th):

Thank you, Madam Speaker.

Along the same veins, I -- I do see in the amendment there is some language referring to a report and what's the nature of the report that needs to be submitted?

Through you, Madam Speaker.

DEPUTY SPEAKER ORANGE:

Representative Smith.

REP. SMITH (108th):

Thank you, Madam Speaker.

And -- and before I address the question, I -- I do want to remind Representative O'Dea that so far I'm two for two so...

DEPUTY SPEAKER ORANGE:

Representative Candelora, two for two.

REP. SMITH (108th):

All right. So I will -- the reporting requirements -- there are two ways to report under

current statute. They can either file on a federal level and, if they fail to do that, they can file with the state pursuant to the requirements of the statute.

So the statute has been in place. The reporting requirements are not any different than what they were other than we are now really making it more public and also increasing the fine.

Through you, Madam Speaker.

DEPUTY SPEAKER ORANGE:

Representative Candelora.

REP. CANDELORA (86th):

Thank you, Madam Speaker.

And so do we know the -- currently as I hear under current law these reports are filed either on the federal level or the state level? Or are they just reported to the Department of Labor?

Through you, Madam Speaker.

DEPUTY SPEAKER ORANGE:

Representative Smith.

REP. SMITH (108th):

Thank you, Madam Speaker.

The unions can file exemptions under federal law and, if they do so, then they are required to file

under state law. So it's -- it's either or, they don't have to file both.

Through you, Madam Speaker.

DEPUTY SPEAKER ORANGE:

Representative Candelora.

REP. CANDELORA (86th):

Thank you, Madam Speaker.

I don't have any other questions for the good Representative and -- and I do stand in support of the amendment.

I -- I think we've heard for many hours, you know, discussions on transparency and -- and I think that the amendment sort of focuses our attention to another issue in the State of Connecticut and I think it is the consistency of making sure that if we're -- we are going to hold one particular segment of an industry accountable to be open and transparent, we should do the same for the other.

And I think this law, in particular as I understand it, has been on the books for a number of years, since 1959 I believe and has not been -- you know has not been enforced.

And I think that -- you know when we speak to the success or failures of businesses, it just doesn't --

the responsibility just doesn't lie with the -- the corporation. It certainly lies with the individuals as well. And tonight we heard a lot about nursing homes and the CEOs of those nursing homes but I think, in addition, it's important that we do have full disclosure of information and that includes the individuals that are working for the nursing homes and the organizations that are -- that are formed around those employees to assist them.

As I understand it, under this particular provision, it's not just a reporting requirement that is for the Department of Labor but it's for the individual members of those labor organizations to be able to see the relevant financial information of the people that they are governed by.

And so there is, you know, a very similar parallel I think to what we're doing in the underlying bill. I think if this amendment passes, while it adds some -- some dynamic to the underlying bill that makes it more attractive, I think the underlying bill still is more problematic but I think this amendment points to the hypocrisy I think that we have sometimes in the State of Connecticut in that we -- we don't cast a

light on an entire structure in order to ascertain the health of that company.

We make sure that we focus that light in a direction that we want it to see, in this particular case, in the underlying bill, the nursing home establishing itself.

And I think with this amendment, at least, shows us all that there certainly are a lot of other aspects to our economy and to our -- our markets that make Connecticut a success or a failure.

And so I certainly do support this amendment because I think it -- it shows that balance. If we're going to require reporting for nursing homes, we certainly should do so for the corporate structure of a labor organization that is governing all of the hard working people in the State of Connecticut.

Thank you.

(Deputy Speaker Godfrey in the Chair.)

DEPUTY SPEAKER GODFREY:

Thank you, sir.

Representative Ziobron.

REP. ZIOBRON (34th):

Thank you, Mr. Speaker.

And I too have just a couple of questions for the proponent of the amendment.

Sir, through you.

DEPUTY SPEAKER GODFREY:

Proceed.

REP. ZIOBRON (34th):

Thank you.

To the proponent, I came in right in the beginning when you proposed your amendment and I just simply caught that there was an existing law or a statute on the books in 1959 but I did not hear all the details of who it pertains to and if you would be so kind, through you, Mr. Speaker, can you please repeat that please?

Through you.

DEPUTY SPEAKER GODFREY:

Representative Smith.

REP. SMITH (108th):

Thank you, Mr. Speaker.

Yes, be happy to. The current statute is 31-77. It's been on the books since 1959. It requires all public unions to file certain reports about their expenditures and their -- I guess their expenditures

and it's supposed to be filed either with the state or with the federal government and it hasn't been filed in at least 20 years.

So we're -- we're looking now to make those reports transparent, public and comply with the statute and there's an additional penalty in -- in place as well.

Thank you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Ziobron.

REP. ZIOBRON (34th):

Thank you, Mr. Speaker.

And, through you, you mentioned that the expenditures were required. I'm just also wondering are the contributions also required as part of the reporting?

Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Smith.

REP. SMITH (108th):

Thank you, Mr. Speaker.

You know it very well may be, Representative, I'm not positive. I'd have to look back through 31-77 to

make a determination of that but I'm not sure. It very well may be.

Thank you.

Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Ziobron.

REP. ZIOBRON (34th):

Thank you, Mr. Speaker.

And I -- I appreciate that answer. I wrote down the statute and I -- I am very interested to understand that process and the reason why I'm so interested is because of my time as the president of a nonprofit group. I was president of the -- of a -- of a friend's group of a state park and when I came in office, at the time the State of Connecticut put out a blanket kind of forgiveness.

You had an opportunity as a nonprofit to make sure your 990 was filed and up-to-date because many nonprofits hadn't done that for many years and so you were grandfathered if you did it by a certain date and I had to go through and we had to hire a -- an accountant and sit down and get that up-to-date and interestingly I -- what I learned through that process is there's a website called GuideStar where you can

actually look at all the filings of folks who file a 990.

So I'll have a question about that and how it relates to the nonprofit nursing homes when we talk about the underlying bill but I am very interested in this statute, 31-77, and I think -- I think our taxpayers and I think the members of these various labor organizations deserve to have a little sunlight shine through as one of my mentors, who has since passed away, always reminded me sunlight is the best disinfectant and I look forward to learning more.

Thank you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Thank you, Madam.

Representative Carter.

REP. CARTER (2nd):

Thank you, and good evening, Mr. Speaker.

Mr. Speaker, a question, through you, to the proponent of the amendment please.

DEPUTY SPEAKER GODFREY:

Proceed, sir.

REP. CARTER (2nd):

I noticed looking at the amendment in -- in the current law, just prior to where we're making the

changes, line 20, there's some talk about the form that this is supposed to be written on when the report is made to the Labor Commissioner. It's supposed to be on a form that's prescribed by our public law or the Internal Revenue code.

I'm -- I'm curious, through you, Mr. Speaker, is there a federal requirement to the -- providing this information to the federal government?

DEPUTY SPEAKER GODFREY:

Representative Smith.

REP. SMITH (108th):

Thank you, Mr. Speaker.

Yes there is. So to answer the Representative's question, again this could be filed -- either the information that's sought under this 31-77. It can also be filed on a federal level or it can be filed on a state level.

I believe 11 out of the 16 -- 11 out of the 15 public employee unions that we have have not filed this information either federally or in the state level, so that's the purpose of this amendment.

Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Carter.

REP. CARTER (2nd):

Thank you very much, Mr. Speaker.

And I thank the -- the -- the esteemed ranking of the Labor Committee.

One -- one other question, actually, when it comes to mind here, so we haven't enforced this. The federal government hasn't enforced this. I guess, the other question is, do we know or have any way of knowing if the unions are actually presenting this information to their membership and just not reporting it?

Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Smith.

REP. SMITH (108th):

Thank you, Mr. Speaker.

I do not know if those actual documents are being filed internally and not filed publically. But I guess we can -- hopefully, this amendment will pass and we'll no longer have that question.

Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Carter.

REP. CARTER (2nd):

Thank you very much, Mr. Speaker.

And again, I thank the esteemed -- my esteemed colleague of the 108th for his answers.

Ladies and gentlemen, this -- this amendment, as I read it, is -- is really a great way to protect our union members in the state of Connecticut. You know, it's -- I'm sure, in 1959, when the -- when they decided the Labor and Management Reporting Disclosure Act should be put in place, they were looking for a way to make sure their membership knew and -- and was informed about what was going on.

And obviously, they're supposed to be getting that information, and then that report is supposedly sent off to either the state and the federal government.

Now, with -- with that not happening, I'm -- I'm actually shocked, ladies and gentlemen. And, in fact, I'm shocked there hasn't been some sort of outcry from the union membership in the state of Connecticut because the -- the leaderships of the unions aren't doing what they need to do to take care of their members.

So ladies and gentlemen, I -- I look at this amendment and I think this is a great thing. I -- I think this is a good opportunity to -- for us to help

our union membership. And -- and it speaks to the transparency issue that we've talked about, you know, throughout this -- this course of this debate. That -- you know, we want to make sure that everybody is being transparent, open and honest with their dealings, you know, especially when, you know, these things affect union members and their families to the degree they do.

So ladies and gentlemen, I -- I certainly hope we can all support this amendment.

Thank you.

DEPUTY SPEAKER GODFREY:

Thank you, sir.

Representative Betts.

REP. BETTS (78th):

Thank you and good evening, Mr. Speaker.

question to the proponent of the amendment, if I may?

DEPUTY SPEAKER GODFREY:

Proceed.

REP. BETTS (78th):

Yes. You had mentioned that a report had not been filed for, I believe, something close to 20 years, 20 consecutive years.

Through you, Mr. Speaker.

Is there some penalty or consequence for failing to file these reports?

Through you.

DEPUTY SPEAKER GODFREY:

Representative Smith.

REP. SMITH (108th):

Through you, Mr. Speaker.

Yes. Currently, the -- the statute provides for a $25 penalty.

Through you.

DEPUTY SPEAKER GODFREY:

Representative Betts.

REP. BETTS (78th):

Thank you for that answer.

And -- and does the good gentleman happen to know whether that fine has been paid over the 25 years? Have they continually paid that nonstop?

I don't expect you to necessarily know it, but I just would be interested to see if it's being enforced.

Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Smith.

REP. SMITH (108th):

Thank you, Mr. Speaker.

I can't say for certain. But my belief is no penalty has been assessed.

Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Betts.

REP. BETTS (78th):

I thank you very much for the answers and -- and for bringing this amendment forth. I know last year, when we had a debate on several labor issues, I've had many constituents come up to me and ask me, you know, what happens with their dues. They'd like to have a little bit more information about that.

Given what I've been hearing in this debate just now and what's going on with this amendment, I think that would specifically address it. And I think it would be a -- a very helpful benefit, not only to the members, but also to making sure everybody understands where their money goes. And that's why I'll be strongly supporting this.

Thank you very much, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Thank you, sir.

Representative Tercyak.

REP. TERCYAK (26th):

Thank you very much, Mr. Speaker.

This is an interesting amendment, although I'm not sure how it's germane. There are many things that I would like to be more open than they are, but I don't think that it's appropriate for me to attach it to this bill.

Through you, Mr. Speaker, to the proponent of the -- to the proponent of the amendment.

DEPUTY SPEAKER GODFREY:

Proceed.

REP. TERCYAK (26th):

Are these labor -- thank you very much -- are these labor organizations related organizations with the convalescent homes?

Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Smith.

REP. SMITH (108th):

Thank you, Mr. Speaker.

And I thank the chairman for his question. The -- I believe the labor organizations we're talking about, the SEBAC, the public employee union, so

whether they're tied into the nursing homes under this bill or not, I can't say for certain.

Through you, Mr. Speaker.

REP. TERCYAK (26th):

Thank you very much, Mr. Speaker.

I was wondering if my previous answers about there not being a relationship between the companies and the unions in America would -- if there had been new information showing that was I wrong, but I guess not.

I agree that the unions should be supplying these reports because it's a requirement. I'm not sure whether or not they're giving it to the Feds, and if that's why these reports are not being given to the state because there's an either or question here.

However, since SEBAC came up, for the SEBAC unions and for all the unions that are presently representing workers in convalescent homes, they do a financial statement every year that is audited independently. And it's either mailed to each member alone, freestanding as a financial statement, or mailed to each member and fee payor as part of their normal communications in a newsletter or something like that.

These reports breakdown the union expenses, how much we're spending on staff, how much we're spending on -- on the building, how much the union is spending on everything, especially how much is the union spending on two things in particular. What are they spending on politics, political organizing, influencing politics, like hiring a -- hiring a lobbyist, or even having a -- having a staff person assigned to be -- to do lobbying?

And the other -- the other thing they -- they spend that is important in those reports, particularly, is what amount of money is spent on organizing new members into the union?

Should a member object to these, under present law, they can say they would rather be fee payers, and they are not subject to paying a single penny for organizing new members or for political action. Not any. The information, because of those requirements, is already reaching every single individual union -- individual member or fee payer of those unions. And if people are being asked -- being told they don't know what they're -- what somebody -- being told by somebody that they don't know what their union dues

are being gone -- going to, they should check their annual report as approved by independent auditors.

In the Labor Committee this year, there was a suggestion to do away with this report, and the answer was no. We will not entertain a law to do away with this report. We expected the Department of Labor to start enforcing it if they have not been. That was our answer.

Was it because we think this report is necessary to keep the members informed, no. Did we think that something bad would happen if we didn't get this report or something better happens if we do get this report, so far there's no evidence of either one. But that's on the reporting part.

To the issue of the -- of the entire amendment, this amendment has nothing to do with related parties. Through you, Mr. Speaker, is -- to the proponent of the bill.

Is this amendment only applying to labor organizations that represent people working in convalescent homes or is this for all labor organizations?

Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Smith.

REP. SMITH (108th):

Thank you, Mr. Speaker.

It would be all labor organizations defined in 3177 of the General Statutes.

Thank you.

Through you.

DEPUTY SPEAKER GODFREY:

Representative Tercyak.

REP. TERCYAK (26th):

Thank you very much.

And -- and I thank the good gentleman for the answer.

We do not ask for the financial reports of people -- of businesses who have no relationship to the convalescent homes. Nothing in this -- nothing in the original bill asks for financial -- asks for reports from companies that are not related to convalescent homes. This asks for information from organizations that are not related to convalescent homes. It asks for -- for information from organizations whose members don't even work in the convalescent home. We don't even have evidence that they take a shortcut

through the convalescent home grounds on their way home. No relationship for some of these.

And for that reason, I would -- and because I honestly don't see -- now that we're all aware that members do get reports on how their dues are spent, I don't see the -- and that we have encouraged the Department of Labor to enforce their rules, including their fines, and that we don't know how many forms are being filed federally and not with the state, I would encourage people to vote against this amendment in spite of how well-intentioned I'm sure it was meant when it was offered.

Thank you very much.

Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Thank you, sir.

Are you ready for the question?

If so, staff and guests please come to the well of the House. Members take your seats. The machines will be open.

THE CLERK:

The House of Representatives is voting by roll.

The House of Representatives is voting by roll. Will members please return to the Chamber immediately.

DEPUTY SPEAKER GODFREY:

Have all the members voted? Have all the members voted?

If all the members have voted, the machine will be locked.

The Clerk will take a tally. And the Clerk will announce the tally.

THE CLERK:

LCO 4231 House "D"

Total Number Voting	141
Necessary for Passage	71
Those Voting Yea	50
Those Voting Nay	91
Those Absent and Not Voting	10

DEPUTY SPEAKER GODFREY:

The amendment fails.

Will you remark further on the bill as amended. Representative O'Dea.

REP. O'DEA (125th):

Thank you, Mr. Speaker.

I -- I first want to apologize to Representative Smith for giving the bad mojo on his amendment. But my -- my comment about the underlying bill, Mr. Speaker, if I may for a moment, I don't believe anyone

in this Chamber would disagree that Connecticut is in dire need of jobs at this moment. And in 2012, Connecticut was the only state that had a -- where the -- the only state in which the economy actually shrank. And from over the time period of the last 20 years, Connecticut has actually lost jobs.

So my -- my overall comment to everyone is, I think before we start looking and passing these kind of bills, we have to ask ourselves is this business friendly, will this encourage more jobs. We want people to get jobs to start contributing to the economy, not needing benefits.

And so I think we all would agree, including the proponent of this bill, this bill does not create jobs. It will not create jobs. It will make the environment less business friendly. And so I would ask my colleagues to reject the bill and vote against it.

I voted for the bill out of Judiciary in the hopes that some changes would be made, like the change that was proposed -- the amendment proposed by Representative Cafero, Amendment 4582, that would have simply had these types of investigations if there were

any irregularities. Unfortunately, that amendment failed. And this bill, I'm hoping will not pass.

Thank you very much, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Betts.

REP. BETTS (78th):

Thank you, Mr. Speaker.

A few questions to the -- to the Chair, if I may.

DEPUTY SPEAKER GODFREY:

To Representative Abercrombie, Representative Betts?

REP. BETTS (78th):

Yes.

Thank you very much.

DEPUTY SPEAKER GODFREY:

Proceed.

REP. BETTS (78th):

And my hat's off to you. I think I've decided I'm going to call you the marathon lady because you've been a tremendous trooper. And really, thank you for all your answers and patience.

I do have a couple of questions that have a little bit of a different twist to this. The first one is, when you put -- when this bill was put

together, was there any analysis or evaluation the -- of the impact this bill would have on current legislation in the General Assembly now regarding the hospital conversion?

Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Abercrombie, do you care to respond?

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker.

That was never raised as an issue.

DEPUTY SPEAKER GODFREY:

Representative Betts.

REP. BETTS (78th):

Thank you.

Well, let me ask you, if I may, through you, Mr. Speaker, a scenario here. And perhaps you could ease my mind in terms of it maybe not having an impact.

But in a hypothetical example, if you had a for-profit hospital -- and we'll just say Tenet in this particular case -- made an acquisition of a nonprofit hospital. And we'll say, for this example, it would be Bristol Hospital which owns a nonprofit nursing

home, which would be Ingraham Manor. I understand -- I think Representative Miner has asked you this earlier -- that would not change the status of the nonprofit nursing home, even though it was a now a subsidiary of a for-profit hospital. Is that correct?

Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker.

I -- I don't believe that that's the way the question was asked by Representative Miner. But if that's the way you're asking the question -- question -- sorry -- I don't believe that it would impact it.

DEPUTY SPEAKER GODFREY:

Representative Betts.

REP. BETTS (78th):

Okay. Thank you.

Now, as a potential acquirer, let's say for the sake of discussion they decide, okay, the nursing home business is an attractive business to be in and to invest. And that acquirer decides, okay, I'm going to go and make a bid or try to purchase another nonprofit nursing home at some other location, does that -- in

the financial reporting -- let's say that acquisition goes through -- does that mean that Tenet, in particular, which is a national organization, would have to file a financial statement -- and I don't know how big they are but, you know, hundreds of millions of dollars -- would they have to file a financial statement as a corporation to DSS under this bill?

Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Abercrombie?

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker.

If Representative Betts could just state the first part, who was the person that was a corporation. I missed that. I -- I apologize.

DEPUTY SPEAKER GODFREY:

Representative Betts.

REP. BETTS (78th):

Certainly. Under this example, this hypothetical example, it would be the for-profit company, Tenet. Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

The for-profit Tenet? I'm -- I'm sorry. I'm --

REP. BETTS (78th):

Okay.

REP. ABERCROMBIE (83rd):

-- I'm totally off with that. I apologize, Representative.

REP. BETTS (78th):

No -- no problem.

REP. ABERCROMBIE (83rd):

I'm not sure what you're getting at. Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Betts, you want to (inaudible).

REP. BETTS (78th):

Thank you, Mr. Speaker.

I didn't make myself particularly clear. Tenet has purchased, as a for-profit company, has purchased a nonprofit hospital which owns a nonprofit nursing home. They make the decision, okay, we want to expand in this area -- Tenet wants to expand in this area of nursing homes -- purchases another nonprofit nursing home in Connecticut. And even though Tenet is a national corporation, okay, under this bill, are they

required to file the financial disclosures that we've discussed all evening to DSS?

Through you, Mr. Speaker.

I hope that's a little clearer.

DEPUTY SPEAKER GODFREY:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

So -- and I apologize. I thought when you meant Tenet, I didn't realize --

REP. BETTS (78th):

Yeah.

REP. ABERCROMBIE (83rd):

-- it was the name of the business. So I so apologize.

So because Tenet is for-profit that's buying a nonprofit nursing home, the nonprofit nursing home now becomes profit because the owner is for-profit.

Through you, Mr. Speaker, if that was question.

DEPUTY SPEAKER GODFREY:

Representative Betts.

REP. BETTS (78th):

That is the question.

And what is their obligation under this bill for financial disclosure, on an annual basis, to DSS?

Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker.

The legislation clearly states that they're related parties which is, under the definition, would have to disclose their profits and loss forms to the nursing home who would then submit them to DSS on an annual basis so that they could get their -- their nursing home rates.

Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Betts.

REP. BETTS (78th):

I thank you.

And I -- and that was my assumption, although I appreciate the clarity on that. If we're trying to deal with this -- with transparency, and if we're dealing with incredibly large complex organizations, for-profit organizations like Tenet, could the good lady explain to me how DSS -- or does DSS have the expertise, the personnel, and the resources to be able

to do this kind of an analysis to make sure that they are in compliance with the intent of this legislation?

Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker.

So currently, in order to get a rate under a nursing home, they have to submit, on a yearly basis, their financials. All this legislation does now is add another report, which is a profit and loss, from the related parties that are doing business with the nursing home in the excess of $50,000.

Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Betts.

REP. BETTS (78th):

Thank you very much.

And in this analysis, are they looking only to the relationship of business that they conduct in

Connecticut, or are they also evaluating any and all business that they do outside of Connecticut as part of this analysis?

Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

So through you, Mr. Speaker.

So, for an example, if a nursing home is owned by a corporation that is outside of the state of Connecticut, then whoever they are doing business with within Connecticut -- so, for example, if the related party is a brother-in-law that owns a dry cleaning or laundry facility and their business is in the excess of $50,000, then, yes, that -- that -- that vendor would have to disclose the profit and loss report.

Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Betts.

REP. BETTS (78th):

Thank you very much.

And should that national, for-profit organization have some kind of a problem in another state with one of its businesses -- and perhaps it's not a --

nursing home or maybe it is. Is that factored into the analysis of what happens with the rates here in Connecticut? Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

I don't believe that that's part of the current cost report that they have to submit to DSS. Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Betts.

REP. BETTS (78th):

Thank you very much. I am very concerned about what the impact or the perception of the impact this would have on what's obviously very significant legislation before the General Assembly. And including this or exposing this type of reporting as we try to find out whether we can reach a consensus on the hospital conversion I believe is going to be very problematic but I certainly hope it isn't.
But let me ask the good Chairlady if I could another line of questioning. This bill is focused solely or principally on for profit nursing homes as I understand it. Through you, Mr. Speaker, am I to

understand then that there are not problems in the non -- nonprofit nursing homes with financial transparency? Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker, the reason why the nonprofits were taken out was because under the profit and loss reporting that we are requiring under this we felt that that information was given through the 990 that nonprofits do have to submit which is -- which is open information which anyone can see. Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Betts.

REP. BETTS (78th):

Thank you very much. But would the good lady also agree that nonprofits are just as capable of shielding if you will some of their funds as a for profit they just use a different means of doing it? Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker, that wasn't our understanding through the testimony. Through you.

DEPUTY SPEAKER GODFREY:

Representative Betts.

REP. BETTS (78th):

Okay. Thank you very much. And my last question deals with the issue of DSS, Department of Social Services. It's been assigned if you will this responsibility. I believe it's very important that we are very transparent but what's even as important is to make sure that we enforce it, that we make certain that when we pass something that we mean it and that people who are going to be overseen or evaluated know that we have the resources not only to conduct the business but they should be fearful because there will be very severe consequences should they not abide by the legislation of the transparency.

It's been my experience in the three and a half years here, the Department of Social Services through a multitude of reasons has a lot of catching up we'll say to do in terms of trying to become more efficient. They've been investing a lot of money into the computer systems, the software, hiring people but they're still being very much challenged on a daily

basis to meet their basic need and mission and especially when you're trying to make a phone call and reach a -- a live person. It is very difficult for me to understand and perhaps the good Chairlady could assure me, it is incredibly difficult for me to understand given the current status of DSS and the complaints that many of us have heard throughout this session and last session how DSS is even going to have the time much less the resources to be able to examine these records.

If we're passing this law just for the purpose of collecting records and financial record keeping then I really question the validity in terms of how serious we are about the transparency. If on the other hand we're doing it and we're going to really go through these records then I think for profit nursing homes would have every reason to be very concerned and make sure they do a very thorough job in submitting these records because they're going to be reviewed.

So once again, through you, Mr. Speaker, I'm asking if we move forward with this are you confident or has the Commissioner in any way indicated to you that they have the ability and that this is a priority that is going to be seriously taken as opposed to just

simply receiving and storing records until something bad happens. Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker. I can just talk about the testimony that the Commissioner gave at the public hearing. The Commissioner had testified that this -- he felt that this information was very important to them and that it would be something that they would use when needed when they were looking at the rates for nursing homes. So it -- when they're looking at the current information that they get and they see a discrepancy then that's when they will dig deeper into these financials. Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Betts.

REP. BETTS (78th):

I thank you and I have no other questions but I -- that's precisely the point. When they see it, they will pursue it. I'm not sure they're going to see it because they have the -- I don't believe they have either the resources, the expertise or the -- or the staff to be able to go through all this. I -- I think

like everybody we all think it's important to have great transparency here. But not only do I think that this is an unfair and unbalanced bill but I have no confidence whatsoever that DSS is either going to be able to have the staff or the resources to do the job that the intention of this bill is trying to accomplish. For those reasons as well as for the financial disclosure which is really becoming a problem and that reminds me of one last question. I'm sorry.

Through you, Mr. Speaker, how were these vendors or subcontractors that do work with nursing homes -- how are they going to be told about having to submit their financial records of their business when they -- they receive over $50,000. Who's going to tell them they have to submit this and what happens? Is it the nursing home that's going to be responsible should they not do it on time or delay it? Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker. So I'm the nursing home and I know that by December I have to submit my

financials to DSS to get my rate for nursing homes. I am going to make sure that the vendors that I contract with under the definition of related parties will submit their profit and loss statements to me so that my report that I have to submit to DSS is all intact. Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Betts.

REP. BETTS (78th):

Thank you very much. And I'm sure they will do their very best but do they have any legal authority to force those companies to submit those financial disclosures in a timely way? Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker. I don't know if they have a legal way of getting them to submit them but I think that one of the reasons -- and I can't remember the line in here where we said may do the reduction of ten percent to the nursing home for their rates versus shall is to give the nursing homes the opportunity to

get all the information that's required through DSS. Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Betts.

REP. BETTS (78th):

And again I thank the good Chairlady for all her answers. I do have no more questions but I will be opposing the bill for the reasons stated previously. And I thank you very much.

DEPUTY SPEAKER GODFREY:

Thank you, sir. Representative Ackert.

REP. ACKERT (8th):

Thank you, Mr. Speaker. And a couple of questions to the good Chair.

DEPUTY SPEAKER GODFREY:

Proceed, sir.

REP. ACKERT (8th):

Thank you, Mr. Speaker. And thank you, Chair, for all your answers for tonight. I did hear a couple that I was more interested in a financial component of it and so if you will indulge me. Under the sections that were lines four through 14, and I understand that the amendment raised it to $50,000 now for the related company. Is that cumulative? Let's say I happen to

own a company, so I have LLC Paving and I have LLC Lawn Clearing and I have LLC you know Sanitarial Services. Me individually, a related party and I -- all my contracts are $40,000. Would I be obligated to -- because since all of them are only $40,000 but I'm still the individual LLC owner would I be obligated to have to be part of this filing or I would be exempt?

Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Abercrombie.

REP> ABERCROMBIE (83rd):

Through you, Mr. Speaker. So do you have all of those contracts with the nursing home? Through you, Mr. Speaker. Or are you talking about just one in particular because if it's just one component -- so say for example you're the lawn care and that's your contract with the nursing home and that's $40,000 then no you do not have to report the profit and loss. Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Ackert.

REP. ACKERT (8th):

Thank you, Mr. Speaker. And I appreciate that answer. So if I have the related -- and again it's a

different company, I'm the owner. So it is cumulative. So if you add all the contracts that they may have, all of them -- none of the contracts are worth 40 -- more than 50 then I -- even though it's accumulative that would be part of this legislation? Through you, Mr. Speaker, that I would have to be -- I'd have to also submit a profit and loss for all three of those even though they do not individually exceed 50 but cumulative they do.

DEPUTY SPEAKER GODFREY:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker. I don't believe that it would be cumulative. I believe that it's per contract. And if each -- even if you have ten contracts, if each contract is under $50,000 then you do not have to provide the profit and loss. Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Ackert.

REP. ACKERT (8th):

And that's the way I read it and I thank the good lady for her answers because we look at transparency -- and I tell you most of the businesses out there are

good businesses. They do not you know overcharge to financial gain because it's a way to circumvent the system.

But there lies a problem right there that I could have ten LLCs spreading my services around and still be the individual receiver of it. So there's where -- you know an area where not that I'm interested in doing this but where somebody could easily go around the system. And then through you, Mr. Speaker, a question on the difference between the 990 filing that a not for profit has and a -- the profit and loss statement because it's my understanding that they are quite similar. Is that true, through you, Mr. Speaker?

DEPUTY SPEAKER GODFREY:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker. To tell you the truth I'm not sure. I do have a copy of a 990 with me but I don't have a copy of the profit and loss. So through you, Mr. Speaker, I'm not sure.

DEPUTY SPEAKER GODFREY:

Representative Ackert.

REP. ACKERT (8th):

Thank you, Mr. Speaker. Because we -- we -- we based our decision as to not to do not for profits over for profits because they did a 990 filing which was more transparent and to my understanding they are quite similar in filings. So I'm not sure why the not for profits were being done if that was the case so I'll thank the good lady for her answers. And then through you, Mr. Speaker, how many for profit nursing homes does DSS now assist in funding for care? Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

My understanding is there are 154 for profits that receive Medicaid funding. Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Ackert.

REP. ACKERT (8th):

Thank you. Thank you -- thank you, Mr. Speaker. And thank you to the good lady. And what is the fee that the auditing company charges the Department of Social Services for those -- review of those audits?

Do you, through you, Mr. Speaker, do you know the number that they charge? Okay.

DEPUTY SPEAKER GODFREY:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker, no I do not have that number.

DEPUTY SPEAKER GODFREY:

Representative Ackert.

REP. ACKERT (8th):

Thank you, Mr. Speaker. So we know there's going to be -- essentially 154 audits now. Has there been an assessment of how many additional audits will now need to be done for related parties as part of this process since they now -- the -- the associate -- the related companies now need to submit a profit and loss for auditing also. Do we know the number of the additional audits and well obviously we don't know the number of the costs -- we don't know the number of the original costs. So do we know how many additional audits may be required under this legislation for the related parties?

DEPUTY SPEAKER GODFREY:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker. So this current legislation that we're looking at would not add more audits. What it requires is an added -- an added profit and loss requirement so that if as they're looking at the financials find that there is an issue that DSS has the ability to dig deeper. Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Ackert.

REP. ACKERT (8th):

Thank you, Mr. Speaker.. And I thank the good Chair for her answers and I appreciate those. I believe that there obviously -- I know I own a business and have auditing and any time I have additional work for my accountant I know it shows up in a bill. So -- and I know this will be the same. If there's additional audits done for businesses -- so let's say that 154 now there's three to four additional forms put in with that audit and that would be complete profit and loss statement that there should be additional costs. No business would say no that's fine, triple our workload or -- or relative to that that we will pay the same -- we will pay -- get

paid the same amount. So I thank the good lady for her answers. And I'll listen to the rest of the debate on the bill. Thank you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Thank you, sir. Representative Zupkus.

REP. ZUPKUS (132nd):

Thank you, Mr. Speaker. Through you, Mr. Speaker, I have a couple of questions for the good Chairman of the Human Services Committee.

DEPUTY SPEAKER GODFREY:

Proceed.

REP. ZUPKUS (132nd):

Thank you. I have a question as far as the profit and loss statement and how that is determined for I think I heard earlier some hours ago that it is related to the rate increase or not increase. Is that correct? Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker. No. And if I indicated that I apologize. No, the profit and loss statement is going to be used if a nursing home if and when DSS does their audit of the nursing home and finds a

discrepancy and needs to drill down farther that's where that profit and loss information will come into effect. Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Zupkus.

REP. ZUPKUS (132nd):

Thank you. And through you, Mr. Speaker, when was the last time that nursing home's rate increased? Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker, they do fluctuate from year to year depending on what's going on in the nursing home, how many beds they have, if they've decreased. I don't know the last time that they did get an increase. Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Zupkus.

REP. ZUPKUS (132nd):

Thank you. Through you. So possibly a few years ago they got an increase and during that time costs have gone up. Labor's gone up, food, oil, all of these things have gone up. And I would say or we

could say that the nursing homes are under pressure to be more efficient and effective? Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker, the good Representative is true in her analysis. Through you.

DEPUTY SPEAKER GODFREY:

Representative Zupkus.

REP. ZUPKUS (132nd):

Thank you. And for the need to them to be so efficient and effective are there times and I think I've heard through this debate where they may form their own company for services that needed to be rendered. For instance, therapy, something that they have to have. Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker. I'm not aware of that but the good Representative might know better than me. Through you.

DEPUTY SPEAKER GODFREY:

Representative Zupkus.

REP. ZUPKUS (132nd):

Okay. Thank you. And if that is the case, they would be a related party so they would have to show their profit and loss statements all of this information? Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

If they're doing business to themselves in the excess of $50,000 I would say that they are subject to the same requirements in this bill. Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Zupkus.

REP. ZUPKUS (132nd):

Thank you. And through you, Mr. Speaker, it's my understanding that DSS would disallow cost inconsistence with the market. So if they did accompany -- they formed their own company they would not pay that company more than the market rate. Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

If the gentle lady could show me where she's seeing that in the legislation that would be helpful. I'm not aware of what section she's referring to. Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Zupkus.

REP. ZUPKUS (132nd):

I thought that I had heard that when I was on the human services committee. So if that is not the case they could in fact charge whatever they wanted to charge? Through you, Mr. Speaker. Or does DSS make companies pay the market rate when they're doing services?

DEPUTY SPEAKER GODFREY:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker. Again if the good Representative could tell me where she's seeing this in the language. I don't remember seeing that in this bill. Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Zupkus.

REP. ZUPKUS (132nd):

Thank you. I don't actually have it in front of me. I'd just taken some notes. But moving forward so if a company -- so they've decided they have to go out, they still have to get these services. If -- as if they hired an outside company and it was unrelated they would not have to show these transactions and they would not have to be reported. So I guess my point is I -- the long and short of it is I think this is really bad legislation and I think that we need to encourage our corporations to thrive, be efficient, be effective.

And I really think that this bill discourages that. We are known as a very unfriendly business State. I think this puts pressure on the nursing homes. It puts pressure on the related businesses. They're going to stop doing businesses. They're going to stop creating jobs in this -- to Representative O'Dea's comments earlier, we need to be creating jobs and I just don't see where any of this does that. So with that and with all of the other comments that have been made I will not be supporting this piece of legislation. Thank you.

DEPUTY SPEAKER GODFREY:

Thank you, Ma'am. For the second time, Representative Noujaim.

REP. NOUJAIM (74th):

Good evening, Mr. Speaker, for the second time. Mr. Speaker, it's been a while since I've seen you up on the dais. Welcome.

DEPUTY SPEAKER GODFREY:

It's good to be seen.

REP. NOUJAIM (74th):

Through you, Mr. Speaker, for legislative intent I do have one question to the proponent.

DEPUTY SPEAKER GODFREY:

Proceed.

REP. NOUJAIM (74th):

Mr. Speaker, through you, we determined in the previous conversation that I had with the proponent the fact that if companies are private entities and they are asked by the nursing home to supply their financials and the private entities obviously refuse because they are private and they are not obligated to disclose their financials to anyone besides the appropriate authorities. For legislative intent, what would happen at that time? Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker. The nursing home would not be able to fulfill their requirement under this legislation to submit to DSS. Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Noujaim.

REP. NOUJAIM (74th):

Thank you, Mr. Speaker. And through you, Mr. Speaker, then what's next? Obviously there are -- there are people who are vulnerable who are in beds the nursing homes. So what happens to the nursing home after that fact? Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

So through you, Mr. Speaker, DSS has the option of decreasing their rate by ten percent under this current legislation. Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Noujaim.

REP. NOUJAIM (74th):

Thank you, Mr. Speaker. And through you, Mr. Speaker, that's basically the point that I was trying to derive at. So if -- if the suppliers refuse by the law -- they go by the law and they say we are not obligated to disclose then who pays the price? Pays the price the nursing home administrators whether they are for profit or nonprofit for reasons that are way, way beyond their control.

So through you, Mr. Speaker, is it really fair to penalize the nursing homes whether they are for profit or nonprofit because the law does not allow or the law protects private entity from disclosing their financials? Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker. It's up to the discretion of the commissioner and that's why it's a may and not a shall so that the commissioner has flexibility to work with the nursing home. Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Noujaim.

REP. NOUJAIM (74th):

Thank you, Mr. Speaker. I truly appreciate the answers. I'm very appreciative. I know it's been a long time so I'll -- for now I appreciate the answers and obviously this is a piece of legislation that I will not be able to support. Thank you, sir.

DEPUTY SPEAKER GODFREY:

Thank you, sir. Will you remark further on the bill? Will you remark further on the bill? Representative O'Neill, I knew I could count on you. I can see the red flag so I knew something was afoot. Go.

REP. O'NEILL (68th):

Yes, thank you, Mr. Speaker. Just a -- a couple of questions regarding the bill.

DEPUTY SPEAKER GODFREY:

Proceed, sir.

REP. O'NEILL (68th):

We're obviously going to be asking for additional information, information we do not currently receive. And it appears to me that this is somewhat more detailed information about the internal operations of the -- both the nursing home and these other companies with which it does business. I don't see anything in the bill itself that or that would deal with the

question of whether this information is disclosable under a freedom of information request. And unfortunately I don't -- if it was mentioned before I apologize for asking a question that might have been mentioned before. But is this information once it is gathered by the department going to be subject to disclosure by way of a freedom of information request? Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker, my understanding is yes.

DEPUTY SPEAKER GODFREY:

Representative O'Neill.

REP. O'NEILL (68th):

And I'm just wondering was this given consideration during the committee discussions about the bill. I -- again in perusing the testimony of the JF report it doesn't seem to have come up at all but I'm just wondering was this something that was thought about in terms of the degree to which this information which is gathered for a relatively limited purpose it appears about the department's operations and

regulations, that once it's gathered by the department and if it's not exempted by way of the freedom of information request that this might give a lot of information out to potential competitors not just of the nursing home but those other organizations that are going to be required to disclose a lot of information about their own operations. So I'm just wondering was this ever part of the discussions either in the committee meetings or along the way that people had about not allowing this information to be disclosed. Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker. I don't recall it being raised in the committee hearing. Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative O'Neill.

REP. O'NEILL (68th):

And also what about during committee meetings or discussions about the bill? Was any thought given to the idea that given that we're gathering an awful lot of information about the -- not just the nursing homes

but these other companies that they do business with that now this information is going to be out there in the public domain available to potential competitors of these companies. Through you, Mr. Speaker.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker, I don't recall it being a conversation. Through you.

DEPUTY SPEAKER GODFREY:

Representative O'Neill.

REP. O'NEILL (68th):

Thank you, Mr. Speaker. Because that's one of the things that concerns me about this piece of legislation is that you know it's one thing for example for the Department of Revenue Services to gather information to verify that people are -- are reporting accurately their taxes. But the information that's gathered, the tax returns themselves and -- and if additional documentation is called for when the Department of Revenue Services is collecting information as far as I understand it that information is generally not disclosable.

And there are other circumstances in which people are called upon to reveal fairly detailed information about their business operations which again is -- is -

- there are exemptions under the freedom of information law that protect against the disclosure of that information. And I -- I think it's an unfortunate omission in this piece of legislation to provide for no protection for this information. If the department is not going to do anything with and I'm not really sure why it should be generally available.

We're talking about the internal operations of private corporations. And I can sort of see the nursing homes themselves. They get a lot of money from the State and sometimes you can say that they are in effect funded by the State because they get such a high percentage of their funding through the Medicaid program. But the companies that they do business with may or may not be substantially dependent on the nursing home. And those companies are not really doing business with the State.

And we are asking for again a lot of information that goes way beyond what would normally be made available in public about a business operation and again with the freedom of information act the way it is and the disclosures that are allowed under the freedom of information act we're going to be basically

forcing these folks to disclose an awful lot of information.

And it just seems that one of the concerns that I think a number of members have about this bill could have been addressed by simply saying that information would not be subject to disclosure unless there was some sort of a showing that there was some sort of wrongdoing that was being indicated. And I really do believe that this sort of thing should have been at least considered and there should have been a discussion in the committee or at the public hearing raising this as an issue about just how much disclosure should be allowed but also by the committee in its deliberations.

And the fact that it didn't come up at all is -- is something that surprises me that no one raised this issue because of this really intrusive kind of a gathering of information from these individual corporations. So, Mr. Speaker, I -- I expect that I will probably be voting no on this bill and that is certainly a major reason in my mind for why a no vote is the appropriate one. Thank you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Thank you, sir. Representative Srinivasan.

REP. SRINIVASAN (31st):

Thank you, Mr. Speaker. Good evening, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

For the second time, sir.

REP. SRINIVASAN (31st):

Yes, thank you, Mr. Speaker, for giving -- for indulging me the second time. I appreciate that. Through you, Mr. Speaker, just a few questions to the proponent of the bill as amended. Through you, Mr. Speaker, will these profit and loss statements have to be reported by all the service providers to the nursing homes or meet obviously the threshold of 50,000 and above on an annual basis to DDS? Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker, only if they -- two things, only if they -- only if they have the related party definition and secondly its DSS not DDS, through you, Mr. Speaker.

REP. SRINIVASAN (31st):

Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative.

REP. SRINIVASAN (31st):

Thank you very much for that correction. I do appreciate that. It is. I understand that. Yes, I did mean it is a related party and so if it is a related would it have to be on an annual basis? Through you, Mr. Speaker.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker. Yes, that's my understanding.

DEPUTY SPEAKER GODFREY:

Representative Srinivasan.

REP. SRINIVASAN (31st):

Through you, Mr. Speaker, if the various service centers that offer services to the nursing homes they are all related, we are coming -- you know the subject matter is in these service areas that are related. If the nursing home gets most of them but not all of them because obviously some of them are -- are objecting to provide their statements would that be sufficient? Is there some ceiling that they need to get a certain

percentage or has it have -- does it have to be each and every one? Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker. I would assume that DSS would have -- the commissioner would have the discretion to look at the financials and if they did see a discrepancy in the financials be able to drill down to the third -- to the related party. Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Srinivasan.

REP. SRINIVASAN (31st):

So through you, Mr. Speaker, am I to understand that then it is at their discretion as to how many of these profit and loss statements that they would be requesting from the various nursing homes? Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker. No, what I'm saying is it's -- the current legislation before us requires

that the related parties submit a profit and loss along with their financials to DSS. What I'm saying is if DSS through their evaluation analysis of the financials finds that there's discrepancy and as they go through the related parties and not all of them are there they will -- I would -- I would say that they have the discretion to you know make sure that they're all there. Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Srinivasan.

REP. SRINIVASAN (31st):

Through you, Mr. Speaker, my final question is if these documents are not provided I've heard you say this before, the commissioner may -- I know it's a may, it's not a shall, can reduce the nursing rates reimbursement up to ten percent. Is that -- if it -- if it has happened once on one year the ten percent reduction happened or almost close to ten percent because all the paperwork was not there, the financials were not submitted and the same thing happens the second year. Unfortunately for that nursing home would that ten percent the commissioner may still be allowed or capable of reducing the rates

by another ten percent for the second time? Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker. Yes, because every year is a new year when it comes to the financials. Through you.

