House Calendar

Thursday, April 29, 2010

115th DAY OF ADJOURNED SESSION

House Convenes at 9:30 A.M.

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Senate Proposal of Amendment

H. 524

An act relating to interference with or cruelty to a guide dog

The Senate proposes to the House to amend the bill by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 13 V.S.A. § 355 is added to read:

§ 355. INTERFERENCE WITH OR CRUELTY TO A GUIDE DOG

(a) As used in this section:

(1) "Custody" means the care, control, and maintenance of a dog.

(2) "Guide dog" means a dog, with visible identification of its status, individually trained to do work or perform tasks for the benefit of an individual with a disability for purposes of guiding an individual with impaired vision, alerting an individual with impaired hearing to the presence of people or sounds, assisting an individual during a seizure, pulling a wheelchair, retrieving items, providing physical support and assistance with balance and stability, and assisting with navigation.

(3) "Notice" means:

(A) a verbal or otherwise communicated warning regarding the behavior of another person and a request that the person stop the behavior; and

(B) a written confirmation submitted to the local law enforcement agency, either by the owner of the guide dog or another person on his or her behalf, which shall include a statement that the warning and request was given and the person's telephone number.

(b) No person shall recklessly injure or cause the death of a guide dog, or recklessly permit a dog he or she owns or has custody of to injure or cause the death of a guide dog. A person who violates this subsection shall be imprisoned not more than two years or fined not more than $3,000.00, or both.

(c) No person who has received notice or has knowledge that his or her behavior, or the behavior of a dog he or she owns or has custody of, is interfering with the use of a guide dog shall recklessly continue to interfere with the use of a guide dog, or recklessly allow the dog he or she owns or has

custody of to continue to interfere with the use of a guide dog, by obstructing, intimidating, or otherwise jeopardizing the safety of the guide dog user or his or her guide dog. A person who violates this subsection shall be imprisoned not more than one year or fined not more than $1,000.00, or both.

(d) No person shall recklessly interfere with the use of a guide dog, or recklessly permit a dog he or she owns or has custody of to interfere with a guide dog, by obstructing, intimidating, or otherwise jeopardizing the safety of the guide dog user or his or her guide dog. A person who violates this subsection commits a civil offense and shall be:

(1) for a first offense, fined not more than $100.00.

(2) for a second or subsequent offense, fined not more than $250.00.

(e) A violation of subsection (d) of this section shall constitute notice as defined in subdivision (a)(3) of this section.

(f) As provided in section 7043 of this title, restitution shall be considered by the court in any sentencing under this section if the victim has suffered any material loss. Material loss for purposes of this section means uninsured:

(1) veterinary medical expenses;

(2) costs of temporary replacement assistance services, whether provided by a person or guide dog;

(3) replacement value of an equally trained guide dog without any differentiation for the age or experience of the dog;

(4) loss of wages; and

(5) costs and expenses incurred by the person as a result of the injury to the guide dog.

Sec. 2. 4 V.S.A. § 1102 is amended to read:

§ 1102. JUDICIAL BUREAU; JURISDICTION

* * *

(b) The judicial bureau shall have jurisdiction of the following matters:

* * *

(12) Violations of 13 V.S.A. § 352(3), (4), and (9), relating to cruelty to animals, and 13 V.S.A. § 355(d), relating to interference with a guide dog.

Sec. 3. 20 V.S.A. § 3621 is amended to read:

§ 3621. ISSUANCE OF WARRANT TO IMPOUND~~, DESTROY~~; COMPLAINT

(a) The legislative body of a municipality may at any time issue a warrant to one or more police officers or constables, ~~or~~ pound keepers, or elected or appointed animal control officers, directing them to proceed forthwith to ~~destroy in a humane way or cause to be destroyed in a humane way~~ impound all dogs or wolf-hybrids within the town or city not licensed according to the provisions of this subchapter, except as exempted by section 3587 of this title, and to enter a complaint against the owners or keepers thereof. A dog or wolf-hybrid impounded by a municipality under this section may be transferred to an animal shelter or rescue organization for the purpose of finding an adoptive home for the dog or wolf-hybrid. If the dog or wolf-hybrid cannot be placed in an adoptive home or transferred to a humane society or rescue organization within ten days, or a greater number of days established by the municipality, the dog or wolf-hybrid may be destroyed in a humane way. The municipality shall not be liable for expenses associated with keeping the dog or wolf-hybrid at the animal shelter or rescue organization beyond the established number of days.

(b) A municipality may waive the license fee for the current year upon a showing of current vaccinations and financial hardship. In the event of waiver due to financial hardship, the state shall not receive its portion of a dog license fee.

Sec. 4. 13 V.S.A. § 351(4) is amended to read:

(4) "Humane officer" or "officer" means any law enforcement officer as defined in 23 V.S.A. § 4(11), auxiliary state police officers, deputy game wardens, humane society officer, animal control officer elected or appointed by the legislative body of a municipality, employee or agent, local board of health officer or agent, or any officer authorized to serve criminal process.

Sec. 5. FINDINGS

The general assembly finds that:

(1) Cebus appella monkeys, commonly known as capuchin monkeys, are used, when highly trained, by the group Helping Hands: Monkey Helpers for the Disabled, a national nonprofit based in Boston, to serve people who are paralyzed, suffer from multiple sclerosis, are quadriplegic, or have other severe spinal cord injuries or mobility impairments by providing assistance with daily activities.

(2) By breeding these monkeys in captivity, raising, and specially training these monkeys to act as live-in companions over the course of 20–30 years, these groups provide independence and companionship to the people they help.

(3) Many states allow capuchin monkeys to be imported, by permit, for purposes of this service. States that have laws exempting the monkeys from their wild animal importation ban include Georgia and California.

(4) According to Helping Hands: Monkey Helpers for the Disabled, their monkeys reside in a closed colony under tight security in a specialized facility in the Boston area. The monkeys do not have exposure to other non-colony primates. The monkeys receive thorough and comprehensive veterinary care while at the training center and after placement, including regular testing for tuberculosis and intestinal parasites. No recipients or care giver has been injured or contracted an infectious disease from these monkeys.

(5) Helping Hands: Monkey Helpers for the Disabled's monkeys are New World primates which originate in South America. All monkeys are bred specifically for the program and none are taken from the wild. The monkeys are not infected with the well-known pathogens Herpes B or SIV, which are carried exclusively by Asian and African (Old World) primates. The capuchin monkeys are significantly smaller and more docile than Old World primates.

Sec. 6. PILOT PROGRAM FOR IMPORT OF ASSISTANCE ANIMALS; CAPUCHIN MONKEYS

(a) A pilot program, for importing highly trained Cebus appella monkeys into Vermont, is established for the purpose of providing animals for assistance of persons with a permanent disability or disease.

(b) The commissioner shall issue a permit under 10 V.S.A. § 4709 to two different Vermont residents for the import into the state of an animal in the genus Cebus appella (capuchin monkeys), provided that the applicant for the permit establishes that:

(1) the applicant has a permanent disability or disease which interferes with the person's ability to perform one or more routine daily living activities;

(2) the animal for which the permit is to be issued has been trained to assist the person in performing his or her daily living activities;

(3) the animal will be humanely treated and will not present a threat to public health or safety;

(4) the animal for which the permit is sought is the only wild animal to be possessed by that person;

(5) the applicant does not have a history of animal cruelty under chapter 8 of Title 13;

(6) the animal is being provided by a nonprofit charity or organization dedicated to providing animals for assistance of persons with permanent

disability or disease; and

(7) the applicant provides an official health certificate from a veterinarian licensed in the state of the animal's origin certifying that the animal is free of visible signs of infections or contagious or communicable disease.

(c) An animal imported under a permit issued under this section shall:

(1) be treated humanely; and

(2) be kept only in the residence of the permittee except as necessary for veterinary services.

(d) When transported into the state, an animal imported under a permit issued under this section shall be transported in a U.S. Department of Agriculture-approved animal carrier.

(e) When an animal imported under a permit issued under this section is no longer in service to the applicant, the animal shall be returned within seven days of the end of service to the nonprofit charity or organization that provided the animal.

(f) Report. On or before January 15, 2014, the commissioner shall report to the senate committee on judiciary on all aspects of the pilot program's implementation, including public health and safety concerns, and on recommendations for legislative proposals or permitting processes, if any.

Sec. 7. EFFECTIVE DATE

This act shall take effect upon passage.

and that after passage the title of the bill be amended to read: "An act relating to interference with or cruelty to a guide dog, warrants to impound a dog or wolf-hybrid, and the definition of 'humane officer'"

(For text see House Journal 2/18/2010 & 2/19/2010)

NEW BUSINESS

Third Reading

S. 58

An act relating to electronic payment of wages

Amendment to be offered by Rep. Greshin of Warren to S. 58

Rep. Greshin of Warren moves that the House propose to the Senate the bill be amended as follows:

First: In Sec. 1, 21 V.S.A. § 342, in subsection (c), by striking out

subdivision (2)(D) and inserting in lieu thereof a new subdivision (2)(D) to read:

(D) The employer ensures that the payroll card account provides that during each pay period, the employee has at least three free withdrawals from the payroll card, one of which permits withdrawal of the full amount of the balance at a federally insured depository institution or other location convenient to the place of employment.

Second: In Sec. 1, 21 V.S.A. § 342, in subsection (c), by striking out subdivision (2)(I) and inserting in lieu thereof a new subdivision (2)(I) to read:

(I) The employer ensures that the payroll card account provides one free replacement payroll card per year at no cost to the employee before the card's expiration date. A replacement card need not be provided if the card has been inactive for a period of at least 12 months or the employee is no longer employed by the employer.

Third: In Sec. 1, 21 V.S.A. § 342, in subsection (c), by striking out subdivision (2)(M) and inserting in lieu thereof a new subdivision (2)(M) to read:

(M) The employer shall ensure that the payroll card account provides to the employee, upon the employee's written or oral request, one free written transaction history each month which includes all deposits, withdrawals, deductions, or charges by any entity from or to the employee's payroll card account for the preceding 60 days. The employer shall also ensure that the account allows the employee to elect to receive the monthly transaction history by electronic mail.

