

Testimony Supporting
H.B. No. 5534: An Act Establishing a Revenue Accountability Commission
Testimony of Elizabeth Kelly, Eric Mitzenmacher, and Jeffrey Tebbs¹
To the Committee on Finance, Revenue, and Bonding
March 22, 2010

Senator Daily, Representative Staples, and distinguished Members of the Finance, Revenue, and Bonding Committee,

We are members of the Legislative Advocacy Clinic of the Jerome Frank Legal Services Organization at Yale Law School, testifying today on behalf of Connecticut Voices for Children.

Summary:

Connecticut Voices for Children strongly supports H.B. 5534. Our state is not only in dire fiscal shape, but is also overdue for a meaningful review of its revenue structure. If the state is to dig itself out of its present hole without mortgaging its future, legislators must be in a position to understand how any changes they implement will flow through the state's revenue structure and impact Connecticut families and businesses. The best way to promote this type of understanding is to let experts and stakeholders perform a comprehensive review of the present system and the options for improvement.

H.B. 5534 presents a strong framework for a Revenue Accountability Commission, but there are modifications that will increase the efficiency and efficacy of the Commission's work. The Bill presently represents the best-practices in revenue study commission design by involving a diverse and representative set of stakeholders and providing for public engagement through transparency guarantees. It goes above and beyond by acknowledging that Connecticut must evaluate its entire revenue structure, not merely taxes, and by contemplating permanent and ongoing review even after the Commission disbands. However, the Bill could be improved by explicitly requiring the hiring of national experts to conduct requisite analyses and providing the resources that will be necessary for the Commission to achieve desired objectives, by expanding the timeframe in which the Commission will meet (without compromising on having a report ready by the time the next legislative session begins), and by tasking the Commission not only with a broad review of state revenues but also with evaluating a set of the state's most important specific revenue structure issues.

¹ Elizabeth Kelly, Eric Mitzenmacher, and Jeffrey Tebbs are students at Yale Law School. This testimony was prepared through the Yale Law School Legislative Advocacy Clinic under the supervision of J.L. Pottenger, Jr., Nathan Baker Clinical Professor of Law, Shelley Geballe, Distinguished Senior Fellow at Connecticut Voices for Children and Clinical Visiting Lecturer at Yale Law School, and Jamey Bell, Executive Director at Connecticut Voices for Children.

I. Connecticut Is Overdue For a Comprehensive Review of Its Revenue System

Connecticut has not comprehensively reviewed its tax structure since 1989-1990, when the Finance Committee established a “Task Force to Study and Evaluate State Tax Revenue and the Current Tax Base.” This Task Force, convened in 1989 and composed of the forty Finance Committee members, was charged with comprehensively studying the sales, corporation and personal income taxes. Relying on analyses produced by paid consultants from two national accounting firms and working with the Office of Fiscal Analysis and the Legislative Commissioner’s Office, the Task Force crafted a report in December 1990 that resulted in a number of major changes to Connecticut’s state tax code.

In the two decades that have elapsed since this last effort to systematically evaluate the state’s revenue system, hundreds of additional incremental tax law changes have coalesced to create a fundamentally different state tax code. For example, in 1991, Connecticut established its broad-based personal income tax and eliminated the capital gains, interest, and dividends tax. Since that time, Connecticut has enacted more than 50 changes to the personal income tax.²

Buoyed by the revenue stream created by the personal income tax, Connecticut also cut the sales tax rate from 8.0% to 6.0% in FY 1992. In addition, from FY 1992 to the present, Connecticut enacted more than 230 substantive changes to the sales and use tax, including more than 160 exemptions or other reductions in the sales tax base.³ These exemptions and base reductions frequently have lacked a coherent rationale, pertaining to a diverse and unconnected array of goods and services, such as interior decorating services, massage therapist services, winter boat storage, puzzle magazines, electrology services, boat repair, yarn, shoe repair, boat brokerage services, and yoga instruction.⁴

In similar fashion, Connecticut has tinkered with its corporate income tax on an annual basis. From FY 1992 to the present, Connecticut enacted more than 140 substantive changes to the corporation business tax.⁵ Relying on additional revenue from the personal income tax, Connecticut steadily reduced the corporate tax rate from 11.5% to 7.5% since FY 1992. (To help to cope with the current recession, Connecticut enacted a temporary surcharge on certain large corporations, increasing their tax rate to 8.25% through FY 2011).⁶ In addition, Connecticut more than doubled the number of types of tax credits that can be taken against the corporation business tax, modified apportionment formulae for certain businesses, and made other changes that reduced the tax due from many corporations;⁷ in 2006, two-thirds of the corporations subject to the corporation business tax (28,656 corporations out of 43,275 filing corporate business tax returns) paid the minimum tax of \$250.⁸

² OFFICE OF FISCAL ANALYSIS, CONNECTICUT REVENUE AND BUDGET DATA 101-107 (2009).

³ OFFICE OF FISCAL ANALYSIS, CONNECTICUT REVENUE AND BUDGET DATA 144-154 (2009).

⁴ *Id.*

⁵ *Id.* at 53-66 (2009)

⁶ OFFICE OF FISCAL ANALYSIS, BUDGET BOOK, TAX AND REVENUE CHANGES 35 (2009).