REP. SRINIVASAN (31st):

Thank you, Mr. Speaker. And I want to thank the good Chairwoman for her answers.

DEPUTY SPEAKER GODFREY:

Thank you, sir. Representative Chris Davis of the 57th.

REP. DAVIS (57th):

Thank you, Mr. Speaker. Good evening.

DEPUTY SPEAKER GODFREY:

Good evening.

REP. DAVIS (57th):

A few questions through you to the proponent of the bill.

DEPUTY SPEAKER GODFREY:

Proceed.

REP. DAVIS (57th):

Thank you, Mr. Speaker. Mr. Speaker, I understand this bill kind of only targets for profit nursing homes and I was just wondering do any other State agencies here in the State of Connecticut require other for profit businesses to report on their related third party businesses? Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker. I can't speak for other agencies as Chair of human services I only deal with the DSS. Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Davis.

REP. DAVIS (57th):

Thank you, Mr. Speaker. And through you, I guess we'll go down through this passage. So she's unaware that if the Department of Developmental Services would receive these kinds of reports through third party entities? Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker. I am not aware. The Department of Developmental Services does not fall under human services. They fall under public health which I do not serve on. Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Davis.

REP. DAVIS (57th):

Thank you, Mr. Speaker. And through you, so this language was not mirrored upon requirements of these kinds of businesses through other State agencies that provide State services and State money to vulnerable -- or to those entities that provide services to vulnerable citizens here through the State, through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker. I can't say yes and I can't say no. I don't -- I don't have that answer. Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Davis.

REP. DAVIS (57th):

Thank you, Mr. Speaker. And through you, to the kind gentle lady. What is the purpose of the language in the bill that protects the Department of Social Services and the State of Connecticut from a lawsuit if they fail to take action on the information contained in the reports that they received. Through you, Madam -- through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker. So the profit and loss portion of this bill is an added report so that when they look at the cost report that they get to determine the rate for nursing homes that if they see a discrepancy then they can drill down. The person -- the purpose of them being held harmless is if when they look at the financials they do not see that there is a discrepancy and they do not drill down the profit and -- profit and loss reporting that if for some reason something does happen with the nursing home down the line they will be held harmless. Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Davis.

REP. DAVIS (57th):

Thank you, Mr. Speaker. And does the current State law in any other reports that are provided to the Department of Social Services do we hold the State harmless in a similar manner? Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker. Yes, we do. In the current reporting that they do for nursing homes, their financials, they are held harmless. Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Davis.

REP. DAVIS (57th):

Thank you, Mr. Speaker. So the language contained in the bill is not new language holding the State harmless? Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Abercrombie.

REP. ABERCROMBIE (83rd):

Through you, Mr. Speaker. I'm sorry. You had turned your head so I'm just going to repeat what I

think that I heard you say. So the current -- the language that we're using here is in current language that we use under the cost reports now. Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Davis.

REP. DAVIS (57th):

Thank you, Mr. Speaker. And I thank the kind lady for her answers. This -- I do have some concerns about this bill most certainly. But in particular the fact that we don't require any other businesses that do business with the State of Connecticut -- if the sole purpose of this bill was to protect the State of Connecticut's taxpayers from the money going to these third party entities and perhaps discrepancies being found between the nursing homes and these related parties, you know why don't we do this in other areas in the State of Connecticut and are limiting ourselves just to this.

Obviously it came through the human services committee. They're trying to limit it just to DSS but if that was the true action you know why haven't we done this in years past and why aren't we doing it for other service providers throughout the State. So

through -- thank you, Mr. Speaker, for the opportunity to speak this evening. And I look forward to the vote on this bill. Thank you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Thank you, sir. Will you remark further on the bill? Will you remark further on the bill? If not, staff and guests please come to the well of the House. Members take your seats. The machine will be opened.

THE CLERK:

The House of Representatives is voting by roll. The House of Representatives is voting by roll. Will members please report to the Chamber immediately.

DEPUTY SPEAKER GODFREY:

Have all the members voted? Have all the members voted? If all the members have voted the machine will be locked. The Clerk will take a tally. And the Clerk will announce the tally.

THE CLERK:

House Bill 5051 as amended by House B.

Total Number Voting	143
Necessary for Passage	72
Those voting Yea	86
Those voting Nay	57
Those absent and not voting	8

DEPUTY SPEAKER GODFREY:

The bill as amended is passed. Representative Flexer I'm -- rumor has it you have an announcement.

REP. FLEXER (44th):

Yes, Mr. Speaker, I do. Thank you very much. It seems this week here in the House of Representatives we have a lot of celebrations and today is our colleague, Representative Matthew Lesser's birthday. So I'd like everybody to wish him a happy birthday.

DEPUTY SPEAKER GODFREY:

Representative Lesser, I'm so happy that you've turned 21 and can vote or something now. Whatever it is. Happy birthday. Do we have any other announcements? If not, we'll return to the call of the Calendar. We'll stand at ease is what we'll do.

(Chamber at ease.)

DEPUTY SPEAKER GODFREY:

House will come back to order. We will return to the call of the Calendar. Will the Clerk please call Calendar 426.

THE CLERK

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On Page 29, Calendar 537, Substitute for House Bill Number 5051 AN ACT IMPROVING TRANSPARENCY OF NURSING HOME OPERATIONS. Favorable Report of the Committee on Human Services. There are amendments.

THE CHAIR:

Senator Slossberg.

SENATOR SLOSSBERG:

Yes, thank you. Good evening, Mr. President.

THE CHAIR:

Good evening, Senator.

SENATOR SLOSSBERG:

I move acceptance of the Joint Committee's Favorable Report and passage of the bill in concurrence with the House.

THE CHAIR:

On acceptance and passage in concurrence. Will you remark, madam?

SENATOR SLOSSBERG:

Yes, thank you, Mr. President. This bill will require increased transparency in financial reporting for for-profit nursing homes, which receive state funding. It would require homes to include as a part of their required annual cost report filed with the state, that it be most recent profit and loss statement for any related party of the home, which has received $50,000 or more a year from the nursing home for goods, fees charged to the home by related parties and services. A related party is defined in the bill.

The goal of the bill is to ensure the protection of the increasingly frail and the vulnerable population of nursing home residents in the state by giving the state an earlier and more accurate picture of the financial solvency of the homes and their greater entities and that the annual cost reports on which the

state payment to the homes are actually based on an accurate picture of the home's finances.

According to the Office of Policy and Management, the state spends approximately $1.6 billion on nursing home care for state residents, and the additional data that is required under this bill will ensure that the state has on hand an accurate picture of the homes' finances.

Although the vast majority of nursing homes in our state operate ethically and with great attention to the residents in their care, there have been many instances of concern, and the state's successful efforts to transition nursing home residents to home care means that the great majority of those residents remaining in nursing homes are frail, elderly, dependent, desperate in need of protection and the transparency bill before us is a means to ensure that state funds are being spent wisely and nursing home residents are protected.

THE CHAIR:

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

SENATOR WELCH:

Thank you, Mr. President. A little out of order here. I was hoping our ranking member would be available to start the debate on this bill but he's not in the Chamber at this time.

In light of that, I do have a number of questions, and I think the first question that I have is more philosophical and rather than technical. I do have a bunch of technical questions as well.

And that is, how, what I understand this bill to be doing is essentially requiring a profit and loss statement with an annual reporting, and I guess philosophically the question I have is, why is that needed as you say, Senator Slossberg, to ensure healthcare for the elderly population that might be within this home. Through you, Madam President, Mr. President.

THE CHAIR:

Senator Slossberg.

SENATOR SLOSSBERG:

Thank you. Through you, Mr. President, what is required under this bill is that if a related party to a nursing home is paying, if the nursing is paying a related party more than $50,000 a year, that related entity must submit to the nursing home and the nursing home would then submit with their annual cost report, a profit and loss statement.

And the purpose of this is that with the changes in the corporate structure of nursing homes nowadays, we're seeing many related entities and different corporate structures where it's very easy to shift assets from the nursing home to those related entities, and by being able to see the profit and loss statement from those related entities, we're able to determine the financial health of the nursing home as a system.

THE CHAIR:

Senator Welch.

SENATOR WELCH:

Thank you, Mr. President. And again, I apologize for any confusion I may have. But when you say, well let me back up. What is a related party? Through you, Mr. President.

THE CHAIR:

Senator Slossberg.

SENATOR WELCH:

Yes. A related party is defined in the bill. It's in the first section, Section a, and it's defined in the bill as a company related to a chronic convalescent nursing home through family association, common ownership, control or business association with any of

the owners, operators or officials of the nursing home.

THE CHAIR:

Senator Welch.

SENATOR WELCH:

Okay. So if I am the owner of a for-profit nursing home and I have a son that owns a landscaping business, would that landscaping business be a related party? Through you, Mr. President.

THE CHAIR:

Senator Slossberg.

SENATOR WELCH:

Through you, Mr. President, if that landscaping business is being paid by the nursing home more than $50,000 a year, that answer is yes.

THE CHAIR:

Senator Welch.

SENATOR WELCH:

Thank you, Mr. President. And actually, I see that our ranking member has entered the Chamber, and if it's appropriate, I would like to yield my time to Senator Markley.

THE CHAIR:

Senator Markley, do you accept the yield?

SENATOR MARKLEY:

Yes, I will, thank you, Mr. President. And I suppose I will allow Senator Slossberg to sit down for a moment if she'd like to and when I get to the questions, I'll ask her to spring to again.

So, and you know, I have to say this is a bill that I've thought about a good deal and we've dealt with a good deal in the Human Services Committee. I haven't really considered too deeply what I was going to say about it, and I don't know that I have anything to talk about in great depth about it, but this.

Let me start by saying, let me start by saying something that's been obvious to anyone who's been observing the Human Services Committee, which I feel like we had a very good Session together, enjoyed working together on many issues, and I believe this bill is quite possibly the only bill that came out of Human Services that I voted against, and yet it was a very emphatic no on this particular bill.

And the reason is, as I think Senator Welch was beginning to explore, I feel that it is unwarranted interference in private industry, and I think one which creates a very dangerous precedent.

So to recap to some extent was Senator Slossberg was saying, the concern is that a nursing home, which has to report already all its various costs of doing business to the state, and which has to report the cost of ancillary businesses, which are directly involved in supplying the nursing home, that in addition to this, the nursing home would have to disclose profit and loss statements concerning other associated businesses throughout the country.

And let me say first of all, one of the strongest things I can say against this bill is that when it came before us last Session, the commissioner of the Department of Social Services opposed it and he said, the information was not necessary and that the department was not really in a position to take advantage of it and I think that's a very, and I invite Senator Slossberg when she gets back up to correct me on any incidentals that I might be wrong about because it's entirely possible that I am and I have confidence in her recollection of all these events.

But it seems to me that that in itself is something that should raise a caution flag for us.

The second thing about it is that this information, upon being obtained by the state, would then be subject to disclosure under the Freedom of Information Act, so even if we admit that there's a state interest and in this year's testimony, the commissioner said the state's interest in this was essentially to find out whether corporations were fiscally sound or not, and whether there was a concern for, that needed to be addressed by the department that might be disclosed through this information being made available about associated industries.

If we admit that that's the case, to my mind that is an issue which is only of interest to the State of Connecticut and to the Department of Social Services. It's not necessary that anybody else be able to look into the books of this private corporation.

There's all kinds of information, which the state receives for its own purposes, and legitimately so and as government functions nowadays, which we expect will be kept confidential.

I would say that the first thing that comes to mind is our own personal income taxes. We have to disclose that to the government. It certainly is intrusive in a certain sense, but we do it with the guarantee that nobody else has access to that.

Would people take it if they could? Yes, I think they would. I think some constituent or some ambitious politician or some digging journalist would say, let me take a look at Senator Meyer's income tax returns and see if there's anything interesting in there. I'd start with Senator Meyer, that's why.

And yet you'd say, that is simply, it's random digging. There's no public policy purpose served by making that material available to people.

And that, I think also applies to corporate tax returns, corporate statements of all kinds. I don't want to lean on this notion of the person or the corporations which I for myself am not entirely comfortable with.

But I would still say, insofar as they have legitimate interests and they have legitimate and eager competitors, that for them to disclose this material is potentially a dangerous thing to them.

And for that purpose, let me start by proposing, by calling an amendment, which the Clerk has. It's LCO Number 5419.

THE CHAIR:

Mr. Clerk.

THE CLERK:

LCO Number 5419, Senate "A," offered by Senator Markley.

THE CHAIR:

Senator Markley.

SENATOR MARKLEY:

Thank you, Mr. President. Yes, that is one of only two amendments that I believe we have filed, so you're not going to have a long night unless something changes quickly, at least as far as calling amendments goes.

I would move adoption of the amendment, Mr. President, ask the reading be waive and beg leave to comment further.

THE CHAIR:

Thank you, Senator. On adoption. Will you remark, sir?

SENATOR MARKLEY:

I might as well say while I'm thinking of it to, that I ask that there be a roll call vote on it, yes.

This Amendment is very simple. It simply inserts one line, such profit and loss reports, which is what would have to be provided by the nursing homes, shall

be exempt from disclosure under Section 1-210, essentially to say that this information will be protected from Freedom of Information requests and be reserved to the department, which has indicated this Session that they could make use of it in certain instances.

And I'll be interested, let me say, to hear what Senator Slossberg has to say in response to it because I respect her opinion and very much respect her powers of argument and persuasion.

But I honestly believe that this is a completely appropriate protection for these corporations, which simply addresses the danger, which is inherent in this bill without preventing the gathering of any information that anyone could imagine would be important for the State Department of Social Services to have.

So for those of you who have had hesitations about this, because certainly this is a bill that has been the subject of consideration attention and considerable, and intense lobbying over the last few days especially, I believe that this addresses what the nursing homes are the most concerned about, and I think it still satisfies what the state ostensibly presents as the purpose of the bill.

And I think that if we are honest in our intent in this bill, that there's no reason that this amendment cannot be adopted to thus guarantee the privacy of corporations.

And let me say finally, that I hate the establishment of precedence. I think it's important that corporations be able to keep things private that have traditionally been private, that they have reasons to wish to have private and if this can be done to nursing homes, we establish a precedent that can be established to other corporations which do considerable government business.

And of course, this is one of the problems we have in the expansion of government. Not simply the expense that's involved and the fact that we have to support it, but the fact that we begin to have a governmental

interest in private behavior, and it's hard not to see that interest, but I think it's important that that interest not simply overwhelm the issues of privacy, both personal and corporate that we're all sensitive to.

To say that because, well, to talk about an example that came before us a few weeks ago because government has an interest in keeping us healthy, a fiscal interest, not simply a moral interest, let's say. It also has an interest in what kind of milk children drink or whatever.

It's a slippery slope to some extent. All of our life here in Hartford at the Capitol is lived on a slippery slope, but I don't want to slip any further down the slope than I have to and I think this represents a very dangerous jump, which this amendment would prevent.

So I urge its adoption and look forward to hearing the causes that might prevent its adoption. Thank you, Mr. President.

THE CHAIR:

Thank you, Senator.

Senator Slossberg.

SENATOR SLOSSBERG:

Thank you, Mr. President. And before I rise in opposition to this amendment, respectfully, I'd just like to share the mutual experience, the feelings that it has been an incredibly wonderful Session on Human Services and I have enjoyed immensely working with Senator Markley.

We've had some wonderful discussions and worked collaboratively on every Human Service bill with everything that we have done for the people of the state of Connecticut and it's been a pleasure and I respect Senator Markley's opinion greatly and we have gone around on this issue and this bill for many, many months and sadly we come to a different place and a different conclusion, but nonetheless with all the

respect in the world for the position that Senator Markley is offering.

So with that said, I rise in opposition to this amendment before us. Primarily, you know, we are talking about nursing homes that receive significant taxpayer dollars. The nursing home industry is paid over $1.6 billion taxpayer dollars that we are the stewards of, and I believe that under those circumstances the public has a right to know and a need to know where those dollars are being spent and how they are being spent especially because what we are doing is, we are paying the nursing homes to care for some of our most frail and needy and vulnerable citizens.

And I would just, you know, bring to the attention of the Circle here that it is so important. You know, while we submit documents to the government, sometimes the government doesn't figure it all out and so in 2007 is a perfect example where we had a nursing home that was transferring dollars to the CEO and it wasn't the Department of Social Services that figured it out, it was actually the newspaper that broke the scandal and had those documents and that information been available, had it not been available to the public, then we would never have known all of the problems that would have occurred.

So we are all, need to be vigilant in terms of the information and the dollars that are spent as, you know, people recognize our cost reports that are filed by the nursing homes currently are open to the public and people are able to see them.

This is, with the change in corporate structure, those related party entities where they are making significant dollars, transfers of assets and transfers of dollars, that money has to be able to be followed and we need to be able to see where that goes.

So I rise in opposition to this amendment. I think the public has a need to know and a right to know.

THE CHAIR:

Thank you, Senator.

Senator Welch.

SENATOR WELCH:

Thank you, Mr. President. I rise in support of this amendment. I think Senator Slossberg made a point that we give a lot of money to these companies, but this bill isn't just about those companies.

This bill is about so much more than those companies and exempting this kind of information, if the state is going to possess it, I think is important, exempting from FOI, I think is important for two reasons.

The first is that very reason Senator Markley talked about and that is that is the corporation's right to privacy, which I think is valid and I think it's something that we ought to be concerned about.

The second is the erosion of FOI itself. If we get to the point where the State of Connecticut is just gathering more and more and more information, information about us, information about companies, information about transactions and all of this information is disclosable, at some point, at some point in time the doors of open government are going to close because a society cannot function with that much non-governmental disclosure, that much disclosure of private information and I think it's going to cause the very purposes that we have FGI to swallow FOI itself.

And frankly, if we are truly concerned about the things we're truly concerned about, things we're saying we're truly concerned about now, and that is, the viability and the integrity of these nursing care institutions, which are receiving state funds, we already have the information we need to make sure, to make sure that that's the case, that they're not inappropriately spending our money. They are already subject to so many regulations and disclosure requirements.

In fact, Senator Slossberg said it herself. A newspaper reporter uncovered information about a bad

actor. We didn't need this law. We didn't need this law to make that happen. It happened on its own, and that's a good thing, and that's a very good thing.

But to now ask for profit and loss information and essentially unrelated companies that have contracts with nursing care facilities, to require that information to be held by the State of Connecticut and then available to every single person on earth that essentially asks for it is incredible.

And that's why I think Senator Markley's Amendment is appropriate. It's measured. It protects the very institutions that have this information, are concerned about disclosing it because they're afraid of it going everywhere and yet it allows the State of Connecticut to accomplish at least our stated goals here today of making sure that the healthcare, the nursing homes remain viable and with integrity. Thank you, Mr. President.

THE CHAIR:

Thank you, Senator.

Senator Kane.

SENATOR KANE:

Thank you, Mr. President. I rise for a couple of questions to the proponent of the amendment.

THE CHAIR:

Please proceed, sir.

SENATOR KANE:

Thank you, Mr. President.

Senator Markley, the nursing homes that we're speaking of in the underlying bill and subsequently in your Amendment, are they publicly held companies? Through you, Mr. President.

THE CHAIR:

Senator Slossberg or Senator Markley?

SENATOR KANE:

Senator Markley, the proponent of the amendment.

THE CHAIR:

Oh, I'm sorry. Senator Markley.

SENATOR MARKLEY:

Thank you, Mr. President, through you. I think that as a matter, as a practical matter, they may be in all cases, but I don't know that they would have to be. I suppose there may be some combination of publicly held and privately held homes, but I suspect that the majority of the ones that we're dealing with in the state of Connecticut at this point are publicly held.

THE CHAIR:

Senator Kane.

SENATOR KANE:

Thank you, Mr. President. So, because not all nursing homes have to be publicly held, I don't think. Certainly, there are family-owned businesses and the like and in the underlying bill it says, who receive $50,000 or more from DSS, I believe.

Are you familiar with any other group of businesses that receive state funding that have to provide profit and loss statements? Through you, Mr. President.

THE CHAIR:

Senator Markley.

SENATOR MARKLEY:

Thank you, Mr. President. Through you, I would say again, I'm not, offhand, I don't know for sure. I guess I wouldn't be surprised if there's other service providers in the social services area conceivably group home operators or somebody like that might have

to provide details, if not profit and loss statements, detailed statements about operating costs.

I think it's interesting. Parenthetically, in response to something else that Senator Kane said, I think over the years the scale of these operations has increased so much that the model of the family-run nursing home has shrunk and that there's things, there's few such operations still in place.

If that's what we were dealing with I don't that a bill like this would ever be appropriate, because you wouldn't have the associated businesses. It is because of the great extent of these systems, which could be national systems at this point that there would even be interest in what the operations were in other states.

But I don't know offhand that there are any other entities. Hospitals would be another one that certainly have to, are reporting all kinds of cost information. The question would be not simply the expenses of the entity receiving the state funds, but under this bill, the entities associated with these nursing homes and I think that's where the real expansion of government scrutiny is and where I think that the protection of the information is especially important.

THE CHAIR:

Senator Kane.

SENATOR KANE:

Thank you, Mr. President. I thank Senator Markley for answering my questions. I think what I'll do is save my questions for the underlying bill when we get back on it, but in the meantime, I will support the amendment. Thank you.

THE CHAIR:

Thank you, Senator.

Senator McLachlan.

SENATOR MCLACHLAN:

Thank you, Mr. President. I stand for the purpose of questions to the proponent of the amendment.

THE CHAIR:

Please proceed, sir.

SENATOR MCLACHLAN:

Thank you, Mr. President. Thank you, Senator Markley for your Amendment. It seems logical, but I thought I would try and clarify in your understanding, where else in state government do we require the type of reporting being asked for that you seek to protect under Freedom of Information? Through you, Mr. President.

THE CHAIR:

Senator Markley.

SENATOR MARKLEY:

Thank you, Mr. President. Through you, I would say nowhere else in state government is information like this expected from private corporations, and that's the reason that I'm so uncomfortable with this bill and why I think the very reasonable protection that is extended by this amendment is so important.

THE CHAIR:

Senator McLachlan.

SENATOR MCLACHLAN:

Thank you, Mr. President. Thank you, Senator Markley. That is my understanding and I'll certainly ask for clarification on the underlying bill from the Chairman of Human Services Committee.

I wonder also if you are familiar with the current requirements, Senator Markley, of the nursing homes to file an annual report of long-term care facility,

which is an extensive report filed with state government now. Through you, Mr. President.

THE CHAIR:

Senator Markley.

SENATOR MARKLEY:

Thank you, Mr. President. Through you. Yes, certainly I'm familiar with the concept of it, Senator McLachlan. I can't say that I've gone through such a filing page by page but I've seen the bulk of it and I believe that it, and there's not been a question about the adequacy of the information being requested by the department in that critical document.

If the department came to us and said we need more information about the operation of the particular nursing home, I'd certainly give them a sympathetic hearing because it's a very expensive part of the budget that for years has grown in expense and one that both times I have been here I've been involved in trying to find ways to prevent the explosive growth of the cost.

I think that it's a funny situation because we no longer have a normal pricing system when it comes to nursing home care and state reimbursement. We have a cost base system, which requires an awful lot of bureaucratic oversight.

I find it hard to believe that's the best way to do it, but that's the way that we have and I see no prospect of that changing anywhere soon.

Therefore, I would extend to the bureaucrats the right to gather the information they require for the oversight. I think that by their own admission they've shown that what they ask for, what is being asked for now is not necessary for that pricing. It's based on other suspicions, and honestly, I think that the drive to get the information has other motives than merely figuring what the costs of doing business are.

So to back up to Senator McLachlan's question, I am familiar with it and I am comfortable with the adequacy of what is currently being provided. Through you, Mr. President. Thank you.

THE CHAIR:

Senator McLachlan.

SENATOR MCLACHLAN:

Thank you, Mr. President. Thank you, Senator Markley. Is it your understanding that the report I've asked about, once again, the annual report of long-term care facility, is that subject to Freedom of Information? Through you, Mr. President.

THE CHAIR:

Senator Markley.

SENATOR MARKLEY:

Thank you, Mr. President. Through you, yes, it's my understanding that it is.

THE CHAIR:

Senator McLachlan.

SENATOR MCLACHLAN:

Thank you, Mr. President, and thank you Senator Markley. I'll stand in support of your Amendment. I think that you raise a very good point and certainly in the underlying bill, I think it's appropriate for us to talk a little bit more about the existing reporting that is outstanding and required by nursing home facilities today.

It's this annual report of long-term care facility with a designation of Form Number CSP-1 through the one that I've looked at up to CSP-21. That's the form number, includes general information about the operation, the salaries of the operators, the owners, the administrators, expenditures on a fee base and expenditures under contract, and management services,

quite an awful lot of extensive financial information on the operation of a nursing home that is currently subject to the Freedom of Information Act.

And I believe as was indicated by a prior speaker, that a reporter actually dug up some challenges and problems with a particular nursing home that was, well, was quoted as a bad apple, I believe.

If I'm not mistaken it was through these documents that that was discovered, so Mr. President, I believe that Senator Markley is on to something. There is a certain point where private business entity that is already disclosing a great deal of financial information should have a firewall somewhere along the way and I believe that this particular case shielding this report that's being requested in the underlying bill, shielding it through the Freedom of Information, but keeping the current annual report of long-term care facility available through Freedom of Information is a good model for us to consider if the underlying bill must pass.

I'm struggling with the underlying bill, but we'll get to that next. Thank you, Mr. President.

THE CHAIR:

Thank you, Senator.

Senator Boucher.

SENATOR BOUCHER:

Thank you, Madam President.

Madam President? Mr. President. The last time I looked I think for sure?

I rise to support this amendment. I think the good Senator of the Human Services Committee is trying very hard to help keep our nursing home industry solvent and functioning well.

There is no question that there are many of us that are very concerned about that area and I do commend

the Chair of this Committee as well for focusing attention on a very, very important subject.

I have to say that even in almost every family, we're confronted by some of this, even in my own when my mother was alive, and at the end of her life she did spend some time in a nursing home and it was a great concern to me and my brother as well, the type of care she was getting, whether or not the nursing home would be there for the entire length that she would be needing the care.

So there is some concern about that issue and it's important for us to be discussing it. On the other hand, we also want them to remain in business and this seems to be focusing on just some type of nursing home, the for-profit versus the not-for-profit and in fact, maybe even more scrutiny should be on the not-for-profit because in fact, they do have an advantage in that they are tax exempt because of their nonprofit status.

And in order to continue to keep that nonprofit status, I think it's very important to have information about their financial situation and how they function and various things that were outlined here.

I do believe that in this case, this particular bill that this amendment tries to improve and make the environment more conducive to having these institutions to continue to serve this very important, very vulnerable population, is a good one. It's a way to mitigate some of the concerns and maybe remove some of the burdens and stresses that this bill would place in the nursing home community.

Apparently from the testimony that we received from some of the nursing homes that would be affected is that they do state that no other Connecticut Medicaid providers are required to provide information of this type. No other Connecticut Medicaid providers.

This information won't improve the state's oversight of nursing homes or enhance the quality of care provided in they feel, in any way whatsoever. The bill in fact without exception, applies only to for-

profit nursing homes, even though there are over 50 nonprofit nursing homes in Connecticut.

They believe that they're not aware that there are any other state governments that impose these requirements on any Medicaid provider, so I think that is a very important issue and why this amendment should be adopted because I think we want to keep a level playing field. We don't want to create an environment in Connecticut where we are actually disincentivizing nursing homes from conducting their business here. Our population is aging. More individuals will need that kind of care, and if we're restricting those entities that can continue to function here in a competitive environment, then we are doing disservice by not providing them the amount that is required, and the fewer there are, the higher the cost will be because it's subject to the laws of supply and demand rather than allowing a robust nursing home environment to continue to function.

I believe that many have stated that the legislation is harmful because it does impose burdensome requirements on all nursing homes without reason and they don't find that there is an apparent reason for these details to be disclosed.

This Amendment does remove that requirement. I think that that is a good one. I do believe they're also willing to sit down and compromise and study the issue to achieve some of what the objective is.

There are some that feel in fact this really isn't about the care and improving the care and improving the financial solvency, but in fact in a way to advantage certain activities, activities that could lead to unionization of some of the particular entities and that is probably what is behind some of the legislation that is being proposed.

They also again, state that the information has no bearing on the settling of Medicaid rates are relevant to any other component of the rate setting process, the audit process or certificate of need process and the provisions regarding reports of wage and benefit information require disclosure of private information about employees.

So there's a lot of things in here that are of a concern, but most importantly, private information that is important in their competitive setting and those that are not private are already subject to FOI requirements making this unnecessary.

So for many of those reasons and more, I think that this is a good Amendment, should make this bill be able to be, certainly move forward in a more expeditious fashion and have more support behind it. Thank you, Mr. President.

THE CHAIR:

Thank you, Senator. Will you remark further? Senator Chapin.

SENATOR CHAPIN:

Thank you, Mr. President.

Mr. President, some questions to the proponent through you, please.

THE CHAIR:

Please proceed, sir.

SENATOR CHAPIN:

Thank you, Mr. President. I haven't had an opportunity to look at the wording of the bill that went to the public hearing. Is it substantially the same so people could have come to testify and express their concerns why they didn't like the bill? Through you, Mr. President.

THE CHAIR:

Senator Markley.

SENATOR MARKLEY:

Thank you, Mr. President. Through you. Yes, I believe the bill is substantially the same as it was in the public hearing and certainly the intent of the

bill and the concept of the bill is very much the same, which is the sense that the profit and loss statement on these associated industries is required.

If there's some change in the wording, I don't think it is, I don't think it alters that fundamental thrust. Through you.

THE CHAIR:

Senator Chapin.

SENATOR CHAPIN:

Thank you, Mr. President. And again, through you, so I would assume there may have been some opposition from small business owners that may have been in the position that they would be impacted by passage of this bill? Through you, Mr. President.

THE CHAIR:

Senator Markley.

SENATOR MARKLEY:

Thank you, Mr. President. Through you, I'd say there has been vociferous opposition to the bill from the beginning, including last year when we first saw it from the nursing home industry, I think the entire nursing home industry, and the argument made that the information simply was not essential.

And interestingly, opposition as I said, last year from the commissioner of the Department of Social Services and also from not only the associations, the nursing homes, but some of the other associations not directly representing nursing homes, but committed to the long-term care of the elderly, who felt that the bill was wrong headed.

The support for the bill I think has come overwhelmingly from the unions that are involved with the nursing homes and in a change with the support of the, after the Governor's office I think became strongly supportive of the bill, from the agencies, the Department of Social Services this time around and

some of the other agency representatives that we had in front of us.

But I haven't heard anyone in the industry that thought it was a good idea. Through you, Mr. President.

THE CHAIR:

Senator Chapin.

SENATOR CHAPIN:

Thank you, Mr. President. I thank the proponent for his answers.

Mr. President, as a small business owner, I can certainly envision where I may be reluctant to provide a profit and loss statement in an instance like this because most of, other than being an elected official, I think most business, small business owners don't believe that they should be able to, or have to show the world exactly how well their business is doing.

I think I understand the intent of the bill but I can say with some certainty that if I found myself as a related party in a situation like this, I think the amendment before us, passage of the amendment before us would give me a much greater level of comfort.

Therefore. I would certainly encourage my colleagues to support it. Thank you, Mr. President.

THE CHAIR:

Thank you, Senator.

Senator Kelly.

SENATOR KELLY:

Thank you, Mr. President. I also rise in support of the amendment and I thank Senator Markley for his persistence and diligence with regards to bringing this issue forward.

You know, when we look at the population of Connecticut, we recognize first and foremost that we're the seventh oldest state in the country.

The other day I also heard a statistic that said our average median age is the same as Florida. That's important when we look at what's been transpiring for the past few years when it comes to nursing home care, because we know that the 80 and 90-year-old demographic is the fastest growing demographic of our population.

We also know that baby boomers just moved into retirement two years ago. Presently, the population consists of over 14 percent of people over the age of 65, and as we heard with the proponent of the underlying bill, the state spends almost 10 percent of its budget just on nursing home costs alone.

So the costs to nursing homes are significant, and when we look at the fact that one-third of our state are baby boomers who are going to join that 14 percent in the next 10 to 15 years, the number of citizens over the age of 65 is going to dramatically and significantly increase.

So if we're looking at policy today, to save money in the future and to also create a structure and a system that's going to be able to care for our population, we need to recognize certain facts.

One of them is the chronic care continuum. What happens when an individual starts on that chronic care continuum? Usually starts with the diagnosis of some sort of issue such as Alzheimer's, may be a broken hip or some other issue that places you on that chronic care continuum.

Normally, it starts in the community at home where a child, friend or loved one delivers the services to that individual and then as the condition continues to progress, because many of these issues such as Alzheimer's is a progressive disease.

So every day that we can hold off that progression is a good day. But the fact is, the disease progresses and as such, more care is needed. More care needs to

be delivered. More help for the caregiver is necessary.

So as the person progresses down this chronic care continuum, they may start at home and then slowly but surely need extra help. Maybe we need a caregiver from a local home-care agency to come in and assist the family member. And as it continues, we may have to look at other alternatives. Maybe look at assisted living. I know there's a few bills kicking around the House, I think they've actually been transmitted up that deal with livable communities and small house, which are alternatives to convalescent skilled care.

But ultimately, if the need arises and the care is necessary, skilled convalescent care has a place in the chronic care continuum. That will never go away. It will always be present.

Now, as we look back and recognize that our aging population is only going to increase, taking steps today that place impediments to the success or failure of that needed care is not a wise public policy initiative.

I know that the number of beds over the past few years of skilled nursing care facilities have been declining. While in the short term that may limit Medicaid expense because there's less beds, it doesn't solve the problem because the aging of our population will exponentially increase, more beds will be necessary and if we don't have those beds, we place individuals at risk.

In my opinion, this type of initiative is shortsighted because it's only looking at things today, irrespective of the fact of the aging of Connecticut.

That age and its ramifications are going to occur. The sooner we recognize that and start making smarter public policy investments in the care of those individuals in that population, the better our state and its citizens will be.

Mr. President, I have a couple of questions for the proponent of the amendment.

THE CHAIR:

Please proceed, sir.

SENATOR KELLY:

Thank you. Senator Markley, I see that your Amendment is seeking to limit the disclosure of some information that's going to be reported to the Department of Social Services under the Freedom of Information Act. Are you aware of any other information that's business related such as trade secrets that is already exempt under the Freedom of Information Act? Through you, Mr. President.

THE CHAIR:

Senator Markley.

SENATOR MARKLEY:

Thank you, Mr. President. Trough you, you know, I'd have to say in response, I don't know specifically that I could say what is available under Freedom of Information and what isn't. I'm sure there's proprietary facts about the formulation of drugs, about all kinds of things which cannot be, if they were disclosed normally would destroy the very possibility of certain industries existing, and I suppose those things if the FDA has them, are not necessarily being shared or made available generally.

I think as I said before, there certainly are physical facts relating to each and every one of us, which are known to the government, which we have to submit to the government, but we do with the expectation that they not be shared.

I would imagine that Senator Kelly is in a better position than I am to enumerate examples of things which are protected from Freedom of Information but I'm confident that are many things that fall into that category. Through you, Mr. President.

THE CHAIR:

Senator Kelly.

SENATOR KELLY:

Thank you, Mr. President. Just in looking at the section where you wanted to add the language, some of the language that qualifies what type of entities and what type of information they're going to provide is stipulated.

First, it indicates you have for-profit chronic and convalescent nursing homes that receive state funding. Do you know if there's any that don't? Through you, Mr. President.

THE CHAIR:

Senator Markley.

SENATOR MARKLEY:

Thank you, Mr. President, through you. No, I'm not aware of any that don't and I rather suspect there aren't any that don't, but I couldn't swear to that. Through you.

THE CHAIR:

Senator Kelly.

SENATOR KELLY:

Thank you very much, Senator Markley. With regard to that profit and loss statement, are you aware what type of information is going to be necessary to be captured on that and disclosed to DSS? Through you, Mr. President.

THE CHAIR:

Senator Markley.

SENATOR MARKLEY:

Thank you, Mr. President. Through you, not specifically aware. Of course, the information already is available in the sense that the amount of money paid to the associated entities for the services

is already a matter of record of reporting and of public disclosure as is the cost of the services provided specifically by the associated entities.

So if there's a suspicion that a company has set up another company in order to overpay it for a service, the information is already available to the department to track that down.

What this asks for is an overall accounting of that company's business in profit and loss, not simply in the business it does with the entity with which it has the relationship, but all the rest of the business that it does, up to, I believe it's now amended to $50,000, but it could be a relatively small part of the overall business of this corporation, which would then be disclosed, which would then force the disclosure of the entire profit and loss statement of the corporation.

So that's my understanding of it, through you, Mr. President.

THE CHAIR:

Senator Kelly.

SENATOR KELLY:

Thank you, Mr. President. And as you indicated, you know, it has been increased from $10,000 to $50,000 but for one patient in a nursing home in Connecticut, the average cost I believe according to OFA is $6,000 a month.

So for all intents and purposes, one, you know, that's just one month. Many of these nursing homes have more than one patient and in all likelihood every nursing home is going to at least receive $50,000 in benefits, so it's pretty much applicable to all facilities.

One question I have though is, when it talks about the related parties, who are those related parties? Through you, Mr. President.

THE CHAIR:

Senator Markley.

SENATOR MARKLEY:

Thank you, Mr. President. Through you, a related party is a separate business, which the nursing home does business with, but which has connections by joint ownership or some ownership participation in both the nursing home and in the related business.

So if a nursing home is dealing with a supplier, which none of the ownership overlaps between the nursing home and the supplier, that supplier would not be forced to give a profit and loss statement.

But if there's a commonality of ownership between a nursing home and the supplier to any significant extent and they do more than $50,000 worth of business, then the entire profit and loss statement for that associated business would have to be disclosed to the state and would then become a matter of record.

And again, Senator Kelly referenced the number of $50,000 increased from 10, but I think in almost all cases, as I said before in response to I believe Senator Chapin, we are dealing with a large industry now in which a $50,000, it's hard to imagine that there's many suppliers to a nursing home that would not be doing at least $50,000 worth of business, whether you're talking about food services, maintenance, linens, equipment, all kinds of things that they would be, IT, any of the kinds of businesses one can imagine them contracting with, that the scale of these nursing homes generally is such at $50,000 is not an exceptional amount of money.

And as I said before, to repeat it again, insofar as we know how much they're paying and what they're obtaining already, it seems to me that the information is there to make sure that the payments are appropriate.

So the question becomes, what is the state interest in the profit and loss of that associated party and that's one reason for my opposition to the bill. Through you, Mr. President.

THE CHAIR:

Senator Kelly.

SENATOR KELLY:

Thank you, Mr. President. So if I understand your explanation correctly, a related party would either be somebody with whom the nursing home company would have some sort of overlapping affiliation with another, let's just call it a linen company, if they had common ownership in both the nursing home and the linen company, then the linen company would have to produce its profit and loss statement to the State of Connecticut Department of Social Services. Is that correct, Senator Markley? Through you, Mr. President.

THE CHAIR:

Senator Markley.

SENATOR MARKLEY:

Thank you, Mr. President. Through you, yes, that's my understanding exactly.

THE CHAIR:

Senator Kelly.

SENATOR KSLLY:

And in that profit and loss, would the linen company have to talk about the different services and goods that it provides to the nursing home, and would that also be subject to disclosure? Through you, Mr. President.

THE CHAIR:

Senator Markley.

SENATOR MARKLEY:

Thank you, Mr. President. Through you, I would say that that information, if I understand correctly, is

what is already provided, that the actual cost of the, or facts about the service provided specifically to the nursing home for payment is part of what's reported now.

When we talk about a profit and loss statement for the linen company, in your example, we're talking about then the entire operations of the company that might be providing linen to 200 different entities.

So that's the difference in this bill is to go beyond an investigation of the specific services directly provided into the success or failure of that entire business, which is providing those services. Through you, Mr. President.

THE CHAIR:

Senator Kelly.

SENATOR KELLY:

Thank you, Mr. President. So if I, once again, if I understand it correctly, what we would be under this bill seeking to do and what you're trying to limit is using that linen company, while it might provide linens to the skilled nursing facility, they may also provide linens to a local diner, a college or university, a catering service, so there could be total non-skilled nursing, non-Medicaid related activity that the company would engage in. Would that conduct and that activity, that business interest have to be reported to DSS? Through you, Mr. President.

THE CHAIR:

Senator Markley.

SENATOR MARKLEY:

Thank you, Mr. President. Through you, insofar as they would be submitting a profit and loss statement, which covers their entire operations, then in fact the success or failure of that entire operation would be reported.

I don't know that it follows from that that they would have to get into the details of the contract that they might have with a college or another entity, but the success of the business would be requested by the department and a matter of record.

And again, as I said, when we talked about it, the ostensible concern of the department is that an understanding of the success of these associate entities or success or lack thereof, could give them information, which would allow them to anticipate problems with the nursing home itself.

I believe, myself, that's a little bit of a stretch, but I, for the sake of argument I'll accept it. The question would then be, is that, is it important that anyone else have that information.

And to, if I were to assign a cause, I might say that it seems to me that that's important if you want to put pressure on the nursing home by saying, you know, look at the success you're having with these other industries. Maybe you don't need as much help from us as we're giving you because you're doing so well in other ways.

But that's not the way that we've been pricing our nursing home services. We try to do it on a cost basis and that gets far beyond the cost basis. And in any case, I think it's nobody's business but maybe the Department of Social Services. Through you, Mr. President.

THE CHAIR:

Senator Kelly.

SENATOR KELLY:

Thank you, Mr. President. So the disclosure goes well beyond, if I understand correctly, there's the Medicaid entity, the skilled nursing facility who's now contracting or has a relationship. It can also be by birth, marriage or domestic partnership if I understand, so anyone that is a related party has to make these P&Ls available to the state even if they don't receive Medicaid directly from DSS but only as

I'm going to say, an ancillary result of having to work with a company that does receive Medicaid funds. Through you, Mr. President.

THE CHAIR:

Senator Markley.

SENATOR MARKLEY:

Thank you, Mr. President. Through you, yes, that's exactly right. The payment would not be going directly to the associated entity, but it would be passing through the nursing home in payment to them.

And you bring up, when you talk about the relationships that are involved, correctly, that it has to do with mutual ownership but also family ties, it's a legitimate interest of the department to make sure that somebody isn't pulling a kind of a scam to say I'm going to pay my nephew an outrageous amount for the linens and somehow or other we're both going to benefit from that.

But at the point at which you know how much is being paid for the linens and how many linens are being provided and how many people are being served by that, I think you have an adequate protection against that kind of malfeasance.

This goes a substantial step beyond that and I think not only as an interference in a business' own privacy, but a kind of a presumption that people in business are up to something and merit this kind of treatment. Through you.

THE CHAIR:

Senator Kelly.

SENATOR KELLY:

Thank you, Mr. President. Now, does the Medicaid program pay the market rate for long-term care? Through you, Madam, Mr. President.

THE CHAIR:

Thank you. Senator Markley.

SENATOR MARKLEY:

Thank you, Mr. President. Through you, no, in fact, it's something that I think is always a concern of people that work in the human services area politically, that in a sense the reimbursement is substantially less than what a private pay patient would pay. There's always been an injustice in that, and yet it would be a very expensive injustice for us to correct, so it's never happened.

I don't, I couldn't give you the percentage now of what it runs at, but I seem to remember it being something like 70 percent of possibly even less of what the private pay rate is. Through you, Mr. President.

THE CHAIR:

Senator Kelly.

SENATOR KELLY:

Thank you, Mr. President. And you know, one thing they taught us in law school was, make sure you know what the answer is before you ask the question and you know, according to OFA the average Medicaid long-term care for one month in Connecticut is about $6,000 a month and according to OPM the average per diem private pay for a skilled nursing facility in Connecticut approaches $12,000 a month.

So it's really a 50 percent discount for these facilities to do the job that a private pay patient would pay.

So on one hand, I get the fact that the state spends a lot of money in this area to care for people truly in need, but on another, they're doing it at a 50 percent discount, and as you indicated they're not paying the full freight and quite frankly, it would be too expensive.