S. 161

An act relating to National Crime Prevention and Privacy Compact

Favorable with amendment

S. 103

An act relating to the study and recommendation of ignition interlock device legislation

Rep. French of Shrewsbury, for the Committee on Judiciary**,** recommends that the House propose to the Senate that the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 23 V.S.A. § 674 is amended to read:

§ 674. OPERATING AFTER SUSPENSION OR REVOCATION OF LICENSE;

PENALTY; REMOVAL OF REGISTRATION PLATES; TOWING

* * *

(b) ~~A~~ Except as authorized in section 1213 of this title, a person whose license or privilege to operate a motor vehicle has been suspended or revoked for a violation of section 1201 of this title or has been suspended under section 1205 of this title and who operates or attempts to operate a motor vehicle upon a public highway before reinstatement of the license shall be imprisoned not more than two years or fined not more than $5,000.00, or both. The sentence shall be subject to the following mandatory minimum terms:

* * *

Sec. 2. 23 V.S.A. § 1130 is amended to read:

§ 1130. ~~PERMITTING~~ EMPLOYING AN UNLICENSED PERSON ~~TO OPERATE~~;
PERMITTING UNAUTHORIZED OPERATION

No person shall knowingly employ, as operator of a motor vehicle, a person not licensed as provided in this title. No person shall knowingly permit a motor vehicle owned by him or her or under his or her control to be operated by a person who has no legal right to do so, or in violation of a provision of this title.

Sec. 3. 23 V.S.A. § 1200 is amended to read:

§ 1200. DEFINITIONS

As used in this subchapter:

* * *

(8) "Ignition interlock device" means a device that is capable of measuring a person's alcohol concentration and that prevents a motor vehicle from being started by a person whose alcohol concentration is 0.02 or greater.

(9) "Ignition interlock restricted driver's license" or "ignition interlock RDL" or "RDL" means a restricted license or privilege to operate a motor vehicle issued by the commissioner allowing a person whose license or privilege to operate has been suspended or revoked for operating under the influence of intoxicating liquor or in excess of legal limits of alcohol concentration to operate a motor vehicle, other than a commercial motor vehicle as defined in section 4103 of this title, installed with an approved ignition interlock device.

Sec. 4. 23 V.S.A. § 1205 is amended to read:

§ 1205. CIVIL SUSPENSION; SUMMARY PROCEDURE

(a) Refusal; alcohol concentration of 0.08 or more; suspension periods.

For a first suspension under this subchapter:

(1) Upon affidavit of a law enforcement officer that the officer had reasonable grounds to believe that the person was operating, attempting to operate, or in actual physical control of a vehicle in violation of section 1201 of this title and that the person refused to submit to a test, the commissioner shall suspend the person's operating license, or nonresident operating privilege, or the privilege of an unlicensed operator to operate a vehicle for a period of six months and until the person complies with section 1209a of this title.

(2) Upon affidavit of a law enforcement officer that the officer had reasonable grounds to believe that the person was operating, attempting to operate, or in actual physical control of a vehicle in violation of section 1201 of this title and that the person submitted to a test and the test results indicated that the person's alcohol concentration was 0.08 or more at the time of operating, attempting to operate or being in actual physical control, the commissioner shall suspend the person's operating license, or nonresident operating privilege, or the privilege of an unlicensed operator to operate a vehicle for a period of 90 days and until the person complies with section 1209a of this title. However, a person may operate under the terms of an ignition interlock RDL issued pursuant to section 1213 of this title, notwithstanding the 90-day suspension unless the alleged offense involved a collision resulting in serious bodily injury or death to another.

* * *

(d) Form of notice. The notice of intention to suspend and of suspension shall be in a form prescribed by the supreme court. The notice shall include an explanation of rights, a form to be used to request a hearing, and, if a hearing is requested, the date, time and location of the district court where the person must appear for a preliminary hearing. The notice shall also contain, in boldface print, the following:

(1) You have the right to ask for a hearing to contest the suspension of your operator's license.

(2) This notice shall serve as a temporary operator's license and is valid until 12:01 a.m. of the date of suspension. If this is your first violation of section 1201 of this title and if you do not request a hearing, your license will be suspended as provided in this notice. If this is your second or subsequent violation of section 1201 of this title, your license will be suspended on the 11th day after you receive this notice. It is a crime to drive while your license is suspended unless you have been issued an ignition interlock restricted

driver's license.

* * *

(m) Second and subsequent suspensions. For a second suspension under this ~~section~~ subchapter, the period of suspension shall be 18 months and until the person complies with section 1209a of this title. However, a person may operate under the terms of an ignition interlock RDL issued pursuant to section 1213 of this title after 90 days of this 18-month period unless the alleged offense involved a refusal to consent to a law enforcement officer's reasonable request for an evidentiary test or a collision resulting in serious bodily injury or death to another. For a third or subsequent suspension under this ~~section~~ subchapter, the period of suspension shall be life. However, a person may operate under the terms of an ignition interlock RDL issued pursuant to section 1213 of this title after one year of this lifetime suspension unless the alleged offense involved a refusal to consent to a law enforcement officer's reasonable request for an evidentiary test or a collision resulting in serious bodily injury or death to another.

* * *

Sec. 5. 23 V.S.A. § 1206 is amended to read:

§ 1206. SUSPENSION OF LICENSE FOR DRIVING WHILE UNDER INFLUENCE~~, REINSTATEMENT~~; FIRST CONVICTIONS

(a) ~~First conviction~~ First conviction—generally. Except as otherwise provided, upon conviction of a person for violating a provision of section 1201 of this title, or upon final determination of an appeal, the court shall forward the conviction report forthwith to the commissioner of motor vehicles. The commissioner shall immediately suspend the person's operating license, or nonresident operating privilege, or the privilege of an unlicensed operator to operate a vehicle for a period of 90 days and until the defendant complies with section 1209a of this title. However, a person may operate under the terms of an ignition interlock RDL issued pursuant to section 1213 of this title, notwithstanding the 90-day suspension unless the offense involved a refusal to consent to a law enforcement officer's reasonable request for an evidentiary test or a collision resulting in serious bodily injury or death to another.

(b) ~~Extended suspension~~ Extended suspension—fatality. In cases resulting in a fatality, the period of suspension shall be one year and until the defendant complies with section 1209a of this title.

(c) Extended suspension—refusal; serious bodily injury. Upon conviction of a person for violating a provision of subsection 1201~~(b) or~~ (c) of this title involving a collision in which serious bodily injury resulted, or upon final

determination of an appeal, the court shall forward the conviction report forthwith to the commissioner of motor vehicles. The commissioner shall immediately suspend the person's operating license or nonresident operating privilege or the privilege of an unlicensed operator to operate a vehicle for a period of six months, and until the defendant complies with section 1209a of this title.

Sec. 6. 23 V.S.A. § 1208 is amended to read:

§ 1208. SUSPENSIONS FOR SUBSEQUENT CONVICTIONS

(a) Second conviction. Upon a second conviction of a person violating a provision of section 1201 of this title and upon final determination of an appeal, the court shall forward the conviction report forthwith to the commissioner of motor vehicles. The commissioner shall immediately suspend the person's operating license, or nonresident operating privilege or the privilege of an unlicensed operator to operate a vehicle for 18 months and until the defendant complies with section 1209a of this title. However, a person may operate under the terms of an ignition interlock RDL issued pursuant to section 1213 of this title after 90 days of this 18-month period unless the offense involved a refusal to consent to a law enforcement officer's reasonable request for an evidentiary test or a collision resulting in serious bodily injury or death to another.

(b) Third conviction. Upon a third or subsequent conviction of a person violating a provision of section 1201 of this title and upon final determination of any appeal, the court shall forward the conviction report forthwith to the commissioner of motor vehicles. The commissioner shall immediately revoke the person's operating license, or nonresident operating privilege or the privilege of an unlicensed operator to operate a motor vehicle for life. However, a person may operate under the terms of an ignition interlock RDL issued pursuant to section 1213 of this title after one year of this lifetime suspension unless the offense involved a refusal to consent to a law enforcement officer's reasonable request for an evidentiary test or a collision resulting in serious bodily injury or death to another.

Sec. 7. 23 V.S.A. § 1209a is amended to read:

§ 1209a. CONDITIONS OF REINSTATEMENT; ALCOHOL AND DRIVING EDUCATION; SCREENING; THERAPY PROGRAMS

(a) Conditions of reinstatement. No license suspended or revoked under this subchapter, except a license suspended under section 1216 of this title, shall be reinstated except as follows:

(1) In the case of a first suspension, a license shall ~~not~~ be reinstated ~~until the person has~~ only:

(A) after the person has successfully completed an alcohol and driving education program, at the person's own expense, followed by an assessment of the need for further treatment by a state designated counselor, at the person's own expense, to determine whether reinstatement should be further conditioned on satisfactory completion of a therapy program agreed to by the person and the drinking driver rehabilitation program director; ~~and~~

(B) if the screening indicates that therapy is needed, after the person has satisfactorily completed or shown substantial progress in completing a therapy program at the person's own expense agreed to by the person and the driver rehabilitation program director;

(C) if electing to operate under an ignition interlock RDL, after the person has operated under a valid RDL for a period of six months, or if the RDL is permanently revoked, after one year from the date of suspension; and

(D) if the person has no pending criminal charges, civil citations, or unpaid civil penalties for a violation under this chapter.

(2) In the case of a second suspension, a license shall not be reinstated until the person has successfully completed an alcohol and driving rehabilitation program ~~and~~; has completed or shown substantial progress in completing a therapy program at the person's own expense agreed to by the person and the driver rehabilitation program director; if electing to operate under an ignition interlock RDL, has operated under the terms of a valid ignition interlock RDL for 18 months; and has no pending criminal charges, civil citations, or unpaid civil penalties for a violation under this chapter. However, if the RDL is permanently revoked, the person shall not be eligible for license reinstatement until two years from the date of suspension.

(3) In the case of a third or subsequent suspension or a revocation, a license shall not be reinstated until the person has successfully completed an alcohol and driving rehabilitation program; has completed or shown substantial progress in completing a therapy program at the person's own expense agreed to by the person and the driver rehabilitation program director; has satisfied the requirements of subsection (b) of this section; if electing to operate under an ignition interlock RDL, has operated under the terms of a valid ignition interlock RDL for a period of three years; and has no pending criminal charges, civil citations, or unpaid civil penalties for a violation under this chapter. However, if the RDL is permanently revoked, the person shall not be eligible for license reinstatement until four years from the date of suspension.

* * *

Sec. 8. 23 V.S.A. § 1212 is amended to read:

§ 1212. CONDITIONS OF RELEASE; ARREST UPON VIOLATION

(a) At the first appearance before a judicial officer of a person charged with violation of section 1201 of this title, the court, upon a plea of not guilty, shall consider whether to establish conditions of release. Those conditions may include a requirement that the defendant not operate a motor vehicle if there is a likelihood that the defendant will operate a motor vehicle in violation of section 1201 or section 1213 of this title. The court may consider all relevant evidence, including whether the defendant has a motor vehicle or criminal record indicating prior convictions for one or more alcohol-related offenses. Prior convictions may be established for this purpose by a noncertified photocopy of a motor vehicle record, a computer printout or an affidavit. Nothing in this section limits the authority of a judicial officer to impose other conditions of release, nor does it limit or modify other statutory provisions concerning license suspension or revocation or the right of a person to operate a motor vehicle.