⁷ OFFICE OF FISCAL ANALYSIS, CONNECTICUT REVENUE AND BUDGET DATA 54-66 (2009)

⁸ CONNECTICUT DEP’T OF REVENUE SERVS., 2007-08 ANNUAL REPORT 18 (2009)

Connecticut has also significantly narrowed the base of the corporate tax. In 1993, Connecticut created the Limited Liability Company (LLC).⁹ LLCs provide the benefit of limited liability to businesses without subjecting them to the corporation business tax. In addition, in 1997, Connecticut phased out and eventually eliminated the corporate taxation of S-Corporations.¹⁰ In 2003, Connecticut created a Business Entity Tax for S-Corporations, LLCs, limited liability partnerships, and limited partnerships; a nominal \$250 per year tax is imposed even if the firm is among Connecticut's most profitable businesses.¹¹ In FY 08, 130,310 businesses paid this \$250 tax rather than a corporate business tax.¹²

As a consequence of twenty years of legislative action with regard to these, and other,¹³ state taxes, developments in the state's economy, and significant changes in the state's demography, the composition of General Fund revenues has shifted dramatically (Figure 1). In FY 1992, the personal income tax generated slightly less than a third of General Fund revenue. By FY 2008, the personal income tax accounted for more than half of General Fund revenue. During the same time frame, the percentage of revenue coming from the sales tax fell from 34% to 25%, and the percentage of revenue from the corporate income tax dropped from 10% to 5%. Gift and inheritance taxes dropped from 3% to 1%.

While many of the changes made to the state's tax code have been justified as necessary for economic development, there has been no comprehensive analysis of the effectiveness of these tax incentives and preferential tax structures. Similarly, there have been no analyses of how the incidence of state taxes has changed over the last two decades or of equity between and among individual and business taxpayers.

⁹ OFFICE OF FISCAL ANALYSIS, CONNECTICUT REVENUE AND BUDGET DATA 56 (2009).

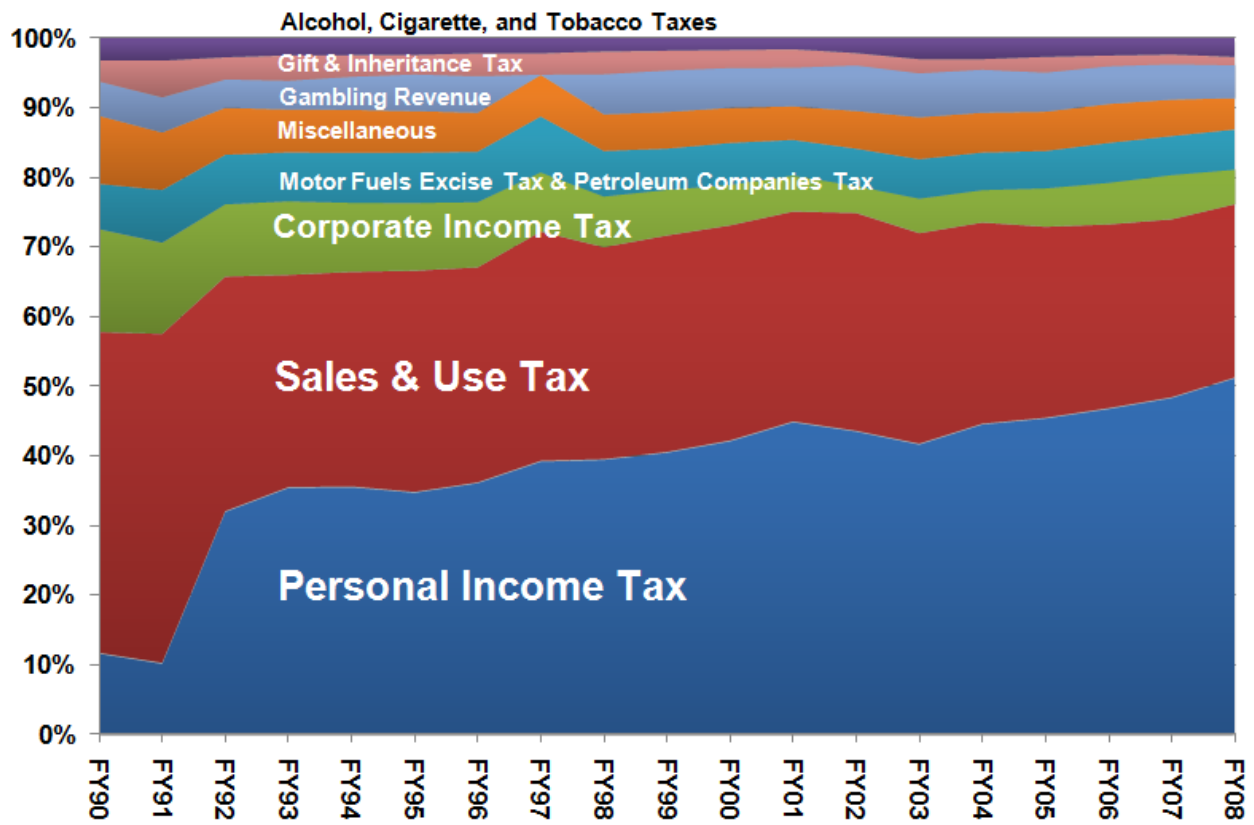
¹⁰ *Id.* at 58.

¹¹ *Id.* at 64.

¹² CONNECTICUT DEP'T OF REVENUE SERVS., 2007-08 ANNUAL REPORT, at 12, http://www.ct.gov/drs/lib/drs/research/annualreport/drs_fy08_annual_report.pdf.

¹³ Taxes that were modified included the inheritance tax; gift tax; estate tax; insurance premiums tax; admissions, dues, and cabaret taxes; cigarette tax; petroleum companies tax, real estate conveyance tax, and public service corporation tax. OFFICE OF FISCAL ANALYSIS, CONNECTICUT REVENUE AND BUDGET DATA (2009).

Figure 1. General Fund Revenue by Source (FY 1990-FY 2008)¹⁴



II. H.B. 5534’s Proposal for a Revenue Accountability Commission Is Timely and Other States’ Recent Revenue Commissions Offer Lessons on How Best to Structure Such an Effort

In this time of widespread fiscal shortfalls, many other states have turned to independent revenue commissions for help tackling tough budget issues. Our research indicates that there has been a proliferation in recent years of state-level commissions charged broadly with tax reform in an effort to mitigate the consequences of recent economic downturns on state budgets. Indeed, California, Florida, Georgia, Indiana, Rhode Island, South Carolina, and Vermont each have tasked independent commissions with addressing broad tax reform, while both Massachusetts and Maryland have recently charged commissions with reforming business taxes.