Can you only imagine what would happen if we doubled the line item and go from 10 percent of our state budget to 20 percent of our state budget for skilled nursing home care? We couldn't sustain that.

That's one of the reasons why I'm so concerned about this area because that's the track that we're on. If we don't start dealing with aging in place initiatives today, in 10 or 15 years, we're going to have a population at the present rates taking 15, 20 percent of our state budget.

So it's certainly a concern that we're treating our nursing home facilities in this manner when in fact they're providing the same care at a 50 percent discount, yet we're now going to not only ask them to more reporting requirements, but if somebody wants to do business and they happen to be an associated or related party or a related party by marriage or birth, that somehow now there's a burden on that company, too.

And I'd be concerned about a chilling effect not only because if I'm one of those companies and I have to make disclosure, I might be, even though I'm not on Medicaid, I'm not, you know, and you made the mention that there may be a nephew or someone who's treated favorable.

I think these nursing home facilities are operating on pretty close margins. When you look at the fact that DSS has delayed on applications. So not only are they getting a 50 percent discount, but they're getting a 50 percent discounted payment late. They haven't received a raise in years, years, and they're one of the most regulated industries already.

Now that's not enough. Now we've got to go the extraordinary next step and not only get disclosure form them, but we're going to ask anybody that does business with them to also make disclosures, and my concern would be a chilling effect not only on the disclosure of my company activities when I don't receive Medicaid, and I'm not even sure the state can do that.

Why can we compel somebody to do that? But also, a chilling effect that they won't want to do business with these companies and provide them the services and the rate that keep them in business despite the economic environment that we're in and the demand for the care that these individuals deserve.

I think it's a slippery slope. I think we're going in a direction and down a road that's going to place more problems on this industry than it helps. I thank you, Senator Markley for answering the questions and for bringing this amendment forward.

I think it's a very important concept. I think we have to be mindful of what we're doing to this industry, which is already taking care of many people that couldn't be taken care of anywhere else. So thank you. Thank you, Mr. President. I urge adoption of the amendment.

THE CHAIR:

Thank you, Senator.

Senator Witkos.

SENATOR WITKOS:

Thank you, Mr. President, if I may, just a few questions to the proponent of the amendment.

THE CHAIR:

Please proceed, sir.

SENATOR WITKOS:

Thank you. Through you, Mr. President, and I apologize. We didn't Caucus this bill to get a full discussion in our room and I heard some of the debate in the House. I watched that, and I think I'm a little confused as to what it's trying to do, but I, and I think I'm supportive of it but I want to make sure that it does what I think it does.

So through you Mr. President to Senator Markley, the underlying bill says that if you have, for disclosure

purposes, if you have more than a $50,000 contract with a nursing home then you must disclose to the state a profit and loss statement to make sure that number one, that if you have, I guess a casual or co-ownership relationship with the nursing home to prevent the nursing home from removing say a profit and sending it to another business to show a loss on theirs, but yet another business is gaining money. Is that correct? Through you, Mr. President.

THE CHAIR:

Senator Markley.

SENATOR MARKLEY:

Thank you, Mr. President. Through you, yeah, that's essentially correct, Senator Witkos. I would say again, to kind of back up and discuss what's going on with that.

The possibility of abuse through related parties would certainly exist. But I believe that the disclosure, which is already required by the department, is adequate to make sure that doesn't take place and the reason for that is that the nursing home itself has to account for all of its costs. It's reimbursed on the basis of a disclosure of all of the costs, and the costs are specifically broken down, the number of residents are known.

It would be very difficult to overpay, for the nursing home to overpay for something on an ongoing basis to any kind of serious extent and not have the department be aware of that.

So it's not directly the motivation for this bill. That's the motivation for the disclosure which is taking place already, that we don't want to have that kind of profit shifting taking place.

Again, I think that's why the department was against the bill last year when it came up. They didn't see the need for it. When they came back this year they said we support it because we have an interest in the overall financial health of the nursing home, and insofar as it has associated entities, their profit or

loss may influence what the status of the nursing home itself.

If there's going to be a problem with the nursing home, the sooner we know about it the better. I'm not really persuaded by that argument, but if I'm willing to, if I'm willing to trust the department that far, I'd still say then let us let you gather the information and as this amendment would hold, keep that information private, because what business wants its profit and loss to be a matter of record?

You, yourself, are now in that situation. It's important that either way, that the health of a business is not a matter of general knowledge. If it's struggling but still paying its bills and wants to be able to continue to struggle trying to get back into a good situation, if it's thriving, that's something someone may well want to keep to themselves, too.

So, to kind of recap that, I think that the laws that exist protect us against the kind of abuse that you mentioned. The amendment would be a different kind of a protection, one that I'm not sure that we need, the bill, this bill would provide a different kind of a protection, the kind I'm not sure we need. My Amendment would relieve the businesses of public disclosure and confine the disclosure to the department, which seems to me to be the only possible interested party. Through you, Mr. President.

THE CHAIR:

Senator Witkos.

SENATOR WITKOS:

Thank you. Through you, Mr. President, if the current practice is something that we already have all the reporting requirements, you're saying we don't need the bill, then what is the problem with passing the bill if it just reinforces the information that we already have? Through you, Mr. President.

THE CHAIR:

Senator Markley.

SENATOR MARKLEY:

Thank you, Mr. President. Through you, well, of course, that's the crux of the question, and the answer is that in my opinion it's nobody's business and that's something we have to say at certain moments around here, that in our ongoing hunger for more and more information there's a point at which we're not justified in taking that information.

And furthermore, I'd say that we're not justified in taking that information in such a way that it becomes a matter of public knowledge.

Again, the example I've used is, I have to file my income tax every year. I accept the fact that I have to give financial information to the federal government. I don't really have a particularly big problem with it. But that doesn't mean that the next question would be, well, what's the problem with everybody knowing what your income is?

You know, somebody could argue well, what difference would it make if everybody knew exactly what your income is. As a certain point as, let's say as Americans, I think we feel, I don't have to have a reason to tell you that I don't want you to know. I just won't want you to know. If I wanted you to know, I'd go ahead and put it in the newspaper.

And in this case if we're talking about associated entities that are doing business, the nursing home is certainly a fraction of their business, it might be a very small fraction of their business.

To go back to the example of the linen company that Senator Kelly and I were hypothetically discussing, they may have 200 customers of which one of them is this nursing home with which they have a relationship. Again, my nephew's linen company. It might not be a linen company that he set up just to sell linen to my nursing home. It might be that he had a linen company and I said well I might as well get the linens from my nephew. Fair enough, as long as I don't overpay him.

We know I'm not overpaying him because the information for that is already available. So the next question is, how's my nephew doing in the linen business. I think he's entitled to say, that's my concern and that's not something that I want to be a matter of public knowledge and that's not something that there's a public interest in knowing.

Again, my Amendment would say, if the department really thinks they have to know that, okay. Let them know it but let's keep it between me, the party and the department and not make it a matter of the public record. Through you, Mr. President.

THE CHAIR:

Senator Witkos.

SENATOR WITKOS:

Thank you, and through you, Mr. President, working in public safety pretty much my entire adult life, every spring what it came time for the municipal budget, taxpayer association would post all of our salaries on the public because the public has a right to know. It's their taxpayer dollars that are funding salaries of law enforcement in that community so they want to know how much of my tax dollars are going into the officers' salaries, and they can make a decision at that time whether they want to go to the board of selectman's meeting, or the board of finance meeting saying we have too many officers that make too much money or you're not paying them enough. I wish that was the argument, but never had that.

But now in this case, if most of the patients, my experience is, most of the patients are on some type of entitlement, Medicare/Medicaid through the federal government, so they are being serviced by these nursing homes by taxpayer dollars.

So don't you think that the taxpayers want to make sure, have a right to know how their money is being spent to make sure it's not being spent to enriching the pockets of pass through, I don't want to say pass through because I don't know if that's the right term, but entities that are related in nature or have a

certain connection. I think that's the premise of the bill to make sure, well, you're getting rich off all the other taxpayers while the nursing home is barely making it whatever company it happens to be, whether it's a food service or linen or general maintenance company, you're charging through the nose and the only way we can find that out, we meaning the department, is through the ability to conduct an audit and I guess that goes to my question out of all that.

Does the bill say that it's all companies that I can, that has a contract with the nursing home, or is it, if we were doing an audit we have a question because something doesn't look right we can go into that company to look at those records.

Because I can't imagine that out of all of the contracts that all of the nursing homes we have in the state of Connecticut that the Department of Public Health would require a profit and loss statement out of every single person that does over $50,000 contract who has a casual, I think it is, relationship with that company.

So through you, Mr. President, to Senator Markley, does the bill or the amendment speak to, if there's a question or a red flag then we would allow that company to be audited and require them to provide a profit and loss statement or is it just a general fishing expedition if you will, we're just going to look at everybody's just to see if we see anything, you know, notorious or nefarious. Through you, Mr. President.

THE CHAIR:

Senator Markley.

SENATOR MARKLEY:

Thank you, Mr. President. It's a good question again about the fundamental nature of the relationship of the legislation and of the amendment. Again, I'd say, let's go back to the example of the nursing home and the linen company.

The point is that already the nursing home has to disclose how much they pay for the linen and all the information about how much linen they're getting, not only with the associated parties, but with any, in other words, in other words, if there's an entity in which there's a shared ownership relationship, but with any business they're doing, anybody they're doing business with. They're disclosing everything about what they're paying and what they're getting.

So if they're attempting to over pay in order to shift profits, that's something that I think the department can spot already and has been monitoring for years.

And even the department doesn't claim that they need this information in order to prevent that kind of behavior. The department's claim this Session was simply that that information would allow them to monitor the overall health of the owners of the nursing home, to make sure that it wasn't getting into financial problem, not that it would avoid these shenanigans.

The reporting that's being done already I think is sufficient to avoid these shenanigans and I saw no evidence in the testimony that that was even suspected or the intent of the legislation.

So that's the level on which I'd say the bill simply isn't necessary. But the next level would be to say, should this information be available to the public. You made the example of your own income as a law enforcement officer.

Certainly our, here in the Legislature, not only is our income, but the income of all the employees of Legislative Management a matter of public record. So the question there is, because somebody is doing business among what might be many, many people they're doing business with, is doing business with somebody who's receiving state funds, who's purchasing a service from them. They're not receiving the state funds directly, but a company is purchasing services from them, should that company, which is providing the service in exchange for not state funds, but payments from a company receiving state funds, should that

company then be liable to release its profit and loss statements?

I think we've gotten a step too far in doing that, in requiring that they do that, and I think we should be, I think if that's a step we need to take, we need to have very compelling reasons to take it and believe me, in my opinion, those reasons have not been presented to us.

Let me say not only, again, who cares about a bill like this? The industry and the people that are directly involved. You don't have the general public wandering up to testify on it.

But I might say that the nonprofit nursing home association, which is not affected by this bill, was also opposed to it because they can see the expansion of it into their area and to some extent you have to deal with the people that represent the industry.

You perhaps realize that most of them have come from a background, which involves either state service or frequently state service almost as activists in the industry and those people who I think have a genuine commitment to the healthy function of the nursing homes do not see the need for this bill.

Transparency is a word that just sounds like a good thing in and of itself, but I think we put ourselves on a path where we can be, where we make an unfriendly business climate in Connecticut. We talk about this all the time. But this is the kind of step that I think an industry looks at and says, they don't need this information.

They're allowing this information to be disclosed to my competitors, to my employees, to all kinds of people that I have to deal with, we're giving them that advantage, and it is a further, another way in which our state takes the lead to my mind, in the wrong direction as far as being business friendly goes. Through you, Mr. President.

THE CHAIR:

Senator Witkos.

SENATOR WITKOS:

Thank you. Through you, Mr. President, while you said that the nursing home or the state can already get all that information from the nursing home, do they get just the contract? But what about the, and I think I can see where there would be issues during the RFP process, so, and I'll go back to the linen company example you gave.

So if a linen company gave, say, a family member of mine. I run a nursing home and I said, you bid a dollar per ton for washing and then everybody else, the RFP goes out and everybody else bids fifty cents, twenty-five cents, and I say, no, I'm going to give it to a nephew or a family member and they get the dollar, the only information that the state would receive is that they're getting the dollar per ton cleaning service and you know, we're billing this, this is the number of times I went in, this is the number of times I came back. We didn't over bill. We didn't over bill. But yet the premise behind it is, there were cheaper companies to use, but I chose to use somebody that's related because hey, why not? So I could push the money to do that.

Do we get that kind of information that's currently reported to the nursing homes? Through you, Mr. President.

THE CHAIR:

Senator Markley.

SENATOR MARKLEY:

Thank you, Mr. President. Through you, I think we get exactly that kind of information and in fact the state will refuse to reimburse costs which it finds to be excessive.

So if you went to the state and said, I should be reimbursed X amount and part of that is because I'm getting a dollar a ton for linen, the state would come back and say we don't give more, we don't reimburse more than seventy-five cents because that's our, that

in our opinion in the going rate for that service. So if you overpay, that comes out of your, you have to assume that cost on your own. We're not going to reimburse you for it.

So I think the state protects adequately against it. That's my understanding of it, Senator. Through you, Mr. President.

THE CHAIR:

Senator Witkos.

SENATOR WITKOS:

Thank you. Through you, Mr. President, did anybody come and testify, you said that folks only in the industry came up and testified during the public hearing. But did anybody, any of the contractors or subcontractors come up and testify during the public hearing, because they're the ones that are going to be using your analogy in harm's way because they're the ones that are going to have to disclose their profit and loss statements if this bill passes. Not the nursing homes, which probably already do, so I'm just curious, did any of those agencies, or businesses come up and testify either for or against the bill? Through you, Mr. President.

THE CHAIR:

Senator Markley.

SENATOR MARKLEY:

That's a very good question, through you, Mr. President. Thank you. We have, it appears to me testimony from 11 people who represented either the state, the nursing home industry or the unions employed by nursing homes and I don't see and I don't believe anyone came from a supplier.

You know, I don't know that they would necessarily be, if you were in the linen business and especially if you're in the linen business in a legitimate way and serving 200 different clients as our theoretical company that was created by Senator Kelly and I have,

you wouldn't necessarily be monitoring bills like this.

I guess at a certain point I'd say it becomes our job to watch out for the interest of private industry and certainly I feel like I'm up here to some extent for that purpose, to watch out for the interest of citizens and citizens and their rights and also the rights of people doing business and I think this is an attack on those rights. Through you, Mr. President.

THE CHAIR:

Senator Witkos.

SENATOR WITKOS:

Thank you. And through you, Mr. President, have you received any correspondence, while it may not have been noticed in the public hearing, from folks that were opposed to this concept. There was certainly a lot of media attention after the lengthy debate in the House of Representatives on this topic and I'm just curious, through you, Mr. President, had you received any correspondence from any companies outside of the nursing homes that were opposed to the bill that is before us? Through you, Mr. President.

THE CHAIR:

Senator Markley.

SENATOR MARKLEY:

Thank you, Mr. President. Through you, you know, I received nothing from any businesses that would be directly impacted from this bill. I heard from a few businessmen who have nothing to do with the nursing home industry but were generally outraged by the idea of anybody in that situation being forced to submit a profit and loss statement but not anyone who was concerned with specifically that they would be immediately impacted, again, as a precedent, that could be extended to other businesses I heard from business people. Through you, Mr. President.

THE CHAIR:

Senator Witkos.

SENATOR WITKOS:

Thank you, Mr. President. And through you, while I'm, I also didn't receive any e-mails or phone calls or any passersby stop me where I was out during my, running personal errands to say, hey, if this bill comes before the Senate we don't like it because x and that happens to me all the time on a variety of different bills.

So I don't believe in my small world in the 8th District, that there's a lot of rebonk to this bill that folks, while we may say transparency is a good word or phrase or catch all, that folks, they actually believe it and they say, well, why shouldn't we look toward this. If the only people that are against it are the folks that are in that industry, maybe there's something to be said behind that and I'm curious, through you, Mr. President, sometimes legislation comes before us because something happened out there in the real world or a Legislator something happened to them and they want to bring that in to either prevent it from happening again or to warn other people or to promote that issue.

Is there any specific issue that you could point to that you're aware of that would cause this transparency bill if you will, to be before us? Through you, Mr. President.

THE CHAIR:

Senator Markley.

SENATOR MARKLEY:

Thank you, Mr. President. Through you. I could almost speak for Senator Slossberg on this to give her side of it, but there was a particular case which was a dispute between a nursing home and a union down in Milford, Health Bridge I believe is the name of the nursing home, a very bitter dispute that went on for a great deal of time.

And one of the claims of the union in that instance was just exactly what, in the way you alluded to about the idea that profits were being essentially shipped elsewhere.

The interesting thing about it, Senator Witkos is, I don't see how this bill necessarily addresses that, and again, the department did not support the bill on the grounds that that was the problem that the bill would address because I think the protections that are already in place about this profit shifting are adequate and I haven't heard anything to make me think that it isn't the case.

I expect that at some point if we get to the debate on the underlying bill that Senator Slossberg will make that case.

As far as what you said before that you haven't heard any push back or to say the push back that we had on it has been from within the industry and the advocacy that we've had for it has come from the unions. I think it's often the case with legislation up here that the only people that squeal are the people who are being immediately affected by it.

It doesn't necessarily mean that they're wrong. It doesn't mean that they're squealing, I don't think it necessary has to be a squeal of guilt. It could be a squeal from being a violation and in the same way again, that I think that if, if we passed a law affecting tavern owners, the first people we're going to hear from are the tavern owners.

If it is favorable to the customers, the customers are going to be for it and the tavern owners are going to be against it and the rest of the people in the state are likely to sit on the sidelines.

The problem is, the precedent and the problem is the injustice. You know, I'd honestly say I believe that this bill as written, is an injustice to these corporations, which are not, which it doesn't seem to me it's been shown are doing anything wrong, and it doesn't seem to me that it's been shown that the information being requested is of vital importance to anyone.

And to go back to my Amendment, it certainly hasn't been shown to me that this information needs to be made public. If in fact it's important to be analyzed by the department, let the department have it, but don't put it in a position where it could be put in the hands of anyone in the state. Through you, Mr. President.

THE CHAIR:

Senator Witkos.

SENATOR WITKOS:

Thank you. Through you, Mr. President, I just lost my train of thought. I think I like the amendment. So the amendment says that you can get the information but it's just not disclosed, disclosable but only to the agency. So it's not disclosed under Freedom of Information but the Department of Public Health or DDS or DAS, whoever does the overseeing that would request that information can get that to do analysis. Is that correct? Through you, Mr. President.

THE CHAIR:

Senator Markley.

SENATOR MARKLEY:

Thank you, Mr. President. Through you, yes, that is exactly the idea. If in fact it's important, Again, I don't happen to believe that it is, but assuming that it is and I don't want to impugn the intent of the department. I respect the Commissioner. I think that we're all trying to do the right thing.

Giving him the benefit of the doubt and saying the information is important, I'd say it's important to the department. It's not important to the general public and to disclose the profit and loss of a business, which perhaps is only doing, let's say again, it might be one percent of its business with a nursing home, which is receiving the public funds.

For them to have to disclose an entire profit and loss statement I think is an intrusion and the amendment would prevent that information from being public. Through you.

THE CHAIR:

Senator Witkos.

SENATOR WITKOS:

Thank you, Mr. President. And through you, what happens, would it ever be disclosable? Say if I have, my parents have to go into a nursing home and it's private pay and then I find out there's some shenanigans going on and I say I want to know, my parents are there and I might want to send them someplace else. Is there any way that I would, as an individual, have the ability, because I'm paying for the services, to know what kind of, I may be more concerned if there's problems with the food service contract versus the linen contract, because these are the folks that are responsible for feeding my parents, and so I might have second thoughts of keeping them in this particular nursing home.

So would I ever have, as an individual paying, have access to that information or would I hear not disclosable under FOI, sorry? Through you, Mr. President.

THE CHAIR:

Senator Markley.

SENATOR MARKLEY:

Thank you, Mr. President. Through you. My understanding is in the current disclosures, my understanding is the current disclosures are a matter of public record and that would cover the food service contract, for instance.

So I think you could find out how much the nursing home is paying for food services and how many meals are being provided and all that information.

What you couldn't find out, what this would protect is, again, let's say that my nephew was running the food services company and again, it conceivably could be a food services company that only served my nursing home, or it could be a food service company that served 100 different entities, the community college and a factory and, you know, all the other things that could be served.

The profit and loss statement of that company would be private, but not the amount that the nursing home paid the company for the food, which seems to me to be the question, and it would be, it's an obvious matter, obvious first of all to the Department of Social Services if that company was being overpaid by the nursing home for the meals.

And again, I would ask that you consider, if we're talking about a legitimate company that is doing business, possibly doing business all across the country, because they're doing business with one nursing home in Connecticut, should their profit and loss statement then become a matter of public record.

I don't see what public interest would be served by that. Through you.

THE CHAIR:

Senator Witkos.

SENATOR WITKOS:

Thank you, Mr. President. Through you, you know, I could see where it could be. If somebody's going down, their business is going down the tubes, you're going to find any way to cut corners to you know, save your company some money and maybe cutting corners may be affecting the patients that are in the nursing home, but in that respect I think it's important.

But my last question, depending on your answer, through the public hearing did you get a sense as to the $50,000 trigger for contracts, is that a high contract, so somebody would be doing a lot of business, or is that low volume where almost every contract that a company would have with a nursing home

is going to see that threshold? Where is that in relation to the majority of contracts that nursing homes might have, if they shared that with you during the public hearing? Through you, Mr. President.

THE CHAIR:

Senator Markley.

SENATOR MARKLEY:

Thank you, Mr. President. Through you, in fact, at the time of the public hearing the amount was $10,000, so the threshold has been raised in the bill since it was heard, and I think one reason was that $10,000, when you're talking about a certain nursing home was such a low number that it would affect virtually everything they were doing.

I think $50,000 is still a pretty low number over the course of a year when you think of the kinds of contracts that we're talking about. Again, I mentioned it when I was talking to Senator Kelly, the food services, staffing. I mean obviously, if you have agencies that you're contracting with for staffing it's very quickly going to be a larger number than that. Food services, suppliers of various sorts, I think $50,000 is still a reasonably low number where you're going to get most of the things that are going on.

My point would be in some way, Senator, that it doesn't matter whether it's $10 or $100,000, it hasn't been demonstrated to me that there's a need for this information and it certainly hasn't been demonstrated to me that there's a need for the public to have this information.

As always, I think the public might be interested in almost any kind of information that would be made available, but it doesn't, interest doesn't translate to a necessity to disclose it and people have good reasons to keep things private and people, I guess the (inaudible) that I say people don't need good reasons to keep things private.

The disclosure that a nursing home makes already is very complete in my opinion and if it needed, if that disclosure needed to be more complete, I would support its expansion.

But what we're talking about is not additional information about the transactions. The transactions are all there already. What we're talking about is information about the profitability of other companies that they're doing business with and I just don't see it. Through you, Mr. President.

THE CHAIR:

Senator Witkos.

SENATOR WITKOS:

Thank you, Mr. President. (Inaudible) comes to mind that we did a bill about that, about this particular situation this Session already and that had to do with prepaid contracts and I know folks would buy their oil ahead of time in order to reap the benefit of a lower cost in the summer, pay the oil company, but what would happen is, in some cases, in Milford for example, a company went out of business, or it was Meriden, and all these homeowners were stuck in some case, $10,000, $15,000 that they paid out and receiving nothing.

Do you know if the nursing homes do similar contracts where they would say bulk in advance? I'm thinking why would they want the profit and loss of, not they, the Department of Public Health that wants it of their contractors. Is it normal for nursing homes to enter into contracts with different agencies to do contracted services with payment in advance, if you're aware? Through you, Mr. President.

THE CHAIR:

Senator Markley.

SENATOR MARKLEY:

Thank you, Mr. President. Through you, there's a few people I can see up in the Gallery that could probably answer that question for me.

I don't think that, I'm sure they have, let's say this. I'm sure they have long-term contracts for many, many things, probably for most of the things they do. I doubt that that payment is in advance.

Certainly the nursing home is being paid, is kind of a pay as you go situation and I would expect that their expenditures are as the service is delivered just as their income is based on the delivery of service, too, so I don't think they'd be paying things in advance. Through you, Mr. President.

THE CHAIR:

Senator Witkos.

WENATOR WITKOS:

Thank you, Mr. President, and my last question is, oftentimes when we have a bill that may be controversial, we try to work it out amongst the different entities and in this case, you're offering an Amendment, which I think is a good one, which would keep secure the P&L statements of contractors that really have no impact on the viability of the nursing home. They provide a service. They get paid for the service, so why do we need to go beyond that for them to disclose everything to the general public.

Did the folks that were opposed to the bill support your Amendment? Through you, Mr. President. If you're aware of it?

THE CHAIR:

Senator Markley.

SENATOR MARKLEY:

Thank you, Mr. President. Through you, yes, I think that, well, let's say I don't believe I spoke specifically about this amendment with the industry representatives.

I understood it as being something that was along the lines that would address concerns that they had. I believe it would make it a much more palatable bill for them and I think that, I think the failure of the advocates to embrace this protection to some extent reveals what their actual motives are, which is to get more information about the overall profitability of nursing homes, not because they're concerned about cost shifting, which I don't think is addressed in the bill at all, frankly, and not because they're concerned about the viability of the organizations because I think there is already sufficient protection there as I said because the Commissioner previously had not named this as a need, and also because other options were presented in terms of saying the department will have a right to do this if they saw that there was a problem they could start asking for information.

I think really, there is a desire to be able to make public information about associated entities and in some cases the profitability in a large sense, in a national sense of some of these entities so that it can be used, let's say as a weapon against an individual nursing home in negotiation to say the nursing home has access to plenty of money because look at how well these other corporations are doing and because there's a tie between them, therefore, we needn't be too concerned about the health of that nursing home. They can get the money somewhere else.

That's not the way that we're supposed to be reimbursing. We're supposed to be doing it based on the cost of the services being provided, not say, you know, we do a lot of this in the state of saying we're just going to under pay people.

Effectively, as Senator Kelly pointed out, we do that with the reimbursing of nursing homes already. We say, you're getting money from these private pay patients at a much, at rate X, so we're going to pay you according to Senator Kelly one-half X, but we know that you're getting this bump because you've got these private pay patients, so put up with it, you know, that's just the way it is.

And I think this would be a way to extend the possibility of doing that of saying, you know, we know we're not reimbursing you properly, but why don't you take the money out of that linen company, which seems to be doing a lot of business in California or whatever and bring it back here. That's, again, I think that's a bad precedent. That's a bad way of dealing with businesses. That's the kind of thing that will force people to flee Connecticut. Through you, Mr. President.

THE CHAIR:

Senator Witkos.

SENATOR WITKOS:

Thank you, Mr. President. I thank Senator Markley for his answers and that actually makes me want to ask more questions, but I think it's appropriate to ask probably Senator Slossberg once the amendment, because it speaks to the underlying bill as to, you know, do we think that we can drive down prices by looking at a contract and saying, you're probably paying them too much, why don't you go over here, where I don't think that's necessarily the role of government to get involved to that degree. The nursing home will have to do that.

You know, reimbursement rates are so regulated, not only at the state level but at the federal level as well. So we'll see what happens with the amendment and then we'll ask some further questions on the bill later on. Thank you, Mr. President.

THE CHAIR:

Thank you, Senator.

Senator Kissel.

SENATOR KSISEL:

Thank you very much, Mr. President. Just a couple questions, through you to the proponent of the amendment.

THE CHAIR:

Please proceed, sir.

SENATOR KSISEL:

Again, I'm just trying to get my arms around exactly, I think I know what the amendment does essentially. It's allowing this information for the Department of Social Services but nobody else can get this information through a Freedom of Information request. Is that correct? Through you, Mr. President.

THE CHAIR:

Senator Markley.

SENATOR MARKLEY:

Thank you, Mr. President. Through you, that is exactly right. The idea would be to say that the department could obtain this information but it would not be available through Freedom of Information so it would remain private.

THE CHAIR:

Senator Kissel.

SENATOR KISSEL:

Thank you very much. And I'm still thinking about the underlying bill, and I have to say, I definitely acknowledge Senator Markley's philosophical consistency when it comes to the free market and at some point we have to draw a line in the sand as far as government intrusion.

But at the same time, I know that when it comes to Medicaid issues, we're duty bound to seek out fraud, but I'm wondering if this is going beyond that. So I'm going to be very direct in this question, through you, Mr. President.

The folks that testified were the businesses, the unions, and this year the department weighed in in a different position than they did last year and I was

just wondering if this is being pushed by unions and you know me, I'm not an anti-union guy by any stretch. I try to be sympathetic to both sides of any argument.

But what's to be, what's the end game here? What's ultimately going on here if the proponent of the amendment knows? Through you, Mr. President.

THE CHAIR:

Senator Markley.

SENATOR MARKLEY:

Thank you, Mr. President. Through you, always being willing to speculate for better or for worse. I think that, I think I started to allude to it in my final or late answer to Senator Witkos that nursing homes again, as Senator Kelly alluded to, I think largely operate on a pretty small margin in Connecticut. We haven't raised our reimbursement rates to them. It's very cost based, cost plus a small percentage and expenses increased, et cetera. Demands have increased on them as well.

I think the nursing homes in a lot of ways have done a good job in being able to provide a good service at the reimbursements that they receive.

I think that to be able to say, the nursing home is in the position in negotiations with the union of saying, here's, hey, everything we're doing here is a matter of record. You can see how much we're paying for good. You can see how much we're paying our employees. You can see how much we're getting from the state, here it all is.

If you can say, all right, that's true for the nursing home, but you have this associated entity, which is doing extremely well. I think it would be to the union's advantage to try to bring that, the profitability of that entity into the equation, whether it's the formal equation of the calculation of the wage or the equation in the negotiation of the contract, or even to bring it into the equation in the course of unionizing other places to say, this nursing

home actually has access to additional funds because of the profitability of other businesses.

I think that may be where the interest lies, and I think that the advocacy of the, for this bill that we've seen from the department is a reflection of the fact that at a certain point the Governor, who faces a re-election has the need to possibly mend fences with the union certainly wants to have a strong relationship with them has made it a priority to give them this bill, which they've been looking for, for, I think at least since last Session, but I think it's been in the background for some time.

So I question the legitimacy, I honestly question the legitimacy of the request and to some extent I would question the legitimacy of the advocacy, which has come from the administration. I think there has been a political calculation involved in all of that that I think we all, I don't like to talk about it in those terms but that's my honest opinion and I think we ought to recognize that. Through you, Mr. President.

THE CHAIR:

Senator Kissel.

SENATOR KISSEL:

Thank you very much, and I very much appreciate that, that candid response because not having sat on the committee for a number of years and not had access to the public hearing, sometimes, you know, it's hard to figure out what may or may not, and I appreciate the fact that it's speculation, but to my mind probably more than plausible.

My other question is, regarding the underlying bill itself, try to figure out how this amendment's going to work, and just for hypothetical purposes, let's say McDonald's Corporation does over $50,000 worth of business with a particular nursing home.

Does this now mean that somehow the law will require McDonald's Corporation to open up its books to start talking about its profit and losses, or would this

only apply if it's a related business as defined in the underlying bill? Through you, Mr. President.

THE CHAIR:

Senator Markley.

SENATOR MARKLEY:

Thank you, Mr. President. Through you, only if it's a related business as defined in the underlying bill.

So unless the nursing home company had a sufficient stake in McDonald's, there would not be a need for disclosure. Through you.

THE CHAIR:

Senator Kissel.

SENATOR KISSEL:

Okay, thank you very much. I have no further questions for Senator Markley, and you know, I'm grappling with the amendment itself because on the one hand I can understand how, well, let me just take it a step back.

I don't think that it's being vociferously fought against by the industry because it's overly burdensome. In reviewing the OLR report on the underlying bill and it strikes me that there's already pretty extensive requirements by both the state and federal government regarding annual reports to be promulgated by nursing homes and justifiably so.

Secondly, my philosophy regarding what we expect out of businesses is a little different when we're using our precious tax dollars to be, if not some of their revenue stream in some instances, all of their revenue stream. I just don't, I can't see any nursing home out there in Connecticut that doesn't have state pay as a significant component of its revenue.

So I think they have a higher duty to us, and to me, that higher duty works a little bit against the justifiable, in many instances, philosophy that

government should butt out and let private businesses do what private businesses do.

The third point is that, can I envision perhaps some nefarious business owners you know, trying to manipulate their related parties such that they can gain an advantage somehow as far as reimbursement and as much as the agency said, well, you know, we were opposed to this last year because we think we can spot that a mile away, I don't know. I don't know enough about how these things work such that, you know, Loch Ness Linen Company is getting all this extra money for linens and that's essentially diverting some of the revenue stream and hiding it so that you can go in and seek a different reimbursement rate.

The fourth, perhaps this information is critically important in negotiating with your unions, or even just in how you treat your employees, whether they're unionized or not.

And let's say the money manipulation is not illegal. There's no nefariousness about it, but you're shifting and then you're going in and sort of, you know, pleading poverty. I'm sorry. We're going to have to have across the board salary freeze because we're just barely making a profit.

But the related entities are doing double digit profits. Well, I don't have a lot of sympathy for that, I mean, I know, you know, some people marvel and think that's good business. Hey, whatever we can do to make money, that's good business. Well, tax dollars are being used here and if it's our tax dollars a) I think people deserve living wages and b) they have really hard jobs.

Not that many years ago my wife's grandmother Rose Verdina, developed Alzheimer's. That was one of the reasons many years ago I wanted, one of the motivating factors why I was one of the original members of the then Select Committee on Aging and championed many, many aging issues, especially those related to Alzheimer's and indeed was lucky enough to be given a Legislator of the Year Award one time by the Connecticut Association of Not-For-Profit Providers for the Aged.

But as a practical matter, when Rose had Alzheimer's it lasted probably pretty darned close to five years and I always characterized it as a very long goodbye. At first, loved ones try to take care of an individual in their home setting, but after a little bit of time one realizes that's a dangerous situation. You come home or you visit, you know, a person and the stove has been left on. Things are just done because they're slowly losing touch with their reality. That's sort of a variation of dementia.

And so then the progress is to adult daycare and luckily in Enfield we have two fabulous adult day centers, one operated by the Town of Enfield and one by the Felician Sisters, and they do an excellent job because when you're taking care of a loved one, and by the way, we always associate Alzheimer's with the aged. It doesn't have to be that case.

I am aware, there was another family member prior to Rose who came down with Alzheimer's. I think she was in her fifties and that was very sad, too.

But the caregiver, the trying to let the person live in their home, but it takes a lot of effort and so the adult day centers offer respite to the caregiver, but at some point in time it just becomes impossible and then that individual is put in a nursing home.

And there's been a lot of changes over the years. Nursing homes now have secured wings for those with Alzheimer's. And as Senator Kelly pointed out, we have an aging population and so as a component of that aging population, we're going to see more and more folks with the long-term illnesses such as Alzheimer's, dementia and other things like that.

In part it's a sad thing, but in part it's a natural consequence of more people living to their eighties and nineties and beyond. And if you want to get a handle on how many folks out there because families that have loved ones with Alzheimer's really don't broadcast it a real lot. They just sort of suffer in their own way.

That's why I think memory walks are pretty good to bring public attention to the issue, but biggest town in my district is Enfield at about 44,500. That's about the number of folks in Connecticut with Alzheimer's right now. Imagine an entire small town, a fairly sizeable town, every single soul there, so that's a big issue and that's one component of folks in nursing homes, but a lot of us, just folks that are just, you know, old people, maybe, you know, mentally alert but their bodies are just breaking down.

And so, it's a hard job, and the nice thing is that at least the nursing home and I'll always give out props to Parkway in Enfield because that was the nursing home and they had the most dedicated staff. They really, really, really cared about each and every individual.

But when you have people that are so debilitated that the nursing home is sort of a last place they're going to reside, it could be just, you know, just having to move them so they don't get bedsores, making sure they eat properly, making sure they're groomed, you know. Imagine if you needed someone to help you do the most simple task.

So the dilemma that I have is that on the one hand I agree with the amendment in that it protects this information from competitors, and I think that's a laudable goal. I think that sort of having this information out there so that another nursing home can look at the information and say, hmmmm, wow, they're using this particular vendor and they're saving money here. They're using this particular group and they're saving money there. We can just shift over that. We'll actually be able to do better.

Or, let's say they're on the verge of going out of business. Maybe we can tip them over the edge and get rid of that competitor and then we'll take their business. So to that end, I agree with your Amendment.

But on the other hand, not necessarily opposed to those negotiating with the nursing home having access to this information so that the negotiation is fair, and it's too bad that this kind of legislation

percolates out of a dilemma such as occurred, a fight between labor and management down in the southern part of the state.

For whatever reason, we tend to see a lot of those difficult labor/management relations with nursing homes, and I, you know, say oh, 1199. I'm not picking on 1199. I don't think it's any particular union. Sometimes I wonder if the nature of the work. That's hard work, and you want to be cheerful and upbeat, but when you're around people that any given day that you go in someone that you really like and you cared about is dead. That's emotionally draining.

You want to form relationships with your clientele, or with your clients. It's got to hurt. So between the physical strain and the emotional strain, I think it takes very special people to work in nursing homes and a very dedicated staff.

So I'm going to sit down and listen to the rest of the debate on the amendment and then the rest of the debate on the bill because I see good arguments on both sides and if I support the amendment, it doesn't necessarily mean I don't support the bill and I have to sort of weigh.

I actually think the unions and the negotiators can get to where they need to go without the bill and I really hope it's not just a sharp stick in the eye of the industry because of frustration. I don't believe that to be the case. I don't think this bill would be before us if that were the case.

But at the same time, these are our tax dollars. These are our loved ones. These are our parents and grandparents. They deserve to have the best quality of care our tax dollars can give them and if anybody's milking the system or ripping it off or hiding profits, I don't think that's conscionable and I think that we are duty bound to route that out.

We have a lot of proposals in this building to curb Medicaid waste, to seek out fraud and to hold people accountable for our precious tax dollars. So I commend Senator Markley. He's been out here for many, many hours on this one Amendment. He's very well

versed in exactly what's going on with this particular bill proposal, and I know that he's put yeoman's efforts into working on the Human Services Committee, not an easy committee. I've served on there for many, many years, very complicated governmental programs. Hard to follow the dollars and understand all the players.

So I look forward to the continued debate on this particular Amendment and then debate on the underlying bill. Thank you, Mr. President.

THE CHAIR:

Thank you, Senator.

Senator Fasano.

SENATOR FASANO:

Thank you, Mr. President.

Mr. President, through you to Senator Markley.

THE CHAIR:

Please proceed, sir.

SENATOR FASANO:

Thank you. Senator Markley, it's my understanding that what your Amendment seeks to do is to prohibit the information that's filed to DDS by virtue of the disclosures to be disclosed to others. Is that correct? Through you, Mr. President.

THE CHAIR:

Senator Markley.

SENATOR MARKLEY:

Thank you, Mr. President. Through you. Yes, it is to prevent the information filed under this bill with DSS from going beyond the people in the agency that may need to see it and making the matter for the general public. Through you.

THE CHAIR:

Senator Fasano.

SENATOR FASANO:

Thank you, Mr. President. So DSS, having DSS get the information is not the real stumbling block if DSS believes that information is pertinent to its function, which as Senator Kissel and others have said, which is to help people who are in nursing homes for making sure these nursing homes are run financially competently and securely.

So what we do is, we're asking these nursing homes to deliver various pieces of information to DSS so it all can be reviewed to make sure everything in my words are on the up and up. Is that accurate? Through you, Mr. President.

THE CHAIR:

Senator Markley.

SENATOR MARKLEY:

Through you, Mr. President, yes, I would say that's accurate. As I said, I'm not convinced that there's a need for the underlying bill, but if in fact there is, then the information would be there for the department and the business entities would still, their privacy would still be protected if the amendment is adopted. Through you.

THE CHAIR:

Senator Fasano.

SENATOR FASANO:

And when you say privacy, we're talking not just privacy in terms of proprietary information, we're talking privacy relative to their business deals, their contracts, what they pay other people, that stuff that people in their own business consider to be their work product. We're talking about preventing

that from getting out to the public. Is that correct? Through you, Mr. President, by virtue of your Amendment.

THE CHAIR:

Senator Markley.

SENATOR MARKLEY:

Thank you, Mr. President. Through you, you know, it's, the nursing home itself has to report all the kinds of information that you referred to already in terms of payments and costs and contracts and so forth.

The question, what this bill demands is a fairly simple extension, which is to say, if there's a related entity the transaction between the nursing home and that entity would already be a matter of disclosure, and the terms of that transaction would already be disclosed.

But the bill would say that related entity has to disclose its own profit and loss statement, regardless, if they're doing more than $50,000 a year business with this nursing home, regardless of how much business they might do. They might e doing $50 million worth of business in a year and the nursing home might only represent $50,000 of it, but they would be required under this bill to submit a profit and loss statement to the department.

They would not be required to give additional information about other contracts, employment costs and all those other things. They wouldn't have to open their books to the department, but they would have to present a profit and loss statement. Through you, Mr. President.

THE CHAIR:

Senator Fasano.

SENATOR FASANO:

So in the underlying bill, it talks about that they have to file the annual report of a profit and loss statement from each related party that receives such chronic and convalescent nursing home $50,000 or more, per year, for goods, services, et cetera, and that is to make sure DSS has the information of profit and loss to make sure that these nursing homes are being run efficiently to the best of their ability and they're using that information and digging through that information to find that conclusion. Is that the purpose of that? Through you, Mr. President.

THE CHAIR:

Senator Markley.

SENATOR MARKLEY:

Thank you, Mr. President. Through you. You get, in a way, Senator Fasano, I would invite you to make the thought experiment to say, what would be the purpose of that information?

In other words, if you go back to the, I don't know if you heard the exchange that I had with Senator Kelly where we were talking about a hypothetical linen company. I own a nursing home and my nephew starts a linen business and I decide to make a contract with him to purchase the linen.

The danger of course would be, that I would write a contract, which was favorable to him, and then expect the state to reimburse me and at his profit, and maybe I'd let him keep the profit and maybe I'd want to split it with him, but in any case it wouldn't be a proper relationship.

I would say that the disclosures, which already exist about the relationship between the nursing home, the contractual relationship, the services provided, the cost that is expended for those goods, already makes it impossible for me to have that improper relationship with my nephew's linen company because I'm saying I'm paying a certain amount for the service. The Department, which is familiar with what the cost should be, has a benchmark already for what it should be and wouldn't reimburse it.

What we're talking about is, what is the profitability of my nephew's linen company, not just their exchange with me, but his entire operation, which might include hundreds of other people.

And the question would be, why is that important to the agency? A year ago the agency would say, it isn't important to us. This year they say it's important to us because we need to know how stable the nursing home is and if we know that the nursing home is part of a stable corporation overall, that's a good thing.

If they have other entities that are suffering, then maybe we should be concerned about the viability of the nursing home.

What the department does not say is that they need this information to prevent a fraudulent relationship, but they feel like they needed to be able to anticipate problems.

Okay. If I grant that, then I'd say, I don't agree with it, but if I grant it, I would say fine, then take my nephew's profit and loss statement, even though the relationship with the nursing home may be only a fraction of the business, and make your determination. But don't go out and reveal to the world how this business is doing, which is not actually even being directly paid by the state, and which maybe is receiving a very small fraction of its business from a state contract. Through you, Mr. President.

THE CHAIR:

Senator Fasano.

SENATOR FASANO:

Thank you, Senator Markley for the detailed answer. And if it so important, I think what I'm a bit confused is, they want the responsibility by virtue of this bill to ask for all this information, but I'm curious as to why no cause of action or liability shall arise against the, the Department of Social

Services, any state official agent for failure to take action based upon the information.

What you're saying, it is so important that we get this information and it's so important we get these profit and losses because we need to have a picture of all the nursing care and what they do. We need to know who they're transacting business with because that is a core function of the government and oh, by the way, we'll (inaudible) responsibility for looking at this, for doing it.