* * *

Sec. 9. 23 V.S.A. § 1213 is amended to read:

§ 1213. ~~[RESERVED FOR FUTURE USE.]~~ IGNITION INTERLOCK RESTRICTED

DRIVER'S LICENSE; PENALTIES

(a) First offense. A person whose license or privilege to operate is suspended for a first offense under this subchapter shall be permitted to operate a motor vehicle, other than a commercial motor vehicle as defined in section 4103 of this title, if issued a valid ignition interlock RDL. The commissioner shall issue an ignition interlock RDL to a person eligible under sections 1205(a)(2), 1206(a), or 1216(a)(1) of this title and upon receipt of satisfactory proof of installation of an approved ignition interlock device in any motor vehicle to be operated, financial responsibility as provided in section 801 of this title, and enrollment in an alcohol and driving education program. An ignition interlock RDL shall expire upon reinstatement of a person's regular license or privilege to operate or shall expire unless renewed yearly. The commissioner shall send by first class mail an application for renewal of the RDL at least 30 days prior to the day renewal is required and shall impose the same conditions for renewal as are required for initial issuance of an ignition interlock RDL.

(b) Second offense. A person whose license or privilege to operate is suspended for a second offense under this subchapter shall be permitted to

operate a motor vehicle, other than a commercial motor vehicle as defined in section 4103 of this title, if issued a valid ignition interlock RDL. The commissioner shall issue an ignition interlock RDL to a person eligible under subsections 1205(m), 1208(a), or 1216(a)(2) of this title and upon receipt of satisfactory proof of installation of an approved ignition interlock device in any motor vehicle to be operated, financial responsibility as provided in section 801 of this title, and enrollment in an alcohol and driving rehabilitation program. The RDL shall be valid after expiration of the applicable shortened period specified in subsections 1205(m), 1208(a), or 1216(a)(2) of this title. An ignition interlock RDL shall expire upon reinstatement of a person's regular license or privilege to operate or shall expire unless renewed yearly. The commissioner shall send by first class mail an application for renewal of the RDL at least 30 days prior to the day renewal is required and shall impose the same conditions for renewal as are required for initial issuance of an ignition interlock RDL.

(c) Third or subsequent offense. A person whose license or privilege to operate is suspended or revoked for a third or subsequent offense under this subchapter shall be permitted to operate a motor vehicle, other than a commercial motor vehicle as defined in section 4103 of this title, if issued a valid ignition interlock RDL. The commissioner shall issue an ignition interlock RDL to a person eligible under subsections 1205(m), 1208(b), or 1216(a)(2) of this title and upon receipt of satisfactory proof of installation of an approved ignition interlock device in any motor vehicle to be operated, financial responsibility as provided in section 801 of this title, and enrollment in an alcohol and driving rehabilitation program. The RDL shall be valid after expiration of the applicable shortened period specified in subsections 1205(m), 1208(b), or 1216(a)(2) of this title. An ignition interlock RDL shall expire upon reinstatement of a person's regular license or privilege to operate or shall expire unless renewed yearly. The commissioner shall send by first class mail an application for renewal of the RDL at least 30 days prior to the day renewal is required and shall impose the same conditions for renewal as are required for initial issuance of an ignition interlock RDL.

(d) If a fine is to be imposed for a conviction of a violation of section 1201 of this title, upon receipt of proof of installation of an approved ignition interlock device the court shall order that the fine conditionally be reduced by one-half to defray the costs of the ignition interlock device, subject to the person's ongoing operation under, and compliance with the terms of, a valid ignition interlock RDL as set forth in this section.

(e) The holder of an ignition interlock RDL shall pay the costs of installing, purchasing or leasing, and removing the ignition interlock device as well as calibrating the device and retrieving data from it periodically as may be

specified by the commissioner. The holder of an ignition interlock RDL shall notify the commissioner and the department of corrections in writing if the device is removed or if the vehicle in which the device is installed is sold, repossessed, or otherwise conveyed. Notice shall be provided within 10 days of such removal or conveyance, and the commissioner shall cancel the person's ignition interlock RDL upon receipt of notice under this subsection.

(f) The holder of an ignition interlock RDL shall operate only motor vehicles equipped with an ignition interlock device until his or her license or privilege to operate is reinstated, shall not attempt or take any action to tamper with or otherwise circumvent the holder's ignition interlock device, and shall not continue to drive after failing a retest.

(g) A person who violates any provision of subsection (f) of this section before reinstatement of a license or privilege to operate suspended under this subchapter commits a criminal offense, shall be subject to the sanctions and procedures provided for in subsections 674(b)–(i) of this title, and upon conviction shall have his or her ignition interlock RDL permanently revoked. A person convicted of a separate criminal offense under this title also shall have his or her ignition interlock RDL permanently revoked.

(h) A person who violates a rule adopted by the commissioner pursuant to subsection (l) of this section commits a civil traffic violation subject to the jurisdiction of the judicial bureau and shall be subject to a civil penalty of up to $500.00 and up to a one-year recall of the person's ignition interlock RDL.

(i) Upon receipt of notice that the holder of an ignition interlock RDL has been adjudicated of a separate civil offense under this title that would result in suspension, revocation, or recall of a license or privilege to operate, the commissioner shall recall the person's ignition interlock RDL for the same period that the license or privilege to operate would have been suspended, revoked, or recalled.

(j) Upon expiration of a recall imposed under subsection (h) or (i) of this section and receipt of satisfactory proof of installation of an approved ignition interlock device, financial responsibility as provided in section 801 of this title, and enrollment in or completion of an alcohol and driving education or rehabilitation program, the commissioner shall reinstate the ignition interlock RDL. The commissioner may charge a fee for reinstatement in the amount specified in section 675 of this title.

(k) A person shall not knowingly and voluntarily tamper with an ignition interlock device on behalf of another person or otherwise assist another person to circumvent an ignition interlock device. A person adjudicated of a violation of this subsection shall be subject to a civil penalty of $500.00.

(l)(1) The commissioner, in consultation with the commissioner of corrections and any individuals or entities the commissioner deems appropriate, shall adopt rules and may enter into agreements to implement the provisions of this section.

(2) The commissioner shall establish uniform performance standards for ignition interlock devices including required levels of accuracy in measuring blood alcohol concentration, efficacy in distinguishing valid breath samples, the occurrence of random retests while the vehicle is running, and automatic signaling by the vehicle if the operator fails such a retest. The commissioner shall certify devices that meet these standards, specify any periodic calibration that may be required to ensure accuracy of the devices, and specify the means and frequency of the retrieval and sharing of data collected by ignition interlock devices.

Sec. 10. 23 V.S.A. § 1216 is amended to read:

§ 1216. PERSONS UNDER 21; ALCOHOL CONCENTRATION OF 0.02 OR MORE

(a) A person under the age of 21 who operates, attempts to operate or is in actual physical control of a vehicle on a highway when the person's alcohol concentration is 0.02 or more, commits a civil traffic violation subject to the jurisdiction of the judicial bureau and subject to the following sanctions:

(1) For a first violation, the person's license or privilege to operate shall be suspended for six months and until the person complies with subdivision 1209a(a)(1) of this title. However, a person may operate under the terms of an ignition interlock RDL issued pursuant to section 1213 of this title, notwithstanding the six-month suspension unless the offense involved a refusal to consent to a law enforcement officer's reasonable request for an evidentiary test or a collision resulting in serious bodily injury or death to another.

(2) For a second or subsequent violation, the person's license or privilege to operate shall be suspended until the person reaches the age of 21 or for one year, whichever is longer, and complies with ~~section~~ subdivision 1209a(a)(2) of this title. However, a person may operate under the terms of an ignition interlock RDL issued pursuant to section 1213 of this title after 90 days of the applicable suspension period unless the offense involved a refusal to consent to a law enforcement officer's reasonable request for an evidentiary test or a collision resulting in serious bodily injury or death to another.

(b) ~~Notwithstanding the provisions in subsection (a) of this section to the contrary, a~~ A person's license or privilege to operate that has been suspended under this section shall not be reinstated until:

(1) the commissioner has received satisfactory evidence that the person has complied with section 1209a of this title and the provider of the therapy program has been paid in full;

(2) the person has no pending criminal charges, civil citations, or unpaid civil penalties for a violation under this chapter; and

(3)(A) a person operating under an ignition interlock RDL for a first offense has operated under a valid RDL for a period of nine months or, if the RDL is permanently revoked, after one year from the date of suspension; or

(B) a person operating under an ignition interlock RDL for a second or subsequent offense has operated under a valid RDL for a period of 18 months or until the person is 21, whichever is longer, or if the RDL is permanently revoked, after two years from the date of suspension or until the person is 21, whichever is longer.

* * *

Sec. 11. TRANSITION RULE

On July 1, 2011, ignition interlock restricted driver's licenses shall be available to persons suspended for a violation of 23 V.S.A. §§ 1201 or 1216 or pursuant to 23 V.S.A. § 1205 prior to July 1, 2011, if such persons otherwise would be eligible for an ignition interlock RDL under this act. Persons who elect to obtain an ignition interlock RDL pursuant to this section shall be subject to all of the provisions of this act but shall not be eligible for the reduced fine specified in subsection (d) of Sec. 9, and shall be so notified by the commissioner in advance of obtaining an ignition interlock RDL.

Sec. 12. INDIGENT FUND AND DMV FEE STUDY

(a) The commissioner of motor vehicles, in consultation with any individuals or entities the commissioner deems appropriate, shall study whether creation of a fund to assist indigent persons in defraying the costs associated with ignition interlock devices is likely to promote the use of ignition interlock devices, as well as potential funding sources and mechanisms. In conducting this study, the commissioner shall review ignition interlock laws and practices and usage of ignition interlock devices in other states.

(b) The commissioner also shall study the costs associated with issuing and renewing ignition interlock RDLs and the minimum fees that will be required to defray the costs of issuing and renewing ignition interlock RDLs.

(c) The commissioner shall report the findings of these studies and any recommendations concerning creation of an ignition interlock indigent fund or minimum fees to the senate and house committees on judiciary and

transportation by January 15, 2011.