These other states’ recent experiences provide guidance on how Connecticut should structure such a study. We evaluated over two dozen recent state tax study commissions with scopes broad enough to be comparable to our state’s present questions.¹⁵ Our substantive comments on H.B. 5534 are informed by this survey of best-practices in revenue study commission design.¹⁶

¹⁴ OFFICE OF FISCAL ANALYSIS, CONNECTICUT REVENUE AND BUDGET DATA 33-156 (2009).

¹⁵ Our criteria for inclusion were that the commissions have occurred since 2000 and have been charged with evaluating either 1) tax structure, generally, 2) business tax structure, or 3) budget deficit mitigation.

¹⁶ Our research, and the proposals it generated, are attached as an appendix to this testimony.

In particular, we believe that Massachusetts' recent Study Commission on Corporate Taxation provides a useful model upon which to base the specific provisions of Connecticut's Bill. That commission achieved exactly what it set out to do: offer recommendations to reform the corporate tax code and raise additional revenue, which were duly enacted when Governor Deval Patrick incorporated them into legislative proposals, which passed the legislature in July 2008.¹⁷ The Massachusetts commission benefited from a vigorous and balanced debate among its 15 members, which included the Secretary of Finance, Commissioner of Revenue, chairpersons of House and Senate Joint Committees on Revenue, House and Senate Minority Leaders, industry representatives, tax accountants and lawyers, and two academic experts.¹⁸

III. The Raised Bill Is A Strong Start Toward Establishing A Meaningful Commission

- **The Bill acknowledges that Connecticut must review its entire revenue structure, not merely taxes.**

Connecticut's fiscal problems are large and growing.¹⁹ Its projected deficits are unprecedented.²⁰ This is not a time to take any solutions off the table. The Commission's charge must be broad and the Bill recognizes just that.

While other states have had the luxury of limiting themselves to business taxes, or to taxes generally, Connecticut must evaluate its entire revenue structure. Economic times have changed, and so too must our state's thinking about its most significant problems.

Though not explicitly mentioned in the proposed Bill, a review of federal and local, and not only state, revenues should be an explicit part of the Commission's mandate. Connecticut's relatively high reliance on local property taxes to fund local government (compared to other states) also merits the Commission's attention.

- **The Bill creates a 17-member Commission that will adequately represent a diverse group of stakeholders and is of a size likely to generate lively, but manageable, debate and discussion.**

Successful commissions²¹ shared the common thread that they were collaborative efforts between policymakers and outsiders.²² The former brought the power to implement fiscal solutions

¹⁷ Massachusetts Budget and Policy Center, "Understanding Our Tax System: A Primer for Active Citizens," (accessed on 2/13/10), http://www.massbudget.org/documentsearch/findDocument?doc_id=621&dse_id=569.

¹⁸ Id.

¹⁹ Connecticut's Office of Fiscal Analysis forecasts that the state's budget deficit will rise to \$3.282 billion by FY 2012, a figure equivalent to 17.1 percent of the state budget. See Office of Fiscal Analysis, Fiscal Forecast Presentation to the Appropriations & Finance Committees (Nov. 18, 2009) *available at* <http://www.cga.ct.gov/OFA/Documents/Statements/2010/FINAL%20Nov%2018%20Presentation.pdf>

²⁰ See Id.

²¹ For the purposes of these recommendations, measures of "success" are taken to be: 1) that a commission prepared actionable recommendations, rather than general guidance; 2) that the legislature took the recommendations into formal consideration; and 3) that the process maintained substantial public legitimacy from start to finish.

and an understanding of political constraints; the latter brought subject-area knowledge and fresh perspectives. The proposed Bill achieves a productive balance by mandating that certain interests be represented on the Commission through its authorizing legislation,²³ by endowing the Commission with the power to address gaps in expertise and perspective,²⁴ and by allowing the Commission to seek external help or perspectives wherever useful.²⁵

Though recent commissions have varied in size from 3²⁶ to 29,²⁷ the majority clustered in the teens.²⁸ According to Bob Tannenwald, of the Center on Budget and Policy Priorities (CBPP) and a veteran of several tax commissions, a committee of around 15 members is ideal – large enough to allow adequate representation and small enough to remain manageable.²⁹ The Connecticut Commission does not significantly diverge from that number.³⁰

- **The Bill creates a strong framework for transparency and public engagement in the revenue review process, an important ingredient to success.**

Connecticut is near the head of the class with regard to sunshine laws³¹ and the Bill ensures that the Commission will not prove an exception to the rule. The viability of the Commission's final report will depend heavily on public support.³² Rather than trying to earn support at the end of the process, the Bill builds in procedures necessary for maintaining it throughout.³³ We believe that engaging the public, through open meetings, distribution of draft reports, and an internet presence will allow the Commission to have the most impact.³⁴

- **The Bill contemplates ongoing and permanent review of the state's revenue structure.**

Both Florida and Hawaii have amended their constitutions to call for convening a revenue study commission at set intervals.³⁵ While the Bill does not go so far as to establish a similar permanent Commission, it requires the Commission to recommend methods for permanent and ongoing review as a part of its second report.³⁶ We commend the Committee for its foresight and

²² Telephone Interview with Michael Mazerov, Senior Fellow, Center for Budget and Policy Priorities (Feb. 9, 2010).

²³ H.B. 5534, Conn. Gen. Assem., 2010 Reg. Sess. §§ 1(b)(1)-(9).

²⁴ Id. § 1(b)(10).

²⁵ Id. § 1(f)(1).