And your answer to that is, okay, by virtue of your Amendment, but don't disclose it to somebody else. If you want it and you think it's important and you're going to take on that responsibility and now you want to be immune from that responsibility, why is it necessary that it has to be disclosed?

And I think your Amendment seeks to say, if you think it is important, that's great. But there is no public policy reason to distribute this information to the public. Is that an accurate statement? Through you, Mr. President.

THE CHAIR:

Senator Markley.

SENATOR MARKLEY:

Thank you, Mr. President. Through you, yes, that is exactly correct, Senator Fasano.

THE CHAIR:

Senator Fasano.

SENATOR FASANO:

Senator Markley, I thank you for your answers to my questions.

You know, when we talk about this bill, here's the issue. We have bills in front of us already that we want to not allow FOI for addresses, phone numbers,

for various employees in the state of Connecticut beyond correctional.

We already have a number of FOI reasons to hold information sacred. Employees files are not FOIable. Certain other documentation is not FOIable. But here we have a case where we're going to allow somebody's business and the person they're doing business with to be exposed to the public.

This is unbelievable. This is unbelievable to think that we as a government are going to say, we're going to demand somebody by our government action, by our government authority, we're going to demand privileged work product information for what could be argued is a good public purpose. But more than that we're going to let everyone else have it. How could that possibly make sense to the outside public?

How could that possibly have any relevance other than DSS? How could it possibly be? That's the reason if you want to do this, okay. I could see, I don't even appreciate the underlying bill to that extent, but I appreciate that it could be important.

But if we amend it by what Senator Markley proposes here today, what we've done is, we've put a reasonable, logical Amendment that says, if we want the information that's great, but there's no need to disseminate that information to anybody who will ask for it.

Those of us who run business cannot imagine. The business I run I have many vendors. I've got all different food vendors. I've got all different rental vendors. I've got linen services. I've got all sorts of different vendors. I can't imagine the government telling me to run my facility I need a DRS audit. I need all your contracts to make sure you're paying your sales tax. By the way, I can release that on an FOI request. I just can't even imagine that. I can't even imagine that intrusion into the business world even being contemplated in this building.

Ah, but I forget. There's another reason why it's really being done. It has nothing to do with the function of government. It has nothing to do with

making sure nursing homes are stabilized, because if that were the issue we wouldn't need, if that was the issue then they would concur with Senator Markley's Amendment to keep it at DSS.

The truth of the matter is, this bill is being presented so we can get information to those people who want to have contract negotiations to have the ability to have information that's normally a business product so they can make their arguments and contracts, and we're going to facilitate that. Why? Why? Because the lobbyists here are too big on that issue, because they control too much in this building.

I just cannot believe, I cannot fathom that if this amendment doesn't go forward to keep privileged information of a company privileged and still do the function we're supposed to do, which is to keep our home care for convalescent facilities running fairly, adequately and capitalize.

I have an amendment, which I'll be bring up shortly that says okay, even if you don't accept Senator Markley's, how about if we say release the information when the DSS suspects a problem. Then let the world see what's behind the covers. Fair game. Now it's not running right. They see a problem. They should open up and let everybody see it so we can see what's going on.

But to argue that I am a profitable, running smoothly, top-grade convalescent facility, but I have to give DSS every piece of information, every contract, every profit and loss statement from all my other service providers, which could be FOId, it's got to be one of the biggest intrusions that this Circle has ever voted on, ever voted on.

We have a core function. The core function is not to facilitate contracts by outside people. Our core function is to make sure convalescent facilities run correctly. Our core function is to make sure people in that convalescent facility are taken care of appropriately.

As Senator Kissel said and as Senator Witkos has said and Kevin Kelly and his Silver Tsunami, we are getting

a lot of people getting into the elderly population. I think Kevin Kelly said that our elderly population is that of close to Florida, which is an amazing statistic.

So there's a need, but there's not a need, not a need, to allow people to have their personal information, their business information paraded on through an FOI for special interests.

Mr. President, I support Senator Markley's Amendment, and I would say if the folks around this Circle, if they honestly believe in core government and believe that this is an intrusion and believe that it is wrong, that we allow government to interfere in private lives and private companies by virtue of making all that information public, then they should support Senator Markley's Amendment because it does what I think the sole purpose of this bill should be to do, respect our convalescent facilities. Thank you, Mr. President.

THE CHAIR:

Will you remark further on the amendment? Will you remark further on the amendment? If not, Mr. Clerk, please announce the pendency of a roll call vote. The machine will be opened.

THE CLERK:

An immediate roll call has been ordered in the Senate. Immediate roll call on Senate Amendment Schedule "A" has been ordered in the Senate.

THE CHAIR:

Have all the members voted? If all members have voted, please check the board to make sure your vote is accurately recorded. If all members have voted, the machine will be closed and the Clerk will announce the tally.

THE CLERK:

Senate Amendment Schedule "A."

Total Number Voting	35
Necessary for adoption	18
Those voting Yea	14
Those voting Nay	21
Those absent and not voting	1

THE CHAIR:

The amendment fails. Will you remark further on the bill? Will you remark further on the bill? Senator Kane.

SENATOR KANE:

Thank you, Mr. President. I rise for a couple of questions to the proponent of the bill.

THE CHAIR:

Please proceed, sir.

SENATOR KANE:

Thank you, Mr. President. Through you to Senator Slossberg, Senator Markley proposed an Amendment just a little while ago, which would remove the profit and loss statement from being sent to other entities beside the State of Connecticut and DSS more importantly.

But I asked him a couple questions about nursing homes in general, and I'd like to start there for the basis of my questioning.

These nursing homes, and when I asked Senator Markley, actually you shook your head, so I think you know the answer being the Chair of the Human Services Committee.

Are there nursing homes publicly traded companies? Through you, Mr. President.

THE CHAIR:

Senator Slossberg.

SENATOR SLOSSBERG:

Yes, through you, Mr. President, it is my understanding that they are not.

THE CHAIR:

Senator Kane.

SENATOR KANE:

They are not, meaning none of them are publicly traded companies? Through you, Mr. President.

THE CHAIR:

Senator Slossberg.

SENATOR SLOSSBERG:

Yes. There are 171 of them, so I couldn't say definitively if they're not, but I can say if they're publicly traded then their 10K would, you know, would require them to you know, send this information and that much more is publicly disclosed, so my instinct is that the majority of them are not.

THE CHAIR:

Senator Kane.

SENATOR KANE:

Thank you, Mr. President. So the majority of them are not. So if they're not publicly traded companies, then obviously they're privately held.

Are they S corporations? Are the LLCs? What type of businesses are they? Through you, Mr. President.

THE CHAIR:

Senator Slossberg.

SENATOR SLOSSBERG:

Thank you. Through you, Mr. President. Again, there are 171 for-profit companies. I couldn't tell you how

many of them, what their corporate structure is, but I do know that, you know, many of the large ones have related entities, you know, and many of them have real estate investment trusts that they pay rent and lease from.

THE CHAIR:

Senator Kane.

SENATOR KANE:

Thank you, Mr. President. So there are 171 for-profit companies. How many nonprofit companies? Is there such a thing as nonprofit nursing homes? Through you, Mr. President.

THE CHAIR:

Senator Slossberg.

SENATOR SLOSSBERG:

Well, there are 221 total, so I guess you could do the math.

THE CHAIR:

Senator Kane.

SENATOR KANE:

Thank you, Mr. President. I do serve as the ranking member of the Appropriations Committee, so I think I'll be able to figure that one out.

SENATOR SLOSSBERG:

Thank you.

SENATOR KANE:

Of those companies that are for profit, how many of them receive state funds? Through you, Mr. President.

THE CHAIR:

Senator Slossberg.

SENATOR SLOSSBERG:

Oh, that's, 171 of them, all 221 receive state funds. One hundred seventy-one of those two hundred twenty-one are for profit. Those are the only ones that we are talking about, nursing homes that receive state funding.

THE CHAIR:

Senator Kane.

SENATOR KANE:

Thank you, Mr. President. So none of them use private insurance or any other form of payment? Through you.

THE CHAIR:

Senator Slossberg.

SENATOR SLOSSBERG:

Through you, Mr. President. No, that's not correct. Some of them have a mix, so then they have a mix of payors. However, it is my understanding that about the average expended, the average amount that is state funded is about 80 percent of their business, and that's an average across the board.

THE CHAIR:

Senator Kane.

SENATOR KANE:

Thank you, Mr. President, and I guess that's what I was getting at is I understand that, what there may be a mix but I was trying to ascertain if there were some that didn't get any state funding but used private insurance solely, but it sounds like they all participate through DSS, through Medicaid or Medicare or some type of public domain, if you will. Through you, Mr. President.

THE CHAIR:

Senator Slossberg.

SENATOR SLOSSBERG:

Thank you. Through you, Mr. President, I do believe there may be one or two completely private pay nursing homes. I'm not sure of that number given that we only deal with those in this bill that are receiving state dollars.

THE CHAIR:

Senator Kane.

SENATOR KANE:

Thank you, Mr. President. And is your role as the Chairman of the Human Services Committee, obviously you deal with more than just nursing homes. There are other businesses that receive state dollars for the services that they provide to the constituents that we represent.

Are they required to do anything similar that is required in this bill? Through you, Mr. President.

THE CHAIR:

Senator Slossberg.

SENATOR SLOSSBERG:

Yes, thank you. Through you, Mr. President, although it is not within the realm of the Human Services Committee, it is my understanding that hospitals have similar reporting requirements, in fact, that are actually much more extensive that they are required to submit combined tax reports.

THE CHAIR:

Senator Kane.

SENATOR KANE:

Thank you, Mr. President. Aside from hospitals, though, you know, in your estimation as Chairman of the Human Services Committee, are there other types of businesses or entities that you've come across in your dealings that would provide the same type of P&L statements that is required of nursing homes in this legislation? Through you, Mr. President.

THE CHAIR:

Senator Slossberg.

SENATOR SLOSSBERG:

Through you, Mr. President, it is my understanding that, you know, certainly there are other facilities that we pay that provide cost reports similar to what is required of chronic and convalescent nursing homes. However, this bill deals directly with our chronic and convalescent nursing homes only.

THE CHAIR:

Senator Kane.

SENATOR KANE:

Thank you, Mr. President. I guess what I'm trying to make the correlation of the requirements in the underlying bill, are we singling out, if you will, for lack of a better word, nursing homes as opposed to any other entity that may receive state funding.

Because if we're creating this bill then we could be chartering new waters and I'm wondering, yes, this industry does it or this industry does it. It's common practice here or here, so this is nothing new. It's the norm.

Or is it, yeah, you know, we're going down a different road with this bill. We're asking nursing homes to do something that nobody else does. I guess that's where I'm going with that question, through you, Mr. President. Hopefully, I've explained it a little better.

THE CHAIR:

Senator Slossberg.

SENATOR SLOSSBERG:

Thank you. Through you, Mr. President, Well, I would say we're somewhere in the middle in that hospitals, as I said, although you may put them into a different category, they are, in fact, businesses that are receiving state funding where you know, some of their payments come from the state.

They are required to submit a substantial amount of financial information to the state, including their combined tax forms.

As to some of the other entities in our state that we pay like the residential care homes, which is a different type of facility, generally with a different type of structure. Usually they're smaller homes with smaller amounts of people living in them, are a different structure where we haven't had any of the problems that we've had with some of these for-profit nursing homes. Those are not included in this bill, so I would say we're somewhere, where some businesses are required to make this reporting and some are not. But in this instance, we are requiring this on the basis of the experience that we've had.

THE CHAIR:

Senator Kane.

SENATOR KANE:

Thank you, Mr. President. I guess, yeah, I would put hospitals in a different category because my initial question to you was, are these publicly traded companies and you said no. You know, we're not quite sure if they're LLCs, S corps or what have you. They could be family-owned businesses, so certainly hospitals are not in that category. They're large corporations if not foundations, certainly. They could be attached to a school like Yale or you know, Hartford Hospital, which is a large entity that could be attached to the archdiocese maybe like some of the Catholic hospitals.

So no, I wouldn't put them in the same category as your local nursing home.

So if I may exclude hospitals for a moment, you know, because what I'm getting at is that fertile ground we're talking about in this legislation, is this something new that we're requiring of entities that are small businesses that we don't require of anyone else and I'm just trying to get an understanding of the reasoning that we're talking about nursing homes as opposed to maybe any other vendor that we may be dealing with in the state of Connecticut aside from hospitals, because I really do believe they're separate and that's kind of apples and oranges in my mind. Through you, Mr. President.

THE CHAIR:

Senator Slossberg.

SENATOR SLOSSBERG:

Yes, thank you. Through you, Mr. President, we're dealing with nursing homes because we made $1.6 billion of state dollar payments to them and we've had problems with being able to find out the financial viability or the financial or the financial health and what's actually happening with the dollars in those nursing homes on a number of occasions and that's why we're dealing with these nursing homes.

THE CHAIR:

Senator Kane.

SENATOR KANE:

Thank you, Mr. President. And, you know, is that, you know, are we giving them $1.6 billion because they're taking care of the aging population, you know, that Senator Kelly talks about when he talks about this Silver Tsunami that's taking place. You know, isn't that the reason why that industry is growing?

It's not because, well, I don't know actually if it's because their costs are higher or they make more than certain other industries. Could it be possible that

this $1.6 billion you speak of is because of the aging population that we have in the state of Connecticut and beyond? Through you, Mr. President.

THE CHAIR:

Senator Slossberg.

SENATOR SLOSSBERG:

Yes, through you, Mr. President. I'm not sure that I understand the question of why are we paying them $1.6 billion? Basically, we as a state, we pay for the cost of the nursing home to take care of those people who are eligible for Medicaid assistance through the state, so those are the dollars that we pay.

But with the dollars that we pay, I believe we have a responsibility to ensure that the care is appropriate and that the dollars we are paying are actually going to the care and that when a nursing home, you know, suddenly finds that it's, you know, comes to the department and says they need a rate increase because they're financially having trouble, I think it is reasonable for the state to be able to see whether the dollars from that nursing home have been drained to related parties, or whether in fact they are not making ends meet and the cost reimbursement rate is not reasonable and we need to be addressing it that way, and that is all about taking care of the residents in the nursing home.

THE CHAIR:

Senator Kane.

SENATOR KANE:

Thank you, Mr. President. A couple questions in something you just raised. First, the rate increase. How does a nursing home ascertain a rate increase? Through you, Mr. President.

THE CHAIR:

Senator Slossberg.

SENATOR SLOSSBERG:

Yes, through you, Mr. President. That's a good question. So basically every year the nursing home will fill out and file with the Department of Social Services an annual cost report. And in that cost report they will list all of the costs, the expenditures for the nursing home and by that, then, they will be able, they will show, you know, this is our cost basis, and through a series of various formulas, the department then issues, sets a rate for what the nursing home will then be paid.

So it's very important to be able to see what the actual cost is and how many dollars, what the dollars are, what they're paying for things in order to be able to determine what should be allowable and what rates should be set.

But that, I want to make the distinction though, that's very different between, there's a big difference between what is allowable on the cost report and what is actually, what they may be paying out. So those could be two different numbers.

THE CHAIR:

Senator Kane.

SENATOR KANE:

Thank you, Mr. President. So currently, the nursing home provides, if I think I know what you're saying a cost report to DSS, so DSS isn't just approving it blindly. There is some information backing up their requirement for a rate increase? Through you, Mr. President.

THE CHAIR:

Senator Slossberg.

SENATOR SLOSSBERG:

Through you, Mr. President, yes, that is correct.

THE CHAIR:

Senator Kane.

SENATOR KANE:

Thank you, Mr. President. So if that's taking place, then why the need for the profit and loss statement? Through you.

THE CHAIR:

Senator Slossberg.

SENATOR SLOSSBERG:

Thank you. Through you, Mr. President. The reason that we need the profit and loss statement is so, if you're looking on the cost report and you see that the first number of items there are to related parties, because they check off whether the payment is to a related party, you can see to some extent, you know, what the actual cost is and then what they've actually paid out, and then there's the determination of what is allowable.

But over time, if you can look and see, you know, that there's a large amount of money that's going out to these related parties, whether they're being reimbursed as cost or not becomes irrelevant because what ends up happening is, if you look at the bottom line of the nursing home and the nursing home is experiencing significant losses but they're making these payments, which on their face may look reasonable, but they are then in a financial position where they can't, you know, that they are struggling, you need to know where that money is going.

Because if the related entities, but maybe the parent corporation that holds the lease is then making an exorbitant amount of money and draining the dollars from the nursing home, the nursing home may on its face looks like it deserves, it needs a rate increase when in reality what they've done is, they've drained the money and shifted the dollars from the nursing home into the parent corporation and in fact, we've seen that happen here in nursing homes in the state of Connecticut.

THE CHAIR:

Senator Kane.

SENATOR KANE:

Thank you, Mr. President. You know, I've been in business 20 years and I've talked about this many times on the floor of the Senate, and I think any business owner will tell you that their largest cost, their largest expenditure is payroll.

So, you know, I don't, you know, when you talk about companies that make these payments to other entities, parent companies, what have you, sure, I can understand that. I heard examples of Senator Markley talking with others about linen and all these services that are provided to the nursing home.

But you know, in the testimony that you heard in your committee, did the nursing homes come and say that? Did they say, look, our biggest expense is the payroll that we deal with every day?

I mean, even if you look at your local school budget, right, in the Town of Milford and you asked your superintendent and your board of education, you know, what's the biggest chunk of your budget, they're going to tell you payroll. I'm going to tell you it's 80 percent and the rest is pencils and books and transportation and everything else.

I mean, you know, didn't that flush out during the public hearing process? I mean, through you, Mr. President.

THE CHAIR:

Senator Slossberg.

SENATOR SLOSSBERG:

Through you, Mr. President, no, actually, that did not, and in fact, the cost reports that, you know, I have seen, have actually shown that the largest item of payment are actually to, in the largest for-profit

corporate chain of nursing homes in our state, the largest payments are to related parties for real estate rentals. In other words, you know, having the business on that land, management and accounting services, also to a related entity, and then to certain, you know, various other services, but also to related entities where there was common ownership.

THE CHAIR:

Senator Kane.

SENATOR KANE:

Thank you, Mr. President. So in the public hearing testimony of the Human Services Committee on this bill, it was found out that rental, accounting services and various other services were greater than payroll? Through you, Mr. President.

THE CHAIR:

Senator Slossberg.

SENATOR SLOSSBERG:

Through you, Mr. President. No, that was not discovered during the public hearing, but in the time subsequent to our public hearing as we continued to ask questions and get additional information, which is, by the way, all of those cost reports are public.

THE CHAIR:

Senator Kane.

SENATOR KANE:

So that was gotten through a cost report submitted to DSS? Through you, Mr. President.

THE CHAIR:

Senator Slossberg.

SENATOR SLOSSBERG:

Through you, Mr. President, yes, that is correct.

THE CHAIR:

Senator Kane.

SENATOR KANE:

Then why the need for the bill? Through you, Mr. President.

THE CHAIR:

Senator Slossberg.

SENATOR SLOSSBERG:

Through you, Mr. President, because you can still look at that and say, okay, so they paid a million dollars for real estate rental, and that may be a reasonable cost. But we don't necessarily know that one way or the other and it may be that that's what they should be paying.

But when you look at the whole of that nursing home, the only way to tell whether it is, in fact, financially sound or not financially sound is to look at the entire corporation, because it's very easy to drain the resources out of one home or another home, shift the dollars to the management company that's providing services, or shift the dollars to the CEO who owns the land and then find that when you actually just look at the bottom line that the nursing home is, in fact, losing dollars or not able to make ends meet.

THE CHAIR:

Senator Kane.

SENATOR KANE:

And this occurred in how many instances in your research? Through you, Mr. President.

THE CHAIR:

Senator Slossberg. I didn't hear the question.

SENATOR SLOSSBERG:

Thank you. Through you, Mr. President, I have at least two if not, I think I have four in front of me that this has happened recently, but we've had one very recent and glaring example of it.

THE CHAIR:

Senator Kane.

SENATOR KANE:

Thank you, Mr. President, so four out of 171? Through you, Mr. President.

THE CHAIR:

Senator Slossberg.

SENATOR SLOSSBERG:

Through you, Mr. President, that we are aware of now, but those four instances involved more than one nursing home, and I'll tell you, it was pretty horrible.

THE CHAIR:

Senator Kane.

SENATOR KANE:

Thank you, Mr. President. A profit and loss statement that is required under this bill is going to be given to whom? Through you, Mr. President.

THE CHAIR:

Senator Slossberg.

SENATOR SLOSSBERG:

Yes, through you, Mr. President. The profit and loss statement will be filed with the cost report that is

filed annually by the nursing home to the Department of Social Services.

THE CHAIR:

Senator Kane.

SENATOR KANE:

And when it's filed with the Department of Social Services does it then become public record? Through you, Mr. President.

THE CHAIR:

Senator Slossberg.

SENATOR SLOSSBERG:

Through you, Mr. President, it is publicly available, so it could be, it can be FOId. It is subject to our Freedom of Information statutes.

THE CHAIR:

Senator Kane.

SENATOR KANE:

And the reason for the committee pursuing this bill is because these businesses received state dollars? Through you, Mr. President.

THE CHAIR:

Senator Slossberg.

SENATOR SLOSSBERG:

Through you, Mr. President, well, that's part of it, because these businesses, the nursing homes are charged with the responsibility to take care of our senior citizens and they receive state dollars and so we want to ensure that they are, you know, that the money is not being shifted away from the nursing home.

THE CHAIR:

Senator Kane.

SENATOR KANE:

So, what about, you know, companies that received money from DECD, you know, Bridgewater Associates and ESPN and all these companies that received all this money. Do we require profit and loss statements for them, and if so, are they FOIable? Through you, Mr. President.

THE CHAIR:

Senator Slossberg.

SENATOR SLOSSBERG:

Through you, Mr. President, I couldn't answer that question.

THE CHAIR:

Senator Kane.

SENATOR KANE:

Thank you, Mr. President. Well, it's state money, right? I mean, whether it's through DSS or through DECD it's state money, so that was kind of my question before when I asked you if other organizations, other businesses, other companies who receive state money were required to do the same thing.

I appreciate Senator Slossberg for answering my questions. I don't know, Senator, if you convinced me on the necessity of it, however, because as I told you, I am a small business owner and I think, you know, we're not a publicly traded company. There are no stockholders we have to report to, and you know, I find that a dangerous slippery slope that you're entering here by requiring companies to provide profit and loss statements, and then in doing so, what's even worse, is making it public record and you're exposing individuals to their income, their taxes, I mean, a whole host of information that should be held private.

And you know, I didn't get a clear answer from you, aside from hospitals, which I don't agree with you. I think they are in a separate category. I don't, you get a clear answer, but anybody else who is required to do such a mandate and we're giving away millions if not billions of dollars through DECD to companies and not requiring the same type of issues.

I've always known, whether it be in my business or getting my MBA that, you know, the largest chunk of an expense for anyone is their payroll. I mean, there's just no way around it. There's no way that rentals and accounting services and other various services can outdo payroll.

I mean, I've had a business for 20 years and that's been my largest expense. And again, you can go to your local board of education, you can go anywhere, and payroll's your largest expense.

I think, you know, if there were 4 bad apples out of 171 or importantly, 221, because 50 of those are not for profit, then, you know, this is more of an isolated thing and those four should be punished and should be maybe lose their license or whatever the ramifications are for doing what they did, but you know, I think what we're doing here is requiring something of 167 just because of 4 and something that's extremely onerous and I don't know if it's something that we should even ask, you know.

I think you're getting the information as you stated, with the cost reports. They're clearly laid out and you certainly had information based on those before this bill even came up, so obviously the information's out there. I think this is a dangerous road we're traveling down and I would stand in opposition to this bill. Thank you, Mr. President.

THE CHAIR:

Thank you. Senator McLachlan.

SENATOR MCLACHLAN:

Thank you, Mr. President. I stand for the purpose of questions to the proponent of the bill.

THE CHAIR:

Please proceed, sir.

SENATOR MCLACHLAN:

Thank you, Mr. President. Thank you, Senator Slossberg for all of your work on this. It is a complicated issue. I've spoken to advocates for the bill and certainly have spoken to people in the industry, in the healthcare industry at large and they are very concerned about it.

But I wonder if you could share with us, are you familiar with the report that I talked to Senator Markley about, the state report known as the Annual Report of Long-Term Care Facility? Through you, Mr. President.

THE CHAIR:

Senator Slossberg.

SENATOR SLOSSBERG:

Thank you. Through you, Mr. President. Yes, I am.

THE CHAIR:

Senator McLachlan.

SENATOR MCLACHLAN:

Thank you. Thank you, Senator Slossberg. And have you studied any of those reports? Are you familiar with the type of information that's required as part of filing those reports? Through you, Mr. President.

THE CHAIR:

Senator Slossberg.

SENATOR SLOSSBERG:

Thank you. Through you, Mr. President. I've reviewed them. I don't know that I'd call it studying. I

certainly couldn't recite it to you, but I'd be happy to do my best and answer questions with regard to it.

THE CHAIR:

Senator McLachlan.

SENATOR MCLACHLAN:

Thank you. Thank you, Mr. President. The information in those reports, you had mentioned in a colloquy with Senator Kane about you have reviewed some companies who you were alarmed with their financial dealings.

Did you come to that conclusion by reviewing the Annual Report of Long-Term Care Facility for those facilities? Through you, Mr. President.

THE CHAIR:

Senator Slossberg.

SENATOR SLOSSBERG:

Thank you. Through you, Mr. President, when I talked about that, it was in relationship to reviewing one particular nursing home and the payments to a related party that I was referring to. There is a page, if you've looked at the cost report, you know that there's a page that reviews, that talks about payments to related parties, which is what we're trying to get at with this underlying bill to really understand how this process works in terms of nursing homes that have multiple related parties, related entities, that they are making payments to. So that is what I looked at.

THE CHAIR:

Senator McLachlan.

SENATOR MCLACHLAN:

Thank you, Mr. President. Thank you, Senator. I did look at the detail in these reports. I see that there's salaries of the operators, owners, and administrators, expenditures, and I think that this is the point that you're probably talking about, two

separate sections for expenditures that are fee-based and contractual expenditures, and then of course the management services. You did mention that, I believe.

It is quite extensive. So just for further clarification, you reviewed all of that information when you were coming to your conclusion that there was a problem with a particular entity? Through you, Mr. President.

THE CHAIR:

Senator Slossberg.

SENATOR SLOSSBERG:

Through you, Mr. President, you know, my experience with there being a problem with a particular entity has less to do with the review of the cost report. That was really for information for understanding what the nursing homes are currently reporting and what that actually looks like.

My experience and my support for this bill comes from the experience that my town had with this particular issue and understanding the incredible frustration and lack of ability of our state and quite frankly, you know, our government, to be able to address a situation where we couldn't get information to find out what was going on with a nursing home financially that was affecting the quality of care for the residents, for their families and for the workers in that nursing home.

THE CHAIR:

Senator McLachlan.

SENATOR MCLACHLAN:

Thank you, Mr. President. I do have some questions about your experience with the particular nursing homes because I think we shared a similar challenge in both of our districts, but I wanted to stay focused on the concept of this bill and what you believe it truly seeks to achieve.

And so I understand that you'd reviewed these reports, but I'm not sensing that you got your, you came to your conclusion as a result of reading that report. Is that what you're saying? You look at the report but you weren't able to come to the conclusion, which you ultimately did, from reading the state report known as the Annual Report of Long-Term Care Facility. Through you, Mr. President.

THE CHAIR:

Senator Slossberg.

SENATOR SLOSSBERG:

Through you, Mr. President. I'm not sure that I can answer the question. What I can tell you is that because of the experience I had in my district, and I think you had in your district, or something similar, you know, I had recognized that there was a problem here.

But part of my review in terms of determining, looking at this bill and what I thought we ought to be doing involved looking at the cost report that nursing homes already are required to file, so I'm not sure if that answers your question, but that was the process that I went through.

THE CHAIR:

Senator McLachlan.

SENATOR MCLACHLAN:

Thank you, Mr. President. Thank you, Senator. So the cost reports, I guess there's a whole slew of reporting processes, as I understand, between the nursing home industry and the Department of Social Services as it relates to their annual requirement and their fee structure and rate review process, and so sort of separating that.

The first report that I mentioned to you is an annual basis report and then as I understand, there's also the process to set Medicaid rates and that is done under the guideline of federal regulation but handled

by the Department of Social Services, and that process of setting the rates is done, I believe, through the information provided in that other report that we were just talking about.

So is there another cost report that I'm unfamiliar with that you have had the opportunity to review? Through you, Mr. President.

THE CHAIR:

Senator Slossberg.

SENATOR SLOSSBERG:

Thank you. Through you, Mr. President, and I just want to confirm that I give you the right answer here.

It is my understanding that nursing homes submit the cost report that you were referencing, and that is what serves as the basis for the setting of the rates. There isn't a separate process or additional documents. There isn't a separate procedure. That is one procedure and it's based on that cost report and then the review of that. It's based on that that they set the rates.

THE CHAIR:

Senator McLachlan.

SENATOR MCLACHLAN:

Thank you, Mr. President. And so what is the relevance of this bill to the cost setting process? In other words, you're asking for additional information in the process that currently exists. What do you believe this new proposed process seeks to change in the current rate setting process? Through you, Mr. President.

THE CHAIR:

Senator Slossberg.

SENATOR SLOSSBERG:

Thank you. Through you, Mr. President what this does is make available the additional information if the department needs it as to the related parties. So in the first instance, we may have all the information that we may need, but we may not, and so when we start to see, if there's a red flag and we see that lots of money is being paid to related parties, then we have the information available to look at the profit and loss statement from those related parties.

And the challenges that we had is, in the past when we've had issues with this is by the time the department wanted to get that information from the related parties it was already too late and that nursing home was unwilling to give that information in to the department, which is why we're asking for that information to be provided up front by everyone who, you know, pays more than $50,000 to a related party every year, so the information is available.

THE CHAIR:

Senator McLachlan.

SENATOR MCLACHLAN:

Thank you, Mr. President. And through you to Senator Slossberg, the information that you're asking for, I believe is on the Annual Report of Long-Term Care Facility, so I'm trying to drill down to find out what we're missing. If that report states that the parties are allied, and meaning that there is a partnership of some kind between one of the contractual vendors, if you will, are you seeking to go find out how much money they're making there so that then you're going to add all the pots of money together to find out how much money they're making with all the companies put together? Through you, Mr. President.

THE CHAIR:

Senator Slossberg.

SENATOR SLOSSBERG:

Thank you. Through you, Mr. President, I think people are making this a little more complicated that it needs to be. It's really simple.

You've got a nursing home that's a single entity, but they have related parties, so maybe it's a parent corporation, or maybe it's the CEO of the company. We've got right now the cost report. It tells me that they are making certain payments to related parties. On its face it may look relatively okay, but when you get to the bottom line and discover that they're not actually, you know, that they're losing money, they've become a loss leader, you don't know.

Well, maybe in fact that is the way the nursing home is being run, or that's something that's isolated to that nursing home.

But you also just don't know whether it is because they are making these exorbitant, these large amounts of payments to related companies, and when you look at the related companies, they're all making a lot of money. They are very profitable.

But the nursing home, if you only have the picture of the nursing home, that isolated picture makes them look as though are not doing well.

But when you actually look at, well, they're paying the CEO, you know, millions of dollars in rent every year and they're paying, you know, very large management fees to a related entity that are all the same people, or have common ownership, then you start to realize that what they've actually done is they're just shifting the resources from that nursing home into related entities.

So if you have the whole picture then you can actually tell. If it turns out that those related entities are also losing money, then you have a very different picture and the department needs to make a different decision.

THE CHAIR:

Senator McLachlan.

SENATOR MCLACHLAN:

Thank you, Mr. President. Well, that was editorializing a little more than the question, but let me return to the questions that I have for you and then maybe we can editorialize on the answers.

How does this proposed new process change the audit process that currently exists between DSS and nursing homes? Through you, Mr. President.

THE CHAIR:

Senator Slossberg.

SENATOR SLOSSBERG:

Through you, Mr. President, it does not.

THE CHAIR:

Senator McLachlan.

SENATOR MCLACHLAN:

And through you, Mr. President, how would this new proposed process affect the certificate of need process that exists for nursing homes with the State of Connecticut? Through you, Mr. President.

THE CHAIR:

Senator Slossberg.

SENATOR SLOSSBERG:

Through you, Mr. President, it doesn't directly affect the certificate of need process.

THE CHAIR:

Senator McLachlan.

SENATOR MCLACHLAN:

Thank you, Mr. President. Thank you, Senator Slossberg, but could you elaborate, not directly, how

does it affect the certificate of need process? Through you, Mr. President.

THE CHAIR:

Senator Slossberg.

SENATOR SLOSSBERG:

Through you, Mr. President, I was trying to answer your question directly. I didn't want to say too much at that point, but the reality is, you know, when you're talking about the certificate of need process, the perfect example is in one of the nursing home problems that we had very recently in our state where a company filed for the certificate of need to close a nursing home.

Normally what DSS says at that point is, we want to see your financials and we also want to see the profit and loss statement from the related entities that you do business with and in this case, the corporation said, we're not going to provide those additional documents and it held up the CON process for closure for a good six months until they finally opened the doors. They let DSS come in, actually look at the documents. They wouldn't let them take copies of them, and they wouldn't let them, you know, have them for very long, but they went in and they were able to look at them.

It's obviously not an efficient process or an effective process to be dealt with that way. This bill would change that because DSS would then have the documents on file and would be able to tell whether in fact, the finances had been drained from the nursing home and gone to the related parties and they were doing fine, or if in fact the entire corporate structure was struggling and that there was a reasonable need to close the nursing home.

THE CHAIR:

Senator McLachlan.

SENATOR MCLACHLAN:

Thank you, Mr. President. Thank you, Senator Slossberg. You described, I guess an alarming process for a company struggling to stay in business, but in the case of a nursing home in Connecticut, they can't close their doors without permission, so could you elaborate a bit on how does a business owner shut down their business when they're losing money if the state objects to that decision? Through you, Mr. President.

THE CHAIR:

Senator Slosberg.

SENATOR SLOSSBERG:

Through you, Mr. President, all the nursing home has to do is just close their financial, you know, the financial basis that they are in hardship and they need to close the doors. All they have to do is substantiate that.

THE CHAIR:

Senator McLachlan.

SENATOR MCLACHLAN:

Thank you, Mr. President. And currently there's nothing in state statute that can compel a nursing home operator to disclose the information that you're seeking to have on an annual basis to go through the closure process? Through you, Mr. President.

THE CHAIR:

Senator Slossberg.

SENATOR SLOSSBERG:

Through you, Mr. President, It's my understanding that DSS can ask for it, but it's been the experience of the department that they, you know, once you get to that point, they don't always want to provide it.

And you know, in the cases where they are closing legitimately, I think that information's been provided. But certainly in one of the most recent

experiences, they didn't want to provide it because as we later learned through court proceedings, the related companies were in fact profitable.

THE CHAIR:

Senator McLachlan.

SENATOR MCLACHLAN:

Thank you, Mr. President. Thank you, Senator Slossberg. If we could go back to just for a minute to the rate setting process, which frankly, I'm not at all familiar with. I know it's complicated. I know it's laborious for both the state department who handles that and for the nursing home operators and from what I understand it's extensive and lengthy, but again, I'm not terribly familiar with how that goes about.

Is there a frequency of times when rate increases are rejected by state government, or if there's a reasonable expectation that they've demonstrated a need for a rate increase it is granted. Can you give us a flavor of how that process currently works? Through you, Mr. President.

THE CHAIR:

Senator Slossberg.

SENATOR SLOSSBERG:

Through you, Mr. President, I don't know how many are accepted or rejected. I don't have that information.

THE CHAIR:

Senator McLachlan.

SENATOR MCLACHLAN:

Thank you, Mr. President. Okay, well not a number. I mean, is it a maybe a percentage, ten percent a year are rejected? There's no rate increase. Is there usually a sort of a COLA involved in setting nursing

home rates in Connecticut? Through you ,Mr. President.

THE CHAIR:

Senator Slosberg.

SENATOR SLOSSBERG:

Through you, Mr. President, I don't believe that there is a COLA. It's all cost based and it's done annually, so I couldn't tell you what the percentages are in terms of whether rates go up or rates stay the same or rates go down. So, again, it's cost based and I couldn't tell you how many go in which direction.

THE CHAIR:

Senator McLachlan.

SENATOR MCLACHLAN:

Thank you. Thank you, Mr. President. Thank you, Senator. Going back if we may to the discussion about corporate structures, being a former banker and spending some time in commercial real estate, I understand it's not unusual for a corporate entity to have multiple corporate sub-entities for tax purposes, often is the case.

When you talk about exorbitant fees to CEOs, and you mentioned, I think you said expensive rent for buildings, when you make that statement, has someone made an analysis of whether or not the CEO of the company is getting a similar salary that other similar industry CEOs get and is someone analyzing whether or not the square footage of the building cost for a square foot is similar for a nursing home facility in the state of Connecticut? Is that part of the analysis that is currently in place? Through you, Mr. President.

THE CHAIR:

Senator Slossberg.

SENATOR SLOSSBERG:

Through you, Mr. President, in the cost setting formula, yes, that is correct. There are five cost centers that are looked at and they are complicated formulas and each has different caps related to them and they do look at what the, I guess you could, there is a formula for determining what the allowable costs are. That's the certain amount that is reported in the cost report.

But just because only a certain amount is allowable, that doesn't mean that's the only amount that the nursing home may pay. So let's say if it's a million dollars, if they looked at was allowable or reimbursable, maybe it's only $500,000 of that is reimbursable, but they're still paying a million and then what they do is apparently they take a loss on the additional $500,000. So you can see if they are paying, nothing prevents them for paying more than what is allowed, but they just don't get reimbursed for the whole thing.

THE CHAIR:

Senator McLachlan.

SENATOR MCLACHLAN:

So that's an interesting point, that you came to that conclusion without seeing the nursing home's profit and loss statement. Through you, Mr. President.

THE CHAIR:

Senator Slossberg.

SENATOR SLOSSBERG:

Through you, Mr. President, that is something I, you know, in terms of the concept, that's just a concept. We know that we only allow allowable expenses, so you can see that there's a certain portion you're going to put in a bill for a million dollars, you're only going to get $50,000, but you still put in the bill for a million dollars. You're only getting reimbursed for $500,000.

That doesn't tell me, though, whether the million dollars, the million and a half or the two million, which they are then taking a loss for, that they are paying to a related entity, it doesn't tell me whether that related entity is in fact then a profit center.

THE CHAIR:

Senator McLachlan.

SENATOR MCLACHLAN:

Thank you, Mr. President. Okay, so let's try and stay focused on that a little bit because I'm trying to understand the perception of state government, the review process for rate setting.

If state government has a like rate statewide or even regionally, I assume it could even be by county in our state because perhaps the payroll costs might be a little higher in lower Fairfield County than they might be in Windham County. I'm not sure how the state reviews that.

But if the state already has a similar cost in each of those silos that you mentioned, and that is the guideline which they use to set rates statewide, that's already the guideline.

Then what is the relevance of a company's profit and loss statement if the rate is being set based upon similar rates elsewhere? Through you, Mr. President.

THE CHAIR:

Senator Slossberg.

SENATOR SLOSSBERG:

Through you, Mr. President, because the cost centers are only part of the rate setting, and they are not all of it.

They also look at, you know, whether the nursing home is making money or losing money and we also have a process that's interim rate relief where a nursing home can come and say, we have a particular rate that

we've been receiving as a result of our cost report. However, we are losing money and therefore we need interim rate relief. So we need a higher rate. We need a bump up because we're losing money.

Well the department can, you know, better see those dollars if they know, or determine, if they're able to determine what the relative's financial health is of the parties that are receiving those dollars that are being paid to them.

THE CHAIR:

Senator McLachlan.

SENATOR MCLACHLAN:

Thank you, Mr. President. Thank you, Senator. So let me put a sort of a banker hat on just for a minute, which I never financed a nursing home, so I certainly couldn't be an expert at it, but I do understand business financing, and there is always an expected cost structure for cost of doing business so that you can sort of check and double check to make that a P&L is reasonable based upon revenue and what their overhead is.

I'm sensing that for many years the Department of Social Services has operated in a way that they already know what the overhead should be without markup and they come to a conclusion based upon the reports that they get from the applicant seeking a rate increase, the nursing home, that state government already knows what is a reasonable expectation and if it's out of line, that would raise the red flag. Does that sound reasonable? Through you, Mr. President.

THE CHAIR:

Senator Slossberg.

SENATOR SLOSSBERG:

Through you, Mr. President, I guess it does to some extent. I'm not exactly sure that that's the way they do business, but as a general proposition, I think don't think it's unreasonable.

THE CHAIR:

Senator McLachlan.

SENATOR MCLACHLAN:

Thank you, Mr. President. So here we are. We're still on rate setting and we have not really come to a clarification of how the information is being requested in the underlying bill, in this bill, it's going to be helpful to the rate setting process.

I think that the information being requested is more a bargaining tool than anything but let's expand a little bit upon the allied companies, if we may, for a minute.

Let's assume that one of the allied companies is a laundry, and is required to service this nursing home or maybe more than one, that the allied laundry is a partnership with the nursing home company ownership, but it's a separate vendor. It's a person whose business is laundry, not nursing homes and one of their partners happens to be the owner of the nursing home.

So they have a commercial laundry and one of their minor partners is the owner of the nursing home so they sort of get guaranteed business for a bunch of business there, but they still have an ongoing commercial laundry that they have to go make money and business outside of the nursing home business.

So painting that picture, it's a well run laundry and the person who runs the laundry is not a nursing home specialist and that individual has figured out how to run their laundry effectively and efficiently and recycles water or whatever it is that you do to make extra money in the laundry business and you want to know how much he's making.

And if that person who is the majority partner of the laundry has a partner who's a minority partner who happens to own the nursing home in your estimation makes too much money, then you want to suck some of the money out of there and put it into the nursing

home, but the nursing home's not entitled to that because the owner of the nursing home is only a partial owner.

Now, that doesn't sound fair at all to me, but maybe you could share with us how that would be fair. Through you, Mr. President.

THE CHAIR:

Senator Slossberg.

SENATOR SLOSSBERG:

Thank you. Through you, Mr. President, in the example that you cited the department would be looking at the related entity and the proportion of the payment, percentage of the payment that relates to dollars paid by the nursing home as in deference to dollars made outside to non-related entities.

So if you look at the cost report there's a section that says about the related parties, does this party also provide goods and services to non-related parties and they need to answer yes or no and then fill in the percentage.

So in some of those cases again, where it's the CEO just paying him or herself 100 percent of the rent, then that's the instance that it is. In other cases where there is a payment but the percentage of relationship, or the percentage of business is 10 percent, then that is taken into account when they would be looking at the profits and losses.

THE CHAIR:

Senator McLachlan.

SENATOR MCLACHLAN:

Thank you, Mr. President. Thank you, Senator Slossberg. So for a moment, let's set aside the profit and loss statement that you're asking for as a result of this bill.

How do they make their decisions now based upon the information you just gave us? It's the same information. If it's a percentage of payment of the total business, isn't the information you're essentially seeking already there? Through you, Mr. President.

THE CHAIR:

Senator Slossberg.

SENATOR SLOSSBERG:

Through you, Mr. President, the cost report is used for setting of the rates. But when you're looking at the entire financial health of the company, then you need to see where the dollars are going when the nursing home is experiencing or reporting some sort of financial distress. That is the purpose of this bill.

THE CHAIR:

Senator McLachlan.

SENATOR MCLACHLAN:

Thank you, Mr. President. Thank you for repeating yourself, Senator Slossberg. I think I got that the first two times you said that same theme, and I do understand what the genesis of the bill is.

But I'm trying to get to the fairness of the genesis of the bill when it does appear that we are seeking to perhaps even punish some bad apples, and I'll get to that in a further comment and question for you in a few minutes.