Sec. 13. EFFECTIVENESS STUDY

The commissioner of motor vehicles shall monitor and calculate the rate of use of ignition interlock devices in Vermont by those suspended for a violation of 23 V.S.A. §§ 1201 or 1216 or pursuant to 23 V.S.A. § 1205 on or after July 1, 2011. The commissioner, in consultation with any individuals or entities the commissioner deems appropriate, shall study whether changes to this act, including mandating installation of ignition interlock devices, are likely to promote usage. The commissioner shall report the findings of this study and any recommendations to the senate and house committees on judiciary and transportation by January 15, 2013.

Sec. 14. EFFECTIVE DATES

(a) This section, Sec. 12, and subsection 1213(l) of Sec. 9 (ignition interlock rulemaking) shall take effect on passage.

(b) All other sections of this act shall take effect on July 1, 2011.

and that after passage, the title of the bill be amended to read: "An act relating to ignition interlock restricted drivers' licenses"

(Committee vote: 10-0-1)

(For text see Senate Journal 3/18 - 3/19/10)

S. 138

An act relating to unfair business practices of credit card companies and fraudulent use of scanning devices and re-encoders

Rep. Marcotte of Coventry, for the Committee on Commerce and Economic Development**,** recommends that the House propose to the Senate that the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. FINDINGS

(a) While credit card use offers benefits to consumers and merchants, including safety of financial information, convenience, and guaranteed payment to merchants, courts have found that Visa and MasterCard and their member banks have major market power.

(b) Electronic payment system networks, such as those incorporated by Visa and MasterCard, set the level of credit and debit card interchange fees charged by their member banks, even though those banks are supposed to be competitors.

(c) Credit and debit card interchange fees inflate the prices consumers pay for goods and services. Competitors should set their own prices and compete on that basis.

(d) Consumers are increasingly using credit and debit card electronic payment systems to purchase goods and services.

(e) In order to provide the desired convenience to consumers, most merchants agree to accept credit and debit cards.

(f) Some electronic payment system networks market themselves as currency and promote use of their products as though they were a complete substitution for legal tender.

(g) Due to the market power of the two largest electronic payment system networks, merchants do not have negotiating power with regard to the contract for acceptance of credit and debit cards and the cost of the interchange fees for such acceptance.

(h) Merchants are subject to contracts that allow the electronic payment system networks to change the terms without notice, subject merchants to substantial fines, or reinterpret the rules and hold the merchant responsible.

(i) Merchants have expressed interest in working with customers to give customers the types of pricing options they would like but that are currently blocked by the terms or interpretations of contracts necessary to accept credit and debit cards.

(j) Businesses in Vermont are also consumers. The protections of this bill are intended to apply to all consumers, including businesses, in Vermont.

Sec. 2. 9 V.S.A. chapter 63, subchapter 4 is added to read:

Subchapter 4. Prevention of Credit Card Company Unfair Business Practices

§ 2480o. DEFINITIONS

For purposes of this subchapter:

(1) "Electronic payment system" means an entity that directly or through licensed members, processors, or agents provides the proprietary services, infrastructure, and software that route information and data to facilitate transaction authorization, clearance, and settlement, and that merchants are required to access in order to accept a specific brand of general-purpose credit cards, charge cards, debit cards, or stored-value cards as payment for goods and services.

(2) "Merchant" means a person or entity that, in Vermont:

(A)(i) does business; or

(ii) offers goods or services for sale; and

(B) has a physical presence.

§ 2480p. ELECTRONIC PAYMENT SYSTEMS

With respect to transactions involving Vermont merchants, no electronic payment system may directly or through any agent, processor, or member of the system:

(1) Impose any requirement, condition, penalty, or fine in a contract with a merchant to inhibit the ability of any merchant to provide a discount or other benefit for payment through the use of a card of another electronic payment system, cash, check, debit card, stored-value card, charge card, or credit card rather than another form of payment.

(2) Impose any requirement, condition, penalty, or fine in a contract with a merchant to prevent the ability of any merchant to set a minimum dollar value of no more than $10.00 for its acceptance of a form of payment, provided that if a minimum dollar value is set by a merchant, it shall be prominently displayed and printed in not less than 16-point boldface type at the point of sale.

(3) Impose any requirement, condition, penalty, or fine in a contract with a merchant to inhibit the ability of any merchant to decide to accept an electronic payment system at one or more of its locations but not at others.

§ 2480q. PENALTIES

(a) The following penalties shall apply to violations of this subchapter:

(1) Any electronic payment system found to have violated section 2480p of this subchapter shall reimburse all affected merchants for all fines related to the prohibitions described in section 2480p which were collected from affected merchants directly or through any agent, processor, or member of the system during the period of time in which the electronic payment system was in violation and shall be liable for a civil penalty of $10,000.00 per fine levied in violation of section 2480p of this subchapter.

(2) Any merchant whose rights under this subchapter have been violated may maintain a civil action for damages or equitable relief as provided for in this section, including attorney's fees, if any.

(3) A violation of section 2480p of this subchapter shall be deemed a violation of chapter 63 of this title, the Consumer Fraud Act. The attorney general has the same authority to conduct civil investigations, enter into assurances of discontinuance, and bring civil actions as provided under

subchapter 1 of chapter 63 of this title.

(b) These penalties shall not apply to entities acting exclusively as agents, processors, or members that are not electronic payment systems.

§ 2480r. SEVERABILITY

If any provision of this subchapter or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this subchapter which can be given effect without the invalid provision or application, and, to this end, the provisions of this subchapter are severable.

Sec. 3. 13 V.S.A. § 1816 is added to read:

§ 1816. POSSESSION OR USE OF CREDIT CARD SKIMMING DEVICES AND REENCODERS

(a) A person who knowingly, wittingly, and with the intent to defraud possesses a scanning device, or who knowingly, wittingly, and with intent to defraud uses a scanning device to access, read, obtain, memorize, or store, temporarily or permanently, information encoded on the computer chip or magnetic strip of a payment card without the permission of the authorized user of the payment card shall be imprisoned not more than 10 years and fined not more than $10,000.00, or both.

(b) A person who knowingly, wittingly, and with the intent to defraud possesses a reencoder, or who knowingly, wittingly, and with the intent to defraud uses a reencoder to place encoded information on the computer chip or magnetic strip or stripe of a payment card or any electronic medium that allows an authorized transaction to occur without the permission of the authorized user of the payment card from which the information is being reencoded shall be imprisoned not more than 10 years or fined not more than $10,000.00, or both.

(c) Any scanning device or reencoder described in subsection (e) of this section allegedly possessed or used in violation of subsection (a) or (b) of this section shall be seized and upon conviction shall be forfeited. Upon forfeiture, any information on the scanning device or reencoder shall be removed permanently.

(d) Any computer, computer system, computer network, or any software or data owned by the defendant which are used during the commission of any public offense described in this section or any computer owned by the defendant which is used as a repository for the storage of software or data illegally obtained in violation of this section shall be subject to forfeiture.

(e) For purposes of this section:

(1) "Payment card" means a credit card, debit card, or any other card that is issued to an authorized user and that allows the user to obtain, purchase, or receive goods, services, money, or anything else of value.

(2) "Reencoder" means an electronic device that places encoded information from the computer chip or magnetic strip or stripe of a payment card onto the computer chip or magnetic strip or stripe of a different payment card or any electronic medium that allows an authorized transaction to occur.

(3) "Scanning device" means a scanner, reader, or any other electronic device that is used to access, read, scan, obtain, memorize, or store, temporarily or permanently, information encoded on the computer chip or magnetic strip or stripe of a payment card.

(f) Nothing in this section shall preclude prosecution under any other provision of law.

Sec. 4. STUDY; REPORT

On or before December 15, 2011, the department of banking, insurance, securities, and health care administration shall:

(1) collect, examine, organize, and categorize by author entity, such as government or private, the available studies that have been performed on credit card interchange fees; and

(2) report to the senate committees on judiciary and finance and the house committees on commerce and economic development and judiciary its findings, recommendations, and legislative proposals, if any, relating to its findings.

Sec. 5. EFFECTIVE DATES

(a) Secs. 1, 2, and 4 of this act shall take effect January 1, 2011.

(b) This section and Sec. 3 of this act shall take effect upon passage.

(Committee vote: 10-1-0)

(For text see Senate Journal 3/30 - 3/31/10)

Amendment to be offered by Rep. Savage of Swanton to S. 138

Rep. Savage of Swanton moves that the House propose to the Senate the bill be amended in Sec. 2, 9 V.S.A. § 2480o, in subdivision (2), by inserting after the words "person or entity" the words "with 15 or fewer employees"

S. 222

An act relating to recognition of Abenaki tribes

Rep. Ram of Burlington, for the Committee on General, Housing and Military Affairs**,** recommends that the House propose to the Senate that the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 1 V.S.A. § 851 is amended to read:

§ 851. FINDINGS

The general assembly finds that:

(1) At least 1,700 Vermonters claim to be direct descendants of the several indigenous Native American peoples, now known as Western Abenaki tribes, who originally inhabited all of Vermont and New Hampshire, parts of western Maine, parts of southern Quebec, and parts of upstate New York for hundreds of years, beginning long before the arrival of Europeans.

(2) There is ample archaeological evidence that demonstrates that the Missisquoi Abenaki were indigenous to and farmed the river floodplains of Vermont at least as far back as the 1100s A.D.

(3) The Western Abenaki, including the Missisquoi, have a very definite and carefully maintained oral tradition that consistently references the Champlain valley in western Vermont.

(4) State recognition confers official acknowledgment of the longstanding existence in Vermont of Native American Indians who predated European settlement and enhances dignity and pride in their heritage and community.

~~(4)~~ (5) Many contemporary Abenaki families continue to produce traditional crafts and intend to continue to pass on these indigenous traditions to the younger generations. In order to create and sell Abenaki crafts that may be labeled as Indian- or Native American-produced, the Abenaki must be recognized by the state of Vermont in order to gain approval by the Indian Arts and Crafts Board (IACB) of the Bureau of Indian Affairs.

~~(5) Federal programs may be available to assist with educational and cultural opportunities for Vermont Abenaki and other Native Americans who reside in Vermont~~

(6) State recognition will also increase access to federal programs and resources to Vermont tribes that support culture and language preservation, social services, education, and other benefits.

(7) In May 2006, the general assembly passed S.117, Act No. 125, which created the Vermont Commission on Native American affairs and recognized the Abenaki and all other Native American people living in Vermont as a minority population. According to Indian case law, recognition as a racial minority population prevents the group from being recognized as a tribal political entity, a designation that would provide the group with access to federal resources.