²⁶ See 2009 Vt. Acts & Resolves 1 § H.56.

²⁷ See FLA. STAT. § 286.036 (2009) (25 voting members and 4 non-voting ex-officio members).

²⁸ See, e.g., S.B. 103, 62d Gen. Assem., 2d Reg. Sess. (Colo. 2000); Cal. Exec. Order No. S-15-09 (July 29, 2009); Minn. Exec. Order No. 08-06 (Feb. 29, 2008).

²⁹ Telephone Interview with Bob Tannenwald, Senior Fellow, Center for Budget and Policy Priorities (Feb. 4, 2010). Mr. Tannenwald was formerly a Vice President at the Federal Reserve Bank of Boston and Director of its New England Public Policy Center.

³⁰ H.B. 5534, Conn. Gen. Assem., 2010 Reg. Sess. § 1(b).

³¹ See Freedom of Information Act, CONN. GEN. STAT. §§ 1- 200 et seq. (2009).

³² Telephone Interview with Michael Mazerov, Senior Fellow, Center for Budget and Policy Priorities (Feb. 9, 2010).

³³ H.B. 5534, Conn. Gen. Assem., 2010 Reg. Sess. § 1(f).

³⁴ H.B. 5534, Conn. Gen. Assem., 2010 Reg. Sess. § 1(f)(2)-(4).

³⁵ See Haw. Const. art. VII § 3, Haw. Rev. Stat. 232E (2009); FLA. STAT. § 286.036 (2009).

³⁶ H.B. 5534, Conn. Gen. Assem., 2010 Reg. Sess. § 1(g)(3).

understanding of the fact that ongoing review will be the best way for Connecticut to avoid fiscal pitfalls in the future. Periodic reevaluation of the state's revenue system will ensure its compatibility with changing fiscal and economic situations.

IV. The Raised Bill Should be Strengthened in Several Ways

- **First, the Bill should explicitly address the issue of the need for outside expertise, dedicated staffing, and the funding requisite for this support.**

If the Commission is to produce a meaningful report by the start of the next legislative session – even under our suggested, expanded timeline – it will need the staff resources necessary to model the state's revenue structure, research policy alternatives, and evaluate plans that have been implemented in other states. Furthermore, like the 1990 Task Force, the Commission will need to call on national firms for the research and analysis it will need to support its core mission. None of this will be possible without manpower and financing.

The 1990 Task Force spent the equivalent of approximately \$1 million (in 2010 dollars) on national experts,³⁷ and the General Assembly would be asking this new Commission to do more in less time. The commitment of adequate resources proved indispensable in assuring the quality of the recommendations the last time the state reviewed its revenue structure.³⁸ Without funding, the 1990 Task Force would have been unable to hire the outside consultants who produced the core economic model that gave that Task Force the information it needed to understand how its proposals would ultimately affect state finances and the state's economy³⁹

As in 1990, Connecticut lacks the internal capacity to produce revenue models quickly, so the 2010 Commission will need the resources to do just what the 1990 Task Force did. Accordingly, we would urge the Committee to amend the proposed Bill to explicitly call for the hiring (through an RFP process) of national experts to assist the Commission and to support the Commission with dedicated funding, an explicit allowance for reasonable expenditures, and language indicating that the Commission will be able to call upon the resources of relevant state agencies for administrative assistance and data analysis. Successful commissions have tended to have these resources dedicated from the start.

- **Second, the timeframe for the Commission's initial report should be expanded, but the report should still be due before the next legislative session.**

Given the constraints imposed by Connecticut's budget cycle and the present dire fiscal situation, the Commission should produce actionable recommendations in time for next year's legislative session. This will be a tight timeframe and will require significant buy-in from participants and sufficient funding to maintain a rapid pace throughout, but it represents the only viable solution.

³⁷ Telephone Interview with William Cibes, Jr., Member of the "Task Force to Study and Evaluate State Tax Revenue and the Current Tax Base" and former Co-Chair of the Committee on Revenue, Finance, and Bonding (Mar. 3, 2010).

³⁸ Id.

³⁹ Id.

The proposed Bill, however, allows for as little as three months between the Commission's first meeting and its initial budget-balancing report – September 1, 2010 to December 1, 2010.⁴⁰ This is a shorter timeframe than any of the commissions in our study. Even if the Commission engages outside accounting or consulting firms to help model the state's revenue structure, a three-month window may not allow for enough time to consider the output of the model appropriately. This is particularly likely given that the Commission will first have to select co-chairs⁴¹ and round out its membership by adding the last three members after it convenes.⁴²

To allow Commission members sufficient time to assess the complicated issues involved in their study, we suggest that the Commission's first meeting be held no later than June 1, 2010 and that it report no later than January 1, 2011, shortly before the beginning of the 2011 legislative session. This extension will more than double the Commission's working time, and will improve the quality of the deficit-reducing recommendations it will be tasked to produce.

- **Third, the Committee should consider modifying the scope of the Commission's charge to explicitly include examination of its most significant revenue policy concerns.**

As reflected in the bills that come before the Finance Committee, there are a number of specific issues, beyond the state's general revenue structure, that may warrant the Commission's attention. To assure that these issues receive the attention desired, the Committee should consider amending the proposed Bill to explicitly include them in the charge.

Among the issues that may merit explicit mention in the Commission's charge are Connecticut's use of tax incentives for economic development and its mechanisms for reviewing their efficacy, ways to address current tax avoidance strategies by businesses (such as mandatory combined reporting), the possibility of tax policy cooperation with neighboring states, the process by which Connecticut identifies and draws down federal funds to maximize their receipt, and the optimal ways to finance municipal services, including education.