Senator Kane asked questions about who else in state government, other companies that do business with state government are required to provide profit and loss statements and I think he touched a little bit on some healthcare organizations. The question and the answer seemed to be somewhat confusing. Actually, the answer was confusing.

And then he asked about economic development and how anyone receiving economic development benefits in the

state of Connecticut, what their reporting requirements are. I think the answer to that is pretty simple, that economic development doesn't generally hand out loans without doing underwriting and due diligence, although sometimes they might not run a credit report, but they certainly do look at profit and loss statements.

But having said that, I'd like to be more specific in asking your observation about this type of reporting. Is it required for group homes in Connecticut? Through you, Mr. President.

THE CHAIR:

Senator Slossberg.

SENATOR SLOSSBERG:

Through you, to the best of my knowledge, no.

THE CHAIR:

Senator McLachlan.

SENATOR MCLACHLAN:

Thank you, Mr. President. And are you familiar with how group homes operate and are paid in the state of Connecticut? Through you, Mr. President.

THE CHAIR:

Senator Slossberg.

SENATOR SLOSSBERG:

Through you, Mr. President, no, I'm not.

THE CHAIR:

Senator McLachlan.

SENATOR MCLACHLAN:

Thank you, Mr. President. Well, it's not my area of expertise either, but if I'm not mistaken, group homes

in Connecticut are primarily paid in similar fashion as nursing homes, in that they get Medicare and Medicaid dollars and state dollars and they're put together in the form of grants.

So I guess I'm surprised that you're not familiar with that, but it is also my understanding that group homes do not have this kind of reporting, although in some cases in Connecticut, group homes are not singly owned, that they are owned by a company or a nonprofit organization and in many cases there are multiple group homes that service clients on behalf of the State of Connecticut.

So through you, Mr. President, you're not at all familiar with how they are required to report to the State of Connecticut?

THE CHAIR:

Senator Slossberg.

SENATOR SLOSSBERG:

Through you, Mr. President, no, I'm not.

THE CHAIR:

Senator McLachlan.

SENATOR MCLACHLAN:

Thank you, Mr. President. Have you had any exposure to how clinics in the state of Connecticut are required to report their financials to the agencies that help fund them? They would be private clinics of all kinds, I imagine, certainly the school-based health centers, some of which are run by outside agencies, and Planned Parenthood. Are you familiar with what kind of financial reporting those clinics are required to provide the State of Connecticut? Through you, Mr. President.

THE CHAIR:

Senator Slossberg.

SENATOR SLOSSBERG:

Through you, Mr. President, no, I'm not.

THE CHAIR:

Senator McLachlan.

SENATOR MCLACHLAN:

Thank you, Mr. President. And so, Senator Slossberg, that sort of brings us around to sort of square one, I guess.

We heard you say that hospitals have extensive financial reporting and I understand there's an army of people in most hospitals that have to handle financial reporting and it's understandable, knowing just exactly how much money they generate in revenue that there would have to be an awful lot of accountants and people in financial reporting in that entity.

But what we're hearing is that there are multiple other social service healthcare facilities in the state of Connecticut that don't have this kind of reporting, nor are they being asked to have this kind of reporting and I wonder, is it your intention to expand this kind of reporting to these other organizations in the future? Through you, Mr. President.

THE CHAIR:

Senator Slossberg.

SENATOR SLOSSBERG:

Through you, Mr. President, I have no intentions beyond this bill, but I will say that as I was thinking about your question and listening to you, I would make the note that nonprofit nursing homes currently do have their 990 statements, which are their public income tax, their income tax statements, which are actually public documents as well as FQHCs, which also file similar reports.

THE CHAIR:

Senator McLachlan.

SENATOR MCLACHLAN:

Thank you, Mr. President. I'm very familiar with 990s, and it's amazing. The last 990 I studied, which is actually in my desk, is the UConn Foundation, of all things. They're not subject to the Freedom of Information Act, and I spent a lot of time this last Session studying 990 forms for that organization.

But as you can well imagine, there's a lot of missing information on a 990 form. So the kind of reporting that's required under the Annual Report of Long-Term Care Facility far exceeds, far exceeds, the information available on a 990.

Through you, Mr. President, I'm wondering, are you familiar with the Golden Hill Healthcare Center and the West River Healthcare Center in Milford? Through you, Mr. President.

THE CHAIR:

Senator Slossberg.

SENATOR SLOSSBERG:

Through you, Mr. President, yes, I am.

THE CHAIR:

Senator McLachlan.

SENATOR MCLACHLAN:

Thank you, Mr. President, And as I am familiar with the Danbury Center owned by the same company, and I think that's our connection when we think about the challenge that we witnessed with a very contentious labor strike that affected a good many employees and more importantly, and well equally as importantly, affected an awful lot of residents of those healthcare facilities.

And in the case of Danbury, that was back in July of 2012 it was heartbreaking to watch the strike. I recall driving by the facility and seeking the workers on the sidewalk striking and what was even tougher was, I was getting phone calls from residents inside the facility who were scared. They were really scared about what was going on, and you know, who's going to take care of us and all that.

So it was a very difficult time and I can only share the experiences of what I saw in Danbury and I guess it's double that because you have two facilities owned by the same company, Health Bridge in Milford. It was a big challenge. A horrendous challenge for the workers. You know, the workers that I spoke to are not people that make a lot of money. They work hard. In some cases the workers that I spoke to, that was their second job and they were worrying about how they were going to pay their rent.

It was very difficult for the staff. It was incredibly difficult for the residents and I suppose it was difficult for the administrators of the facility as well.

But then, you know, we discovered that that was such a contentious labor dispute that I'm really feeling like part of what's going on with the underlying bill is directly attributable to Health Bridge, and I don't think that's the way we should be legislating.

You know, if Health Bridge has six or seven, I'm sorry, they have eight facilities in Connecticut out of 171 that are for-profit facilities, if Health Bridge is the bad apple, well then somebody's got to figure out how to deal with the bad apple.

But as Senator Kane said, if you have, and I can't speak to whether or not Health Bridge was a bad apple. I read a lot of the stories. I've even been on Health Bridge's website and read their side of the story in a couple of cases. You know, obviously that whole issue went to the Supreme Court. They lost. They go to bankruptcy. They win. You know, very contentious and it's still not resolved. It's a nightmare, for the workers, for the residents and for us here, because it's after midnight and we're still talking about it.

It's an important topic, I understand, but I'm just struggling once again with why are we legislating to eight people, well, eight facilities? Isn't there a better way for us to more closely monitor when you've got a problem on your hands, then DSS has got to go park in their front door and look over their shoulder to make sure that things are being done properly. Maybe that's what's got to happen.

But when you have, like I do in Danbury, a third generation operated family-owned facility that has probably two corporations, I guess, I don't know their financial makeup, but all I know is a family that runs the operation. Started by a mother who, by the way is 100 some odd years old and lives in her own facility and whose daughter and son-in-law have operated it successfully for years and now grandchildren are stepping up to the plate in serious management roles.

This is a family business, and I just, I don't understand why we've got to turn the heat up on someone like this who has a good business relationship in our community, who from what I understand has a good reputation, has happy clients.

So listen, I'm going to continue to listen to the debate, but I really wanted to get to the center of what I think the challenge here is. If there's something about regulating a business in Connecticut that needs our attention, then let's focus on that problem.

But if it's a problem with a particular bad apple, well then let's focus on that problem. What do they say, don't throw the baby out with the bath water, I guess. I mean, that's probably a little over the top, but think about it just for a minute. If you've got one particular company that has exasperated the problem with finances in the nursing home industry in Connecticut and it appears to be one major problem and it's in 8 locations, but you have 221 total nursing homes in Connecticut and 171 of them are for-profit, and we're talking about 8 out of that bunch, well, maybe this isn't the right approach. Maybe it's not the right approach.

Now, I'm not disputing at all that if there's a problem we've got to find it. I'm just asking us to take pause with the method in which we are approaching this problem.

So, Mr. President, I'm going to once again listen to the debate, but this is a tough one because I don't want to vote against workers that have struggled through a terrible labor dispute, but I don't want to vote additional burdens upon a successful, tightly-held family business. I just don't see the benefit of us doing that.

I think the benefit should be steering our efforts to make sure that the problems that occurred in the past don't happen again. I just don't think this is the vehicle to do that. Thank you, Mr. President.

THE CHAIR:

Thank you, Senator.

Senator Kelly.

SENATOR KELLY:

Thank you, Mr. President. And thank you, Senator McLachlan for those words of insight on this issue. They are so pertinent to the real problem that we face because on one hand you do have, as the discussion has indicated, a few bad apples. No pun intended.

But yet you also have workers who put in an honest day's work. They work their honest eight taking care of our loved ones at a time that's very difficult for families, not only just dealing with the loved one's decline in health, knowing where that's going to take the family, but also dealing with the financial and the health and insurance issues that are also related to that, so it's a very tough issue. It's a tough issue for us. It's a tough issue for the families going through it, but it's also a tough issue for the workers and the good companies that do play by the rules, that are trying to get this right.

And like you, you know, I want to look at this bill a lot closer because I do have some questions that I

would like to ask the proponent of the bill, through you, Mr. President.

THE CHAIR:

Please proceed, sir.

SENATOR KELLY:

Thank you. In looking at the bill and its explanation, there was a section that talked about the bill prohibiting anyone from bringing legal action against the state, DSS or other state employees or agents for not taking action as a result of information obtained by DSS in cost reports. Could you explain a little bit more about that in the sense that, is this going to give the state and these different entities and individuals full, I'm going to say, totally be held harmless? Through you, Mr. President

THE CHAIR:

Senator Slossberg.

SENATOR SLOSSBERG:

Through you, Mr. President, this section just includes, it creates immunity for the state on the basis of receiving these profit and loss statements where the understanding is that the department is going to have that information available, but you know, will be revealing them as they need to. So it provides for immunity in the case that something happens and they don't necessarily catch it and they have that information, because they're going to be reviewing as they catch things, as they see a need for it, which is my understanding is that this is an extension of the immunity they already have on the basis of receiving the cost reports.

THE CHAIR:

Senator Kelly.

SENATOR KELLY:

So the liability extends only to the receipt of the cost report and whether or not the state or its agent act on information contained in that report? Through you, Mr. President.

THE CHAIR:

Senator Slossberg.

SENATOR SLOSSBERG:

Through you, Mr. President, the cost report and the profit and loss statement. Yes.

THE CHAIR:

Senator Kelly.

SENATOR KELLY:

Would it also extend to improper or erroneous disclosure of the information to third parties? Through you, Mr. President.

THE CHAIR:

Senator Slossberg.

SENATOR SLOSSBERG:

Through you, Mr. President, I'm not sure that there could be an improper or erroneous disclosure as this matter is FOIable.

THE CHAIR:

Senator Kelly.

SENATOR KELLY:

Okay. Now, there was some significant discussion centering on the related parties and the associated businesses. Now, what happens in a situation, let's, you know, we've used laundries. We've used linen companies. We've looked at landlord-tenant relationships, but what if the related party is a medical care provider? Is there any risk of

disclosure of health related information from that related party? Through you, Mr. President.

THE CHAIR:

Senator Slossberg.

SENATOR SLOSSBERG:

Through you, thank you, Mr. President. Through you, it's getting late. The information is a profit and loss statement, so I wouldn't expect there to be any health related information on a profit and loss statement.

THE CHAIR:

Senator Kelly.

SENATOR KELLY:

Thank you, Senator Slossberg. Now, we have several state statutes that already require a lot of this disclosure and the disclosure is for various reasons to look at the, I'm going to say the management and operation of nursing homes.

What is the general mission of DSS? Through you, Mr. President.

THE CHAIR:

Senator Slossberg.

SENATOR SLOSSBERG:

Through you, Mr. President, I don't know if I can say that concisely. The Department of Social Services oversees all the various social service agencies and largely acts as the payor for the administration of Medicaid. I am sure that they do lots of other things as well, so I think for the purposes of our discussion, I hope that answers your question.

THE CHAIR:

Senator Kelly.

SENATOR KELLY:

Thank you, Senator Slossberg. Why were nonprofits left out of the bill? My understanding of the way nonprofits work is much the same way that for profits work and many times have related entities and parties. Why would we not want to look at all skilled nursing homes if our concern is based on the patient? Through you, Mr. President.

THE CHAIR:

Senator Slossberg.

SENATOR SLOSSBERG:

Through you, Mr. President, the not-for-profits were not included because they file 990s and their 990s are public information, so the Department has access. The public has access to that information and we have found that the vast number, the majority of nursing homes are for profit and where we have the problem centered on the for-profit corporations and the ever growing corporate structure in relationship to those for profits.

THE CHAIR:

Senator Kelly.

SENATOR KELLY:

So then it would be the organization and operation of the nonprofit more or less, because they're filing the 990 with the Internal Revenue Service. It's charitable mission is being monitored by the IRS. Through you, Mr. President.

THE CHAIR:

Senator Slossberg.

SENATOR SLOSSBERG:

Through you, Mr. President, I don't know that I can answer that question. I just know that not for

profits file 990s and those documents are public so that we can get that information.

THE CHAIR:

Senator Kelly.

SENATOR KELLY:

You're taxing my memory of 990s and I'm trying to think of whether or not in 990s there is an actual disclosure of P&Ls of related parties. Is that your position that a 990 would require a disclosure of the same information that's required under this bill? Through you, Mr. President.

THE CHAIR:

Senator Slossberg.

SENATOR SLOSSBERG:

Through you, Mr. President, my understanding is the 990 would provide adequate disclosure of the information necessary and in fact, in many of those instances the, you know, if they have related parties, they are also nonprofits in which case they would be filing 990s so that more information is readily available to the department and to the public.

THE CHAIR:

Senator Kelly.

Thank you, Mr. President. So is it your position that nonprofits only do business with nonprofits? Through you, Mr. President.

THE CHAIR:

Senator Slossberg.

SENATOR SLOSSBERG:

Through you, Mr. President, based on some of the review of the information that we have, generally that is the instance, is that many of the nonprofit nursing

homes are more likely to have related parties or parent companies that are not for profits, but certainly, that may cover everybody and everything.

THE CHAIR:

Senator Kelly.

SENATOR KELLY:

Still focusing on the nonprofits and the information, what does DSS do with the for profit cost reports that by failure to, well, let me just stop there.

What does DSS do in evaluation purposes with the cost reports? Through you, Mr. President.

THE CHAIR:

Senator Slossberg.

SENATOR SLOSSBERG:

I'm sorry, Mr. President, through you, someone else was talking to me. Would you mind, Senator Kelly, repeating the question?

THE CHAIR:

Senator Kelly.

SENATOR KSLLY:

Sure. When DSS receives these cost reports from the for-profit nursing homes, what does DSS do with these, as far as an evaluation? Through you, Mr. President.

THE CHAIR:

Senator Slossberg.

SENATOR SLOSSBERG:

Through you, Mr. President, the cost reports go to the auditors and there is a procedure to review them and determine what would be an appropriate rate setting methodology for them.

THE CHAIR:

Senator Kelly.

SENATOR KELLY:

Thank you, Mr. President. Now, with regards to the nonprofits that file the 990s, the 990s go to the IRS. I understand that they might be disclosed also on the charitable entities website but there's nothing in the bill that requires the disclosure to DSS, who's auditing this. Isn't that correct? Through you, Mr. President.

THE CHAIR:

Senator Slossberg.

SENATOR SLOSSBERG:

Through you, Mr. President, no. Actually that's not correct. Not for profits file the same cost reports that for profits do. It is the difference in this bill is that the for profits will be required to file a profit and loss statement for any related party that pays them, that they pay in excess of $50,000 in expenditures in a year.

Your not for profits do not, under this bill, are not required to have that profit and loss statement filed because they also file a 990, which would disclose the same information, probably more, and that information is public and readily available already.

THE CHAIR:

Senator Kelly.

SENATOR KELLY:

Thank you, Mr. President. While the nonprofit files the cost report, it doesn't file the 990 with DSS? Through you, Mr. President. Is that correct?

THE CHAIR:

Senator Slossberg.

SENATOR SLOSSBERG:

Through you, Mr. President. Yes, they don't file it with DSS but it's on line. It's publicly available.

THE CHAIR:

Senator Kelly.

SENATOR KELLY:

Thank you, Mr. President. Turning to the Financial Advisory Committee, I notice that there is a nursing home Financial Advisory Committee we're going to start adding individuals to it. Of the people that we're going to start adding to it, we're going to add a long-term care ombudsman, two members appointed by the Governor, one of whom shall be a representative for not-for-profit nursing homes, one from a for profit and the Labor commissioner appointed a non-voting member.

Why is there not more, I'm going to say business-oriented members on that Advisory when we're going to be talking about the financial health of an industry? Through you, Mr. President.

THE CHAIR:

Senator Slossberg.

SENATOR SLOSSBERG:

Through you, Mr. President, you know, I believe that you've got a representative from the not-for-profit nursing homes and also for the for-profit nursing homes, and those are clearly you know, business people from the community who are familiar with the financials and able to address that as well as currently serving. The committee would consist of the commissioner of Social Services, the commissioner of Public Health, the Office of Policy and Management, the executive director of the Connecticut Health and Education Facilities Authority, which you know is also a financing authority, as well as the other members

that you've discussed. So I think there's certainly people there with financial background.

THE CHAIR:

Senator Kelly.

SENATOR KELLY:

Thank you, Mr. President, and thank you Senator Slossberg for answering my questions pertinent to this bill.

You know, as Senator McLachlan indicated, this is a very difficult issue. It's an issue that I find very, very important, not just for what's going on in Connecticut today, but as I've said time and time again, this is an issue that's going to keep coming back to us unless we start to look at ways in which we can stop the trend in Connecticut to put our loved ones in nursing homes.

What we have in this bill is part of those silos that need to come down. We look at this makeup of the nursing home Financial Advisory Committee that consists of the commissioner of the Department of Social Services, the commissioner of the Department of Public Health, secretary of OPM, the executive director of the Connecticut Health and Education Facility Authority, the executive director of -- I'm going to say the associations of healthcare facilities, long-term care ombudsman. You have a representative from the nonprofit and for-profit nursing homes -- there's two that actually work in the field, -- and the Labor commissioner.

And what's going to happen here is, these individuals are tasked with looking at the financial solvency of nursing homes and then charged with the task of evaluating that information to look at the quality of care, acuity, census, staffing levels and operating in the sense, looking at nursing homes operations in the state to assess the overall infrastructure and projected needs of such homes and recommend the appropriate action consistent with the goals, strategies and long-term care needs set forth in the strategic plan developed pursuant to Connecticut

General Statute 17b-369. That's Money Follows the Person.

And while I look at money follows the person as a very important legislative acknowledgment that occurred under Governor Rell where the General Assembly stated that it's better to be in the community than it is in an institution, it's still based on a strategic plan to rebalance Medicaid long-term care supports and services on and through the Medicaid program.

You have to go into a nursing home, to get out of a nursing home, and the problem here I think is we have too many people involved in the health and looking at this industry that are involved in the Medicaid program and look to answer the question of aging in place through that prism.

Unfortunately, the prism of aging is much larger in scope than the Medicaid program. We need to focus on how do people age in place without the need to come to Medicaid?

Senator Slossberg indicated before that in most nursing homes we're looking at a census of about 80 percent are Medicaid funded, and that's a significant investment that the state makes in each and every one of these facilities on a monthly basis and 80 percent is just way too high.

But we have to do something about that. We have to do initiatives that are going to reduce the need to spend 80 percent census on Medicaid. There are initiatives like looking at long-term care dollars and getting people to invest in long-term care, and we need to take the bull by the horns if nobody else will and to offer income tax deductions and tax credits in order to make it to that point, to entice people to invest in their own health care.

We have to make it available and capable so that families will want to step forward and reward caregivers for the great work that they do at helping to care for loved ones in the community.

Spending 10 percent of the state budget on long-term care is way too much, and we need to take steps in

order to reduce that. I would like to see that happen.

I think this bill could have done more good if we focused on those entities where we have problems, because those problems do exist in the industry, undoubtedly.

But I think it's just too broad. It's going after all for-profit nursing homes as if all for-profit nursing homes are bad, and the fact of the matter is, if we're going to tackle aging in place and looking at that continuum of care and making sure that we take care of our seniors adequately and that they get the care that they need and that nobody's placed at risk, we need partners, and a couple of those critical partners are hospitals and nursing homes.

And in the past few years, both have seen many bills come out of this General Assembly that have not been kind to these partners. Look at what we've done to our hospitals. Now we're starting to look at nursing homes.

Yes, once again, I'm not going to turn a blind eye to the fact that there are issues in that industry, but on the other hand, there are some very good quality facilities that not only provide some of the best care in the country, but also treat their workers with respect.

So I think we need to look at what we're doing. We have a lot of statutes that require much of this already. The disclosures are there. We have a lot of built-in protections for fear of retaliation in grievances and patient bill of rights to make sure that if anything's going on improperly in the nursing home administration and implementation of their care that the patients have the wherewithal to have a voice, but there's still a lot more that can be done.

Overall, I think when we look at this, we need to partner with those providers of care both for profit, not for profit, nursing homes, home care workers, nurses, APRNs, whoever it happens to be that will enable individuals to age in place.

That is what I advocate for. It's what I support and it's what I believe is necessary to not only make a robust aging in place a possibility. I want to make it a probability. Thank you.

THE CHAIR:

Senator Witkos.

SENATOR WITKOS:

Thank you, Mr. President.

Thank you, Senator Slossberg, for your patience. I just have like three or four questions very quickly. I think I'm going to be supporting the bill, but I just want to make sure that I understand this correctly.

A lot of the information that we've been talking about is already required of the nursing homes to provide whether you call it a 99 form or supplemental form or some other form, but for the most part most of that information for the nursing home itself is already available. Is that not correct? Through you, Mr. President.

THE CHAIR:

Senator Slossberg.

SENATOR SLOSSBERG:

Through you, Mr. President, a lot of the information is available. The only additional requirement here is the profit and loss statement for for-profit nursing homes if they make an expenditure to a related party that is more than $50,000 a year.

THE CHAIR:

Senator Witkos.

SENATOR WITKOS:

Thank you. And through you, Mr. President, how far out does the related party go? I guess I'll stop the question there.

THE CHAIR:

Senator Slossberg.

SENATOR SLOSSBERG:

The related party is defined as, and I'll just give you the technical and then I'll tell you how it really works. It includes any company that's related to the chronic and convalescent nursing home through family association, common ownership control or business association with any of the owners, operators or officials of such nursing home.

This definition is a definition that's been in practice for over 20 years and it's already in the cost report, so they already check off if they make a payment to any of these related parties.

THE CHAIR:

Senator Witkos.

SENATOR WITKOS:

Thank you. And my last question is, I heard a lot tonight during the debate about going after these people and is it fair to say, or, that that is the case or it gives state agency access for the information in case they need to go after the bad apples. We're using that analogy rather than everybody has to supply everything and just says no, if you discover something and you believe something you have full access to our books to ascertain whether or not there's foul play? Through you, Mr. President.

THE CHAIR:

Senator Slossberg.

SENATOR SLOSSBERG:

Through you, Mr. President, the latter of your statement is correct. This information is there in case they need it. It's not to be used as a tool to go after everybody and anybody, just those bad actors.

THE CHAIR:

Senator Witkos.

SENATOR WITKOS:

Mr. President, I thank Senator Slossberg for those answers.

THE CHAIR:

Thank you. Will you remark further on the bill? Senator Markley.

SENATOR MARKLEY:

I will not remark at length, but in clarification to the last question that Senator Witkos asked, I just want to put one more question to Senator Slossberg if I might.

THE CHAIR:

Please proceed, sir.

SENATOR MARKLEY:

Through you, Mr. President, when you say that the information is not going to be used by the agency to go after everybody, the information still is going to be collected from everybody who falls into the applicable category. Is that correct?

SENATOR SLOSSBERG:

That is correct.

THE CHAIR:

Senator Slossberg.

SENATOR SLOSSBERG:

Oh. Sorry, through you, Mr. President.

THE CHAIR:

Senator Markley.

SENATOR MARKLEY:

Thank you, Mr. President. And to try poor Senator Slossberg's patience for one more question. And under the bill as it exists unamended, that means that that information, whether or not somebody is considered a bad apple would be a matter that would be available under the Freedom of Information Act. Is that correct? Through you, Mr. President.

THE CHAIR:

Senator Slossberg.

SENATOR SLOSSBERG:

Through you, Mr. President, if I understand the question, all of the information that is collected would be available.

THE CHAIR:

Senator Markley.

SENATOR MARKLEY:

Thank you very much and thank you, Mr. President. I will oppose this bill, obviously, as you can tell from my statements. I think everything I have to say about it was covered when I spoke on the amendment. I think it's unnecessary and I think it's ill-advised and I urge my colleagues to reject it. Thank you.

THE CHAIR:

Thank you, Senator.

Senator Fasano.

SENATOR FASANO:

Thank you, Mr. President.

Mr. President, we'll move fast because it is getting late. I just, as I understand the way the bill that it's being presented states is that the idea is they want to get the information to DSS and related parties and then this way we ensure that if the facility is not doing well DSS can look at the related parties, find out some evidence that it is not doing well and catch it and I appreciate that and I think that that is something that makes sense.

And I think that there could be another way of approaching this problem and I would ask the Clerk to call LCO 5422 and move the amendment and request permission to summarize.

THE CHAIR:

Mr. Clerk.

THE CLERK:

LCO Number 5422, Senate "B" offered by Senator Fasano.

THE CHAIR:

Senator Fasano.

SENATOR FASANO:

I think I moved the amendment and request permission to summarize.

THE CHAIR:

On adoption, will you remark sir?

SENATOR FASANO:

Thank you, Mr. President.

Mr. President, what this does is, it's sort of a step by step. First the auditors under the contract with the department will do what's called a desk review.

And upon doing the desk review, they will look at the information over the last two years of how this facility has operated.

If it finds it's been operating fine, they don't need anything else, the review is then closed.

However, if the auditors believe they need additional evidence, the auditors can ask for additional evidence regarding the facility's management. If the auditors are satisfied upon that, then once again it is, that review ends at that desk review.

However, if the auditors once again believe there's more information needed the auditors shall request all information, including party related transactions that's paid over $50,000 for goods and services and incorporated the language that's in the bill before us.

But basically what it is, is a step by step. In other words rather than just saying, just give us all the information whether or not there's a problem and it doesn't matter that there's a problem. We're going to review it. If we find something that's not a problem, we'll ask you for more information.

If that doesn't solve it, then we'll ask for the information of related parties. What does this do? Number one, it stops the (inaudible) of information to DSS that they're going to have to collect by getting tones of information on every one of these facilities that exists and then go through them and determine whether they needed it all or not.

Number two, it lets them laser focus on those issues, on those facilities that need to be laser focused. This makes sense. We talk about in this building we have too many regulations. We do too many things for nonsensical reasons. We send information out for no reason whatsoever just to be piled up in some corner of some administrative office.

What this says is, when there's a problem, we find out, we get the information and then we go the next two steps. It serves the purpose for which it is intended.

Now, with respect to Senator Markley's issue of FOI, this stuff is FOIable still, so all those who want to see it, if there's something bad they get to see it. They get to see the information that the auditors get to see, so that's still open.

What it does, once again, DSS has responsibility to review first step. Second step, ask for information and third step, get the related parties if they find there's more problems.

Mr. President, in fact, that we're getting close to one in the morning, I will keep it brief and put that forward. Thank you, Mr. President.

THE CHAIR:

Thank you, Senator.

Senator Frantz.

SENATOR FRANTZ:

Thank you, Mr. President. I stand in favor of the amendment and I think it's an intelligent one. I think that we in the Circle will agree that Connecticut imposes way too many regulations and way too many conditions on all of the operators within the state of Connecticut whether they are for profit or not for profit and I think it's high time for us to start drawing the line in the sand, particularly if we're talking about an industry or a particular service area in this case with respect to the nursing homes that involve nonprofits and for profits and only a small percentage of those operators are the bad apples in the equation.

And yes, should they be looked at and scrutinized. Absolutely. This Amendment directs the focus of the proper authorities to look into at DSS and perhaps others, to look into the affairs, financial and fiscal affairs of a bad apple within the industry and to do it on an incremental basis as opposed to presuming that every single operator, for-profit operator is guilty of something that they might not be and you and I know are not guilty of.

So again, it has to do with a message that we're sending out to the marketplace, whether it's within Connecticut or outside the borders of Connecticut, what kind of a state are we.

Are we the kind of state that imposes incredibly difficult conditions on these different companies and are we always looking at you like big brother through a magnifying glass, every year we need your profit and loss statement and your cost declarations over $50,000 in an industry that is really trying to do good for other people.

And Senator McLachlan's description of that third generation ownership company, nursing home company in his district is a great example of probably the vast majority of the different companies and profits that work within this industry.

So, do we want to punish them? Do we want to put them under the microscope going forward and do we want to send a bad message to the rest of the marketplace, or do we want to do the right thing?

This amendment does the right thing. Thank you, Mr. President.

THE CHAIR:

Thank you, Senator.

Senator Kane.

SENATOR KANE:

Thank you, Mr. President, and I rise for a couple of questions to the proponent of the amendment.

THE CHAIR:

Please proceed, sir.

SENATOR KANE:

Thank you, Mr. President. Earlier, Senator Fasano, I had a discussion with Senator Slossberg about how many

nursing homes there were that were for profit and she said to me there were 171. Then I asked her how many, based on current law, never mind the bill that's in front of us, which would require P&L statements to be provided by these 171 for-profit entities, I asked her, due to current law under the requirements of the data that they collect, these cost statements, I believe she called them. She said there were four examples of for lack of a better word, improprieties or wrongdoings, possibly.

That seems to me like a very low number compared to the entire 171, so is that what your number, your Amendment seeks to do is to make sure we are talking about that small segment, rather than the entire population? Through you, Mr. President.

THE CHAIR

Senator Fasano.

SENATOR FASANO:

Thank you. Thank you, Mr. President. Thank you for the question. Yes, that's exactly what it does. Rather than having mounds of papers just to be sent in, just because you're the government and could ask for it, when you have a small amount or small number of facilities that need to be checked, it seems to me the laser focus, your resources on those, on that paperwork which would lead you in the right direction. Through you, Mr. President.

THE CHAIR:

Senator Kane.

SENATOR KANE:

Thank you, Mr. President. I thank Senator Fasano for answering my question. I support this amendment. I do believe his answer to my question and Senator Frantz stood up and spoke in favor of it and I agree with that.

And I think in my earlier comments about the underlying bill, I stated that, you know, as I learned

from questioning through Senator Slossberg that there are 171 for-profit entities, actually 221 if you count the nonprofit entities, but yet only four examples of potential problems that existed for us to even be at this point where we are today on May 5, Cinco de Mayo, I may add, Senator President, Mr. President.

So I think what we would stand to reason is to accept an Amendment like this because it seems to me that the important issue are those four that Senator Slossberg mentioned and spending our resources on that segment of this industry, rather than the entire group. I would imagine the, you know, I didn't even ask the question and maybe when we get back to the original bill I can ask the question of Senator Slossberg about a fiscal note attached, being the ranking member of the Appropriations Committee.

But I think it's very important that we look at a narrow focus rather than paint everyone with the exact same brush. We can use a more specified approach and I think Senator Fasano's amendment accomplishes that. Thank you.

THE CHAIR:

Thank you, sir.

Senator Slossberg.

SENATOR SLOSSBERG:

Thank you, Mr. President. I rise in opposition to the amendment but before I speak specifically to the amendment, I just want to clarify when Senator Kane asked me previously of the instances of which I was aware where there were problems, my answer I think was not accurate. When I said four, what I was referring to was four particular instances with particular companies but those four actually represent 25 different nursing facilities and the bill that we're talking about is actually in relationship to, as we start to talk about, as we talk about the for-profit nursing homes, I just wanted to bring to the attention that the 10 largest nursing home chains operating in Connecticut together just those 10 largest chains

cover 107 of those facilities, so just those 10 companies alone.

So I think, I believe I gave the misimpression there, and I wanted to make sure that I clarified that.

But I rise in opposition to the amendment. I understand the desire. I think that it, you know, it makes sense logically. On the other hand, it hasn't been the experience of the state that when the department has needed to get the additional financial information those companies have stonewalled and not provided it.

So by the time a problem has been detected and the department has looked for that information, it's been too late.

So while I appreciate the amendment, I stand in opposition. I'd ask for a roll call vote.

THE CHAIR:

Thank you. A roll call vote will be ordered. Senator Boucher.

SENATOR BOUCHER:

Thank you, Mr. President.

Mr. President, I rise in strong support of this amendment. I think we have too often created a threatening environment for many of our businesses. By painting a very broad brush across the entire industry in Connecticut, we again are saying to this particular sector that this is an unfriendly place to continue to expand in our state at a time when we desperately need more, not fewer.

The fact that some have failed makes it even more critical that we expand the opportunity to have those facilities grow in Connecticut as we have an aging population and I think this is a very good Amendment that would help at least to limit some of that threatening climate or environment we have in our state. Thank you, Mr. President.

THE CHAIR:

Thank you. Senator McLachlan.

SENATOR MCLACHLAN:

Thank you, Mr. President. I rise briefly in support of Senator Fasano's Amendment and I think that's exactly, just exactly what this debate for the last several hours addresses and I thank him very kindly for his insight in the challenge that we face here in trying to have a response, but a measured response.

I also just heard Senator Kane's concern about a fiscal note on the bill and lo and behold there's no fiscal note of impact. There's a zero impact, which confuses me, because I don't understand how we could ask state employees to spend so much time and energy dealing with new paperwork and have no cost, but nevertheless that is what it says.

I urge adoption of the amendment. Thank you, Mr. President.

THE CHAIR:

Thank you, Senator. Will you remark further on the amendment? Will you remark further on the amendment? If not, Mr. Clerk, please announce the pendency of a roll call vote. The machine will be opened.

THE CLERK:

And immediate roll call has been ordered in the Senate. Immediate roll call on Senate "B" is ordered in the Senate.

THE CHAIR:

Have all members voted? If all members have voted please check the board and make sure your vote is accurately recorded.

If all members have voted, the machine will be closed and the Clerk will announce the tally.

THE CLERK:

On Senate Amendment Schedule "B."

Total Number Voting	35
Necessary for adoption	18
Those voting Yea	15
Those voting Nay	20
Those absent and not voting	1

THE CHAIR:

The amendment fails. Will you remark further on the bill? Will you remark further on the bill? If not, Mr. Clerk, please ask for the pendency of a roll call vote. The machine will be opened.

THE CLERK:

An immediate roll call has been ordered in the Senate. An immediate roll call in the Senate.

THE CHAIR:

Have all the members voted? If all the members have voted, please check the board to make sure your vote is accurately recorded.

If all members have voted, the machine will be closed. The Clerk will announce the tally.

THE CLERK:

On House Bill 5051.

Total Number Voting	35
Necessary for passage	18
Those voting Yea	24
Those voting Nay	11
Those absent and not voting	1

THE CHAIR:

The bill passes in concurrence with the House. Senator Looney.

SENATOR LOONEY:

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CHAIRMEN: Senator Slossberg
Representative Abercrombie

VICE CHAIRMEN: Senator Coleman
Representative Stallworth

MEMBERS PRESENT:
SENATORS: Markley

REPRESENTATIVES: Wood, Ackert, Bowles, Butler, Case, Cook, McGee, Miller, Morris, Ritter, Rutigliano, Santiago, Zupkus

REP. ABERCROMBIE: -- for the Human Services Committee. If someone could just close that door please, that'd be great. Thank you so much; so much activity going on.

First item on our agenda is House Bill No. 5052, AN ACT IMPLEMENTING THE GOVERNOR'S BUDGET RECOMMENDATIONS FOR HUMAN SERVICES PROGRAMS. With that, I'd like to call up Mr. Secretary, Ben Barnes.

Good morning, Mr. Secretary.

SECRETARY BENJAMIN BARNES: Good morning.

REP. ABERCROMBIE: Ben, excuse me, could you just push it? Thank you, sir.

SECRETARY BENJAMIN BARNES: Forgive me.

HB5052
HB5051

REP. ABERCROMBIE: Thank you.

SECRETARY BENJAMIN BARNES: (Inaudible) I don't think of it.

HB5051

So, there are a couple of other bills before you which I am happy to answer any questions. The one that I will identify as our -- my strong support for is House Bill 5151, AN ACT IMPROVING TRANSPARENCY OF NURSING HOME OPERATIONS. This is one of the Governor's bills that he's proposed, and it would require that every nursing home receiving State funding to include in its annual Cost Report to DSS a Profit and Loss Statement from each related party that receives $10,000 or more from that nursing home in a contractual -- in a contractual arrangement. We think that this improves transparency. In the Cost Reports that are filed, there have been occasions when it has been helpful to have this information -- having it available for all nursing homes in the event of financial difficulty or -- or other circumstances affecting those homes to be able to readily have available public information surrounding these -- these issues. We think it improves transparency, improves our ability to maintain a high level of care, and improves conditions for the caretakers who work in those facilities. So we strongly support that and urge you to do the same.

I'm happy to take any questions you have.

REP. ABERCROMBIE: Thank you, Mr. Secretary. I appreciate your being here and your comments.

Members? Questions? Go ahead.

REP. ABERCROMBIE: On -- on the second page, page three, the last -- the last bullet.

SECRETARY BENJAMIN BARNES: Yes.

REP. ABERCROMBIE: The Governor's bill includes a second section which protects DSS from liability. Could you just explain that a little bit?

SECRETARY BENJAMIN BARNES: We are somewhat concerned that some of the information that we would receive under this bill would not be routinely used in -- in -- is not -- we would not have a -- there is no requirement that we act on that at any time. This is about transparency and the availability of information. There are circumstances in which we would act on it, for instance in evaluating extraordinary action in the event of financial distress, as an example. But in a -- in the normal operations of a nursing home, in the normal rate-setting process, we might not consider all that information. We wanted to ensure that if we received information that was not acted on, that that would not expose DSS to some additional liability for our -- for some failure to act based on that information. So we're -- we're trying to avoid having a transparency provision increase liability to the state in the event that, you know, some -- something unfortunate happens and we don't want somebody making the argument that you -- you might have been able to foresee this through -- through some of this financial information.

It's a little farfetched in my view. It seems like an unlikely course, but I do think that it's worth insuring that our efforts to improve transparency do not create additional liability for the state.

REP. ABERCROMBIE: Do we have this in any other of our rules that we do when we ask for reporting, that we don't have liability on DSS?

SECRETARY BENJAMIN BARNES: I don't know the answer to that question. I will try to find out for you. I'm -- it is -- transparency is especially difficult and legally problematic in -- in DSS' book of business because of the -- of the -- the protected health information that is so key to -- to so much of what they do. So I'm not -- I'm

going to have to -- I'm going to have to defer. It's possible that Commissioner -- Commissioner Bremby will know, or I certainly if -- if -- we'll coordinate with DSS staff and -- and make sure that we get you an answer to -- to whether or not there are similar provisions elsewhere.

REP. ABERCROMBIE: Thank you.

Senator Slossberg.

SENATOR SLOSSBERG: Thank -- thank you, Madam Chair, and thank you, Secretary Barnes, for being here for your testimony.

Just a couple of questions just to follow up on what Cathy was asking about. There was some suggestion, and my guess is it's just the way that this Section was drafted, Section 2 of the transparency bill, that may encompass unintentionally more than just nursing homes, and I just wanted to clarify that the intent of this particular paragraph was really just to address nursing homes and not hospitals or any other healthcare facilities?

SECRETARY BENJAMIN BARNES: That's correct, and I know that we have been working with the legal staff at DSS and OPM to ensure that that is -- that that is narrowly crafted to cover nursing homes and not to cover other health care providers.

SENATOR SLOSSBERG: Okay. That's -- that's helpful, because I know that we had a lot of -- when the bill first came up, a lot -- we had questions on that, whether there was an intent to be broader than just nursing homes, and I -- you know, one of the other questions that we were asked is: Is there a difference in a requirement in terms of why, you know, we've included nonprofits as well as for-profits? Is there some, you know, differentiation that should be recognized?

SECRETARY BENJAMIN BARNES: I know that there have been other legislative proposals that have -- and I think maybe even this year, that have different -- that have treated for-profit, non-profit providers differently. We felt that it was appropriate for us to hold all providers to -- to the same standard in this regard, and I -- and I don't mean to -- I -- I think that sometimes the -- the legal organizational structure of a -- of a provider may or may not have bearing on the -- the -- their financial condition, their financial practices. There certainly are nonprofits that use related companies as a way to manage their business. I think it absolutely is appropriate for the public to be aware of -- of those financial arrangements for nonprofit providers as -- as for for-profit providers.

SENATOR SLOSSBERG: All right, well thank you for the clarification on that.

In terms on 5052, the Governor's Budget, I -- there's -- there's, you know, some things in here that I think are terrific. You know, the security deposit guarantee to veterans is exciting, the home care program for adults with disabilities with increased slots. I'm hopeful that the transfer of the Office of the Chief Medical Examiners to DAS will help with the functioning of that office. I'm sure that you've heard, as well as we have, that in years past it's -- there's -- there have been a lot -- a lot of challenges in the -- in the way that that office has been able to -- to work. So I think that those are improvements.

And I appreciate your comments with regard to the rest of the sections, Sections I and then V to XI, because, you know, as I'm sure you know, we've got a lot of testimony, and -- and are consistently hearing from the statutory providers

So I -- I'm hopeful that the -- the two agencies, both of which I think bring some unique perspectives to this, will make recommendations about revenue retention policies that -- that accentuate the good and minimize the bad, and will -- will begin to -- to -- if -- if we can find some good models, we would certainly be -- look forward to rolling those out to even larger -- larger areas of government as well.

SENATOR SLOSSBERG: Perfect. Thank you very much for that, and that should be some welcome news to some of the providers here who are not in those areas, but have been talking about revenue retention for a long time. So I thank you for that.

Thank you, Madam Chair.

REP. ABERCROMBIE: Thank you.

Senator Markley.

SENATOR MARKLEY: Thank you, Madam Chair.

Secretary Barnes, of course you're here in your role as the budget director, and I guess to go back to 5051, the transparency bill, one thing I'd ask is what impact does this actually have on the budget that would bring you to come here to advocate for it, or for it to be before us this year?

SECRETARY BENJAMIN BARNES: Sorry. I -- we don't believe that it has a consequential fiscal impact. I make it a point when I'm before a committee testifying on a budget bill to identify my support for all parts of the Governor's legislative program that are subject to the public hearing.

We certainly care very deeply about -- about how we pay nursing homes. This is an area of enormous consequence to the budget, and we believe that a transparency in that area is in our long-term budget interests, although I don't see an immediate impact. I don't expect this -- this provision to suddenly reduce or increase the costs that we have to them, but in the long run, I believe the transparency is effective at -- at keeping our -- our costs appropriate -- at an appropriate level and discouraging over charges or higher than necessary rates.

SENATOR MARKLEY: Thank you. It -- it seems like, to talk to the industry, let's say, one would believe that there's a considerable amount of information already given to DSS especially for the purpose of preventing overcharges in terms of having to show what costs are to not only to the nursing home itself, but cost of the service providers and so forth. Can you explain to me what this particular piece of additional transparency -- is it a situation in which this particular additional transparency would actually be able to reduce costs to the state, that this knowledge would -- would be useful for the department in keeping rates down?

SECRETARY BENJAMIN BARNES: The principal area of additional transparency is around related companies. Many firms in many industries, but certainly in the nursing home industry, will use subsidiaries or related companies to undertake significant pieces of their business. So there are a number of nursing home operators around the country, and in Connecticut, where the real estate is owned by one entity, and is -- and sometimes the licensed beds, I believe, in some cases, and those are leased to an operating entity that operates the nursing home, so that the costs of the property itself are reflected in a lease payment by the operator.

If all you look at is the operator's financial results, then you see a lease payment. They pay whatever, a thousand dollars per day to -- to have access to the facility, and it is certainly of interest to me, given that those are related entities -- it's not an arm's length transaction at all; it is somebody giving a related entity a -- a lease payment. The profitability of that lease to the real estate holding entity is a -- is a critical piece to understanding the profitability of the overall enterprise of the -- of the nursing home.