(8) According to a public affairs specialist with the U.S. Bureau of Indian Affairs (BIA), state recognition of Indian tribes plays a very small role with regard to federal recognition. The only exception is when a state recognized a tribe before 1900.

(9) At least 15 other states have recognized their resident indigenous people as Native American Indian tribes without any of those tribes previously or subsequently acquiring federal recognition.

(10) State-recognized Native American Indian tribes and their members will continue to be subject to all laws of the state, and recognition shall not be construed to create any basis or authority for tribes to establish or promote any form of prohibited gambling activity or to claim any interest in land or real estate in Vermont.

Sec. 2. Chapter 23 of Title 1 is amended to read:

Chapter 23. ~~Abenaki~~ Native American Indian People

Sec. 3. 1 V.S.A. § 852 is amended to read:

§ 852. VERMONT COMMISSION ON NATIVE AMERICAN AFFAIRS ESTABLISHED; AUTHORITY

(a) In order to recognize the historic and cultural contributions of Native Americans to Vermont, to protect and strengthen their heritage, and to address their needs in state policy, programs, and actions, there is hereby established the Vermont commission on Native American affairs (the "commission").

(b) The commission shall ~~comprise seven~~ be composed of nine members appointed by the governor for staggered two-year terms from a list of candidates compiled by the division for historic preservation. ~~The governor shall appoint a chair from among the members of the commission.~~ The governor shall appoint members who reflect a diversity of affiliations and geographic locations in Vermont. A member may serve for no more than two consecutive terms. The division shall compile a list of ~~candidates' recommendations from the following~~:

~~(1) Recommendations from the Missisquoi Abenaki and other Abenaki and other Native American regional tribal councils and communities in~~

~~Vermont.~~

~~(2) Applicants~~ candidates who apply ~~in response to solicitations, publications, and website notification by~~ to the division ~~of historical preservation~~ are residents of Vermont, and of documented Native American ancestry.

(c) The commission shall ~~have the authority to assist Native American tribal councils, organizations, and individuals to~~:

~~(1) Secure social services, education, employment opportunities, health care, housing, and census information.~~

~~(2) Permit the creation, display, and sale of Native American arts and crafts and legally to label them as Indian or Native American produced as provided in 18 U.S.C. § 1159(c)(3)(B) and 25 U.S.C. § 305e(d)(3)(B).~~

~~(3) Receive assistance and support from the federal Indian Arts and Crafts Board, as provided in 25 U.S.C. § 305 et seq.~~

~~(4) Become eligible for federal assistance with educational, housing, and cultural opportunities.~~

~~(5) Establish and continue programs offered through the U.S. Department of Education Office on Indian Education pursuant to Title VII of the Elementary and Secondary Education Act established in 1972 to support educational and cultural efforts of tribal entities that have been either state or federally recognized.~~

(1) Elect a chair each year.

(2) Participate in protecting unmarked burial sites and to designate appropriate repatriation of remains in any case in which lineal descendants cannot be ascertained.

(3) Provide technical assistance and an explanation of the process to applicants for state recognition.

(4) Compile and maintain a list of individuals for appointment to a review panel.

(5) Appoint a three-member panel to review supporting documentation of an application for recognition to advise the commission of its accuracy and relevance.

(6) Review each application, supporting documentation, and findings of the review panel and make recommendations for or against state recognition.

(7) Assist Native American Indian tribes recognized by the state to:

(A) Secure assistance for social services, education, employment opportunities, health care, and housing.

(B) Develop and market Vermont Native American fine and performing arts, craft work, and cultural events.

(8) Develop policies and programs to benefit Vermont's Native American Indian population.

(d) The commission shall meet at least three times a year and at any other times at the request of the chair. The division of historic preservation within the agency of commerce and community development ~~and the department of education~~ shall provide administrative support to the commission, including providing communication and contact resources.

(e) The commission may seek and receive funding from federal and other sources to assist with its work.

Sec. 4. 1 V.S.A. § 853 is amended to read:

§ 853. CRITERIA AND PROCESS FOR STATE RECOGNITION OF ~~ABENAKI PEOPLE~~ NATIVE AMERICAN INDIAN TRIBES

~~(a) The state of Vermont recognizes the Abenaki people and recognizes all Native American people who reside in Vermont as a minority population.~~

~~(b) Recognition of the Native American or Abenaki people provided in subsection (a) of this section shall be for the sole purposes specified in subsection 852(c) of this title and shall not be interpreted to provide any Native American or Abenaki person with any other special rights or privileges that the state does not confer on or grant to other state residents.~~

~~(c) This chapter shall not be construed to recognize, create, extend, or form the basis of any right or claim to land or real estate in Vermont for the Abenaki people or any Abenaki individual and shall be construed to confer only those rights specifically described in this chapter.~~

(a) For the purposes of this section:

(1) "Applicant" means a group or band seeking formal state recognition as a Native American Indian tribe.

(2) "Legislative committees" means the house committee on general, housing and military affairs and the senate committee on economic development, housing and general affairs.

(3) "Recognized" or "recognition" means acknowledged as a Native American Indian tribe by the Vermont general assembly or the commission.

(4) "Tribe" means an assembly of Native American Indian people who

are related to each other by kinship and who trace their ancestry to a kinship group which has historically maintained influence and authority over its members.

(b) In order to be eligible for recognition, an applicant must file an application with the commission and demonstrate compliance with subdivisions (1) through (8) of this subsection which may be supplemented by subdivision (9) of this subsection:

(1) A majority of the applicant's members currently reside in a specific geographic location within Vermont.

(2) A substantial number of the applicant's members are related to each other by kinship and trace their ancestry to a kinship group through genealogy.

(3) The applicant has maintained a connection with Native American Indian tribes and bands that have historically inhabited Vermont.

(4) The applicant has historically maintained influence and authority over its members that is supported by documentation of their structure, membership criteria, the tribal roll that indicates the members' names and residential addresses, and the methods by which the applicant conducts its affairs.

(5) The applicant has an enduring community presence within the boundaries of Vermont that is documented by archaeology, ethnography, physical anthropology, history, folklore, or any other applicable scholarly research and data.

(6) The applicant is organized in part:

(A) To preserve, document, and promote its Native American Indian culture and history, and this purpose is reflected in its bylaws.

(B) To address the social, economic, or cultural needs of the members with ongoing educational programs and activities.

(7) The applicant can document traditions, customs, oral stories, and histories that signify the applicant's Native American heritage and connection to their historical homeland.

(8) The applicant has not been recognized as a tribe in any other state, province, or nation.

(9) Submission of letters, statements, and documents from:

(A) Municipal, state or federal authorities that document the applicant's history of tribe-related business and activities.

(B) Tribes in and outside Vermont that attest to the Native American

Indian heritage of the applicant.

(c) The commission shall consider the application pursuant to the following process established by the commission which shall include at least the following requirements:

(1) The commission shall:

(A) Provide public notice of receipt of the application and supporting documentation.

(B) Hold at least one public hearing on the application.

(B) Provide written notice of completion of each step of the recognition process to the applicant.

(2) Established appropriate time frames that include a requirement that the commission complete review of the application and issue a determination regarding recognition within one year after an application and all the supporting documentation have been filed, and if a recommendation is not issued, the commission shall provide written explanation to the applicant and the legislative committees of the reasons for the delay and the expected date that a decision will be issued.

(3) A process for appointing a three-member review panel for each application to review the supporting documentation and determine its sufficiency, accuracy, and relevance. The review panel shall provide a detailed written report of its findings and conclusions to the commission, the applicant, and legislative committees. Members of each review panel shall be appointed cooperatively by the commission and the applicant from a list of professionals and academic scholars with expertise in cultural or physical anthropology, Indian law, archeology, Native American Indian genealogy, history, or another related Native American Indian subject area. No member of the review panel may be a member of the commission or affiliated with or on the tribal rolls of the applicant.

(4) The commission shall review the application, the supporting documentation, the report from the review panel, and any other relevant information to determine compliance with the subsection (b) of this section and make a determination to recommend or deny recognition. The decision to recommend recognition shall require a majority vote of all eligible members of the commission. A member of the commission who is on the tribal roll of the applicant is ineligible to participate in any action regarding the application. If the commission denies recognition, the commission shall provide the applicant and the legislative committees with written notice of the reasons for the denial, including specifics of all insufficiencies of the application.

(5) The applicant may file additional supporting documentation for reconsideration within one year after receipt of the notice of denial.

(6) An applicant may withdraw an application any time before the commission issues a decision, and may not file a new application for two years following withdrawal. A new application and supporting documentation shall be considered a de novo filing, and the commission shall not consider the withdrawn application or its supporting documentation.

(7) If the commission recommends that the applicant be recognized as a Native American Indian tribe, the commission shall provide a detailed written report of its findings and conclusions to the applicant and the legislative committees along with a recommendation that the general assembly recognize the applicant as a Native American Indian tribe.

(8) All proceedings, applications, and supporting documentation shall be public except material exempt pursuant to subsection 317 of this title.

(d) An applicant for recognition shall be recognized as follows:

(1) By approval of the general assembly.

(2) Two years after a recommendation to recognize a tribe by the commission is filed with the legislative committees, provided the general assembly took no action on the recommendation.

(e) A decision by the commission to recommend denial of recognition is final unless an applicant or a successor of interest to the applicant that has previously applied for and been denied recognition under this chapter provides new and substantial documentation and demonstrates that the new documentation was not reasonably available at the time of the filing of the original application.

(f) Vermont Native American Indian bands and tribes and individual members of those bands and tribes remain subject to all the laws of the state.

(g) Recognition of a Native American Indian tribe shall not be construed to create, extend, or form the basis of any right or claim to land or real estate in Vermont or right to conduct any gambling activities prohibited by law, but confers only those rights specifically described in this chapter.

Sec. 5. EFFECTIVE DATE

This act shall take effect on passage.

and that the bill title be amended to read: "An act relating to state recognition of Native American Indian tribes in Vermont"

(Committee vote: 7-1-0)

(For text see Senate Journal 3/18/10)

S. 263

An act relating to the Vermont Benefit Corporations Act

Rep. Smith of Mendon, for the Committee on Commerce and Economic Development**,** recommends that the House propose to the Senate that the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 11A V.S.A. chapter 21 is added to read:

CHAPTER 21. BENEFIT CORPORATIONS

§ 21.01. SHORT TITLE

This chapter shall be known and may be cited as the "Vermont Benefit Corporations Act."