- *Tax incentives.* Connecticut is estimated to lose approximately \$5.6 billion in revenues this year through tax expenditures (i.e., tax credits, exemptions, deductions, rate reductions and other preferential tax incentives to individuals and businesses).⁴³ Many tax expenditures have been enacted since Connecticut's tax code was last reviewed in a comprehensive way in 1989-90, and are the product of lobbying efforts that commonly promised substantial economic returns for the requested adjustments to state tax law. Review of the continued efficacy of these multiple tax expenditures should be included in the Commission's charge.

⁴⁰ H.B. 5534, Conn. Gen. Assem., 2010 Reg. Sess. §§ 1(d), 1(g)(1).

⁴¹ Id. § 1(d).

⁴² Id. § 1(b)(10).

⁴³ See OFFICE OF FISCAL ANALYSIS, FY 10 – FY 14 GENERAL FUND AND TRANSPORTATION FUND BUDGET PROJECTIONS AND FISCAL INFORMATION 36 (Nov. 13, 2009).

- *Tax compliance.* The growth of multi-state and multi-national corporations and shift from a primarily goods-producing to service-based economy requires that our state tax code be modernized so that it better represents the real economic activity engaged in by companies operating in the state. Identifying and addressing tax avoidance strategies (such as through mandatory combined reporting) should be a part of the Commission’s charge, as well as identifying other opportunities to close substantial loopholes that have emerged over the last two decades.
- *Tax cooperation.* Connecticut’s proximity to three bordering states means that its tax policies cannot be set in a vacuum. A part of this multi-state relationship has resulted in race-to-the-bottom-style tax warfare.⁴⁴ Special deals for businesses willing to move short distances across state borders may seem effective in the short run, but our neighbors can, and do, respond. The Commission should be charged with investigating the possibility of tax cooperation with neighboring states in an effort to avoid these costly games. Furthermore, the Commission should look for ways in which Connecticut could take the lead in affirmatively improving its relationships with the surrounding states, a process that is incredibly important when one considers the degree to which the state “shares” taxpayers with its neighbors.
- *Federal funds.* The state’s recent gaffes involving federal funding opportunities highlight the importance of the Commission examining and making recommendations regarding the state’s capacity to maximize the federal funding it receives. In the past few months, Connecticut has missed out on transportation funding because it could not make timely prerequisite infrastructure investments or put together a competent application;⁴⁵ it has missed out on funding for job-growth initiatives because it withdrew from the National Governors Association as a cost-cutting measure;⁴⁶ and it will not receive “Race to the Top” education funding because it has been unwilling to harmonize charter school funding standards and teacher certification rules with federal guidelines.⁴⁷ Amending the proposed Bill to include a mandate that the Commission examine the ways other states maximize federal funds, and recommend ways to increase Connecticut’s effectiveness, would assure that this key revenue source is also examined.
- *Municipal funding.* The state is not the only relevant level of analysis; how Connecticut’s municipal services are funded also is an important topic for the Commission’s review and recommendations.

⁴⁴ See, e.g., Judith Lohman, OFFICE OF LEGISLATIVE RESEARCH, TAX INCENTIVES FOR STARWOOD HOTELS (Mar. 16, 2010).

⁴⁵ See Don Stacom, *State Comes Up Short Again; Connecticut Left out Completely in Bid for Transportation Funds*, HARTFORD COURANT, A1 (Feb. 19, 2010).

⁴⁶ See *Governor Stays Home from D.C.; Our View; Federal Grants: Is the Rell Administration Doing All It Can to Secure Money from Washington*, HARTFORD COURANT, A11 (Feb. 27, 2010).

⁴⁷ See *Out of the Race – For Now; Our View; School Funding: Connecticut Has to Brush Itself off and Try Again in the National Competition for Education Grants*, HARTFORD COURANT, A9 (Mar. 6, 2010).

Specific charges of this type would not be unprecedented. While most states have allowed their revenue study commissions to operate on charges of general scope, Maryland has seen success with a tripartite charge that includes more specificity. The first prong was a general charge to review business taxes; the second was a broadening clause, identifying forms of revenue to be included in the study that may not normally be considered by tax commissions; and the third was a focusing clause, seeking answers to the state's most pressing concerns.⁴⁸ If Connecticut wants to answer its most important revenue structure questions, it should consider amending and expanding the Raised Bill's scope of task provisions into a similar form.

In closing, we would like to reiterate Connecticut Voices for Children's strong support of Raised Bill 5534, with the modifications identified above, and thank the Co-Chairs and distinguished members of this Committee for their time.

⁴⁸ See MD. CODE ANN., TAX-GEN. § 10-110 (2010).

Appendix

Memorandum: Best Practices and Recommendations for Connecticut

Over the past decade, many states have looked to reform or rationalize their taxation policies. Some have done so through traditional legislative processes, but many have chosen to employ special tax study commissions. In preparing our recommendation that Connecticut join the second group, we evaluated the design of over two dozen tax commissions.⁴⁹ Below, we present both a best-practices perspective and our recommendations for Connecticut over five issues: scope of the Commission's task, membership, timing and reporting, staffing and funding, and transparency.

Scope of Task:

While not a perfect classification, one may identify two waves of tax commissions over the past decade. The first generally occurred during the early years of the decade and consisted of commissions charged with evaluating taxes or, specifically, business taxes, with an eye toward tax reduction and economic development. The second category, which has seen a proliferation of examples in recent years, consists of commissions charged more generally with broad tax reform in an effort to mitigate the consequences of the present recession on state budgets. Though the need for additional revenue clearly prompted the recent flurry of commissions, the charter documents authorizing them usually list revenue adequacy as only one of several guiding principles.

One typical example in this second category is South Carolina's current Taxation Realignment Commission, which is charged with assessing the "systemic balance of the state's revenue structure from the standpoint of adequacy, equity, and efficiency."⁵⁰ Although the legislators sponsoring these commissions have taken pains to avoid the appearance of requesting tax hikes, each of the eight examined commissions of this type – including California, Florida, Georgia, Indiana, Massachusetts, Rhode Island, South Carolina, and Vermont – notably were not instructed to consider only "revenue neutral" tax reform.