So you could easily structure it where the operating entity barely makes any money or loses money, and the real estate holding entity makes 40 percent profit every year on their investment. Considering that most of the investment in a nursing home is on the real estate side, that would be a highly successful overall organization and yet would appear, if you looked only at the operating entity, as a -- as a money-losing operation. Similar things can happen with food service, housekeeping, other types of entities which are paid a fee to provide a service. How -- how lucrative that -- that piece of the business is is something that is of -- of critical importance to somebody's -- to an entity, whether it's DSS in the rate-setting capacity, or, you know, the public in understanding whether it's a financially successful, stable home for their loved one, this is information that -- that -- that's critical to understanding the finances of a -- of a nursing home.

SENATOR MARKLEY: Thank you. Aren't the direct costs associated with things like that, in other words, the cost of the property that's directly involved in the nursing home, although held by a separate company from the nursing home, already a matter

of record. Aren't we talking about here other operations of the -- of the holding company effectively?

SECRETARY BENJAMIN BARNES: The bill ties these two related entities that are providing goods -- goods and services or -- or receiving fees from the nursing home for their operation of $10,000 or more. So these are, you know, if we're talking about a -- a nursing home operator who also happens to own a -- a completely unrelated business in -- in Nebraska, that's not pertinent. What's pertinent are the -- if -- if they are paying any kind of fees or receive, you know, or have contracts for goods and services from related entities for the operation of the nursing home in Connecticut, then that information is -- is what is being sought by this bill.

So I -- I -- we do receive some of this information, but we think that this -- this level of transparency will be -- will provide greater access to that so that, you know, I mean there are a lot of users of this. Obviously, the department I think is -- is helpful. Nursing homes often request and we have statutory provisions that allow us to make advances of -- of Medicaid payments to nursing homes that are in financial distress. This is information that we would use to evaluate that financial distress.

I am not going to advance -- approve advancing Medicaid funds to a nursing home if they have a related entity that's involved in the operation of the nursing home indirectly who has the resources to advance to them. I'd -- I'd rather they take care of it themselves than -- than rely on our good will to -- to weather a difficult financial period.

Similarly the workers at nursing homes, particularly unionized workers who are in a

position of collectively bargaining with that -- with that home. This is information that would be useful to them, or those who are not collectively bargaining, but are considering whether they should. That -- that is pertinent information as to the financial well being of this -- of the home.

I -- I think that it's -- given the extremely high preponderance of public funds in the nursing home industry, this level of transparency and accountability is -- is -- is appropriate, even without a specific use in mind.

SENATOR MARKLEY: Thank you. Do we have any evidence that -- that, in fact, there have been abuses along these lines that we would be addressing in this legislation? Or is this something that is based on the possibility that an abuse could occur, but we don't actually have -- have information to know it, or -- or reason for particular suspicion?

SECRETARY BENJAMIN BARNES: There certainly is widespread -- we have -- there is specific knowledge of many nursing homes that rely on organizational structures involving related companies to provide services to that home. So we know that these are common business practices that would be illuminated by the provisions of this bill.

SENATOR MARKLEY: Is there any -- do other states have this kind of transparency law concerning nursing homes to your knowledge?

SECRETARY BENJAMIN BARNES: I don't know. I'm sorry. I can try to find out for you.

SENATOR MARKLEY: But let me ask you one -- one other thing which is how -- do you see any costs involved to DSS in having sufficient staff and

resources to be able to usefully examine and process the information that would be gathered under this bill?

SECRETARY BENJAMIN BARNES: In the discussion about the liability provisions in the bill, I mentioned that we do not anticipate that additional review of this material would -- would routinely occur at DSS. There are instances where DSS staff may require this information. Currently they must go out and gather up the information requested from the -- from the home or the operator, and review it as part of a specific item issue that -- that calls for that analysis. So this would, in fact, make it easier for them. The just have to go and pull it out of the voluminous filing cabinets.

They -- certainly there will be some, you know, administrative effort involved with receiving and organizing and making available this information to the public on occasion, but we think that given that they already do that on a grand scale at DSS, that the impact is pretty negligible.

SENATOR MARKLEY: A grand scale is a good word for it. I think that -- I -- I always hesitate to ask for more information when I'm not sure that we can handle what we've got all ready, knowing the burden it can create to the industry, and of course in this particular case, the sensitivity that the investor feels about surrendering the information.

And I guess I'd also say that I feel that DSS very much has their hands full with the processing that they're doing right now, which has been a large job, and a job that I know that they've struggled with. I feel like -- I feel that they have struggled the very best they can with it, but that they're -- I almost hate to throw any additional data handling burdens on

them at this moment in their -- in their transformation.

But I guess that's a comment and not a question, so I will -- with thanks to the Chair, and with thanks to you Secretary Barnes, pass this off to the next questioner.

REP. ABERCROMBIE: Thank you, Senator.

Representative Ackert.

REP. ACKERT: Thank you, Madam Chair, and thank you Secretary Barnes for being here and supporting the Governor's Budget.

My question also falls on the 5051 comments that you made. I can be short; when you have good Chairs and good Ranking Members, they ask most of the questions ahead of you, so mine will be very short.

I might start off with a comment. In some cases it almost looks like we have a -- a solution chasing a problem, but is there other departments that we're going to be asking for this, or that -- that we ask of this type of very intensive transparency now that we're looking for just for nursing homes?

SECRETARY BENJAMIN BARNES: Are there State agencies, do you mean?

REP. ACKERT: Correct, correct. No -- other private provider types. Yeah. We -- in there it says -- in your comments you specified specifically just nursing homes, but we also have issues with failing rest homes, or other areas that we provide funding to that we don't ask this level of transparency of.

SECRETARY BENJAMIN BARNES: I think that this is an area of growing focus across the private providers. I know that there are -- is legislation proposed this year that would require additional reporting from acute care hospitals about their acquisition of specialty practices.

REP. ACKERT: Uh-huh.

SECRETARY BENJAMIN BARNES: This is another area in which the amount of public information available is very limited. I think that there are -- that there may well be additional areas of -- of transparency that are -- that are -- that are deserved or appropriate in other areas. I -- we get a fair amount of information from a lot of providers, and -- and I think Senator Markley is certainly correct in that we already receive detailed Cost Reports, but my experience has been that the -- the healthcare industry in particular, and -- and -- is -- is very dynamic in the structure of the businesses that -- that -- that are involved, and that they -- that they appropriately are creative about how to structure their businesses to -- to best provide services and provide the most financial stability to their organizations.

We as payers and as regulators of these organizations need to be able to understand then as they change going forward, and I think that this is part of that effort. The nursing home business is -- is a tight business. I -- I'm not going to say I'm always astonished that people willingly go into it. They're not high margins; it's not a -- it's not -- I'm sure some people have gotten rich in the nursing home business, but it seems like a tough row to hoe to me.

But on the other hand, it is a lot of State resources going into supporting nursing care. We need to make sure that we understand that that's

being wisely spent, and that when -- when they come in and say we need more money, and -- and we're poor, and we can't make -- make a go of it, we need to be able to evaluate those claims with -- with real precision and -- and thoroughness.

I don't think that we can do that now as -- as well as we would like to be able to, and I certainly think that as the organizations become more complex in the future, our ability to do so will be even more challenged.

So I -- that's an indirect answer. I think that you'll see more proposals in the future about transparency around health care because this is a growing area of concern.

REP. ACKERT: Thank you, and just one follow-up. Thank you, Madam Chair.

My concern is I think that people that have been in the profession of loaning out money or supporting organizations, banking institutions that I have that on a yearly basis provide a standard profit and loss, they would pull my loan if I -- my Profit and Loss -- my standard Profit and Loss submittal had concerns to them. Rather then -- and -- and their -- my profit and loss is nowhere near as intense to this, as to what I paid for rent, or lease, or whatever my -- my employees pay, whatever it may be, if they had a flag on those that they make me submit each year, and every business that -- that has it, they would pull that loan.

I think that asking this much information -- first of all, I do have an issue that I think burdening DSS to a further level to try to, you know, manipulate and understand -- hey, a nursing home in Fairfield County is paying too much for their rent. You know, I'm not sure -- maybe they have that professional level, but I think banking

institutions, you know, ask us the questions that they think are pertinent. They don't go in this depth. Do you not believe that a standard Profit and Loss submittal is adequate enough for what we're trying to accomplish here?

SECRETARY BENJAMIN BARNES: The issue of related companies makes it very difficult to rely on the Profit and Loss Statement without understanding the -- the financial results of all those related companies. I mean, it's not a question of are they paying too much rent; it's are they paying themselves rent, and if so, we should be treating the landlord and the tenant as a single entity.

If you're paying yourself rent as a way to -- to have your profits appear in one part of your business as opposed to another in order to receive more favorable rate treatment from the State of Connecticut, that's something we need to know about. And that's, I think, what we're trying to get at here, not -- I mean I understand it's -- it's -- it's burdensome, but it becomes more burdensome as organizations become more complex. That's one of the, you know, if you want to, you know, set up subsidiaries and related companies in order to manage your -- your business in a -- in a more complex way, you probably should expect to have more complex reporting requirements that follow.

REP. ACKERT: Thank you. Thank you for your answers. Thank you, Madam Chair.

REP. ABERCROMBIE: Representative Wood.

REP. WOOD: Thank you, Madam Chair, and thank you, Mr. Secretary. It's always good to hear your information, and all the work you do. It's been a busy couple of years.

HB5051

I also have questions on 5051, conversation going this way. This is not a budget bill, yet this is -- why are we seeing this this year?

SECRETARY BENJAMIN BARNES: I thought you were going to say this is not a budget bill, so I'm going to save my questions for one -- one of -- one of the next people to testify, but I'm -- I'm not so lucky.

Well, we see this as a -- I mean, I understand that there are -- there are several pieces of legislation that -- that have been proposed by -- by any number of parties that have a -- a less than direct impact on the budget, and I -- I ultimately it's the -- it's the Legislature's role to determine the extent to which how flexible it wants to be and the definition of a budget bill in a short session.

I think that this does clearly impact our ability, not only our ability to manage the significant funds that we spend on -- on nursing care, but also impact the ability of the public and various constituencies to understand and evaluate those -- that spending.

So I -- I think it's certainly quite directly related to an area of significant spending.

REP. WOOD: Thank you. I do wonder how this will benefit consumers though. I mean if I'm putting, for example, you're putting your mother or your great-aunt in a nursing home, are you going to be looking at all these different numbers with all these different budget reports?

SECRETARY BENJAMIN BARNES: I struggle with the question of information in the healthcare environment. I think that people are often ill-equipped to make fully informed decisions about healthcare decisions generally because

understanding quality and cost is so complex. And I don't think -- I mean if you're making the awful decision and painful decision to put your loved one in nursing care, it's -- it's going to be hard for you to spend the time combing through this information.

On the other hand, if we don't make it available, that information will definitely be part of your decision. If we do make it available, if not you as an individual, you know, combing through the financial results of potential nursing homes, perhaps other organizations, other groups that -- that do have the capacity to do that will look at that information, will -- will, you know, this would be information, for instance, that a -- an outside organization could use to provide ratings of the financial stability of nursing homes. That kind of information would then be extremely useful to someone making a decision about -- about where to care for their loved one.

If you saw that an organization had been identified as having extremely poor finances, or was, you know, had -- was -- I'm not going to say, you know, months away from bankruptcy or something like that, or -- or had major financial problems looming on the horizon, you would be less likely to put your loved one there for all kinds of good reasons, and -- and that's -- that's good information that a consumer might want to have.

It's true; it's complicated; it's hard to get there, but if we don't make it available to the public, it definitely won't get into the hands of consumers. If we make it available, we're going to have to, you know, work to make sure that that is made available to consumers. I hope that there are outside groups and interest groups -- there are plenty of them here in this building --

who might have the capacity, and the interest in making that information available to the public.

REP. WOOD: I appreciate the low-key humor of that. Thank you.

I still struggle with why we're doing this bill, because the reporting for the nursing home does have to be made public. And you -- you had said there are not high margins in the nursing homes, so I just wonder two questions.

One, and I know you've sort of have answered this, but why we are -- what the real purpose is we're doing this, and who are some of the groups you foresee might want -- want this information from the related businesses?

SECRETARY BENJAMIN BARNES: Well, obviously I think DSS. I mean DSS would like -- I mean in situations -- I mean the example of a nursing home who -- who claims that we can't make payroll, and we need you to advance Medicaid funds to us. This happens -- it hasn't happened lately, but my first year as the OPM Secretary it happened a dozen times, and each time we had to go through, and my staff, and DSS staff had to do due diligence on that nursing home to determine that that we thought (A) that -- that there was a need for us to do this, and (B) I think there is a statutory requirement that they have the ability to pay it back in a -- in a reasonable period of time.

(Inaudible) to go in and -- and understand the finances of that -- of that home. Not having information about related entities makes that -- adds a level of -- of doubt and uncertainty to that. I think that employees of these homes who are negotiating individually or collectively for -- for -- for wages and benefits and other -- and working conditions would have a keen interest in

knowing the financial condition of their employer. So that's -- that's clearly one. I think that organizations interested in public health and improving access of Connecticut residents to high-quality public health services would be -- would be interested in this. Obviously financial stability isn't the same as quality of care, but I think we all can appreciate that they're related, that a -- an organization in poor -- poor financial health may -- may be challenged to maintain care levels.

So those are -- those are the three that I think of, and maybe there are others.

REP. WOOD: Thank you.

How often does it happen where a nursing home will come to you -- come to DSS and say we don't have money to meet payroll?

SECRETARY BENJAMIN BARNES: Like I said, it happened my -- in 2011, and I'm -- this is -- I'm making -- I'm remembering in a general way, so don't hold me to this number. I think it happened about a dozen times. We had several nursing homes that were in -- that were in bankruptcy or -- or approaching bankruptcy. There were several that closed that year, and several that came close to closing, and several that were sold were in -- in receivership.

There have been fewer lately. I think some of that's a function of the improving economy and other things, but there certainly are -- are years in which this happens more than a few times, especially when there are economic -- and the economic environment would lead to that.

REP. WOOD: So in 2011, those -- those dozen companies, DSS had to provide additional funds for them to meet payroll, correct?

SECRETARY BENJAMIN BARNES: They advance funds. What they do is they -- they give them an additional amount of money, typically a few hundred thousand dollars is my recollection, and then they -- they deduct that from upcoming Medicaid payments and repay the State. But there's a -- there's a cash advance to -- to homes that have cash flow problems.

REP. WOOD: So they're not really profiting? I mean, were they truly in distress, these -- these dozen companies?

SECRETARY BENJAMIN BARNES: We certainly believe so. We only provided that assistance if we believe that they were -- that they were in that situation. I don't -- is it possible that a company had related entities that were, in fact, doing better that had -- I mean one of the concerns is that a company could use a related entity to -- to essentially extract profit from a nursing home, leaving the -- the nursing home in a -- in a apparent financial distress, and in need of additional State assistance, when in fact the -- whoever took those profits would be -- should be in a position to -- to reduce those in order to stabilize the organization.

I -- I don't think that that happened. We certainly endeavored and used all of our best efforts to -- to ensure that that was not the case in those situations. But the higher -- the -- the better information we have, and the -- the more readily available to us it is, the better we would be able to make those determinations in the future.

REP. WOOD: I guess what I still struggle with is you talk about there's -- do you have proof that there are companies that have taken profits, even though you, by your own admission say there's low

margin in this business; you don't know why people go into it. So I struggle with how much -- how much profitability -- how many companies are taking big profits and funneling them to another corporation? You set the rates; you regulate it -- DSS, not you, but DSS sets the rates, regulates it. I just don't see how there can be that much mismanagement, and that much profiteering, if you will, to a related company. So that's what I'm trying to get my head around.

SECRETARY BENJAMIN BARNES: I -- I think you should probably speak to DSS to get a better sense of that. I -- I -- all I know is that there -- it is a commonplace for major pieces of the operating duties of a nursing home to be -- to be assigned to subsidiaries or related companies, so that it is -- it is -- it is commonplace for the real estate especially -- I know, I'm -- I'm certainly aware of that, that across the healthcare industry, that there are separate companies that own the real estate and -- and operate -- and operate the homes. There are often in systems -- in -- in nursing systems, there are -- there are entities which own real estate across multiple locations, and then there are individual operating entities at each facility.

If, in fact, I'm not saying that somebody's making, you know, extortionate profits here, or, you know, sucking the organizations of -- of necessary resources, but if -- if the holding company that owns the real estate is making a steady, reasonable profit, and the operating entity is -- is not, that's still -- is -- I mean, it doesn't have to be somebody, you know, making some kind of -- of inappropriate profit, but I think it is -- it's still important that we look at both sides of that when we evaluate the organization.

REP. WOOD: So you say it's not inappropriate profit, yet we know -- should know what it is? Yet, it's a private company. No other states do it. DSS -- the last two years the commissioner has spoken against this. So I'm going to listen to further questions, but I do have concerns. But I appreciate your time and your thoughts. Thank you.

REP. ABERCROMBIE: Thank you, Representative. Any further questions?

Representative Rutigliano.

REP. RUTIGLIANO: Thank you, Madam Chair.

Thank you, Commissioner. I only have one question. Even if I was to philosophically conceive the argument of a related business, I don't understand if somebody was to invest in the nursing home, a simple investor, a money investor who wants to get a return on his investment, what disclosure -- why are there disclosure requirements for that person if they don't participate in a related business?

I may have read the bill incorrectly, but that's how I interpreted it. It didn't just include a -- a related business. It included a person who just invested in the entity as full disclosure of their business requirements and their business dealings.

SECRETARY BENJAMIN BARNES: I -- I, you know, I will take a look at that. That is not my understanding of the -- of the -- of the impact of the legislation. It certainly, to the extent that their -- that their investment was relevant to the operation of the nursing home, but I don't believe -- it -- it is certainly not our intention to go and -- and look at the unrelated business activities of -- of investors in a

nursing home. We're interested in their -- in the nursing home itself and it's -- and its operations, and -- and all these related companies.

I -- I will -- I will ask my staff to take a look at that, at the language that you're talking about and -- and -- and either explain what it does, and if you're correct in your assertion we'll -- we'll -- we'll certainly look to -- to craft it more narrowly, because that's not the intention.

REP. RUTIGLIANO: I appreciate that. Thank you, Madam Chair.

REP. ABERCROMBIE: Thank you.

Representative Case.

REP. CASE: Thank you, Madam Chair. Good noon -- afternoon.

In reading the bill, I believe it's in Line 3, Section A, it does state that any investor or outside owner of a nursing home is involved in this, so if there was an investor that put money forward into one of these agencies, they would have to (inaudible)within one of their businesses or their -- their portfolio.

I know you're going to go back and research that more, but we're looking at it right now.

A VOICE: What was the Section where you got this? Line A.

REP. CASE: Section A, Line 2 and 3.

Section A, slash 1, related parties. And my -- my concern is if we have outside investors, let's say from the west coast that are just investing

for the purpose of investing because that's what they do for a living, are we going to deter them from coming to Connecticut and investing in businesses here because they have to divulge all their personal or business information just to Connecticut? Or are they going to move on to different states? It's just a concern of if we want to keep the investors here. It's worth a look at, no?

SECRETARY BENJAMIN BARNES: I'll take a look at that.

REP. CASE: Thank you. Appreciate it, Secretary.

REP. ABERCROMBIE: Any other questions?

Thank you, Mr. Secretary. We do appreciate your time.

SECRETARY BENJAMIN BARNES: Thank you for your kind hospitality.

REP. ABERCROMBIE: We were kind of gentle, you got to admit.

Moving on to our Commissioner of DSS, Roderick Bremby. Thank you, sir, for being here.

COMMISSIONER RODERICK BREMBY: Good afternoon, Representative Abercrombie, Senator Slossberg, distinguished members of the Human Services Committee. I'm Rod Bremby. I'm the Commissioner of the Department of Social Services. I'm delighted to be here this afternoon to testify before you.

SB104
SB105
SB106
HB5137

On behalf of Governor's Bill HB House Bill 5052, IMPLEMENTING THE GOVERNOR'S BUDGET RECOMMENDATIONS FOR HUMAN SERVICES PROGRAMS, and House Bill 5051, IMPROVING TRANSPARENCY OF NURSING HOME OPERATIONS.

In addition, I've written -- or we have other written remarks on other bills on today's agenda that will impact the Agency.

Beginning first with House Bill 5052, implementing the Governor's recommendations, this proposal implements various provisions of the Governor's recommended State Fiscal year 2015 budget adjustments.

Provisions are as follows: Section 3 of the bill prioritizes eligible veterans for the Security Deposit Guarantee Program.

Section 4 increases the number of available slots under the Connecticut Home Care Program for Adults with Disabilities. That doubles the number of slots from 50 to 100. As you might know, the program currently serves about 50 individuals with neurodegenerative conditions such as MS, ALS, Parkinson's disease, and Alzheimer's. The current waiting list for the program is over three years. Persons served under this State-funded program are supported with services that average about 25 percent of the cost of nursing home care. This allows persons to remain at home, and supports our rebalancing efforts. These clients get quickly turned to Medicaid as a payment source for nursing home placement if they do not receive these home and community-based services.

Sections 5 through 11 ensure that scheduled cost-of-living and rate increases for various programs and service entities are only provided when there is a corresponding appropriation to support such an increase, and I believe as Secretary Barnes mentioned, this is a linking process. The Department supports this legislation.

House Bill 5051: This bill requires any chronic or convalescent nursing facility that receives State Medicaid funding submit, as an addendum to the annual Cost Reports, a P and L statement for each related party that receives more than $10,000 a year for goods and services, not strictly just an investor.

Additionally, the nursing facility should submit information on direct-care staff, including regular wages -- hours and wages, overtime hours and wages, employee health and welfare benefits, to be reported on a separate line item of the Cost Report.

As you know, the industry is in the midst of significant rebalancing efforts as well as restructuring, and the Department is interested in improving the reporting requirements for nursing homes. I believe in the past year, or in the last two years, I've testified on two similar bills. And you may recall that the bill that we had proposed was defeated, but that bill provided for access to the information, but not delivered to DSS. That bill was defeated, and so we are in support of this bill going forward.

This effort is intended to assist the state in its current rebalancing efforts and to enhance the state's ability to measure quality, acuity, and the economy of the long-term care system. The Department supports this legislation, and feels that it will provide valuable information for assessing the overall health and financial stability of nursing facilities. Staff information is especially important as the Department explores moving to an acuity-based rate methodology. Currently it's a flat rate based on costs. We want to make sure that we pick up quality opportunities, and look at the degree to some nursing homes are providing a higher level of acuity care.

Under this model, facilities that are providing more acute care will be reimbursed at a higher rate to compensate for the intense level of care, the expertise level, as well as the number of hours being committed to that care directly relates to the acuity level, in that advanced level of care requires a more skilled workforce.

Other legislation impacting DSS: Senate Bill 104, PROVIDING FINANCIAL RELIEF TO NURSING HOMES FOR UNCOMPENSATED CARE. This proposal requires the Department, upon request, to make advanced payments to a nursing facility when the facility is providing uncompensated care to a Medicaid long-term care applicant whose application has been pending for more than 90 days, or when payments have not been made within 30 days of such application being approved.

This proposal also provides an exemption from the resident day-user fee for nursing facilities providing uncompensated care as defined in the previous sections. The proposal does provide a mechanism by which the department will recover said advance payments within 30 days of the application being approved or denied and payment has been made. The Department cannot support this proposal, as additional funds to provide advanced payments were not provided in the Governor's Budget. While it is understood that the advanced payments will be recovered, it is unclear as to the fiscal impact of such a proposal and the timeframe in which such funds can be recouped or recovered.

A significant level of outstanding advances could lead to a deficiency in Medicaid. Since these advance payments are not eligible for Federal reimbursement, the full cost of the advances would be borne by the State General Fund. In addition, since the State has elected to net fund

REP. WOOD: Thank you, Madam Chair, and always thank you for your good work and testimony today.

I do have a question on -- there was a lot here today -- on 5051, the transparency of nursing home operations, as I questioned Secretary Barnes a while ago. I'm just trying to wrap my head around the purpose of this legislation. There are no other states that do it. We already require nursing homes to provide an extensive reporting. So this would just expand it to any related companies of over $10,000.

So a couple of questions around that, just for general information, and then getting the purpose of why we're doing this. How many nursing homes, either nonprofit or for profit in Connecticut do not receive Medicaid dollars?

A VOICE: That's a good question. I don't think that there are any that do not receive Medicaid dollars.

REP. WOOD: So they all receive -- every nursing home in Connecticut receives Medicaid dollars?

COMMISSIONER RODERICK BREMBY: Maybe there's one that does not.

REP. WOOD: And how many nursing homes altogether?

COMMISSIONER RODERICK BREMBY: Matt, do you know?

A VOICE: 238.

REP. WOOD: 238. All right, yeah, that was the ballpark.

You talk about the long-term care industry in the midst of significant rebalancing effort consistent with the strategic plan to rebalance

long-term services and support. Wow, what does that mean? Cliff Note version, please.

COMMISSIONER RODERICK BREMBY: Sometimes we bureaucrats tend to use our own language that sounds really good to us, but befuddles the -- the public.

What that means is that the State of Connecticut is among several leading states that are in the midst of a rebalancing process. What that means is that we have more people residing in nursing homes that would -- that may wish to live in community. And so we're in the process, in partnership with the nursing home industry -- long-term care industry, to permit that choice to occur. We have committed to reducing the number of beds in the system by some 5000 beds going forward. But, in the same manner, we're also building up our long-term services and supports at the community level to ensure that people who can live and should -- or choose to live at home or in the community, can do so in a less restrictive environment.

So I apologize for the bureaucratic speak, but it's a great question.

REP. WOOD: Well, you may want to just rewrite it the way you said it, because that made a lot of sense and I -- I think all of us certainly support that. You don't need to rewrite it, but thank you; I appreciate the explanation.

The valuable information -- right now you all have your hands full. Understandably you've got your hands full -- a lot of services, a lot of deliveries, a lot of details, and I just wonder you all, I think by general admission, you all are feeling pretty pressed for time and resources. How will you absorb one more mandate on your agency?

COMMISSIONER RODERICK BREMBY: Great, I'm glad you asked that question. It also gives me a chance to respond also to, I think, a previous comment made earlier.

While DSS is in the midst of three major transformations and an awful lot of work, we believe that this area of our agency is ably and capably led by none other than Chris Lavigne, who is also here today, but he and his staff are very well positioned to receive the data, to utilize the data, and act on the data should that need arise.

Not every -- notwithstanding the -- I guess the perception, but not everyone within DSS is processing eligibility. We have other requirements that we need to meet, but this is an area where we're -- we're trying to balance two billion dollars in public expenditures every year for long-term care services, that stewardship with not making an onerous requirement on behalf of -- of companies. So there's a balance that we're trying to seek.

In earlier versions, I think last year, we were actually detailing very specific requirements in how quickly and how timely that information needed to be submitted. What we're saying now is just attach that as an addendum to the P and L statements, and only for those parties that have $10,000 of business on an annual basis.

So we think this is a reasonable balance, but we think that given the complexity of the industry, the emerging financial arrangements that the industry is engaged in, it -- it seems to be a good step forward. Maybe it's not a perfect step, but it is a good step forward.

Some of you, and I believe there are many investors around the table, or people with 401Ks and the like -- one of the most marketable vehicles, even during the downturn -- the economic downturn -- were real estate investment trusts or RETs. There is a -- there is a placement of these RETs around long-term care facilities, and they make money. And so, we just want to make sure that as we spend public dollars to take care of public recipients, that we have the opportunity to explore whether dollars have transmitted beyond the realm of the operating licensee, if you will. So that's all we're trying to do. We're trying to balance; we're trying to be good stewards of the public resources.

REP. WOOD: Okay. Thank you. Two more questions if I may, Madam Chair.

You mentioned emerging financial arrangements in this industry. Can you tell me what that means?

COMMISSIONER RODERICK BREMBY: Yeah. That's just the last comment, that it's not uncommon now for nursing homes not to actually hold the ground upon which they rest, or the building, or -- or the license, but, you know, it -- it is a -- there are various types of arrangements around ownership and who owns what and how that entity operates. And so those are the new emerging types of arrangements for these facilities. In the past, or days of long ago, there used to be like nursing homes. I mean it was just one facility owned by a family more than likely who did this because it was just good work, and they weren't trying to make a buck. They were just trying to treat their neighbors. And so, they've evolved. They're still good operators; they still are trying to treat their neighbors with good care, but there's also a financial gain that's in the marketplace that is using these

types of vehicles, we believe at times, to the detriment of the people who live in these facilities, and the families who are paying for care from these facilities.

So again, we just want to be good stewards. And there was another question earlier about whether this type of transparency had been sought from other entities. Actually 17b-340 is amended, which means that we do ask for the liability from submittal -- from other submittals, but we'll get that information for the specificity later.

REP. WOOD: Thank you. This is giving me more dimension on this.

One last question: The last two years you did oppose this bill, this concept, and not much has changed. What -- what has changed for you on this?

COMMISSIONER RODERICK BREMBY: I think there's a material change. I do believe that the bill that we proposed made the information available to us if we sought that information. That's the bill I supported.

The bill now asks that the information be submitted to us. The bill that we proposed was defeated.

REP. WOOD: Last year?

COMMISSIONER RODERICK BREMBY: I believe so, or if not the year before.

REP. WOOD: Well it got -- that was voted out of committee.

COMMISSIONER RODERICK BREMBY: We -- we don't have that available to us, so --

REP. WOOD: Yeah.

COMMISSIONER RODERICK BREMBY: -- at some level it didn't work.

REP. WOOD: So the difference is -- well, it didn't pass.

COMMISSIONER RODERICK BREMBY: Right.

REP. WOOD: It didn't go anywhere. So the difference is, this year the nursing homes have to report to you, whereas before, they had to collect the information, but they could keep it without having to transmit it to you all.

COMMISSIONER RODERICK BREMBY: I think what I'm trying to do is say that was the bill that I supported in the prior year because it was our bill, and I was opposed to any other bill. I was supporting our bill, DSS. Is that not clear?

REP. WOOD: No, it's not, because I remember you opposing -- I've got the testimony actually right here where you did oppose it both in -- in 2012 and 2011. 5451, first the bill requires for each for-profit chronic and convalescent nursing home to include annual cost filings, da-da-da-da-da. First the bill requires that the Department believes due to excess reporting, it is not necessary for the Department to have all of this information on file every year for every provider. That was 2012.

And then last year, 6609, I do remember well because I was on the committee at that point. It was the same -- the same bill. Additional financial reporting, and this is part of your report, additional financial information is not necessarily a meaningful tool to evaluate the sustainability of the industry or health of any one facility. The Department is interested in

developing measures that focus on the entire long-term care system and skilled nursing roles facilities in that continuum.

So it -- it does -- I understand you've given some wonderful perspective again to the debate, and I -- I appreciate that very much, but I just wonder what has changed for you on this?

COMMISSIONER RODERICK BREMBY: I appreciate the reminder, or the refresher. Two significant changes to the bill: One is it has significant information on staffing, so that we can begin to move towards an acuity-based compensation approach. And I don't believe in any of those previous bills we had the immunity from liability. I believe --

A VOICE: Oh, right.

COMMISSIONER RODERICK BREMBY: -- right.

REP. WOOD: That's correct. Right. It's not in the Governor's bill, but it is in your bill.

COMMISSIONER RODERICK BREMBY: It is in this bill, but it wasn't in the (inaudible).

REP. WOOD: Correct. Right. But the concept you still were -- the general concept you still opposed.

COMMISSIONER RODERICK BREMBY: The concept can be modified to fit our needs, and they have with staffing to move towards an acuity-based compensation arrangement, as well as provide some immunity from liability should we not act on the information that has been submitted to us.

REP. WOOD: Okay. Thank you very much. I'm going to absorb all this, and certainly let you all know if I have any further questions. Thank you,

Madam Chair, and thank you very much again, Commissioner.

COMMISSIONER RODERICK BREMBY: Thank you.

REP. ABERCROMBIE: Representative Bowles.

REP. BOWLES: Yes, thank you, Madam Chair. Hello, Commissioner. How are you doing? Good seeing you, and -- and thank you for your very detailed testimony.

I'm specifically interested in your written testimony and -- and oral testimony regarding SB 104, and it has to do with the statement here that indicates a discussion around applications for Medicaid pending more than 90 days. Anecdotally it has been brought to my attention that this is not necessarily an infrequent situation. This would be on page two of your testimony. I'm -- I'm a little concerned about -- and -- and perhaps you can shed some light on what percentage of applications, or what is -- what is the magnitude of situations where there are pending applications that -- that are longer than 90 days? And what would be the reasons for -- for that -- those kind of delays? Thank you.

COMMISSIONER RODERICK BREMBY: The department has historically not captured well the timeliness components for processing those applications. We have, more recently, began to track those measures, and those measures depict that we are doing better today than we ever have before.

The long-term care applications represent some eight percent -- seven percent of the monthly applications that we receive, but there are a number of reasons why those applications may not be processed in a timely way. For example, in the past we had long-term care employees, or employees processing those throughout our 12

regional offices. There was really no standard for processing them, and the tracking mechanisms for that, again, were -- were not there.

We now have four hubs where workers are dedicated to that work. We've begun to offer guidance that is standardized across those four hubs to guide employees on how best to perform. For example, the five-year look-back over the number of documents they may receive. We're also looking at best practice of other states to see how we can further enhance or improve our long-term care eligibility determinations. We have assessed, and we are looking to bring on additional resources to further support and buttress that.

So this is one area of the organization where I woefully admit that we have not performed, or the agency has not performed very well historically. But this is one area that we -- we are giving a great amount of attention to. We are starting to see some very good results, and we have a long way to go, but we're on the right track.

REP. BOWLES: Okay. Thank you, Commissioner. Thank you, Madam Chair.

SENATOR SLOSSBERG: Thank you, Commissioner.

Representative Ackert.

REP. ACKERT: Thank you, Madam Chair, and thank you, Commissioner, for your testimony.

HB5052

I've got a couple of questions. One, starting with the Governor's bill that you had mentioned, the additional slots, potentially going from 50 to 100. I was actually shocked to know that we only had 50. So how many people do you believe are on the waiting list at this point? Increasing it up to 100, how many are on the

waiting list? Is it more than what even that would cover, do you know?

COMMISSIONER RODERICK BREMBY: Yes. I'm told that there are 103 on the waiting list.

REP. ACKERT: Wow.

COMMISSIONER RODERICK BREMBY: The additional 50 reduces the waiting list almost in half.

REP. ACKERT: Okay. Okay. And those -- some of them have been on there for how long, do you know?

COMMISSIONER RODERICK BREMBY: My subject matter experts suggested three years.

REP. ACKERT: Okay. All right. Thank you for that information. I appreciate that.

And then on -- I was intrigued by the SB 106, IMPROVING EMPLOYMENT OPPORTUNITIES THROUGH EDUCATION. I didn't get the grasp of what that -- I was going to go through -- I didn't get a chance, this coming through me, but it -- it was the one regarding improving employment opportunities through education. The proposal would include two and four-year high school graduate equivalency degrees as allow -- I didn't get enough -- what -- could you elaborate on that shortly? I don't want to take up the time from the committee here, but it's -- I was intrigued by it. I'll have to do some homework on it, too.

COMMISSIONER RODERICK BREMBY: Well, the welfare reform provided the opportunity for individuals to receive training in order to enter the workforce. There are some activities that they must achieve in order to remain eligible for the supports.

REP. ACKERT: Okay.

COMMISSIONER RODERICK BREMBY: Those eligible activities do not include working towards a two-year or four-year degree, or high -- high school equivalent. They're allowable, but they're not activities that we can clock, or measure, or count towards fulfilling their requirements. What we're suggesting is that we'd like for them to be able to do this. We are encouraging them to do this, and we believe that we will be able to support this behavior, but not in any way that harms our -- our performance before TFA or ACF, Administration of Children and Families.

REP. ACKERT: Thank you. I appreciate that.

COMMISSIONER RODERICK BREMBY: We are supportive of this. It is something that we are already doing. It just puts it into -- to statute.

REP. ACKERT: Excellent. Thank you.

And then finally on the 5051, just at this time now, you -- nursing homes are required, on a yearly basis, to submit their Profit and Loss to you, or face penalty if they don't do it by a certain date, I believe December 31st. So right now, because I brought the question regarding Profit and Loss Statements that most financial institutions that loan to corporations, business, and such mandate that they have to provide a Profit and Loss. So to date you must -- all 238 that you support, or that gets funding, have and do submit Profit and Loss to you as by law.

COMMISSIONER RODERICK BREMBY: I believe in the Cost Reports that we require, a Profit and Loss Statement of the facility is required.

REP. ACKERT: Okay. Thank you for that, because it does state that. And -- and is there a review

process -- somebody in the office that reviews all of those profit and losses now?

COMMISSIONER RODERICK BREMBY: I'd like to introduce Chris Lavigne as subject matter expert, and also director of our rate-setting entity. I think he can talk in more detail about how they review, what they review, and the number of people who are doing the review.

CHRISTOPHER LAVIGNE: Good afternoon.

REP. ACKERT: Thank you.

CHRISTOPHER LAVIGNE: Each -- when the Cost Reports come in, they go to a consultant that holds our, you know -- we have a CPA firm. They are desk reviewed, and they are also entered into a system that we can run queries on to get profit/loss, also drill down to different cost centers to, you know, extract information that helps us in the rate-setting process, and also evaluate financial security, so.

REP. ACKERT: Okay. Thank you. You said consultant, so outside from DSS (inaudible) consultant?

CHRISTOPHER LAVIGNE: Yeah, we put it out for bid periodically, and we have a CPA firm. It is about a 26 full-time equivalent CPA firm that runs a rate-setting system for us. They also do desk -- desk reviews and field audits, so.

REP. ACKERT: Okay. I'm just -- that's great. Thank you, Chris. Thank you, Commissioner, for that information. To me it seems that that would be the - an entry of the consulting basis, rather than burdening your office substantially more, if I think in review process, that they would say hey, as a CPA, it's such and such; this is a flag; let's delve deeper than going -- getting this involved. But I thank you for your

testimony; and thank you for your time today. I appreciate it. Thank you, Madam Chair.

HB5051

SENATOR SLOSSBERG: Thank you. And Commissioner, I just had a couple of follow-up questions, starting with the transparency bill, also. A lot of people have asked a lot of questions. I just want to clarify.

Currently all of the nursing facilities, all 238, do or do not submit a Profit and Loss Statement?

COMMISSIONER RODERICK BREMBY: All 237, I believe, that receive Medicaid funding receive a Profit and Loss -- or submit a Profit and Loss Statement along with their information every year. There is one that does not, and so I imagine they don't submit.

SENATOR SLOSSBERG: Okay. So all 237 do currently submit that Profit and Loss Statement. What this legislation does is then includes the Profit and Loss Statement from the related parties then, that has to be submitted?

COMMISSIONER RODERICK BREMBY: From the related parties doing at least $10,000 of business per year with the entity. Yes.

SENATOR SLOSSBERG: And the information regarding the information on direct care staff, is that information we are currently receiving on those 237?

COMMISSIONER RODERICK BREMBY: No, that information --

SENATOR SLOSSBERG: No. So that is new information, but not just from the related party. You are seeking that for the nursing facility obviously.

COMMISSIONER RODERICK BREMBY: Correct.

REP. ABERCROMBIE: Any other committee members with questions? Just -- yep, Representative Rutigliano.

REP. RUTIGLIANO: Thank you, Madam Chair. I just have one question, Commissioner.

HB5051

When you send the information to the outside -- this is in regards to the nursing homes -- to that outside accounting firm, and one or two nursing homes' expenses are far out of whack with everybody else's, what exactly do, or can you do with that information?

CHRISTOPHER LAVIGNE: I'll be happy -- if we have a situation where a nursing home is clearly in financial distress, we go through an analysis to check viability, you know, the need and other factors. The Commissioner has a capacity to put a nursing home on financial relief, which would be an interim rate, which would be a rate based upon basically budget, and then we'd immediately go in and -- and audit, and settle that to cost, so it would be a re-based new rate for that facility.

REP. RUTIGLIANO: With that -- when you say that interim rate, is that an increase essentially? You've given them more money (inaudible).

CHRISTOPHER LAVIGNE: It could (inaudible) if the review process and the analysis determines that financial relief is warranted, and the facility is clearly needed, those beds are in-line and needed in that particular geographic area, then they can qualify for interim rate relief.

REP. RUTIGLIANO: So, this is another question, if you're drilling down and you find their rental expense is higher than everybody else, what recourse do you have to do that? Are you saying

-- do they then have to justify why they pay more for their property than everybody else?

CHRISTOPHER LAVIGNE: Yeah. During that review we'll look at property costs, are they reasonable, also management fee, what kind of fees the management company is taking, and then in the rate agreement letter, we can clearly put caps on those to -- to make the new rate fit within a new -- a new -- new requirement.

REP. RUTIGLIANO: So, let me just see if I understood what you're saying. So if they have a contract with a management company, for whatever that management company may do, and you come in and say that this contract is excessive; it's - it's contributing to your financial distress, you could actually change the terms of the contract with that management company?

CHRISTOPHER LAVIGNE: No, but we can protect the State's exposure by setting those parameters in the rate of what the State will reimburse for. And this all ties to Medicaid requirements to -- to ensure that rates are economic and efficient.

REP. RUTIGLIANO: That makes sense. All right, thank you for your time. Thank you, Madam Chair.

SENATOR SLOSSBERG: Representative Case.

REP. CASE: Thank you, Madam Chair. Good afternoon, Commissioner. How are we doing?

Just a quick question for you on 5051, the hot topic, transparency. Lines 70 through 73, it talks about salaries, and benefits, and overtime reports. Are we getting that now, or is this, as it states in here, it's a new section of the bill? Are we getting that information now or no?

CHRISTOPHER LAVIGNE: This would be a new section of the bill, which means that we're -- we're not getting it now, but we would love to have it so that we can use it to assess and develop acuity compensation going forward.

REP. CASE: Do we -- I don't know if we want to go down this road, but it concerns me that this is going to put employer against employer because, in transparency we're reporting out wages that businesses have, and are we going to be driving nursing homes out, or to change their wages to be competitive with others? Are we just digging in too deep with the transparency? I'm all for transparency, but I believe in business that, you know, if one pays $14 per hour and one pays $16 an hour, that's their prerogative and --

CHRISTOPHER LAVIGNE: While I -- I agree with you that it is the prerogative of the provider to adjust and change rates to be competitive, I think that's occurring now in the marketplace, and this transparency would not lend to that, or accelerate that necessarily. I think that people often -- employees often tend to survey their surroundings to see who else is paying what wage. So I don't think we're lighting a fire here.

REP. CASE: Okay, so if we're paying -- if one nursing home is paying a higher wage, are you going to look at them differently than somebody who's paying a lower wage as far as if they're asking for more moneys?

CHRISTOPHER LAVIGNE: Wages are included in the -- in the calculation of a rate.

REP. CASE: Okay, well that's what I asked in the first place, if you're getting those wages now?

CHRISTOPHER LAVIGNE: What I understood you to say was the specific detailed information on staffing and

rates. We have a line item for employee cost, which is a little different. It's a global number as opposed to the more detailed, specific information that we're --

REP. CASE: Okay. And this is just being more detailed, specific as to --

CHRISTOPHER LAVIGNE: Very much so.

REP. CASE: -- what the salary is, what the benefits are, and what the overtime is?

CHRISTOPHER LAVIGNE: And the number of people who are working to provide a specific level of care, and the hours for the people who are being cared for.

REP. CASE: Okay. Thank you.

CHRISTOPHER LAVIGNE: Okay.

REP. ABERCROMBIE: Senator Markley.

SENATOR MARKLEY: Thank you; and thank you, Commissioner, and to continue down that line. I guess -- so what we're saying in this is that every nursing employee would be individually listed one by one, each -- each position and -- and the salary and benefit for each one of those people?