§ 21.02. LAW APPLICABLE

(a) This chapter shall apply only to a domestic corporation meeting the definition of a benefit corporation in subdivision 21.03(a)(1) of this title. The provisions of this title other than those set forth in this chapter shall apply to a

benefit corporation in the absence of a contrary or inconsistent provision in this chapter. A corporation whose status as a benefit corporation terminates shall immediately become subject to the obligations and rights of a general corporation as provided in this title.

(b) The existence of a provision of this chapter does not of itself create any implication that a contrary or different rule of law is or would be applicable to a corporation that is not a benefit corporation. This chapter does not affect any statute or rule of law as it applies to a corporation that is not a benefit corporation.

(c) A provision of the articles of incorporation or bylaws of a benefit corporation may not be inconsistent with any provision of this chapter.

(d) Terms that are defined in other chapters of this title shall have the same meaning when used in this chapter, except that in this chapter, "corporation" shall have the meaning set forth in section 1.40 of this title.

§ 21.03. DEFINITIONS

(a) As used in this chapter:

(1) "Benefit corporation" means a corporation as defined in section 1.40 of this title whose articles of incorporation include the statement "This corporation is a benefit corporation."

(2) "Benefit director" means a director designated as a benefit director of a benefit corporation as provided in section 21.10 of this title.

(3) "Benefit officer" means the officer of a benefit corporation, if any, designated as the benefit officer as provided in section 21.12 of this title.

(4) "General public benefit" means a material positive impact on society and the environment, as measured by a third-party standard, through activities that promote some combination of specific public benefits.

(5) "Independent" means that a person has no material relationship with a benefit corporation or any of its subsidiaries (other than the relationship of serving as the benefit director or benefit officer), either directly or as an owner or manager of an entity that has a material relationship with the benefit corporation or any of its subsidiaries. A material relationship between a person and the benefit corporation or any of its subsidiaries will be conclusively presumed to exist if:

(A) the person is, or has been within the last three years, an employee of the benefit corporation or any of its subsidiaries, other than as a benefit officer;

(B) an immediate family member of the person is, or has been within

the last three years, an executive officer, other than a benefit officer, of the benefit corporation or any of its subsidiaries; or

(C) the person, or an entity of which the person is a manager or in which the person owns beneficially or of record five percent or more of the equity interests, owns beneficially or of record five percent or more of the shares of the benefit corporation.

(6) "Specific public benefit" includes:

(A) providing low income or underserved individuals or communities with beneficial products or services;

(B) promoting economic opportunity for individuals or communities beyond the creation of jobs in the normal course of business;

(C) preserving or improving the environment;

(D) improving human health;

(E) promoting the arts or sciences or the advancement of knowledge;

(F) increasing the flow of capital to entities with a public benefit purpose; and

(G) the accomplishment of any other identifiable benefit for society or the environment.

(7) "Subsidiary" of a person means an entity in which the person owns beneficially or of record 50 percent or more of the equity interests.

(8) "Third-party standard" means a recognized standard for defining, reporting, and assessing corporate social and environmental performance that:

(A) is developed by a person that is independent of the benefit corporation; and

(B) is transparent because the following information about the standard is publicly available:

(i) the factors considered when measuring the performance of a business;

(ii) the relative weightings of those factors; and

(iii) the identity of the persons who developed and control changes to the standard and the process by which those changes are made.

(b) For purposes of subdivisions (a)(5)(C) and (7), a percentage of ownership in an entity shall be calculated as if all outstanding rights to acquire equity interests in the entity had been exercised.

§ 21.04. INCORPORATION OF A BENEFIT CORPORATION

A benefit corporation shall be formed in accordance with sections 2.01, 2.02, 2.03, and 2.05 of this title, except that its articles of incorporation shall also contain the provision required by subdivision 21.03(a)(1) of this title to meet the definition of a benefit corporation.

§ 21.05. ELECTION OF EXISTING CORPORATION TO BECOME A BENEFIT CORPORATION

Any corporation organized under this title may become a benefit corporation by amending its articles of incorporation to add the statement required by subdivision 21.03(a)(1) of this title to meet the definition of a benefit corporation. The amendment shall be adopted and shall become effective in accordance with sections 10.01 through 10.09 of this title, except that:

(1) the notice of the meeting of shareholders that will approve the amendment shall include a statement from the board of directors of the reasons why the board is proposing the amendment and the anticipated effect on shareholders of becoming a benefit corporation; and

(2) the amendment shall be approved by the higher of:

(A) the vote required by the articles of incorporation; or

(B) two-thirds of the votes entitled to be cast by the outstanding shares of the corporation, provided that if any class of shares is entitled to vote as a group, approval shall also require the affirmative vote of the holders of at least two-thirds of the votes entitled to be cast by the outstanding shares of each voting group.

§ 21.06. MERGER AND SHARE EXCHANGE

(a) A plan of merger or share exchange that if effected would terminate the benefit corporation status of a corporation shall be adopted and shall become effective in accordance with chapter 11 of this title, except that:

(1) the notice of the meeting of shareholders that will approve the plan shall include a statement from the board of directors of the reasons why the board is proposing that the surviving corporation should not be a benefit corporation and the anticipated effect on the shareholders of the surviving corporation ceasing to be a benefit corporation; and

(2) the plan shall be approved by the higher of:

(A) the vote required by the articles of incorporation; or

(B) two-thirds of the votes entitled to be cast by the outstanding

shares of the corporation, provided that if any class of shares is entitled to vote as a group, approval shall also require the affirmative vote of the holders of at least two-thirds of the votes entitled to be cast by the outstanding shares of each voting group.

(b) If a corporation that is not a benefit corporation is a party to a plan of merger or share exchange in which the surviving corporation is a benefit corporation, the plan of merger shall be adopted and shall become effective in accordance with chapter 11 of this title, except that:

(1) the notice of the meeting of shareholders that will approve the plan shall include a statement from the board of directors of the reasons why the board is proposing that the surviving corporation should become a benefit corporation and the effect on the shareholders of the surviving corporation becoming a benefit corporation; and

(2) the plan shall be approved in the case of the corporation that is not a benefit corporation by the higher of:

(A) the vote required by the articles of incorporation; or

(B) two-thirds of the votes entitled to be cast by the outstanding shares of the corporation, provided that if any class of shares is entitled to vote as a group, approval shall also require the affirmative vote of the holders of at least two-thirds of the votes entitled to be cast by the outstanding shares of each voting group.

§ 21.07. TERMINATION OF BENEFIT CORPORATION STATUS BY AMENDMENT OF ARTICLES OF INCORPORATION; VOTE REQUIRED

A corporation may terminate its status as a benefit corporation and cease to be subject to this chapter by amending its articles of incorporation to delete the provision required by subdivision 21.03(a)(1) of this title to meet the definition of a benefit corporation, in addition to the provisions required by section 2.02 of this title to be stated in the articles of incorporation of a benefit corporation. The amendment shall be adopted and shall become effective in accordance with sections 10.01 through 10.09 of this title, except that:

(1) the notice of the meeting of shareholders that will approve the plan shall include a statement from the board of directors of the reasons why the board is proposing the amendment and the effect of terminating the status of the corporation as a benefit corporation; and

(2) the amendment shall be approved by the higher of:

(A) the vote required by the articles of incorporation; or

(B) two-thirds of the votes entitled to be cast by the outstanding shares of the corporation, provided that if any class of shares is entitled to vote as a group, approval shall also require the affirmative vote of the holders of at least two-thirds of the votes entitled to be cast by the outstanding shares of each voting group.

§ 21.08. CORPORATE PURPOSE

(a) A benefit corporation shall have the purpose of creating general public benefit. This purpose is in addition to, and may be a limitation on, the purposes of the benefit corporation under subsection 3.01(a) of this title.

(b) The articles of incorporation of a benefit corporation may identify one or more specific public benefits that are the purpose of the benefit corporation to create in addition to its purposes under subsection 3.01(a) of this title and subsection (a) of this section. The adoption of a specific public benefit purpose under this subsection does not limit the obligation of a benefit corporation to create general public benefit.

(c) The creation of general and specific public benefit as provided in subsections (a) and (b) of this section is in the best interests of the benefit corporation.

(d) A benefit corporation may amend its articles of incorporation to add, amend, or delete a specific public benefit. The amendment shall be adopted and shall become effective in accordance with sections 10.01 through 10.09 of this title and shall be approved by the higher of the vote required by the articles of incorporation or by subsection (e) of this section.

(e) An amendment of the articles of incorporation of a benefit corporation to add, amend, or delete a specific public benefit in the articles of incorporation shall be adopted by a vote of at least two-thirds of the votes entitled to be cast by the outstanding shares of the corporation, provided that if any class of shares is entitled to vote as a group, approval shall also require the affirmative vote of the holders of at least two-thirds of the votes entitled to be cast by the outstanding shares of each voting group.

§ 21.09. STANDARD OF CONDUCT FOR DIRECTORS

(a) Each director of a benefit corporation, in discharging his or her duties as a director, including the director's duties as a member of a committee:

(1) shall, in determining what the director reasonably believes to be in the best interests of the benefit corporation, consider the effects of any action or inaction upon:

(A) the shareholders of the benefit corporation;

(B) the employees and workforce of the benefit corporation and its subsidiaries and suppliers;

(C) the interests of customers to the extent they are beneficiaries of the general or specific public benefit purposes of the benefit corporation;

(D) community and societal considerations, including those of any community in which offices or facilities of the benefit corporation or its subsidiaries or suppliers are located;

(E) the local and global environment; and

(F) the long-term and short-term interests of the benefit corporation, including the possibility that those interests may be best served by the continued independence of the benefit corporation;

(2) may consider any other pertinent factors or the interests of any other group that the director determines are appropriate to consider;

(3) shall not be required to give priority to the interests of any particular person or group referred to in subdivisions (1) or (2) of this subsection over the interests of any other person or group unless the benefit corporation has stated its intention to give priority to interests related to its specific public benefit purpose in its articles of incorporation; and

(4) shall not be subject to a different or higher standard of care when an action or inaction might affect control of the benefit corporation.

(b) The consideration of interests and factors in the manner described in subsection (a) of this section shall not constitute a violation of section 8.30 of this title.

(c) A director is not liable for the failure of a benefit corporation to create general or specific public benefit.

(d) A director is not liable to the benefit corporation or any person entitled to bring a benefit enforcement proceeding under section 21.13 of this title for any action or failure to take action in his or her official capacity if the director performed the duties of his or her office in compliance with section 8.30 of this title and with this section.

(e) A director of a benefit corporation shall have a fiduciary duty only to those persons entitled to bring a benefit enforcement proceeding against the benefit corporation under section 21.13 of this title. A director of a benefit corporation shall not have any fiduciary duty to a person who is a beneficiary of the general or specific public benefit purposes of the benefit corporation arising only from the person's status as a beneficiary.