By contrast, at least one recent commission has been provided with specific questions beyond its general charge. Maryland's Business Tax Reform Commission, established in 2007, was asked to consider a range of specific issues, including the possibility of tax rate changes, base broadening, and additional business taxes.⁵¹ The Commission's charter provides a tripartite task structure: a general charge, a broadening clause identifying forms of revenue to be included in the

⁴⁹ Our best-practices are derived from evaluation of the Commissions in: Arizona (2003), California (2003, 2009), Colorado (2000), Florida (2007), Hawaii (2005), Indiana (2009), Maryland (2007), Massachusetts (2007), Minnesota (2008), Mississippi (2008), Montana (2003) Nevada (2001), New Mexico (2003), North Carolina (2002), Ohio (2002), Oregon (2004), Rhode Island (2008), South Carolina (2009), Tennessee (2004), Texas (2005), Vermont (2009), Virginia (2003), Washington (2002), and West Virginia (2006, 2009). Though sitting somewhat outside our initial criteria, we also considered, with limited weight, Wyoming's 1997 commission and the statutory language that progressed somewhat in Georgia's state legislature in 2009 before failing to pass. For greater detail, see Appendix A and/or contact Shelley Geballe or J.L. Pottenger, Jr. for a spreadsheet on the reviewed commissions.

⁵⁰ 2009 S.C. Acts 81.

⁵¹ See MD. CODE ANN., TAX-GEN. § 10-110 (2010).

study that may not normally be considered by tax commissions, and a focusing clause seeking answers to the state's most pressing concerns.⁵² Such an arrangement presents the obvious benefit of providing more complete guidance to commission members.

Recommendation: Connecticut should use either a general charge like that embraced by the majority of recent commissions, or a tripartite task structure like that employed by the Maryland Business Tax Commission, but focus on broad reforms, rather than limiting itself to business taxes. While the ultimate choice between these two models will no doubt depend in part on political realities, we recommend that either should include language about examining both the tax structure and also non-tax revenues (e.g., fees and charges, federal funds, gaming revenues, bond funds).

Specifically, we recommend that a general task structure specify that the Commission shall evaluate Connecticut's revenue structure, and develop recommendations for its modernization, based on the principles of adequacy, simplicity, economic competitiveness, and fairness. Alternatively, a tripartite structure should include the following: 1) The Commission will generally evaluate Connecticut's revenue structure, focusing on ways to maximize federal funding, modernize the state's tax code, and assure greater conformity with principles of adequacy, simplicity, efficiency, and equity; 2) The Commission *must* consider combined reporting, interstate cooperation in taxation, and Connecticut's use of tax expenditures; 3) The Commission *may* consider all revenue sources including, but not limited to, taxes, fees and charges, contracting, past or proposed securitization, other borrowing, treaties with local Native American tribes, and federal funding.

Membership:

Recent commissions have varied in size from 3⁵³ to 29,⁵⁴ with the majority clustering in the teens.⁵⁵ Bob Tannenwald, of the Center on Budget and Policy Priorities (CBPP) and a veteran of several tax commissions, suggests the number be kept just below 15, large enough to allow adequate representation but not so big as to become unwieldy.⁵⁶ Appointments to these slots are generally split three ways among the Governor and both legislative houses, with fairly even splits being common.⁵⁷ Authorizing charters generally provide for broad representation to include legislators from both parties, stakeholders from a range of sectors, and tax experts.⁵⁸ However, some, such as

⁵² *See id.*

⁵³ *See* 2009 Vt. Acts & Resolves 1 § H.56.

⁵⁴ *See* FLA. STAT. § 286.036 (2009) (25 voting members and 4 non-voting ex-officio members).

⁵⁵ *See, e.g.*, S.B. 103, 62d Gen. Assem., 2d Reg. Sess. (Colo. 2000); Cal. Exec. Order No. S-15-09 (July 29, 2009); Minn. Exec. Order No. 08-06 (Feb. 29, 2008).

⁵⁶ Telephone Interview with Bob Tannenwald, Senior Fellow, Center for Budget and Policy Priorities (Feb. 4, 2010). Mr. Tannenwald was formerly a Vice President at the Federal Reserve Bank of Boston and Director of its New England Public Policy Center.

⁵⁷ *See, e.g.*, FLA. STAT. § 286.036 (2009) (11 by Governor, 7 by leader of each house of the legislature); S.R. 453, 150th Gen. Assem., 2d Reg. Sess. (Ga. 2009) (6 each by Governor, President of the Senate, and Speaker of the House).

⁵⁸ *See, e.g.*, MD. CODE ANN., TAX-GEN. § 10-110 (2010); 2003 Mont. Laws 606; 2003 N.M. Laws 77; Telephone Interview with Bob Tannenwald, Senior Fellow, Center for Budget and Policy Priorities (Feb. 4, 2010).

that for California's 2009 Commission on the 21st Century Economy, include no representation requirements, leaving appointments to the discretion of the Governor, President of the Senate and Speaker of the Assembly.⁵⁹ Nonetheless, CBPP's Michael Mazerov argues that a successful⁶⁰ commission should be structured to include not only legislators (including revenue committee chairs) and executive branch representatives – whose inclusion ensures that the effort is taken seriously – but also representatives from multiple sectors of society, including business, labor, and public policy-focused nonprofits.⁶¹

Commission chairs are typically either appointed by the Governor⁶² or elected from within the membership.⁶³ Tannenwald's experience suggests that the appointment of a strong, independent chairperson is critical for ensuring that the commission engages in a real investigation that entails hard decisions.⁶⁴

Recommendation: Connecticut's Commission should consist of 12-15 members, appointed by a combination of the Governor and legislative leadership. The authorizing statute should ensure adequate representation of political and non-political Commissioners, majority and minority parties, and voices from business, labor, nonprofits, academia, and the legal and accounting professions. Additionally, the co-chairs of the Finance, Revenue, and Bonding Committee or their designees should serve on the Commission. The commission should be co-chaired, with the Governor and legislative leaders each appointing a chair.