COMMISSIONER RODERICK BREMBY: I'm going to ask Chris to talk through what we get now and how this might change.

CHRISTOPHER LAVIGNE: Good afternoon. What we get now is a -- a total cost and the hours associated with the cost, but it's not broken out by overtime and some of the finer -- finer granularity. So the -- the new requirements are required by position, but not with -- not by name, but, you know, Health Tech I with -- with

the costs. So it would be just at a finer granularity than what's currently available on the cost form.

SENATOR MARKLEY: Thank you. And what -- what's that going to tell you? What are you going to do with that information? What does that -- how does that help you determine whether the costs are correct or not?

CHRISTOPHER LAVIGNE: It's -- it's not about costs that are correct, but as we move from our current cost-based per diem rate, to an acuity rate, additional information will be helpful to -- as we crosswalk from how we are currently funding a facility, to having an -- an acuity-based correction. We have to move costs that are within cost corridors that are capped by certain percentages or averages to a new -- to a new methodology. So it's additional information where we can have a better understanding of the cost components and what kind of ranges or variances we should allow for specifically the direct care costs, and the other nursing costs that are in the facility.

SENATOR MARKLEY: That's almost impossible for me to argue with.

Let me ask you this as a general question: Is -- it's almost -- this sounds like almost two -- two separate notions within this bill. The -- the transparency that we're talking about on the related parties is addressing one kind of concern, and this is a -- this is rather a different concern on the part of the department which has a lot to do with the plans you have going forward.

CHRISTOPHER LAVIGNE: That's fair. This bill serves multiple objectives.

SENATOR MARKLEY: So it's not -- so that part of it having to do with the -- with the information concerning the individual nursing salaries is not necessarily based -- I don't mean to mischaracterize your position on this, but it seems to me that the related parties represents a concern about a certain kind of financial shuffling that might be disadvantageous to the state.

The -- the listing of the nursing positions is -- it doesn't reflect that concern. It's -- it's more in going forward to a new rate-setting structure. Information would be required that isn't currently required, not because there's suspicions of the way that the nursing homes are handling people, but simply for your own purposes, is that correct?

COMMISSIONER RODERICK BREMBY: That's correct.

SENATOR MARKLEY: Thank you. Let me return to something that Representative Wood was asking in terms of the previous -- the previous bills and your previous testimony. And I don't mean to -- I think everybody's -- let's say even Senators are entitled to change their minds, Commissioners as well, and everybody else.

It seems to me that in looking at your previous testimony -- this was from the committee back in 2012 when I was here, but many of my colleagues here were not. Your characterization of the bill -- it was 5451 at that point -- is the bill would require for-profit chronic and convalescing nursing homes to include in annual cost-report filings Profit and Loss Statements for each related party that pays $10,000 or more per year for goods, fees, and services, and a Profit and Loss Statement for each nursing home transaction with such a party. A related party could include

companies connected to a facility through family associations, et cetera, et cetera.

That seems to me to be a fairly accurate characterization of that section of the bill that's before us currently, although I'll let you explain what the difference is. You say in response to it: First the bill requires what the department believes to be excessive reporting. It is not necessary for the department to have all this information on file for every year for every provider. We believe it is more reasonable and appropriate that facilities be required to provide detailed financial information upon request. And in part of the testimony you propose a substitute bill in effect that would provide for that.

Certainly that seems reasonable to me, in retrospect anyways, looking back to say if we have reason for concern that we can ask for more information rather than require that it be given. Whether it be given as part of a report or an addendum, it doesn't seem to make any difference.

What's changed, Commissioner, I guess is my question.

COMMISSIONER RODERICK BREMBY: I think what I was communicating earlier is that there are two main features that have changed. One feature is that the liability has been resolved, or at least it's dealt with within the bill. Having the information on hand, and not using it, doesn't expose us to any liability. That protection was not in the prior year's bill.

Also, the additional staffing information is a part of this current bill that was not in the past bill, and so I am supportive of this bill at this time.

SENATOR MARKLEY: I guess I would say in response, and perhaps again not in the form of a question, but just in response, the liability was not raised as a concern at the time in your testimony against the bill.

And the second thing I'd say is that the staffing could be done -- as I was just maybe attempting to point out or distinguish in my own mind between the two, that seems like a somewhat separate concern. The staffing is -- is something that could go forward whether or not this related party transparency took place or not. But I know you're -- you're going to say something about the liability, so I will look forward to that.

COMMISSIONER RODERICK BREMBY: While the liability issue may not have been articulated in the testimony, it was still an issue which we were concerned about. In fact, I believe that in the bill that was offered, that information rest with the entity, and we would receive that information only when we wanted it in order to act on it. I mean, that was the pivot.

SENATOR MARKLEY: Is the liability a concern in other cases? I think this came up in -- in -- when Secretary Barnes was here a few -- a little while ago. Is the liability -- it's not a protection that I'm accustomed to seeing given an agency in the gathering of information. Is it in other cases? Is it a concern to you in other cases in which you gather information?

COMMISSIONER RODERICK BREMBY: I'm told that that liability has been extended, or that protection has been extended in other data-capturing areas. We'll find out a little bit more, and offer that back to the committee.

SENATOR MARKLEY: In continuing on with this, if I may, Madam Chairman, the industry obviously is opposed this and very concerned about this, and I'm always in a position of having to judge things based on the information which is put before me, which doesn't -- isn't always the same depending on -- on who you're getting it from. As it's represented to me, Cost Reports currently required under law include a section that require nursing facilities to disclose all payments to businesses with ownership related to the facility, and require the facility to report both the amount paid to the related entity, and the actual cost of goods and services provided, which information is then subject to audit and verification by DSS.

That was what I attempted to ask Secretary Barnes about. I guess my question would be, if that's true -- the question is: Is that true, and if that's true -- if you know how much is being paid to related entities for what services, and what the cost of the related entity in providing that service is, effectively you have the profit and loss on that transaction, doesn't that cover everything that you're looking for already?

CHRISTOPHER LAVIGNE: The additional requirements will -- will expand out, I believe it's one page on the Cost Report that does have that information, so it's fairly limited information in the Cost Report. It does have it, but this will build that out a bit more, so we understand more the nuances of the multi -- multilevels of entities, LLCs that you often see.

SENATOR MARKLEY: Well, I'd agree you'd understand a lot about the nuances of the entities, but the question would be whether that's a nuance that you need to understand, or that ought to be comfortably acknowledged. I -- I guess the question is if we know that -- we know how much

is being paid, and we know the cost of what is being purchased, the question -- the question -- and it seems to me the only question in all of this, is is somebody -- let's say you -- you're using an associated entity to make an -- an excess profit at the expense of the State. Well, if we know how much we're paying, and we know how much it costs, we know whether there's an excess profit or not, it would seem. And further information about the entity would not necessarily -- I don't see how further information on the entity would be useful, but you could perhaps instruct me.

CHRISTOPHER LAVIGNE: I could give you one example. If -- if the property owner owns -- purchased the property 15 years ago when the property prices were high, they do hold a high mortgage on that, and their -- that entity's profit margin would be lower or more reasonable. But if they purchased the property two years ago during a fire sale, they may have -- they might have purchased the property low and refinanced, and so just trying to understand refinance and pull money out of the entity, so it just -- the more information you understand some of these -- how these entities are working, it just gives you more information to make sure that the reimbursement system is -- is working properly.

SENATOR MARKLEY: Again, I guess I'd ask what I asked Secretary Barnes, which is you -- you have -- you have what to my mind strikes me as the heart of the information already. Do you have reasons to have suspicions that in gathering this additional information you're going to find something which will be to the benefit of the State?

COMMISSIONER RODERICK BREMBY: We believe that having access to the information (1) may preclude actions and (2) may help to illuminate places where we may want to ask more or inquire more.

Again, it's trying to be a good steward of the State's resources. Two billion dollars annually is expended in long-term care services, so it doesn't seem unreasonable that we would know the position, P and L, of the related entities that do what we believe is a significant amount of business with these entities year in and year out.

Oftentimes, if these were arm's length transactions, you wouldn't be that concerned, but if they are, in fact, just another component or part of this entity, you would really want to know the dynamics of that relationship. And as I said, you know, this industry is changing. It is very dynamic like many other industries and sectors, and so while we, in Connecticut, may have very little concern about Connecticut owned/operated entities, we are subject to the global marketplace. People are looking to profit, and we just to make sure that if they do, and should they do so in this industry, they don't do so at the expense of Connecticut residents or public dollars. That's all. That's the balance we're trying to seek.

REP. ABERCROMBIE: It -- it might be easier if you finish your line of questioning, and then we'll move on to Terrie.

SENATOR MARKLEY: Thank -- thank you, Madam Chair.

We certainly have the same goal in this. I agree completely. And I guess the -- I guess I would need to be more convinced than I am that this information is -- is required. And I -- I'm -- you know I feel like -- like it's natural on anybody's part to want to get as much information as they possibly can. And it's natural on anybody else's part to want to give up -- give up as little information as -- as possible. And

that's -- so things end up before the Legislature for that very reason, because we end up being the referees in our -- in whatever fog we operate on; we have to make a decision about it.

And this -- it's a very intrusive thing, not simply to ask -- to my mind, not simply to ask what the profit and loss is on the transaction that's under consideration, but what the other interests are, and I'm concerned about the ways in which this may be chilling to people that want to do business in Connecticut. Certainly we don't want to discourage entities from coming in. We've also got a healthcare system that's at a time of change that's forcing people to have associated entities, I think without any malign intent, but simply because that's the business model nowadays. I wish it were otherwise.

Here's the -- so, yeah, a speech; my apologies. But let me ask you this: How many people are actually employed in the rate-setting division, the Certificate of Need Division, that would be responsible for the review of -- of all the information that would now be arriving at DSS?

CHRISTOPHER LAVIGNE: We have three staff in-house, and then we use the CPA firm which is about 26 full-time equivalent that do work on Cost Report and rate setting.

SENATOR MARKLEY: And what would be the access of the public to any information you get from these -- from these entities about their own internal functions, their profit and loss? Is that -- would that then be something that could be obtained under Freedom of Information, or would that still be protected?

CHRISTOPHER LAVIGNE: We -- we run a public -- public file room that's FOI material that anyone can

come in and make copies of Cost Reports which would include this new information.

SENATOR MARKLEY: One last question, if I may on this -- on this issue.

You deal with a lot of -- you do a lot of rate setting for a lot of different types of businesses, hospitals, and all kinds of businesses that provide care for people. Are there any other businesses that you feel it would be valuable to obtain this kind of information? I mean in that sense it seems like if -- if it would be useful to have this from a nursing home, why not have it from a hospital? Why not have it from a home care agency? If that's something that is -- what's the distinction about nursing home visit that brings you to us asking for this legislation?

CHRISTOPHER LAVIGNE: I think in other states you're starting to see additional transparency requirements, specifically in hospital areas, and some of the other providers that are experiencing significant change for Connecticut and nursing homes is, you know, the first piece that was being put forth.

COMMISSIONER RODERICK BREMBY: Just to pick up a little bit. Perhaps it's not the same type of information that's being requested here, but transparency is a call that is being utilized throughout many, many industries. For example, in the hospital industry, we're working now on looking at quality in terms of outcomes. We're looking at also cost measures. I think this body approved an all payer claims database recently to facilitate the sharing of claims for care across all providers and payers.

And so there is an increasing interest in getting access to information so that we can make sense

of where these expenditures are occurring, and how they're occurring. And again, it's just trying to be good stewards, and to ensure that what is being provided is being provided at a fair cost, at a fair price.

SENATOR MARKLEY: I would say that there's a distinction, and this is -- it's always a matter of where you draw the line in asking for information about separate corporation's own overall business activities. And you would seem to imply that it's possible that this is information that, in fact, might become a priority in other -- in other areas as well, that the day may come when you'd say well hospitals that have related entities, we might also want to see this information from the hospitals. That's a possibility?

COMMISSIONER RODERICK BREMBY: I -- I hesitate to say yes, because we have different methods of payments with hospitals. So we look at a -- we look at a lot of different components on costs there in a different way than we do wholly with the long-term care industry. So I don't see that happening with hospital systems.

SENATOR MARKLEY: Let me ask one other question on one other bill.

COMMISSIONER RODERICK BREMBY: Okay.

SENATOR MARKLEY: Back to my -- back to my previous favorite topic, Commissioner, we had a -- a chance to talk about before which was the -- your ongoing efforts to revamp the EMS system.

In testifying -- in your testimony on SB 104, the uncompensated care bill -- and this is concern of mine, too. I mean, I -- I -- again, I -- I really trust that nobody in Connecticut is working harder on this problem than you are. And

changing, unless we can find some best practices, but yeah.

SENATOR MARKLEY: Thank you very much for your answers, Commissioner. Thank you, Madam Chair.

REP. ABERCROMBIE: Representative Wood.

REP. WOOD: Thank you, Madam Chair, for the second time. And again, I'm just trying to wrap my head around the -- the 5051.

As my colleague said, I -- we do share the same goal on this. Two -- two billion dollars requires stewardship, and that is our responsibility, but I also want to be able to explain to constituents why this is good legislation, or why I oppose it.

So all the nursing homes right now are required to file a financial statement with DSS; all 237 of them file a financial statement, and that's fairly detailed. It -- it lists salaries paid; it lists cleaning supplies, cleaning bills, security, every -- how many line items would be on this statement?

COMMISSIONER RODERICK BREMBY: It depends on the entity. I mean they -- they would vary, but it is very detailed in terms of their Cost Reporting.

REP. WOOD: So what -- what I'm still trying to get my head around is you set the rates -- DSS sets the rates, regulates the industry. So what other information -- and -- and you make sure that someone is paid fairly. Actually, what we do hear often is they're not paid enough; the nursing homes getting Medicaid dollars are not reimbursed enough, and it is very hard for them to make money. So I don't know too many cases, but I'm -- I'm willing to learn more, and I -- I

hope there will be more testimony that can elucidate this for me.

What further information are you going to have on these other companies that you don't already have?

COMMISSIONER RODERICK BREMBY: What we would have is the profit and loss for the related parties that we do not have today, and by having the P and L on the related parties, we would have a sense of their financial status, capability, capacity, as it relates to the partner or the entity that they're related to.

I think Secretary Barnes was -- I think it was a really good example about the advance payment requests that we had -- a number of them in 2011. And not knowing whether there was sufficient capital in the arms of a related party that could advance the dollars back to the -- the operator. So absent that, then the state is advancing monies, which would be recouped, which would be a free loan if you will, when resources are already available within the entity, perhaps the related entity.

REP. WOOD: I guess two things -- I have two thoughts on this. One, if it's a privately held business, isn't that their business? So I struggle with that piece philosophically, and that's maybe where we're going to have to part company on that. You would know -- oh, isn't there a statutory -- somewhere in a statute if someone violates or takes advantage of, or shuffles money to take the profit and falsely -- I guess the Profit and Loss Statement that's currently required should give you all the information you need. That's -- I can't imagine that these other statements on related businesses would give you any more information, and I quite frankly think it's a huge violation of privacy, and what's

next? I mean, will I have to give my -- you know, will we all? It's -- it's a slippery slope. So I'm just really struggling with this philosophically, but I want to learn more, so was there a question in that?

COMMISSIONER RODERICK BREMBY: I -- I think I heard something in that. So I respect your concerns, very much so, but by the same token, many of the entities that we're talking about do a significant amount of business with the state, almost solely with the state, for which we provide public resources. And so if they're doing business with another entity, $10,000, you know, annually, then -- and we believe that there may be additional resources or profit moving in that direction excessively, we'd like to ask for that information. And in the past we've asked for that information, and we've been told that we didn't have the authority to get that information. So this provides the mechanism for us to pursue, if we're so inclined to ask for information, to help us make sure that we are good stewards of the public's resources.

REP. WOOD: Which still goes back to there's little profit margin. Secretary Barnes said there's little profit margin; he didn't know -- understand why people even went into the business. So if there is little profit margin, how could somebody be taking excess profits and moving it for their own financial gain to another company?

COMMISSIONER RODERICK BREMBY: Let me be very clear about that. I don't dispute Secretary Barnes at all. I -- I don't believe that there are huge profit margins within the operating business of nursing homes. But it is possible that through the expense for rent, expense for some items, some other entity is able to achieve a significant profit on that relationship.

REP. WOOD: But that's capitalism; that's business.

COMMISSIONER RODERICK BREMBY: And what happens when that -- when that happens, and the entity asks us for more money -- more rate to take care of the people in the facility, then that means that Connecticut residents are disadvantaged.

REP. WOOD: And I totally agree with that, but I don't -- I guess where I'm still -- maybe if I get some information from a nursing home and see one of these statements, it will -- I can -- it will be more concrete for me. I just don't understand how, if the profit margins are so slim, often Medicaid dollars doesn't cover their operating costs, how they can ever find excess profits to move to another company. That's -- I think that's the struggle for me. But I totally agree we need to protect the dollars that we are stewards of.

COMMISSIONER RODERICK BREMBY: I think it's the language, and that's where we're getting bogged down a bit. We're not saying that excess profits from a nursing home is moving. We're saying that dollars are moving as an expense -- as an expense, a verifiable expense, which then creates a profit for the arm's-length entity whose P and L we're wishing to look at.

REP. WOOD: Sorry. Would you say that one more time?

COMMISSIONER RODERICK BREMBY: Sure. So what I said was that we're getting hung up on the language, that it's not the profit so much that we're concerned -- I mean, we don't believe that the nursing industry here in Connecticut is making, you know, lots of money. It's not a huge profit. But, by moving dollars to an entity through a direct payment, if you will, an expense, the other entity could thereby create and recognize a

significant profit on their item, their -- whatever it is they're selling, or whatever their goods are. But it is the State of Connecticut that pays to the nursing facility the income by which that expense is derived and gets moved, shifted.

REP. WOOD: Right, and I get that. What I don't understand is you look at all these -- the 237 nursing homes. I would assume that Mr. Lavigne and his staff look at all the expenses, and you can look at a line item -- say a nursing home has 20 patients. You look at a line item and say well this line item is way out of whack with what the expenses should be. So I don't understand how an expense for a nursing home could be so high that it could be channeled to another company where they could realize such a profit.

COMMISSIONER RODERICK BREMBY: I think Chris spoke to a mortgage refinancing issue in particular just a few minutes ago. Maybe you can call that to mind again about how that might work. If the related party is providing the ground for the lease, and they acquired the ground -- okay.

CHRISTOPHER LAVIGNE: That -- so that was just one example that -- what we have seen in like one or two instances recently.

REP. WOOD: Connecticut is constantly being hammered by almost every news source for being not business friendly, and something like this is truly hostile to business. It takes my breath away. And I'm not a rabid either side. But this one -- they've taken on risk to buy it; they've taken on all these risks. So -- well, I will continue to learn more and I --

A VOICE: (Inaudible) to be continued.

REP. WOOD: Yes. I thank you for your indulgence, and thank you, Commissioner.

REP. ABERCROMBIE: Any further questions or comments?

Well, thank you, Commissioner, very much. We do appreciate your time and your -- your indulgence in this. So thank you, sir, we do appreciate it.

COMMISSIONER RODERICK BREMBY: Well, thank you very much, and we'll follow-up with the responses that we --

REP. ABERCROMBIE: Sounds great. Thank you.

We have gone over the hour that we set aside for state officials by a little bit, so we will be moving into the public portion, and then moving back and forth, so I do apologize to -- to two people that are still waiting to speak.

I would like to just for the purpose of an announcement, Representative Michelle Cook is not here today due to the passing of her mother-in-law, so I would like to send our condolences on behalf of our committee, and give her our best wishes as she goes through this difficult time. Thank you.

Moving on to 5052. The first person up is Jane McNichol.

Just so everybody understands, because we are moving into the public portion, you are three minutes. We will be holding you firm to the three minutes, so we do appreciate you taking that into consideration.

Hi, Jane.

JANE MCNICHOL: Hi. Thank you. I'm Jane McNichol. I'm the executive director of the Legal

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SB106

JANE MCNICHOL: Thank you.

REP. ABERCROMBIE: Any questions from committee members?

Thank you for your time. We appreciate it, and thank you for the explanation.

Moving over back to the state officials. Deb Migneault.

DEB MIGNEAULT: Hello, good afternoon. Senator Slossberg, Representative Abercrombie, and members of the Committee. My name is Deb Migneault, and I am the senior policy analyst for Connecticut's Legislative Commission on Aging. Thank you for the opportunity to comment today. I did submit testimony on four bills: HB 5052, 5051, 501 -- 5136, and Senate Bill 104.

In the interest of time, I'll just reserve my verbal comments to House Bill 5052, and Senate Bill 104.

House Bill 5052, THE ACT IMPLEMENTING THE GOVERNOR'S BUDGET RECOMMENDATION FOR HUMAN SERVICE PROGRAM -- I just want to comment that we, as the Commission on Aging, applaud this committee, the General Assembly as a whole, and Governor Malloy and their commitment to rebalance the long-term care system. It upholds the U.S. Supreme Court's Olmstead decision, and Connecticut State Law, and ensure Olmstead and State Law require that individuals with long-term care needs have the option to choose and receive services in the least restrictive and appropriate setting.

As you know, Money Follows The Person, a multimillion dollar systems change grant in the State is the primary driver for long-term care

HB5052

DEBORAH CHERNOFF: Senator Slossberg, and other members of the committee, for the record my name is Deborah Chernoff. I am the public policy director for District 1199 and I also serve on the State's Long-Term Care Advisory Committee.

I'm speaking in support of House Bills 5051 and 5136, about nursing home financial transparency. You've all heard quite a bit today about the concept, so let me cut straight to the chase, and give you a little bit of a context.

When we're talking about payments to related entities, we're talking about very significant amounts of money. If you take a look at Cost Year 2011, at just the top ten nursing home chains in Connecticut, not all of them, Connecticut -- it was paid out $136 million to related entities for things like rent, management services, pharmaceuticals, and as we've already discussed all that -- almost all of that is public money through Medicaid and Medicare.

So the State has an obvious interest in making sure that money is expended well and that there is -- that the profit margins are not excessive for these related entities.

The question was asked, do we have any reason to think that this is a problem? Sadly we do have several strong bad examples of why such legislation is right and necessary. It would be hard to forget the case of Haven Healthcare, which was one of the largest nursing home chains in Connecticut before it filed for bankruptcy in 2007 after the *Hartford Courant* exposed the history of poor patient care and dubious financial transactions.

The CEO of that company was the subject of federal and state investigations into whether

Medicaid and Medicare funds were fraudulently diverted into other personal investments including a $5 million personal loan to the CEO which went to purchase, among other things, a Nashville recording studio.

Mr. Termini, the CEO, finally went -- subsequently went to prison, but the fraud was exposed by investigative reporting, not by DSS.

More recently we have the example of HealthBridge Management, a New Jersey-based nursing home company that has been able, so far, to circumvent both a federal injunction and a subsequent citation for Contempt of Court by filing for bankruptcy for five union nursing homes in Connecticut without disclosing any financial information or filing for bankruptcy for the larger management company, the holding company or any of the related entities, all of which are privately held by the same small group of investors.

Connecticut has a critical interest in transparency in order to protect the rights and interests of nursing home residents, their families, their caregivers, and to provide access to information for consumers, and to make wise use of the more than $2 billion we expend annually on nursing home care.

This legislation is a good public policy. The changes are consumer friendly and necessary to protect the vital interests of one of the state's most vulnerable populations, as well as our precarious budget.

In wrapping up, I just want to mention that we are also opposed to the Sections of House Bill 5052 which would change the statute regarding Medicaid reimbursement rate setting, and eliminate the COLA. And we believe that those

changes will exacerbate a system of rate setting that disincents quality care, good staffing, decent jobs, and we urge you to reject those changes.

Thank you.

SENATOR SLOSSBERG: Thank you for your testimony. Are there questions?

Representative Wood.

REP. WOOD: Thank you, Madam Chair, and thank you for your testimony. You may have heard my questions earlier --

DEBORAH CHERNOFF: I did.

REP. WOOD: -- and I am looking for both sides of this. And, you know, stories like this New Haven thing is what we all -- they're nightmares for all of us, and so wrong. Have there been substantive statutes put in place to protect this from this happening, this kind of fraud?

DEBORAH CHERNOFF: There are certainly plenty of antifraud statutes on the books, but we believe that making the information about the related entities wouldn't necessarily prevent fraud, but it would give us a much clearer picture of where is the money going, and, you know, are -- are the -- if I may refer to the other example, the HealthBridge example, we have a company that says nursing homes are bankrupt, and for that reason we are going to unilaterally change the terms and conditions of employment for the workers there. At the same time they're paying themselves millions of dollars in rent and lease; they were paying themselves millions of dollars for management services, for pharmaceuticals, and we don't know whether those companies are -- are bankrupt, doing very well, or somewhere in

between, and for that reason they've been able to avoid legal responsibility so far.

REP. WOOD: Right. The difficulty I'm having is when you say they're paying millions of dollars for all these different fees and line items, but that's overseen by DSS.

DEBORAH CHERNOFF: That's correct. However, as we all know, money is fungible, and therefore a company that, even if they're not paying something that wouldn't be allowable -- they only get reimbursed for allowable expenses, but that doesn't prevent them from paying more than the allowable amount, and then --

REP. WOOD: Who -- who paying more than the allowable amount?

DEBORAH CHERNOFF: If you decide that your -- your -- DSS says, for example, that the allowed -- just by way of example, the allowable rent on your property is $250,000 a year. That means they will reimburse you for the portion of rent up to $250,000 a year as part of your rate setting. That does not, however, prevent you from paying half a million dollars a year for that rent. You're only going to get back something in your rate on the allowable portion. However, that then means that you can say, but the nursing home is losing money because we're paying this, and we're paying that, and we're paying very high management fees, and subsequently turn around and say, we're going to close this nursing home because we're not making enough money here. And one of the arguments is that we can show you a loss statement. Well all we're saying is well show us a loss statement for the company that you're paying rent to before we do something as extreme -- and this has happened before, including with HealthBridge -- as saying all you residents who've been in this nursing home, no

matter how long, you're being evicted; people are losing their jobs. In the case of the Wethersfield Nursing Home closing down, it was the only nursing home in town. People were losing their community placement.

We have an interest as a state that's providing so much funding to these nursing homes to be able to assess the real financial condition of all the interrelated businesses.

REP. WOOD: I would -- I mean could the State -- you make a very good point, and that's a good example of the State says you can do $250,000, but a related company will pay $500,000, so you're -- you're creatively assuming a loss. But at that point, doesn't DSS have the opportunity to say, well we're not going to do business with you anymore?

DEBORAH CHERNOFF: No.

REP. WOOD: They don't have the opportunity? DSS does not have control?

DEBORAH CHERNOFF: No. DSS can't turn around and say you can't pay that, or we're not going to fund you.

REP. WOOD: No, no; but DSS can say we don't agree with that; we think that's outrageous.

DEBORAH CHERNOFF: Yeah.

REP. WOOD: It -- we think you're doing something else with the money. I mean, DSS -- there is control built in with DSS on where they give the approval.

DEBORAH CHERNOFF: There is -- there is some control. This would give DSS a broader financial picture in decide -- now, it may be true that a nursing

home that's claiming losses is also experiencing losses in its related businesses. It may not be true. There's only one way to know that, and that's to be able to see, very simple statement of information that's -- it's not like the other related businesses don't produce Profit and Loss Statements for other purposes that they suddenly have to do now. It's a question of including it.

You know, frankly, nursing homes, most nursing homes, almost all but one, take Medicaid and Medicare money. No one is forcing them to do that. There are long-term care businesses that operate solely on private insurance, private payment. You know, if we're going to give so many of our taxpayer dollars, and -- and I personally believe in that; I think we should take care of our elderly, we also have a -- a I believe both an obligation -- an affirmative obligation to make sure that money is being expended wisely and well, and this is one way to know that.

REP. WOOD: Right. I don't think anybody disagrees that we do need to make sure it is; two billion dollars is -- we are stewards of that, and we all have a responsibility for that. I just question how often -- I mean these cases that you mentioned, the Haven Woods and the HealthBridge are difficult situations. I just wonder how often it happens, and are we over-legislating? But that's -- that's for me to decide down the road.

One further question.

DEBORAH CHERNOFF: Sure.

REP. WOOD: You said it's a very user-friendly -- I think, towards the end of your testimony you said it's a consumer-friendly way to fill out these

forms, or something along those lines. Can you elaborate on that, please?

DEBORAH CHERNOFF: I'm simply meaning that -- that greater transparency, more sunshine on how these businesses -- I mean most of us think of nursing home businesses as the old mom and pops. And that's -- these are big businesses. I mean there are some people who say -- Secretary Barnes said why does anybody go into this business. If you listen strictly to the rhetoric, you'd say nobody would, but there are certainly big national companies with these real estate insurance trusts, with these big management companies, with the provision of physical and occupational therapy that are being very profitable. So there is some way to make money in this business, and this would give us a window on exactly how that happens.

REP. WOOD: Great. Thank you very much. I really appreciate your (inaudible) and your questions -- answering questions.

DEBORAH CHERNOFF: Thank you.

REP. WOOD: Thank you, Madam Chair.

SENATOR SLOSSBERG: Okay. Are there further questions? No? Any further questions? Okay.

Thank you very much for your testimony.

DEBORAH CHERNOFF: Thank you, Senator.

SENATOR SLOSSBERG: Our next speaker is Vern -- I can't read the last name. It looked like Satliff?

VERN SCATLIFFE: Scatliffe.

SENATOR SLOSSBERG: Scatliffe. Hello, Mr. Scatliffe. How are you today?

VERN SCATLIFFE: Hi; good afternoon.

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Hello, Members of the Human Services Committee. My name is Vern Scatliffe and I live in Waterbury. I want to testify in favor of the two bills that require more financial transparency for nursing homes.

I'm a member of the Healthcare Workers Union in District 1199, and I work as a CNA at Danbury Healthcare Center. If that nursing home sounds familiar, it is probably because of the long strike we had there against our corporate operator, HealthBridge Management.

HealthBridge is another big nursing home chain. It's based in New Jersey and has dozens of nursing homes in the United States. Eight of them are here in Connecticut and five of those nursing homes, including Danbury, are in the Union.

So what does this have to do with these bills? Hundreds of HealthBridge workers like me at the five Union homes began an Unfair Labor Practice strike after HealthBridge said our negotiations weren't going anywhere and changed our contracts, slashing our hours, our wages, and our benefits. The Labor Board says those changes were illegal, and issued federal complaints against the company. A Federal judge issued an injunction against them, ordering them to put the corporate -- put the contracts back to the way they were and negotiate with us. That same judge then found them to be in Contempt of Court when they didn't follow the injunction. How could they do that?

Right before we were supposed to go back to work under the old contract, HealthBridge suddenly filed for bankruptcy in New Jersey court, so they could get the contract changes they wanted that way. Even though the Labor Board said it's illegal, and the judge ordered them back to the bargaining table, they filed for bankruptcy just for the nursing homes themselves, but not for HealthBridge Management, or any of the other related companies they pay tens of millions of dollars to.

Just to give you an example, in 2011 for the nine nursing -- nursing homes HealthBridge operated in Connecticut, HealthBridge paid more than $14 million to related party companies for rent, management services, pharmacy, and other services. But because of all these related businesses are private, no public financial information is available about them. We couldn't get that information during the negotiations, and it wasn't given to the Court.

So far HealthBridge has been able to get away with not following the federal court's orders by not sharing any information about how all the related businesses are doing financially.

In the meantime, besides the destructive cuts they made to our benefits including making our health insurance unaffordable, they got the bankruptcy judge to approve cutting the staffing levels in our contracts. That hurts us, but it hurts our frail residents even more. We used to have some of the best staffing in the state, but no longer. We have to remember that almost all the money HealthBridge takes in, including the millions they pay to themselves through their related companies, is public taxpayers' money that comes from Medicaid and Medicare.

SENATOR SLOSSBERG: Thank you very much. I appreciate you being here, and your testimony, and being from one of those communities where our -- our healthcare workers were on strike as a result of the ongoing dispute with HealthBridge, I appreciate you coming and explaining it in depth, as it really was a very difficult situation. So, are there questions?

Yes, Representative Wood.

REP. WOOD: Thank you, Madam Chair. No, just a statement. Thank you for coming, and thank you for giving us another side of the picture. I appreciate it very much.

VERN SCATLIFFE: Thank you.

SENATOR SLOSSBERG: All right. Further questions? Seeing none, thank you.

Our next speaker is Yvonne Foster.

YVONNE FOSTER: Good afternoon. Hello. My name is Yvonne Foster, and I live in Bloomfield, Connecticut. I am a member of District 1199 and work as a Certified Nursing Assistant at Windsor Rehab and Healthcare, a nursing home in Windsor.

I am testifying today on several important bills -- bills that will have real impact on me and the wonderful residents I take care at the nursing home I work.

I am supporting House Bill 5051 and 5036. It is very important that the big corporations that own and operate most of Connecticut nursing homes should disclose more financial information that they do now.

My nursing home is part of the Kindred chain, one of the big -- one of the bigger healthcare

corporations in the country. Kindred operates 102 nursing homes with five in Connecticut. Like a lot of other big nursing home chains, Kindred pays millions of dollars to related parties, companies for goods and services from its nursing homes in Connecticut. For example, in 2011 the five Kindred nursing homes in Connecticut together paid about $6.5 million to People First, a rehab therapy company, and the Kindred Healthcare office costs, almost all of them from public Medicaid and Medicare dollars. That means that some of my tax dollars and yours are going to Kindred Corporation headquarters in Kentucky.

Every day on the job, nursing home caregivers like me hear that we can't have better staffing because the nursing home is losing money. We get our hours cut, or see our co-workers laid off because the nursing home says they can't afford to be -- to do better, and we are always threatened with losing our benefits, or having to pay more for our health insurance, again because of the nursing home claim to be in financial difficulties.

But how is Kindred Healthcare itself doing? What about all the other related companies? Are they making or losing money? Where are our tax dollars going? The money that is supposed to go for the care of our residents at Windsor? Right now we can't get any answers to those questions. All we know is what the Cost Report says about each individual nursing home, not the big company itself.

We can only begin to understand the answer to those questions when nursing homes make more big-picture financial information available to Legislators like you. Workers like me, and our nursing home residents, and their families can make informed decisions about whether these companies are interested in putting resources

into providing good care, or are more concerned about profits for their investors.

Thank you for letting me speak on these important bills.

SENATOR SLOSSBERG: Thank you very much for your testimony and for being here today. I think everyone who speaks gives us a different point of view, and I think you've raised some additional good points here.

So are there questions for Yvonne? No? Thank you again for coming here.

YVONNE FOSTER: Thank you.

SENATOR SLOSSBERG: Our next speaker is Dennis Cleary, followed by Matt Barrett.

A VOICE: They're going to come together if that's okay.

SENATOR SLOSSBERG: Okay.

A VOICE: Matthew, long time no see.

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HB5136

MATTHEW BARRETT: Good afternoon, Representative Abercrombie, and Senator Slossberg. For the record, my name is Matthew Barrett. I'm the executive vice-president of the Connecticut Association of Healthcare Facilities, and I'm delighted to be joined by Dennis Cleary who is a longstanding board member to our association, and former member of this committee, and former Ranking Member of the Public Health Committee.

And -- and I appreciate the indulgence of the committee to mention several other bills briefly before we get to the -- the bill on sort of order of the day for us: the nursing home transparency legislation.

the meantime, we hope that the Legislature will exercise its prerogative and have the -- the existing rate-setting rules and regulations remain in the statute, and then revamp the underlying rate-setting section at the appropriate time, and not a year before that.

And so we hope that you will reject Section 7 of the Governor's -- Governor's Bill.

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Finally, I wanted to get to the issue of nursing home transparency. By -- by beginning on the issue of -- of the immunity clause that's been discussed in Section 2 of the bill, that, in my view, is an outright bar to a causative action or law suit on behalf of anyone, including a provider who is aggrieved or harmed by an agency rate-setting decision. It is not -- in my view, the statutory construction is not peculiar or specific to nursing home transparency violations, but any issue related to nursing home rates.

I'm not aware that this committee has ever endorsed any preclusion from a law suit in such a way, and I would urge -- urge the committee to reject that provision for those reasons.

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As to the nursing home transparency bill, I -- I am going to introduce Dennis in a moment, but I want to get right to the issue of the extensive 40-page Cost Report, and ask Dennis to -- to provide information about all of the information that's provided, and what it tells the Department of Social Services about what it needs to know in the State's interest to protect consumers and providers.

DENNIS CLEARY: Thank you, Madam Chairman. Just a few brief comments. We're going to supply --

SENATOR SLOSSBERG: Sir, just for the record, state your name again.

to (inaudible) in and to, you know, to come and be able to explain things. You're hands on so --

MICHELLE FARMER: Yeah.

SENATOR SLOSSBERG: -- we appreciate you being here.

MICHELLE FARMER: Thank you.

SENATOR SLOSSBERG: So thank you very much.

Okay. Well said.

Are there -- our next speaker is Russell Shwartz.

Russell is gone?

Okay. Well, we have Russell's written testimony as well, so we thank you for that.

Mag, you're up.

A VOICE: (Inaudible.)

REP. ABERCROMBIE: Mag, if you also want to -- you were on two other lists that you decided not to. If you just want to add your comments there -- I mean, right now, that would be fine also. Thank you.

MAG MORELLI: You're welcome. I -- we actually submitted testimony on -- on the three subjects, the four bills. So I'll just briefly touch on each of them.

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My name is Mag Morelli. And I am the president of Leading Age Connecticut, a statewide association of not profit and mission-driven providers of high quality, aging services across the full continuum. And I am here today to speak on four separate bills that would directly impact our nonprofit nursing homes and our residential-

care home members.

I want to start with Senate Bill 104, which is AN ACT PROVIDING FINANCIAL RELIEF TO THE NURSING HOMES FOR UNCOMPENSATED CARE. We strongly support this bill to provide the immediate relief to nursing homes that they're experiencing, extended periods of nonpayment from the state due to excessive delays in the Medicaid eligibility process.

Currently, the Medicaid eligibility system is not able to qualify long-term care applicants in a timely manner. We know that the Department of Social Services is working on the issue. In fact, we've been working closely with DSS, and hope that the modernization of the eligibility system will succeed. However, the new system currently is not able to process the long-term applications in a timely manner, and we simply cannot wait.

Our member nursing homes are reporting Medicaid payments owed by the state in ranges of a month from 10,000 -- tens of thousands to over a million dollars. At the same time, the nursing homes are required to pay the state nursing home provider tax of $21.02 per bed, per day, for the residents who's Medicaid applications are pending. So we therefore are requesting a program of advance payments and temporary -- and a temporary reprieve from the user fee tax payments that will provide the financial relief needed during the extended periods of pending Medicaid eligibility.

I also wanted to speak to the transparency bills. We don't support these proposals and we question why the additional information is needed by the Department of Social Services and what it will be used for once it is submitted. The information appears to be of no value to the rate-setting

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system or would have no effect on the rate calculation.

The -- as we talked about before, the Department of Social Services currently reimburses nursing homes through the Medicaid system using cost-based per diem rates. And the rates are -- are calculated using the costs submitted on the cost report, the 37-page cost report that you all just received.

The payments made to related parties, including information on whether the related party is making a profit on the goods or services purchased by the nursing home are on page 4. Similarly, nursing homes already must submit comprehensive salary and wage information on page 10, and benefits information on page 15 of the cost report.

In addition, the bill asks -- proposes for specific information and then adds the -- the phrase "detailed information including but not limited to," which is always kind of scary for someone to see who is submitting data.

Since nursing homes already provide the information -- the specific information called for in the bills, we see no reason for the proposed legislation. And we ask whether the -- what -- whether the benefits of this additional information of what the time costs and risk of submitting it.

And finally, Section 2, the immunity clause, we -- we oppose that. It actually provides immunity to the state against any legal action brought by any parties aggrieved by any action or decision related to the nursing home rate-setting statute, not just the transparency piece. And we believe this takes away this -- the legal right and option for nursing home providers, employees, and

150 Trumbull Street, 2nd Floor
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p) 860.522.4345 f) 860.522.1027
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Raised Bill 5051
Public Hearing: 2-20-14

TO: MEMBERS OF THE HUMAN SERVICES COMMITTEE
FROM: CONNECTICUT TRIAL LAWYERS ASSOCIATION (CTLA)
DATE: FEBRUARY 20, 2014

RE: OPPOSITION TO SECTION 2 OF RAISED BILL 5051 – AN ACT IMPROVING TRANSPARENCY IN NURSING HOMES

The CTLA has reviewed this piece of legislation and opposes the expansion of immunity found in Section 2 of the bill.

While the CTLA applauds the underlying purpose of the bill, we feel that it is unnecessary and against public policy to include the actions in C.G.S. Section 17b-340 in the immunity provision found in Section 4-165c.

Section 4-165c was narrowly drafted so that civil liability wouldn't arise against the state where it failed to take certain actions it was commanded by statute to do. This statute is in place not to offer the kind of broad stroke immunity against actions entertained in 17b-340, but small actions the state takes in certain areas concerning children or needy families.

The kinds of things which are included are failure to file a report on child poverty (4-67y), failure to administer a child nutrition outreach program (10-215h), failure to maximize the federal fund opportunities for assistance to families in need (17b-112i and 17b-112j), and failure to coordinate information and outreach for food assistance programs (17b-790b).

None of these purely administrative actions included under 4-165c come close to the broad mandates and directives outlined both in the existing language of 17b-340 and in the proposed amendments.

17b-340 was never meant to be included in the release of liability found in 4-165c and nothing in the proposed amendments to it in this bill would make that inclusion palatable or conducive to public protection.

WE URGE YOU DELETE SECTION 2 OF THE BILL. Thank you.

CONNECTICUT ASSOCIATION OF HEALTH CARE FACILITIES, INC.

February 20, 2014

Written testimony of Matthew V. Barrett, Executive Vice President, Connecticut Association of Health Care Facilities (CAHCF) in opposition to H.B. No. 5051 AN ACT IMPROVING TRANSPARENCY OF NURSING HOME OPERATIONS. and H.B. No. 5136 (RAISED) AN ACT CONCERNING NURSING HOME TRANSPARENCY

Good afternoon Senator Slossberg, Representative Abercrombie and to the members of the Human Services Committee. My name is Matthew V. Barrett, Executive Vice President of the Connecticut Association of Health Care Facilities (CAHCF), our state's one hundred and sixty-seven (167) member trade association of skilled nursing facilities and rehabilitation centers. Thank you for this opportunity to offer testimony this afternoon in opposition to H.B. No. 5051 AN ACT IMPROVING TRANSPARENCY OF NURSING HOME OPERATIONS. and H.B. No. 5136 (RAISED) AN ACT CONCERNING NURSING HOME TRANSPARENCY.

Both bills require nursing homes to include in annual cost reports a profit and loss statement for each related party that the nursing home pays ten thousand dollars or more a year for goods, fees and services and a profit and to disclose detailed wage and benefit information for direct care and administrative nurse positions as separate line items. . The bills defines "related party" to include, but is not limited to, companies related to such nursing homes through family associations, common ownership, control or business association with any of the owners, operators or officials of the facility. The bills further requires that the profit and loss statement must also include the actual cost of the goods and services, including a detailed account of the goods and services purchased and fees paid, and the mark-up, profit or administrative charges related to such purchase.

This legislation is harmful because it imposes burdensome requirements on all nursing homes without reason. There is no apparent reason for these details to be disclosed. The information has no bearing on the settting of Medicaid rates or relevance to any other component of the rate-setting process, audit process or certificate of need process. The provisions regarding reports of wage and benefit information will require disclosure of private information about employees. HB 5136 also inexplicably targets for-profits nursing homes while nonprofit nursing homes are similarly required to file annual cost reports,without being required to furnish related party financial information. Finally, the bill targets nursing homes when a full range of similarly situated health care and human service providers of services to DSS, DCF, DMHAS and DDS (hospitals, group homes, clinics) that have their payments determined in whole or in part based on cost report filings. Moreover, there are existing federal and state rules within the present rate-setting methodology that are designed to prevent costs unrelated to patient care from being reimbursed in the Medicaid rates.