§ 21.10. BENEFIT DIRECTOR

(a) The board of directors of a benefit corporation shall include at least one director who shall be designated a "benefit director" and shall have, in addition to all of the powers, duties, rights, and immunities of the other directors of the benefit corporation, the powers, duties, rights, and immunities provided in this section.

(b) A benefit director shall be elected and may be removed in the manner provided by subchapter 1 of chapter 8 of this title and shall be an individual who is independent of the benefit corporation. A benefit director may serve as the benefit officer at the same time as serving as a benefit director. The articles of incorporation or bylaws of a benefit corporation may prescribe additional qualifications of a benefit director not inconsistent with this subsection.

(c)(1) A benefit director shall be responsible for the preparation of the annual benefit report required under section 21.14 of this title.

(2) A benefit director may retain an independent third party to audit the annual benefit report or conduct any other assessment of the benefit corporation's social and environmental performance.

(3) A benefit director shall prepare and shall include in the annual benefit report a statement whether, in the opinion of the benefit director:

(A) the benefit corporation acted in accordance with its general public benefit purpose and any specific public benefit purpose in all material respects during the period covered by the report; and

(B) the directors and officers acted in accordance with the requirements of subsection 21.09(a) and section 21.11 of this title, respectively.

(4) If in the opinion of the benefit director the benefit corporation failed to act in accordance with its general and any specific public benefit purposes or if its directors or officers failed to act in accordance with the requirements of subsection 21.09(a) and section 21.11 of this title, respectively, then the statement of the benefit director shall include a description of the ways in which the benefit corporation or its directors or officers failed to so act.

(d) The acts and omissions of an individual in the capacity of a benefit director shall constitute for all purposes acts and omissions of that individual in the capacity of a director of the benefit corporation.

(e) If the articles of incorporation of a benefit corporation that is a close corporation dispense with a board of directors pursuant to sections 20.08 and 20.09 of this title, then the articles of incorporation shall provide that the persons who perform the duties of a board of directors shall include at least

one person with the powers, duties, rights, and immunities of a benefit director.

(f) Regardless of whether the articles of incorporation of a benefit corporation include a provision eliminating or limiting the personal liability of directors authorized by subdivision 2.02(b)(4) of this title, a benefit director shall not be personally liable for any act or omission taken in his or her official capacity as a benefit director unless the act or omission is not in good faith, involves intentional misconduct or a knowing violation of law, or involves a transaction from which the director directly or indirectly derived an improper personal benefit.

§ 21.11. STANDARD OF CONDUCT FOR OFFICERS

(a) An officer of a benefit corporation shall consider the interests and factors described in subsection 21.09(a) of this title in the manner provided in that subsection when:

(1) the officer has discretion in how to act or not act with respect to a matter; and

(2) it reasonably appears to the officer that the matter may have a material effect on:

(A) the creation of general or specific public benefit by the benefit corporation; or

(B) any of the interests or factors referred to in section 21.09(a)(1) of this title.

(b) The consideration of interests and factors in the manner described in subsection (a) of this section shall not constitute a violation of the fiduciary duty of an officer to the benefit corporation.

(c) An officer is not liable to the benefit corporation or any person entitled to bring a benefit enforcement proceeding under section 21.13 of this title for any action or failure to take action in his or her official capacity if the officer performed the duties of the position in compliance with section 8.41 of this title and with this section.

(d) An officer is not liable for the failure of a benefit corporation to create general or specific public benefit.

(e) An officer of a benefit corporation shall have a fiduciary duty only to those persons entitled to bring a benefit enforcement proceeding against the benefit corporation under section 21.13 of this title. An officer of a benefit corporation shall not have any fiduciary duty to a person that is a beneficiary of the general or specific public benefit purposes of the benefit corporation arising only from the person's status as a beneficiary.

§ 21.12. BENEFIT OFFICER

A benefit corporation may have an officer designated the "benefit officer" who shall have the authority and shall perform the duties in the management of the benefit corporation relating to the purpose of the corporation to create public benefit as set forth with respect to the office in the bylaws or, to the extent not inconsistent with the bylaws, prescribed with respect to the office by the board of directors or by direction of an officer authorized by the board of directors to prescribe the duties of the office.

§ 21.13. RIGHT OF ACTION

(a) The duties of directors and officers under this chapter and the general and specific public benefit purposes of a benefit corporation may be enforced only in a benefit enforcement proceeding, and no person may bring such an action or claim against a benefit corporation or its directors or officers except as provided in this section.

(b) A benefit enforcement proceeding may be commenced or maintained only by:

(1) a shareholder that would otherwise be entitled to commence or maintain a proceeding in the right of the benefit corporation on any basis;

(2) a director of the corporation;

(3) a person or group of persons that owns beneficially or of record 10 percent or more of the equity interests in an entity of which the benefit corporation is a subsidiary; or

(4) such other persons as may be specified in the articles of incorporation of the benefit corporation.

(c) As used in this chapter, "benefit enforcement proceeding" means a claim or action against a director or officer for:

(1) failure to pursue the general public benefit purpose of the benefit corporation or any specific public benefit purpose set forth in its articles of incorporation; or

(2) violation of a duty or standard of conduct under this chapter.

§ 21.14. ANNUAL BENEFIT REPORT

(a) A benefit corporation shall deliver to each shareholder, in a format approved by the directors, an annual benefit report, which shall include:

(1)(A) a statement of the specific goals or outcomes identified by the benefit corporation for creating general public benefit and any specific public benefit for the period of the benefit report;

(B) a description of the actions taken by the benefit corporation to attain the identified goals or outcomes and the extent to which the goals or outcomes were attained;

(C) a description of any circumstances that hindered the attainment of the identified goals or outcomes and the creation of general public benefit or any specific public benefit; and

(D) specific actions the benefit corporation can take to improve its social and environmental performance and attain the goals or outcomes identified for creating general public benefit and any specific public benefit.

(2) an assessment of the social and environmental performance of the benefit corporation prepared in accordance with a third-party standard that has been applied consistently with prior benefit reports or accompanied by an explanation of the reasons for any inconsistent application;

(3) a statement of specific goals or outcomes identified by the benefit corporation and approved by the shareholders for creating general public benefit and any specific public benefit for the period of the next benefit report.

(4) the name of each benefit director and the benefit officer, if any, and the address to which correspondence to each of them may be directed;

(5) the compensation paid by the benefit corporation during the year to each director in that capacity;

(6) the name of each person that owns beneficially or of record five percent or more of the shares of the benefit corporation; and

(7) the statement of a benefit director described in subsection 21.10(c) of this title.

(b) A benefit corporation shall annually deliver the benefit report to each shareholder within 120 days following the end of the fiscal year of the benefit corporation or at the same time that the benefit corporation delivers any other annual report to its shareholders.

(c) After reasonable opportunity for review, the shareholders of the benefit corporation shall approve or reject the annual benefit report by majority vote at the annual meeting of shareholders or at a special meeting held for that purpose.

(d) A benefit corporation shall post its most recent benefit report endorsed by its shareholders on the public portion of its website, if any, except that the compensation paid to directors and any financial or proprietary information included in the benefit report may be omitted from the benefit report as posted. If a benefit corporation does not have a public website, it shall deliver a copy

of its most recent benefit report on demand and without charge to any person who requests a copy.

Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2011.

(Committee vote: 8-3-0)

(For text see Senate Journal 3/18/10)

S. 278

An act relating to the department of banking, insurance, securities, and health care administration

Rep. Bissonnette of Winooski, for the Committee on Commerce and Economic Development**,** recommends that the House propose to the Senate that the bill be amended as follows:

First: By adding Sec. 1a to read as follows:

Sec. 1a. 8 V.S.A. § 2201(c) is amended to read:

(c) A person licensed pursuant to subdivision (a)(1) of this section may engage in mortgage brokerage and sales finance if such person informs the commissioner in advance that he or she intends to engage in sales finance and mortgage brokerage. Such person shall inform the commissioner of his or her intention on the original license application under section 2202 of this title, any renewal application under section 2209 of this title, or pursuant to section 2208 of this title, and shall pay the applicable fees required by subsection 2202(b) of this title for a mortgage broker license or sales finance company license.

Second: By adding Sec. 1b to read as follows:

Sec. 1b. 8 V.S.A. § 2500(2) is amended to read:

(2) "Authorized delegate" means a person located in this state that a licensee designates to provide money services on behalf of the licensee.

Third: In Sec. 4, subdivision (b)(3), by striking out the word "serves" and by inserting in lieu thereof "served"

Fourth: By adding Sec. 4a to read as follows:

Sec. 4a. 8 V.S.A. § 3577 is amended to read:

§ 3577. REQUIREMENTS FOR ACTUARIAL OPINIONS

(a) Each licensed insurance company shall include on or attached to its annual statement submitted under section 3561 of this title a statement of a qualified actuary, entitled "statement of actuarial opinion," setting forth an

opinion on life and health policy and claim reserves and an opinion on property and casualty loss and loss adjustment expenses reserves.

(b) The "statement of actuarial opinion" shall be treated as a public document and shall conform to the Standards of Practice promulgated by the Actuarial Standards Board of the American Academy of Actuaries, the standards of the Casualty Actuarial Society, and such additional standards as the commissioner may establish by rule. The commissioner by rule shall establish minimum standards applicable to the valuation of health disability, sickness and accident plans.

(c) Opinions required by this section shall apply to all business in force, and shall be stated in form and in substance acceptable to the commissioner as prescribed by rule.

(1) In the case of property and casualty insurance companies domiciled in this state, every company that is required to submit a statement of actuarial opinion shall annually submit an actuarial opinion summary, written by the company's appointed actuary. This actuarial opinion summary shall be filed in accordance with the appropriate Property and Casualty Annual Statement Instructions of the National Association of Insurance Commissioners (NAIC) and shall be considered as a document supporting the actuarial opinion required in subsection (a) of this section. A property and casualty insurance company licensed but not domiciled in this state shall provide the actuarial opinion summary upon request.

(2) In the case of property and casualty insurance companies, an actuarial report and underlying work papers, as required by the appropriate Property and Casualty Annual Statement Instructions of the NAIC, shall be prepared to support each actuarial opinion. If the property and casualty insurance company fails to provide a supporting actuarial report or work papers at the request of the commissioner or if the commissioner determines that the supporting actuarial report or work papers provided by the insurance company is otherwise unacceptable to the commissioner, the commissioner may engage a qualified actuary at the expense of the company to review the opinion and the basis for the opinion and prepare the supporting actuarial report or work papers.