Timing and Reporting:

The most successful commissions served for roughly one to two years.⁶⁵ However, shorter commissions, in the 4⁶⁶ to 9⁶⁷ month range, are not unprecedented. Almost all commissions were one-time bodies, but a few states employ a recurring commission structure, in which a commission provides a study and then comes back into existence in 5 to 20 year intervals for renewal of activities.⁶⁸ Most commissions were formally required to report only once at the end of their work, but a substantial minority were required to make interim reports⁶⁹ or to provide responses to questions arising from the legislature.⁷⁰

⁵⁹ Cal. Exec. Order No. S-15-09 (July 29, 2009).

⁶⁰ For the purposes of these recommendations, measures of "success" are taken to be: 1) that a Commission prepared actionable recommendations, rather than general guidance; 2) that the legislature took the recommendations into formal consideration; and 3) that the process maintained substantial public legitimacy from start to finish.

⁶¹ Telephone Interview with Michael Mazerov, Senior Fellow, Center for Budget and Policy Priorities (Feb. 9, 2010).

⁶² *See, e.g.*, MD. CODE ANN., TAX-GEN. § 10-110 (2010); Tex. Exec. Order No. RP52 (Nov. 21, 2005).

⁶³ *See, e.g.*, HAW. REV. STAT. § 232E-1 to -3 (2009); 2003 Mont. Laws 606.

⁶⁴ Telephone Interview with Bob Tannenwald, Senior Fellow, Center for Budget and Policy Priorities (Feb. 4, 2010).

⁶⁵ *See, e.g.*, FLA. STAT. § 286.036 (2009); 2009 Vt. Acts & Resolves 1 § H.56; Minn. Exec. Order No. 08-06 (Feb. 29, 2008); Tex. Exec. Order No. RP52 (Nov. 21, 2005).

⁶⁶ *See* 2003 N.M. Laws 77.

⁶⁷ *See* 2009 S.C. Acts 81.

⁶⁸ *See* FLA. CONST. art. XI, § 6; HAW. CONST. art. VII, § 3.

⁶⁹ *See, e.g.*, S.B. 1933, 1999-2000 Leg., 2d Sess. (Cal. 2000); S.B. 103, 62d Gen. Assem., 2d Reg. Sess. (Colo. 2000); 2009 Vt. Acts & Resolves 1 § H.56; N.C. Exec. Order No. 18 (Feb. 1, 2002).

⁷⁰ *See* IND. CODE ANN. § 2-5-3-1 to -8 (2009).

Recommendation: Because the state's fiscal challenges dictate that tax reform be enacted promptly, and in light of the state's two-year budget cycles, Connecticut should provide for a Commission that will make its final report no later than January 1, 2011 or, in the alternative, on the same schedule as the Governor's PERFORM Commission should it be established. The report should be divided into two reform packages, each to be considered separately by the legislature: the first containing revenue-neutral recommendations to make the tax system more equitable and efficient, and the second with options for reforms to generate additional revenue based on the same principles.

Staffing and Funding:

Several commissions set specific levels for staffing and fixed budgets directly in the authorizing documents. When specified, budgets ranged from \$12,500⁷¹ to \$318,000,⁷² and clustered around \$200,000.⁷³ A number of commissions did not compensate commissioners, but allowed for reimbursement of expenses according to state policy and compensation for staffers.⁷⁴ Mazerov has suggested that although generally only two full time staff positions are necessary – Executive Director and Research Director – they are critically important for ensuring that the commission stays on task and produces a quality report.⁷⁵ In particular, Tannenwald emphasized the importance of recruiting a well-respected independent Research Director with tax expertise (holding either a Master's or a PhD in economics), but without any Connecticut political ties.⁷⁶ In addition to dedicated staffing, many commission-authorizing statutes or executive orders mandate that relevant state agencies support the commission's mission by providing data and/or staffing.⁷⁷

Recommendation: Connecticut should leave staffing levels to the discretion of the Commission, but should fix a budget in the authorizing statute. We have no specific recommendation as to the level at which the budget is fixed other than to recommend that the level be reasonable for the effective operation of the Commission. In particular, funding should be allocated for a paid Executive Director, a full-time Research Director, and reasonably study expenses. Furthermore, the authorizing statute should direct relevant agencies to provide administrative and data support for the Commission's work.

Transparency:

Most of the successful commissions held open public hearings and maintained high levels of transparency throughout the process. According to Mazerov, it is important that a commission

⁷¹ See S.J. Res. 347, 2003 Gen. Assem., Reg. Sess. (Va. 2003).

⁷² See S.B. 6153 § 138, 2001 Leg., 2d Spec. Sess. (Wash. 2001).

⁷³ See, e.g. 2003 N.M. Laws 77; 2009 Vt. Acts & Resolves 1 § H.56; 1997 Wyo. Sess. Laws 161.

⁷⁴ See, e.g. HAW. REV. STAT. § 232E-1 to -3 (2009); MD. CODE ANN., TAX-GEN. § 10-110 (2010); S.B. 103, 62d Gen. Assem., 2d Reg. Sess. (Colo. 2000).

⁷⁵ Telephone Interview with Michael Mazerov, Senior Fellow, Center for Budget and Policy Priorities (Feb. 9, 2010).

⁷⁶ Telephone Interview with Bob Tannenwald, Senior Fellow, Center for Budget and Policy Priorities (Feb. 4, 2010).