The longstanding current requirements of the law provide a level of satisfactory detail in this area. The annual cost report already requires disclosure of all payments to related entities and actual costs. With regard to related party transactions federal law states that "...costs applicable to services, facilities, and supplies furnished to the

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provider by organizations related to the provider by common ownership or control are includable in the allowable costs of the provider at the cost to the related organization." , 42 CFR 413.17. Accordingly, page 4 of the cost report requires the provider to identify all related parties with whom there are transactions, and requires the provider to identify the costs reported by the provider AND the "Actual Cost to the Related Party." Such a requirement in effect discloses whether or not and to what extent there was a profit or loss associated with each related party transaction. It is important to note that for rate setting purposes, payments to related parties are disallowed and replaced with actual costs to the related party. In other words, markups and profits are not allowed for rate setting purposes. Our association is not aware of any problem with proper reporting of related party payments. Filed reports are subject to penalty of perjury under the current rules.

Further, federal law already requires extensive reporting of ownership and control information by nursing facilities. In addition to already existing requirements for disclosure of ownership and control information under federal regulations, the Accountable Care Act has added additional disclosure requirements to further the goal of transparency which require reporting of any person or entity with any operational, financial or managerial control over a nursing facility or who provides policies and procedures to the facility or who has any financial interest in the real property, whether through direct or indirect ownership or as holder of a mortgage or security interest. Nursing facilities must now disclose all of the following information under federal law (42 USC 1320a-3):

1. Anyone with direct or indirect ownership of 5% or more;
2. Officers, directors, partners;
3. Managing employees;
4. Name of any person/entity owning a mortgage, deed of trust, note, or obligation secured by the facility or property of the facility, if the interest is 5% or more of the total property;
5. Identity of each member of the governing body;
6. The organizational structure of any "additional disclosible party" and relationship to the facility. Additional disclosable party is defined as any person or entity who:
   a) exercises operational, financial or managerial control over all or part of a facility or provides policies and procedures or financial and cash management services;
   b) leases or subleases property to the facility or owns a whole or part interest of at least 5% of the value or the real property; or
   c) provides management or administrative services, management or clinical consulting services or accounting or financial services.

Section 2 of HB 5151 bars lawsuits brought by parties aggrieved by any decision related to the rate-setting statute, 17b-340. We can think of no public policy justification for providing the state government with immunity from lawsuits.

In closing, Connecticut nursing homes remain in a period of ongoing financial distress. Medicare reductions in 2012 were as high as 16% in many Connecticut nursing

homes and additional 2% Medicare sequestration cut was implemented last April. On average, providers are paid today $25.43 per patient day less than what it costs to care for our residents. For the typical nursing facility, this represents over $500,000 per year in unfunded costs. There has been no rate increase in the system since 2007, except for increases made possible by increasing the user fees paid by nursing homes themselves, and this increase was reduced by $5 million last session. More challenges are ahead as the state continues its efforts to rightsize and rebalance Connecticut's long term care system. Legislation of this type is a distraction from efforts to address the important issues nursing homes face in this challenging environment. We urge no action on both bills for these reasons.

Thank you. I would be happy to answer any questions you may have.

For additional information, contact: Matthew V. Barrett at mbarrett@cahcf.org or (860) 290-9424.

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HUMAN SERVICES COMMITTEE

Public Hearing, February 20, 2014

Good morning, Senator Slossberg, Representative Abercrombie and members of the Human Services Committee. My name is Nancy Shaffer and I am the Connecticut State Long Term Care Ombudsman. Per the Older American's Act and CT General Statute 17b-400-417, it is the duty of the State Ombudsman to provide services to protect the health, safety, welfare and rights of the residents of skilled nursing facilities, residential care homes and managed residential communities/assisted living facilities. As State Ombudsman it is my responsibility to advocate for changes in laws and governmental policies and actions that pertain to the health, safety, welfare and rights of residents with respect to the adequacy of long-term care facilities. I appreciate this opportunity to testify on behalf of the thousands of Connecticut residents of skilled nursing facilities.

I testify today in support of HB 5051 AN ACT IMPROVING TRANSPARENCY OF NURSING HOME COST REPORTS and HB 5136 AN ACT CONCERNING NURSING HOME TRANSPARENCY. The objective of both of these bills is to enhance transparency of the cost reports filed by nursing home operators to the Department of Social Services. There are considerable requirements to the current cost reports. Over the years however the business model of the nursing home industry has evolved and the further reporting requirements will provide a more detailed accounting of the actual related business costs.

Connecticut has experienced multiple nursing home bankruptcies, receiverships and closures in the past eight years at significant costs to the State. As a state we do not lack examples of poor provider practices; we need only look back at the Haven Healthcare scandal and the fraudulent practices of its owner, Ray Termini. Events such as these cause tremendous upheaval and distress for those long term care consumers. Residents and their families are left for months, sometimes years, worried about the homes they live in and the people caring for them. In some of these situations residents were transferred more than once when they left the original bankrupt/closing home and then, after settling into their new home, were again uprooted when that home declared bankruptcy or went into state receivership and closed. More transparency in the required cost reports will provide the State and consumers with more complete information, providing the basis for informed decision-making.

Importantly, both of these proposals include provisions for more detailed information on direct care staff. The Ombudsman Program strongly supports this aspect of both proposals. Accurate and complete staffing information has been an issue both at the state and national levels for many years. It is often difficult for consumers to find and assess this information when reviewing nursing homes for themselves or their loved ones. It is a challenge for professionals to find this information. The Long

Term Care Ombudsman Program received 2,353 complaints from long term care consumers during Federal Fiscal Year 2013. Of these complaints, many of them centered on issues related to resident care and resident rights. Upon further Ombudsman investigation, we often determine that adequate staffing, staff training and staff supervision are the underlying factors for the consumer's dissatisfaction. In our estimation, compelling nursing home operators to provide more detailed staffing information is in the consumer and the state's best interest.

Yvonne Foster, Certified Nursing Assistant
Member, New England Health Care Employees Union, District 1199
Before the Human Services Committee, Thursday, February 20, 2014
Supporting: HB 5051 and HB 5136

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page 13, line 22

Hello, my name is Yvonne Foster and I live in Bloomfield. I am a member of District 1199 and I work as a Certified Nursing Assistant at the Windsor Rehab and Healthcare, a nursing home in Windsor, CT.

I am testifying today on several important bills that will have a real impact on me and the wonderful residents I take care of at my nursing home.

I am supporting House Bills 5051 and 5136. It's very important that the big corporations that own and operate most of Connecticut nursing homes should make more financial information available to the public than they do now.

My nursing home is part of the Kindred chain, one of the bigger health care corporations in the country. Kindred operates 102 nursing homes, with five in Connecticut. Like a lot of other big nursing home chains, Kindred pays millions of dollars to related party companies for goods and services for its nursing homes in Connecticut.

For example, in 2011, the five Kindred nursing homes in Connecticut together paid about $6.5 million dollars to "People First," a rehab therapy company and to Kindred Healthcare Home Office Costs. Almost all of that came from public Medicaid and Medicare dollars – that means that some of my tax dollars and yours are going to Kindred's corporate headquarters in Kentucky.

Every day on the job, nursing home caregivers like me hear that we can't have better staffing because the nursing home is losing money. We get our hours cut or see our co-workers laid off – because the nursing home says they can't afford to do better. And we are always threatened with losing our benefits, or having to pay more for health insurance – again, because the nursing home claims to be in financial difficulties.

But how is Kindred Healthcare itself doing? What about all the other related companies – are they making or losing money? Where are our tax dollars going – the money that supposed to go for the care of my residents at Windsor? Right now, we can't get any answers to those questions – all we know is what the Cost Report says about each individual nursing home, not the big company or other related companies.

We can only begin to understand the answer to those questions when nursing homes make more big-picture financial information available – so legislators like you, workers like me, and our nursing home residents and their families can make informed decisions about whether these companies are interested in putting resources into providing good care or more concerned about profits for their investors.

Thank you for letting me speak on these important bills.

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Testimony of Deborah Chernoff, Director of Public Policy, District 1199/SEIU
Before the Human Services Committee **Thursday, February 20, 2014**

Supporting: HB 5051: AN ACT IMPROVING TRANSPARENCY OF NURSING HOME COST REPORTS and HB 5136, AN ACT CONCERNING NURSING HOME TRANSPARENCY

Opposing: HB 5052: AN ACT IMPLEMENTING THE GOVERNOR'S BUDGET RECOMMENDATIONS FOR HUMAN SERVICES PROGRAMS

Good morning, Senator Slossberg, Representative Abercrombie, and members of the Human Services Committee. My name is Deborah Chernoff and I am the Director of Public Policy for the New England Health Care Employees Union, District 1199. I also serve on the state's Long Term Care Advisory Committee, representing 25,000 health care members, including our 6,000 nurses, aides and support staff who provide care in Connecticut's skilled nursing homes.

Supporting HB 5051 and HB 5136: The Requirements and Purpose of the Bills

Both 5051, which is the Governor's Bill, and 5136 promote greater transparency in the cost reports filed annually by nursing home operators with the Department of Social Services. Both bills would require the operators of skilled nursing homes that pay significant amounts of money (in excess of $10,000 per year) to related parties or companies to include profit-and-loss statements for such companies.

More Transparency Required: $136 Million paid to related parties in one year

Nursing home operators pay out hundreds of millions of dollars to "related parties" for goods and services such as rent or lease payments, management services, pharmaceuticals, medical supplies/equipment, therapy services and temporary personnel. **For Cost Year 2011 (October 1, 2010 to September 30,2011), just the 10 largest nursing home chains operating at that time in Connecticut together paid more than $136 million**, as detailed in the chart below:

Corporate Entity/Chain	# of facilities	Total payments to related parties, CY 2011
Apple Health Care	24	$ 36,110,215.00
Athena Health Care Systems	18	$ 10,333,145 00
Genesis Healthcare	9	$ 19,988,697.00
HealthBridge Management/Care One	9	$ 14,123,005.00
iCare Management	9	$ 12,437,361.00
Ostreicher/National Health	11	$ 22,625,370.00
Paradigm Healthcare Development	6	$ 2,867,082.00
Ryders	6	$ 4,068,623 00
Spectrum Healthcare	6	$ 2,424,266.00
SunBridge Healthcare	9	$ 11,057,173.00
TOTALS	107	$ 136,034,937.00

Table 1: All data from "Annual Report of Long-Term Care Facility" for Cost Year 2011

More recent financial data for Cost Year 2013 from these facilities was just recently submitted to DSS. We plan to review, analyze and report that data to the legislature within the next few weeks.

HealthBridge Management: An Ongoing Object Lesson

The protracted legal and labor dispute involving HealthBridge Management provides clear evidence of the need for greater transparency from nursing home corporations. HealthBridge is one of a group of inter-related companies based in New Jersey that operate, lease and supply eight Connecticut facilities, five of which are unionized.

In July of 2012, after lengthy negotiations did not produce agreement on new contracts, HealthBridge declared that negotiations had reached impasse and unilaterally changed the terms and conditions of their collective bargaining agreements at five union nursing homes, prompting a strike. The National Labor Relations Board issued numerous federal Unfair Labor Practice Complaints against the company for unlawfully declaring impasse and changing the contract terms.

A US District Court Judge subsequently issued an injunction against the Company, ordering them to revoke the contract changes and re-engage in bargaining. After a lengthy legal battle, the Court found the Company in civil contempt for failing to comply with the injunction.

So far, however, HealthBridge has been able to circumvent the Judge's orders by declaring that the facilities are in bankruptcy and getting a New Jersey judge to approve the same destructive contractual cuts and changes that the Labor Board found to be illegal. They have been able to do this because they filed for bankruptcy for each individual facility, **but not for HealthBridge Management itself, nor for any of the other related entities that collect tens of millions of dollars each year from taxpayer dollars towards rent, pharmaceuticals and other goods and services.**

Because all of these related businesses are privately held, no public financial information is available beyond that in the current Cost Reports. Without greater transparency in reporting financial data, no one can make an informed decision regading the company's claims of financial hardship. Not only do the taxpayers of Connecticut continue to foot the bill, but HealthBridge has been able to evade, at least for now, complying with lawful orders from federal courts.

Testimony of Deborah Chernoff *Human Services, 2/20/14*
Supporting: HB 5051 and HB 5136 *Opposing: HB 5052*

Nursing Home Closures Put Residents at Risk, Require Financial Scrutiny: The Wethersfield Story

A HealthBridge facility in Wethersfield, which closed in 2013, illustrates another serious public policy interest in greater transparency around nursing home finances.

If a nursing home submits an application with DSS for a Certificate of Need to terminate services, based largely on the facility's assertion that it is not financially viable, DSS does not currently have access to important information necessary to make the right decision on a matter of such deep public concern and serious consequence as closing a nursing home. Many individual nursing homes report significant losses in a given year while expending millions of dollars in payments to other, related businesses.

This is not just a theoretical risk. As reported in 2012 in the *Hartford Courant*, DSS initially rejected a Certificate of Need application from the operator of the Wethersfield Health Care Center after that operator, HealthBridge Management, **refused to supply financial information requested by the Department that would justify the closure**, even though the primary rationale given by the company for closure was the financial condition of the facility. The facility was closed some six months later.

Because that facility was the only skilled nursing home in Wethersfield, those residents not only lost their home, they lost access to their community and their families and friends now have to travel to visit them. Serious consequences flow from nursing home closures; DSS and consumers alike should have access to the information that supports – or doesn't – such a serious decision.

The Haven Healthcare Scandal

Connecticut has had a few other exceptional bad examples of nursing home operators using public funding for their own purposes and gain, instead of for providing care to the frail, elderly or infirm residents living in their facilities. It would be hard to forget or ignore the case of Haven Healthcare, whose CEO, Ray Termini, built one of the larger chains of nursing homes in the state. In 2007, Haven filed for bankruptcy immediately after a series of articles in the *Hartford Courant* exposed a history of poor patient care and dubious financial transactions.

Haven CEO Termini and his company became the subject of federal and state investigations into whether Medicaid and Medicare funds designated for patient care were fraudulently diverted into other personal investments, **including a $5 million personal loan to the CEO which went to purchase, among other things, three apartment buildings, a yacht and a Nashville recording company.** Mr. Termini subsequently went to prison, but the fraud was exposed by

investigative reporting rather than through DSS. In fact, the DSS Commissioner declined to follow a recommendation from then Attorney-General Richard Blumenthal that the homes be put in state receivership, because "there is nothing that appears to violate any regulations or rate policies." ("Haven Alarm Raised in '06," *Hartford Courant,* December 18, 2007).

Why Cost Reports Matter

The "Annual Report of Long-Term Care Facility," as these reports are formally designated, lack the information and transparency about nursing homes' corporate financial transactions needed to promote good public policy, responsible state expenditures, informed decision-making and consumer rights; this bill addresses that critical information gap.

Cost reports are a key component of the state's rate-setting procedures for Medicaid reimbursement, which is the major source of funding for Connecticut's skilled nursing facilities. About 70% of care provided in our state's nursing homes is paid through Title XIX.

The Cost Reports do give DSS a great deal of the information the state needs to monitor whether precious state resources are being expended appropriate for the care of the 27,626 residents of Connecticut's nursing homes. They also **provide a snapshot of the financial health of individual facilities, which is an important element in state decisions regarding applications to change or terminate services at a skilled nursing facility.**

Essential Data Missing from Cost Reports

However, the kind and level of the financial data now contained in these cost reports is no longer adequate to inform these important public policy decisions. The nature of the nursing home industry has changed radically over the last few decades, moving from a preponderance of small "mom-and-pop" facilities and non-profit operators to more and larger corporate, for-profit regional or national chains. Many of these chains operate on a vertically-integrated business model, where the individual facility, generally incorporated as a Limited Liability Corporation (LLC), purchases many of its major services and supplies from other **related businesses or entities – businesses which are related by family associations, common ownership, common control or business association with the owners, operators or officials of the individual facility.**

However, often all of the related businesses are privately held, making it impossible for DSS to evaluate the real financial situation of the home because **the state has no access to information about whether those related businesses are profitable or not.** Nor is it possible for those families or individuals who pay for nursing home care out of their own pockets to

evaluate if an increase in private-pay rates is justified when the nursing home raises those rates.

To a greater or lesser extent, most for-profit nursing home chains make some payments to related parties for major cost components including rent/lease, management services, pharmaceuticals, medical supplies and equipment, staffing, consultants, and specialty care such as physical, occupational or respiratory therapy. Many of these individual facilities report losses, sometimes very large losses, on their cost reports. While nursing homes are obliged to report the existence and amount of such payments to related entities, **they do not have to supply the detailed information necessary to make a full assessment of the real financial condition of the facility.**

Of course, management services, drugs and temporary staffing are all legitimate costs for a nursing home, but there is no detailed reporting that would show us whether these costs and charges are standard, discounted or inflated.

Given the often-complex vertical integration of these related companies, **it would certainly be possible for the individual nursing home to serve as a kind of "loss leader," where the facility itself loses money while funneling millions of dollars to highly-profitable related businesses.** Is that the case? Never, sometimes, often? Unless we significantly enhance the financial transparency of nursing home cost reports, our state will lack access to the information necessary to make that evaluation.

The State's Interest Requires Transparency of Financial Data

The state has an obvious interest in **making sure that nursing homes are not overcharging by overpaying related entities.** This means if nursing homes want to do business with related entities they can be put to the following choice: either provide from themselves and the third parties documents which demonstrate that the nature of the relationship and that the internal accounting for charges is fair and reflective of the market, or don't do business with related entities.

This is comparable to the rules for charitable boards. A charity can do business with entities that are controlled by its board members, but if it does so, it must be able to demonstrate that such business is not overcharging (thus turning the charity into a tax exempt for-profit), or it must not do that business.

Caps on Reimbursement Rates Don't Resolve Key Issues

Some might argue that the additional cost reporting requirements contained in this legislation are unnecessary because the state controls reimbursement for Medicaid expenses by a variety of mechanisms including caps on the amount of expenditures by nursing homes on different "cost centers." For example, in determining an appropriate daily rate of Medicaid reimbursement, DSS looks at the actual cost of direct nursing care, but caps the allowable amount to be reimburses at 145% of the median rate for that cost center. Therefore, if a particular nursing home spends significantly more than the median, it will not be reimbursed by the state for the higher amounts.

The caps, however, only address the reimbursement issue, not the expenditure issue and only for those "cost centers" that are capped – there is, for example, no cap on capital expenditures. There are no regulatory limits on how much a nursing home can **spend**, and such expenditures contribute to the overall financial health of the facility. The losses claimed by the Wethersfield Health Care Center were offered as justification for closure of the facility. Dozens of other nursing homes have done the same in the past and, as a result, hundreds of residents have been evicted and forced to relocate, while hundreds of workers have lost their jobs, and related businesses have suffered loss of revenue.

The State of Connecticut has a critical interest in transparency in order to protect the rights and interests of nursing homes residents and their families, to afford access to information for consumers and to make wise use of the more than $1.6 billion we expend annually on nursing home care.

This legislation is good public policy. The changes are consumer-friendly and necessary to protect the vital interests of one of the state's most vulnerable populations – as well as our precarious budget. I urge you to support these bills.

Opposing HB 5052: Changes to the Re-basing Statute for Nursing Homes and IDF/DD Facilities

The caregivers in our union strongly oppose the provisions of HB 5052 that would alter the current statutory language regarding re-basing of Medicaid reimbursement rates for skilled nursing homes and ICF/DD facilities.

Medicaid, which pays for about 70% of all the resident care in Connecticut nursing homes, already historically and routinely pays less than the actual cost of care, resulting in inadequate staffing, layoffs, hours cuts and cuts to the compensation for nursing home staff. Now we see legislation proposed that will make a bad situation completely untenable. House Bill 5052, if

enacted, will remove one of the few remaining mechanisms for allowing nursing homes to see their actual costs of providing care reflected in their reimbursement rates by (1) changing the re-basing statute so that rates can go down with lowering costs but not up to reflect higher costs and (2) eliminating any potential adjustments for inflation. Since nursing homes can't turn down the heat or stop serving food – and those costs WILL increase, since we can't legislate away inflation – we will see more hours and jobs cut, even worse staffing ratios and even fewer employees with adequate health benefits, forcing them onto the Medicaid and HUSKY insurance rolls, where we just pay for benefits from a different budge line. Those same changes regarding rebasing and inflation will also impact our direct care staff who work for private DD/ID agencies, where many of our members have not had a wage increase in five years.

Pretending that there is a no-cost solution, or that the problem will go away if we ignore it long enough, or that home care can make everything better if we just clap our hands and believe, but don't invest, is magical thinking. Quality care for people costs money, no matter where or how it's delivered, whether home- or facility-based, and we can't wish – or even legislate – that reality away. So I urge you to think long, carefully and compassionately about the real costs and consequences of continuing to underfund and undermine long-term care for the elderly and people with disabilities – not just about the short-term effects on our budget balance.

Thank you.

TESTIMONY PRESENTED TO THE HUMAN SERVICES COMMITTEE
February 20, 2014

Benjamin Barnes
Secretary
Office of Policy and Management

Testimony Supporting House Bill 5052

AN ACT IMPLEMENTING THE GOVERNOR'S BUDGET RECOMMENDATIONS FOR HUMAN SERVICES PROGRAMS

and House Bill No. 5051

AN ACT IMPROVING TRANSPARENCY OF NURSING HOME OPERATIONS

Good morning, Senator Slossberg, Representative Abercrombie and distinguished members of the Human Services Committee. Thank you for the opportunity to offer testimony in support of two Governor's bills: House Bill 5052, An Act Implementing the Governor's Budget Recommendations for Human Services Programs and House Bill 5051 An Act Improving Transparency of Nursing Home Operations.

I will begin with our support for **House Bill 5052** which implements Governor Malloy's budget recommendations for human services programs. In total, the initiatives in this bill will result in additional costs of approximately $840,000 in FY 2015.

Section 2 of the bill places the Office of the Chief Medical Examiner within the Department of Administrative Services rather than the University of Connecticut Health Center for administrative purposes only. This will enhance the business functions of the Office of Chief Medical Examiner. The Governor's budget includes funding of $134,400 for DAS' Small Agency Resource Team (SmART) unit for two positions dedicated to budgeting and accounts payable processing, as well as $59,300 support a human resources position in the Office of the Chief Medical Examiner.

Section 3 of the bill prioritizes the provision of security deposit guarantees to eligible veterans under the Department of Housing's Security Deposit Guarantee program. According to the 2013 Point in Time Count, approximately 340 veterans were identified as homeless or living in temporary housing. This

proposal will ensure homeless veterans have the assistance they need to secure permanent housing. The Governor's budget provides $50,000 in support of this initiative. The proposed increase in funding could assist an additional 100 veterans statewide.

Section 4 of the bill expands the Connecticut Home Care Program for Adults with Disabilities, which serves persons in the community who are not Medicaid eligible, but who meet nursing facility level of care and have a degenerative, neurological condition such as multiple sclerosis or Parkinson's disease. The program was established in 2007 as a state-funded pilot and remains capped at 50 persons. As a result, there are 103 persons on the waiting list, some going back as far as October 2010. While applicants for this program have limited income and assets, most have assets over the $1,600 Medicaid limit. However, due to their serious health issues, they are at risk of institutionalization and often end up in a nursing home and on Medicaid within a month or two of their admission. Expanding the number of slots under this program will prevent nursing home placement for individuals who would quickly access Medicaid as a payment source for their nursing home stay. The Governor's budget includes $600,000 to expand the program by an additional 50 slots.

The remaining sections of the bill, section 1 and sections 5 through 11, do not impact the current biennium but are intended to maintain current rates and benefit levels in the absence of additional funding provided to support increases for (1) in-state residential treatment centers licensed by the Department of Children and Families, (2) facilities whose rates are established by the Department of Social Services - nursing homes, intermediate care facilities for individuals with intellectual disabilities, and boarding homes, and (3) cost of living adjustments for clients on public assistance programs - Temporary Family Assistance, State Administered General Assistance and the Aid to the Aged, Blind and Disabled program. Since funds are not routinely appropriated for these purposes, legislation must be enacted every year to override the statutory or regulatory provisions that would require such increases. This bill removes these requirements and aligns the statutes with usual budgetary practice. To be clear, in no way does this bill remove the legislature's discretion to provide these increases in the future, it simply supports a mechanism to provide baseline projections in the outyears that are more in line with anticipated expenditures.

I am also offering support for House Bill 5051 An Act Improving Transparency of Nursing Home Operations. This Governor's bill requires every nursing home that receives state funding to include in its annual cost report to the Department of Social Services (DSS) a profit and loss statement from each related party[1] that receives $10,000 or more a year from the nursing home for goods, fees and services and detailed information on direct care staff, including regular and overtime hours and wages and health and welfare benefits.

[1] "Related party" includes any company related to the nursing home through family association, common ownership, control or business association with any of the owners, operators or officials of the nursing home.

The bill promotes greater transparency in the cost reports filed annually by nursing homes with DSS. The state has a critical interest in transparency in order to afford access to information for consumers, protect the rights and interests of nursing home residents, their families, and their caretakers; and make wise use of the more than $1.6 billion the state invests annually in nursing home care.

This bill would require additional attachments to the cost reports that nursing homes are already required to file annually with DSS. The bill does not require DSS to routinely review or assess the additional information - merely to have it on hand without delay and negotiation when it becomes necessary due to requests for facility closure or rate adjustments.

We have one request for an amendment to HB 5051. The intent of Section 2 of the bill is to exempt DSS from any cause of action or liability arising for failure to comply with provisions of the bill. In drafting the language, we included the entire Section 17b-340, while the bill amends only subsection (a) of Section 17b-340, so we would ask the committee to amend the bill to clarify that it applies only to C.G.S. Section 17b-340(a).

The Governor's bill, HB 5051, is similar to another bill being heard by the committee this morning: HB 5136 AAC Nursing Home Transparency. The major differences between the two bills are:

- The Governor's bill requires annual reporting of profit and loss statements for all nursing homes, not just for-profit homes as is required in HB 5136. We believe this is a more equitable approach.
- The Governor's bill requires only nursing homes to report on direct care staff, while HB 5136 also requires rest homes to report such information. The need to collect this information from rest homes is not immediately apparent, although we would be happy to work with the committee and proponents on whether these provisions should be broadened to additional entities.
- HB 5136 requires reporting on "benefit hours and wages", which the Governor's bill does not. Both bills already include: "regular hours and wages, overtime hours and wages, and employee health and welfare benefits" and we are unclear as to the meaning of "benefit hours and wages".
- The Governor's bill includes the second section which protects DSS from liability.

I would again like to thank the committee for the opportunity to present this testimony. I respectfully request that the Committee take favorable action on both of these Governor's bills and I would be happy to answer any questions you may have.

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Vern Scatliffe
Certified Nursing Assistant, District 1199
Testimony to Human Services Committee

Hello, members of the Human Services Committee. My name is Vern Scatliffe and I live in Waterbury. I want to testify in favor of the two bills that require more financial transparency for nursing homes. HB5051 HB5136

I'm a member of the health care workers union, District 1199 and I work as a Certified Nursing Assistant at the Danbury Health Care Center. If that nursing home sounds familiar, it's probably because of the long strike we had there against our corporate operator, HealthBridge Management. HealthBridge is another big nursing home chain. It's based in New Jersey and has dozens of nursing homes in the United States. Eight of them are here in Connecticut and five of those nursing homes, including Danbury, are in our union.

So what does this have to do with these bills? Hundreds of HealthBridge workers like me at the five union homes began an Unfair Labor Practice strike after HealthBridge said our negotiations weren't going anywhere and changed our contracts, slashing our hours, our wages and our benefits. The Labor Board says those changes were illegal and issued federal Complaints against the company. A federal Judge issued an injunction against them, ordering them to put the contracts back the way they were and negotiate with us.

That same judge then found them to be in contempt of court when they didn't follow the injunction. How could they do that? Right before we were supposed to go back to work under the old contracts, HealthBridge suddeny filed for bankruptcy in New Jersey court, so they could get the contract changes they wanted that way. Even though the Labor Board says it's illegal and the Judge ordered them back to the bargaining table. They filed for bankruptcy just for the nursing homes themselves, but not for HealthBridge Management or any of the other related companies they pay tens of millions of dollars to.

Just to give you an example: in 2011, for the nine nursing homes HealthBridge operated in Connecticut, HealthBridge paid more than $14 million to related party companies for rent, management services, pharmacy and other services.

But because all of these related businesses are private, no public financial information is available about them. We couldn't get that information during negotiations and it wasn't given to the court. So far, HealthBridge has been able to get away with not following the federal court's orders by not sharing any information about how all the related businesses are doing financially.

In the meantime, besides the destructive cuts they made to our benefits, including making our health insurance unaffordable, they got the Bankruptcy Judge to approve cutting the staffing levels in our contracts. That hurts us, but it hurts our frail residents even more. We used to have some of the best staffing in the state, but no longer.

We have to remember that almost all of the money HealthBridge takes in – including the millions they pay to themselves through their related companies – is public taxpayer money that comes from Medicaid and Medicare. I don't think it's right or fair that they get to take in all that money without showing us where it's going, especially since it's leaving Connecticut and being paid to companies based in New Jersey. If they're really in financial trouble, they should show us the books. If everything's on the up and up, the books will show that. What do they have to hide – and why are we, as a state, allowing them to hide it?

That's why I am asking that this Committee support good public policy and real financial transparency about public money by passing these two important bills. Thank you for hearing my testimony.

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page 3, line 21

Testimony before the Human Services Committee

Roderick L. Bremby, Commissioner

February 20, 2014

SB104
SB105
SB106
HB5137

Good morning, Senator Slossberg and Representative Abercrombie and distinguished members of the Human Services Committee. My name is Roderick Bremby and I am the Commissioner of the Department of Social Services. I am pleased to be before you today to testify on behalf of the Governor's bills HB 5052, AA Implementing the Governor's Budget Recommendations for Human Services Programs and HB 5051, AA Improving Transparency of Nursing Home Operations. In addition, I offer written remarks on several other bills on today's agenda that impact the department.

Governor's Bills

HB 5052, AA Implementing the Governor's Budget Recommendations for Human Services Programs

This proposal implements various provisions of the Governor's recommended SFY 2015 Budget Adjustments. Provisions are as follows:

Section 3 of the bill prioritizes eligible veterans for the Security Deposit Guarantee Program.

Section 4 increases the number of available slots under the CT Home Care Program for Adults with Disabilities pilot from 50 slots to 100. The program currently serves 50 individuals with neuro-degenerative conditions such as MS, ALS, Parkinson's disease and Alzheimer's disease. The current waiting list for the program is over 3 years. Persons served under this state-funded program are supported with services that average about 25% of the cost of nursing home care. This allows persons to remain at home and supports our rebalancing efforts. These clients could quickly turn to Medicaid as a payment source for nursing home placement if they do not receive home and community-based services.

Sections 5 - 11 ensure that scheduled cost-of-living and rate increases for various programs and service entities are only provided when there is a corresponding appropriation to support such an increase.

The department supports this legislation.

HB 5051, AA Improving Transparency of Nursing Home Operations

This bill requires that any chronic and convalescent nursing facility that receives state Medicaid

funding shall submit, as an addendum to annual cost reports, a profit and loss statement from each related party that receives more than $10,000 a year for goods and services. Additionally, the nursing facility shall submit information on direct care staff, including regular hours and wages, overtime hours and wages, and employee health and welfare benefits to be reported on a separate line item of the cost report.

With the long-term care industry in the midst of a significant rebalancing effort consistent with the Strategic Plan to Rebalance Long-Term Services and Supports (www.ct.gov/dss/rebal), the department is interested in improving the reporting requirements for nursing homes. This effort is intended to assist the state in its current rebalancing efforts and to enhance the state's ability to measure quality, acuity and economy of the long-term care system.

The department supports this legislation and feels that it will provide valuable information for assessing the overall health and financial stability of nursing facilities. The direct care staff information is especially important as the department explores moving to an acuity-based rate methodology. Under this model, facilities that are providing more acute care will be reimbursed at a higher rate to compensate for the intense level of care. The expertise level, as well as the number of hours being committed to the care, directly relates to the acuity level in that advanced level of care requires a more skilled workforce.

Other legislation impacting DSS:

SB 104, AA Providing Financial Relief to Nursing Homes for Uncompensated Care

This proposal requires the department, upon request, to make advance payments to a nursing facility when the facility is providing uncompensated care to a Medicaid long-term care applicant whose application has been pending more than 90 days, or when payments have not been made within 30 days of such application being approved. The proposal also provides an exemption from the resident day user fee for nursing facilities providing uncompensated care as defined in the previous sections.

The proposal does provide a mechanism by which the department will recover said advance payments within 30 days of the application being approved or denied and payment has been made.

The department cannot support this proposal as additional funds to provide advance payments were not provided in the Governor's budget. While it is understood that the advance payments will be recovered, it is unclear as to the fiscal impact of such a proposal and the time frame in which such funds can be recovered. A significant level of outstanding advances could lead to a deficiency in Medicaid. Since these advance payments are not eligible for federal reimbursement, the full cost of the advances would be borne by the state General Fund. In addition, since the state has elected to net fund the Medicaid account, only those funds needed have been appropriated to the account. Any disruption to that determined allocation would again lead to potential deficiencies.

Additionally, the department has, and will continue to, adjust its long- term care application

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page 14, line 5

Testimony to the Human Services Committee

Presented by Mag Morelli, President of LeadingAge Connecticut

February 20, 2014

Regarding

HB 5052, An Act Implementing the Governor's Budget Recommendations for Human Services Programs

HB 5051, An Act Improving Transparency of Nursing Home Operations

HB 5136, An Act Concerning Nursing Home Transparency

SB 104, An Act Providing Financial Relief to Nursing Homes for Uncompensated Care

Good afternoon Senator Slossberg, Representative Abercrombie, and members of the Human Services Committee. My name is Mag Morelli and I am the President of LeadingAge Connecticut, a statewide association of non-profit and mission-driven providers of high quality aging services across the full continuum. I am here today to speak to four separate bills that would directly impact our non-profit nursing home and residential care home members.

HB 5052, An Act Implementing the Governor's Budget Recommendations for Human Services Programs

LeadingAge Connecticut opposes this bill that would effectively nullify the current cost-based rate setting system for both nursing homes and residential care homes.

Nursing home rates sustained a $5 million cut in the first year of this biennial budget. While the Governor's midterm budget recommendations do not propose any further cuts, this implementer bill would make substantial changes to the statutes containing the nursing home cost based rate system. The proposed changes would remove any future rate increase based on a nursing home's cost-based rate calculation and allow only for a percentage increase as determined by legislative action. The same changes are proposed for the residential care home rate statutes.

In reality, the proposed language codifies what has been the recent year by year practice of the state, but these proposed changes would permanently establish that Connecticut will no longer recognize the current cost-based rate setting system that incentivizes investment in resident care. While we understand the state is moving toward a different rate setting system for our nursing homes, it has not yet done so, and we do not know what the new system will look like or when it will happen. To the best of our knowledge, the state has no plan to change the residential care home rate system, and therefore these changes would potentially freeze the residential care home rates as they stand. We are very uncomfortable with the proposed changes to the current rate setting statutes and oppose their passage. Now is not the time to neutralize our cost-based rate system and place disincentives to investment in resident care.

The state is counting on nursing homes to be the change agents of rebalancing. We want our nursing homes to realign their structures, redesign their environments and in many ways intensify the work they are currently performing as those we care for become frailer, older, and in need of more care, not less. While we may need fewer nursing home beds moving forward, the nursing homes we do need will need to be financially healthy in order to provide the high quality level of skilled care that will be demanded of them.

Medicaid is the single most important public source of funding for nursing home care, but the fact is that current Medicaid rates do not meet the costs of providing this care. In the average nursing home, 71% of the residents are being funded by Medicaid and the average daily Medicaid rate is significantly lower than the statutorily calculated allowable rate - which itself is inherently lower than the actual costs incurred to care for a nursing home resident.

The only nursing home rate increase since 2008 was the direct result of an increase in the nursing home user fee (provider tax) in 2011. (The nursing home user fee was originally implemented in 2005.) And as we stated earlier, last year the funding was cut and the average nursing homes sustained a rate cut of .273%.

Medicaid Nursing Facility Rate History

Rate Period	*Increase/Decrease*	*Cost Report Year*
1/1/05-6/30/05	1.0%	2000
7/1/05-6/30/06	14.0% (4.0% net Rebase w/Tax)	2003
7/1/06-6/30/07	3.0%	2003
7/1/07-6/30/08	2.9%	2003
7/1/08-6/30/09	0%	2003
7/1/09-6/30/10	0%	2007
7/1/10-6/30/11	0%	2007
7/1/11-6/30/12	3.7% (1.25% net w/Tax Increase)	2007
7/1/12-6/30/13	0.33% (.17% net w/Tax Increase)	2007
7/1/13-6/30/14	-0.273 (Decrease)	2011

Today's nursing homes are caring for an increasingly frail resident population while embracing culture change and person-centered care in environments that more closely resemble a home than an institution. We are on the right road. We should not turn back. The non-profit aging service providers support determining the right number of nursing home beds and enhancing home and community services options, but we must invest in the nursing homes that will still be desperately needed by those who cannot be cared for at home.

HB 5051, An Act Improving Transparency of Nursing Home Operations
HB 5136, An Act Concerning Nursing Home Transparency

We do not support this proposal and object to its passage. We question why this additional information is needed by the Department of Social Services and what it will be used for once submitted. This information appears to be of no value to the rate setting system and would have no effect on the rate calculation.

The Department of Social Services currently reimburses nursing homes through the Medicaid system using cost-based per diem rates. These rates are specific to each skilled nursing facility and are calculated by the state based on the costs of caring for residents. These documented costs are submitted annually to the state by every nursing home in an extensive 37 page cost report. The annual cost report already requires on page 4 that nursing homes submit information regarding payments made to related parties, including information on whether the related party is making a profit on the goods or services purchased by the nursing home.

Similarly, nursing homes already must submit comprehensive salary and wage information on page 10 and benefits information on page 15 of the annual cost report. This information is reported in the aggregate by position, not by each individual staff member, as the proposed language would require. In addition, the proposed language of the bills would leave open the door for mandated submission of even more detailed information as it proposes to required "detailed information...including, *but not limited to*" the specific data listed.

Since nursing homes already provide the information called for in the bills, we see no reason for the proposed legislation. Again, we question why this additional information is needed by the Department of Social Services and what it will be used for once submitted as this additional information appears to be of no value to the rate setting system and would have no effect on the rate calculation. In fact a companion piece of legislation, HB 5052, is proposing to nullify the rate setting system.

We ask whether the benefits of this additional information are worth the time, cost and risks of submitting it. If it has no value to the state's rate setting system, what is the intended use and is it worth the risks?

- Our members are concerned because the detailed information required could be made public. It is not just a matter of submitting the additional information to the Department of Social Services. This information will be available through the Freedom of Information Act, and therefore it is being made public.
- Nursing home providers, like other business entities, are prohibited from engaging in the exchange of wage and salary information by federal anti-trust law. This new mandate would now open the opportunity for competitors to annually review each other's detailed wage and salary data.
- Nursing home employees' personal wage and salary details could be made public. These are not public employees and they may not want to have their personal information made public. Although the bills would require that reports be made by position, not name, in some cases, only one individual holds that position and so his or her salary and benefits information will become public.

Finally, Section 2 of HB 5051 would provide immunity to the state against any legal action brought by parties aggrieved by any action or decision related to the nursing home rate setting statute 17b-340. We object to the proposed removal of this legal right and potential legal option for nursing home providers, employees, and residents.

The following is a link to information regarding the currently required cost reports: 2013 Annual Report or (http://www.mslc.com/Connecticut/CT_Services_CR_AR.aspx. *It should be noted that the actual rates paid to nursing homes are significantly lower than the rates calculated based on reported costs.*

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Connecticut's Legislative Commission on Aging
A nonpartisan research and public policy office of the Connecticut General Assembly

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Testimony of

Deb Migneault
Senior Policy Analyst
Connecticut's Legislative Commission on Aging

Human Services Committee

February 20, 2014

Senator Slossberg, Representative Abercrombie and esteemed members of the Human Services Committee, my name is Deb Migneault and I am the Senior Policy Analyst for Connecticut's Legislative Commission on Aging. I thank you for this opportunity to comment on HB 5052, HB 5051, HB 5136 and SB 104 today.

As you know, Connecticut's Legislative Commission on Aging is the non-partisan, public policy office of the General Assembly devoted to preparing Connecticut for a significantly changed demographic and enhancing the lives of the present and future generations of older adults. For over twenty years, the Legislative Commission on Aging has served as an effective leader in statewide efforts to promote choice, independence and dignity for Connecticut's older adults and persons with disabilities.

HB 5052: An Act Implementing the Governor's Budget Recommendations for Human Services Programs

~ CT's Legislative Commission on Aging Informs

Connecticut's Legislative Commission on Aging applauds this committee, the General Assembly and Governor Malloy in their commitment to "rebalance" the long-term care system and to uphold the US Supreme Court's *Olmstead* decision and Connecticut state law (CGS §17b-337). In short, Olmstead and state law require that individuals with long-term care needs have the option to choose and receive long-term services and supports in the least restrictive, appropriate setting. At the same time, we know that individual preference and desire is undeniably to live in one's home and community with services and supports (research substantiates this).

Many of the proposals put forward in the Governor's mid-term budget are consistent with those originated and advanced by the Legislative Commission on Aging. The major mechanism for systems change continues to be the Money Follows the Person (MFP) program and its many facets. MFP is a multi-million-dollar systems change grant and the primary driver for long-term care reform in Connecticut. MFP's most notable

attribute is that it transitions individuals of all ages from nursing homes into their homes and communities. Through this rebalancing incentive grant, Connecticut receives enhanced FMAP money, additional grant money/technical support and yields a lower cost of care for each person (as stipulated in MFP protocol), while the individual gets to realize choice. So far, over 2,000 people in Connecticut have transitioned from nursing homes into the community under MFP.

However, as MFP focuses on transitioning individuals out of nursing home, the waiting lists for the home and community based waivers that aim to divert people from nursing homes continues to grow.

HB 5052 expands the number of slots available in the CT Home Care Program for Disabled Adults pilot program. Currently, the CT Home Care Program for Disabled Adults has an appropriation for 50 slots and there are over 100 people on the waiting list. Adding 50 slots to the program will help to provide much needed services to people at high risk of nursing home placement. 17 people on the waiting list have, in fact, ended up having to move to a nursing home. Failure of the state to provide community based services has resulted in the unnecessary and unwanted institutionalization of 17 people at a substantial cost to the state (the average annual cost for a person on the CT Home Care Program for Disabled is $16,000 vs. $72,000 per person for Medicaid beneficiary in a skilled nursing facility). It is morally and fiscally responsible for the state to open up these slots on this program. We are thankful to Governor Malloy for making this a priority in his mid-term budget (though even with the expansion 50+ individuals will remain in wait).

Overall, the Governor's budget proposal represents continued forward motion of Connecticut's rebalancing efforts. CT's Legislative Commission on Aging knows it can count on this committee and hopefully the Legislature and the Governor continue to support these initiatives, as long-term care is a highly complex, multi-faceted system requiring much more work. All reform efforts should strive to ***create parity and allow true consumer choice for people regardless of age, streamline systems and maximize state and federal dollars***

HB 5136: An Act Concerning Nursing Home Transparency

HB 5051: An Act Improving Transparency of Nursing Home Operations

~ CT's Legislative Commission on Aging Supports

HB 5136 and HB 5051 promote greater transparency in nursing facility annual cost reports submitted to the Department of Social Services. These bills would require for profit nursing homes that receive state funds to include in their annual cost report to the Department of Social Services a profit and loss statement from each related party that receives $10,000 or more a year from the nursing home for goods and services.

The intent of these bills is to provide greater transparency to the public and state agencies about the actual costs of goods and services of for-profit nursing facilities as well as unrelated payments of nursing home providers.