⁷⁷ See, e.g., FLA. STAT. § 286.036 (2009); S.B. 261 2001 § 5, 124th Gen. Assem., 2d Reg. Sess. (Ohio 2001); Cal. Exec. Order No. S-15-09 (July 29, 2009); N.C. Exec. Order No. 18 (Feb. 1, 2002).

publish minutes from all meetings on its website, and give adequate public notice before public hearings.⁷⁸ Tannenwald suggested that a form of political transparency can be achieved through the formation of a formal or informal advisory group of political stakeholders given the opportunity to comment on draft proposals.⁷⁹

Recommendation: Connecticut should subject the Commission to the same sunshine provisions as other government commissions in the state, which are near best-in-class.⁸⁰ At a minimum, the Commission should establish a website, hold public hearings with adequate prior notice, post meeting minutes in a timely manner, and establish a formal independent advisory council. Because the Commission's professional staff will likely need access to individual taxpayer data for its research and analysis into issues such as combined reporting and the efficacy of tax expenditure policies, the authorizing statute should specify how such access shall be provided while concurrently protecting individually identifying information and confidential commercial information from public disclosure; exemptions from disclosure should be written as narrowly as possible, so as to achieve an appropriate balance between transparency and legitimate confidentiality.

⁷⁸ Telephone Interview with Michael Mazerov, Senior Fellow, Center for Budget and Policy Priorities (Feb. 9, 2010).

⁷⁹ Telephone Interview with Bob Tannenwald, Senior Fellow, Center for Budget and Policy Priorities (Feb. 4, 2010).

⁸⁰ See Freedom of Information Act, CONN. GEN. STAT. §§ 1-200 et seq. (2009).

Case Studies

The following case studies offer an in-depth perspective on the structure of recent commissions in Maryland and Massachusetts – the two states most similar to Connecticut that recently enacted revenue commissions.

Case Study 1 – Massachusetts' 2007 Study Commission on Corporate Taxation

Massachusetts' Commission achieved exactly what it set out to do: offer recommendations to reform the corporate tax code and raise additional revenue. The effort succeeded despite considerable opposition to the recommendations from within the Commission, and a final vote of 10-5.⁸¹ Soon after the report's release, Governor Deval Patrick incorporated the recommendations into legislative proposals, which passed the legislature in July 2008.⁸²

Scope of Task

The mandate of the Commission was to “study the modernization and simplification of the current business tax laws of the Commonwealth, to promote tax fairness and equity, encourage business growth and innovation, and strengthen the Commonwealth’s global competitiveness.”⁸³

Membership

The Commission’s 15 members included the Secretary of Finance, Commissioner of Revenue, chairpersons of House and Senate Joint Committees on Revenue, House and Senate Minority Leaders, industry representatives, tax accountants and lawyers, and two academic experts.⁸⁴

Timing and Reporting

The Commission was directed to file “an interim report on legislative recommendations providing revenue for Fiscal Year 2008” by June 15, 2007, and “a final report on long-term changes to corporate tax laws” by January 1, 2008.⁸⁵

Staffing and Budget

This information was not made publicly available.

Case Study 2 – Maryland’s 2007 Business Tax Reform Commission

After some initial delays, Maryland’s current Commission has been meeting with regularity, bringing in relevant experts, progressing through subcommittee hearings, and maintaining process transparency.⁸⁶ Though we cannot evaluate the Commission’s success in achieving policy change because it is not scheduled to present its initial report until December 2010, intermediate analysis of the ongoing process suggests it is right on track.

⁸¹ See Kyle Cheney, “Closer than Initially Announced, Corporate Tax Code Vote Assailed by Critics,” (Jan. 2, 2008), http://www.retailersma.org/pages/993_corporate_tax_code_vote_assailed_by_critics.cfm.

⁸² See Massachusetts Budget and Policy Center, “Understanding Our Tax System: A Primer for Active Citizens,” (accessed on 2/13/10), http://www.massbudget.org/documentssearch/findDocument?doc_id=621&dse_id=569.

⁸³ *Id.*

⁸⁴ *See Id.*

⁸⁵ *Id.*

⁸⁶ An up-to-date account of the Commission’s activity can be found at <http://btrc.maryland.gov>.

Scope of Task

The Commission's chartering document charged it with a tripartite task structure: To review the state's business tax structure and make specific recommendations for changes that will provide for fair and equitable taxation for the state's business entities. The recommendations may include rate change, base-broadening, elimination of avoidance strategies, and elimination of ineffective policies intended as economic development initiatives. The recommendations must include evaluation of combined reporting using the "water's edge" method, the imposition of business taxes in addition to or in lieu of existing types (gross receipts taxes, VATs, and AMTs), and methods for evaluating the efficiency and effectiveness of tax policies intended to spur economic development.⁸⁷

Membership

The chartering legislation provides that the Commission's 17 members include the following: A chair appointed by the Governor, 3 members of the Senate Budget and Taxation Committee appointed by President of the Senate, 3 members of House Ways and Means appointed by Speaker of the House, the Comptroller of the Treasury, Secretary of Business and Economic Development, Secretary of Budget and Management, Director of Assessments and Taxation, a representative of the Maryland Association of Counties, a representative of the Maryland Municipal League, a representative of the Maryland Chamber of Commerce, and 3 members of the public (each an attorney or accountant) appointed by the Governor.⁸⁸

Timing and Reporting

Maryland's Commission is due to report by December 15, 2010, 3 years after it was first established.⁸⁹

Staffing and Funding

The Commission's staffing is to be provided by the Comptroller and Department of Budget and Management. The original statute did not set the budget but stipulated that funding would include reimbursements for expenses though not compensation for Commission members.⁹⁰

⁸⁷ See MD. CODE ANN., TAX-GEN. § 10-110 (2010).

⁸⁸ See *Id.*

⁸⁹ See *Id.*

⁹⁰ See *Id.*