(3) In the case of property and casualty insurance companies, the appointed actuary shall not be liable for damages to any person other than the insurance company and the commissioner for any act, error, omission, decision, or conduct with respect to the actuary's opinion, except in cases of fraud or willful misconduct on the part of the appointed actuary.

* * *

(l) Actuarial reports, actuarial opinion summaries, work papers, and any other documents, information, or materials provided to the department in connection with the actuarial report, work papers, or actuarial opinion summary shall be confidential by law and privileged, shall not be subject to inspection and copying under 1 V.S.A. § 316, shall not be subject to subpoena, and shall not be subject to discovery or admissible in evidence in any private litigation.

(1) This subsection shall not be construed to limit the commissioner's authority to release documents to the Actuarial Board for Counseling and Discipline, provided the material is required for the purpose of professional disciplinary proceedings and further provided that procedures satisfactory to the commissioner are established for preserving the confidentiality of the documents, nor shall this subsection be construed to limit the commissioner's authority to use the documents, materials, or other information in furtherance of any regulatory or legal action brought as part of the commissioner's official duties.

(2) Neither the commissioner nor any person who receives documents, materials, or other information while acting under the authority of the commissioner shall be permitted or required to testify in any private civil action concerning any confidential documents, materials, or information under this subsection.

(3) In order to assist in the performance of the commissioner's duties, the commissioner may:

(A) Share documents, materials, or other information, including the confidential and privileged documents, materials, or information subject to subsection (d) of this section, with other state, federal, and international regulatory agencies, with the NAIC and its affiliates and subsidiaries, and with state, federal, and international law enforcement authorities, provided that the recipient agrees to maintain the confidentiality and privileged status of the document, material, or other information and has the legal authority to maintain confidentiality.

(B) Receive documents, materials, or information, including otherwise confidential and privileged documents, materials, or information, from the NAIC and its affiliates and subsidiaries, and from regulatory and law enforcement officials of other foreign or domestic jurisdictions, and shall maintain as confidential or privileged any document, material, or information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material, or information.

(4) No waiver of any applicable privilege or claim of confidentiality in the documents, materials, or information shall occur as a result of the disclosure to the commissioner under this section or as a result of sharing as authorized by subdivision (3) of this subsection.

Fifth: By adding Sec. 4b to read as follows:

Sec. 4b. 8 V.S.A. § 3634a(j) is added to read:

(j)(1) If reinsurance is ceded to an assuming insurer not meeting the requirements of this subsection and subsections (a) through (i) of this section, the commissioner may allow in his or her discretion full or reduced credit for the reinsurance, provided the commissioner has determined that the assuming insurer is an eligible reinsurer in accordance with this subsection, and the assuming insurer:

(A) Holds surplus in excess of $100,000,000.00.

(B) Has a secure financial strength rating from at least two nationally recognized statistical rating organizations deemed acceptable by the commissioner. The commissioner shall give appropriate consideration to insurer group ratings that may have been issued.

(2) The commissioner may, in lieu of granting full credit under this subsection, reduce the amount required to be held in trust under subsection (h) of this section.

(3) In determining whether credit should be allowed, the commissioner shall consider the following:

(A) The domiciliary regulatory jurisdiction of the assuming insurer.

(B) The structure and authority of the domiciliary regulator with regard to solvency regulation requirements and the financial surveillance of the reinsurer.

(C) The substance of financial and operating standards for reinsurers in the domiciliary jurisdiction.

(D) The form and substance of financial reports required to be filed by the reinsurers in the domiciliary jurisdiction or other public financial statements filed in accordance with generally accepted accounting principles.

(E) The domiciliary regulator's willingness to cooperate with United States regulators in general and the department in particular.

(F) The history of performance by reinsurers in the domiciliary jurisdiction.

(G) Any documented evidence of substantial problems with the

enforcement of valid United States judgments in the domiciliary jurisdiction.

(H) Any other matters deemed relevant by the commissioner.

(4) The commissioner's determination that an assuming insurer is an eligible reinsurer shall include such measures as the commissioner determines are necessary and sufficient to assure market stability and the solvency of ceding insurers and to ensure the payment of valid claims against the eligible reinsurer, including:

(A) The execution of a memorandum of understanding with the domicile insurance regulator of the eligible reinsurer providing for communication between insurance regulators and the sharing of information relating to the eligible reinsurer;

(B) the filing of financial and other information by the eligible reinsurer satisfactory to the commissioner;

(C) the eligible reinsurer's submission to the jurisdiction of the courts of the United States of America;

(D) the eligible reinsurer's appointment of an agent for service of process in Vermont;

(E) one or more conditions imposed on the determination of eligibility such that inadequate performance on the payment of valid claims against the reinsurer, or a material change in the financial condition of the eligible reinsurer, or failure to comply with one or more of the terms and conditions of the commissioner's determination may result in the withdrawal of the commissioner's approval of reduced collateral, an increase in the collateral required, or the termination of the reinsurer's status as an eligible reinsurer, or some similarly effective enforcement measure; and

(F) the expiration of the commissioner's initial determination no later than three years following its issuance. During such period of time a ceding insurer may take 100 percent credit on account of reinsurance ceded to the eligible reinsurer only if the eligible reinsurer's collateral is reduced to no less than 20 percent.

Sixth: By adding Sec. 4c to read as follows:

Sec. 4c. REINSURANCE COLLATERAL; REPORT REQUIRED

The commissioner of banking, insurance, securities and health care administration shall submit in electronic format an annual report to the house committee on commerce and economic development and the senate committee on finance beginning January 15, 2011, and for the next succeeding four years. The report shall include an assessment of the implementation of, and

experience with the reinsurance collateral provision enacted in Sec. 4b of this act. It shall describe the department's activities in implementing the reinsurance collateral provision, the assuming insurers that the commissioner has determined to be eligible reinsurers, and after implementation, the department's experience in administrating the reinsurance collateral provision.

Seventh: By striking out Sec. 7 in its entirety and by inserting in lieu thereof the following:

Sec. 7. 8 V.S.A. § 3810a(c) is added to read:

(c) The lives of individuals insured under a group policy authorized by this subchapter may continue to be insured following termination of employment, membership, or other affiliation of the individual with the group under a portability group approved by the commissioner, provided that the group policy complies with all the applicable requirements of this subchapter.

Eighth: By adding Sec. 7a to read as follows:

Sec. 7a. 8 V.S.A. § 4153 is amended to read:

§ 4153. SCOPE

(a) This subchapter shall provide coverage for the policies and contracts specified in subsection (b) of this section:

(1) ~~to~~ To persons who, regardless of where they reside (except for nonresident certificate holders under group policies or contracts and except for payees and beneficiaries of structured settlement annuities as specified in subdivision (3) of this subsection), are the beneficiaries, assignees, or payees of the persons covered under subdivision (2) of this subsection~~, and~~.

(2) ~~to~~ To persons who are owners of or certificate holders under such policies or contracts or, in the case of unallocated annuity contracts, to the persons who are the contract holders; and who

(A) are residents of this state, or

(B) are not residents of this state, but only if all of the following conditions are met:

(i) the insurers which issued such policies or contracts are domiciled in this state;

(ii) such insurers never held a license or certificate of authority in the states in which such persons reside;

(iii) such states have associations similar to the association created by this subchapter; and

(iv) such persons are not eligible for coverage by such associations.

(3) To persons who are a payees under structured settlement annuities, or beneficiaries of such deceased payees, but only if the payees:

(A) are residents of this state, regardless of where the contract owners reside; or

(B) are not residents of this state, but only if both of the following conditions are met:

(i)(I) the contract owners of such structured settlement annuities are residents of this state; or

(II) the contract owners of such structured settlement annuities are not residents of this state, but only if:

(aa) the insurers which issued such structured settlement annuities are domiciled in this state; and

(bb) the states in which such contract owners reside have associations similar to the association created by this subchapter; and

(ii) Neither the payees, beneficiaries, nor the contract owners are eligible for coverage by the associations of the states in which such payees or contract owners reside.

Ninth: By adding Sec. 7b to read as follows:

Sec. 7b. 8 V.S.A. § 4153(b)(2) is amended to read:

(2) This subchapter shall not provide coverage for:

* * *

(C) any portion of a policy or contract to the extent that the rate of interest on which it is based, or the interest rate, crediting rate, or similar factor determined by use of an index or other external reference stated in the policy or contract employed in calculating returns or changes in value:

* * *

(G) any unallocated annuity contract issued to an employee benefit plan protected under the federal Pension Benefit Guaranty Corporation; ~~and~~

* * *

(I) any portion of a policy or contract to the extent it provides for interest or other changes in value to be determined by the use of an index or other external reference stated in the policy or contract, but which has not been

credited to the policy or contract, or as to which the policy or contract owner's rights are subject to forfeiture, as of the date the member insurer becomes an impaired or insolvent insurer under this chapter, whichever is earlier. If a policy's or contract's interest or changes in value are credited less frequently than annually, then for purposes of determining the values that have been credited and are not subject to forfeiture under this subdivision, the interest or change in value determined by using the procedures defined in the policy or contract will be credited as if the contractual date of crediting interest or changing values was the date of impairment or insolvency, whichever is earlier, and will not be subject to forfeiture; and

(J) any policy or contract providing any hospital, medical, prescription drug, or other health care benefits pursuant Medicare Part C or Part D of subchapter XVIII, Chapter 7 of Title 42 of the United States Code, or any regulations issued pursuant thereto.

Tenth: By adding Sec. 7c to read as follows:

Sec. 7c. 8 V.S.A. § 4155 is amended to read:

§ 4155. DEFINITIONS

* * *

(7) "Impaired insurer" means~~:~~

~~(A) an insurer which after April 27, 1972, becomes insolvent and is placed under a final order of liquidation, rehabilitation, or conservation by a court of competent jurisdiction, or~~

~~(B) an insurer determined by the commissioner after April 27, 1972 to be unable or potentially unable to fulfill its contractual obligations~~ a member insurer which, after the effective date of this subchapter, is not an insolvent insurer and who is placed under an order of rehabilitation or conservation by a court of competent jurisdiction.

(8) "Insolvent insurer" means a member insurer which, after the effective date of this subchapter, is placed under an order of liquidation by a court of competent jurisdiction with a finding of insolvency.

~~(8)~~(9) "Member insurer" means any person authorized to transact in this state any kind of insurance to which this subchapter applies under section 4153 of this title.

~~(9)~~(10) "Premiums" means amounts received on covered policies or contracts less premiums, considerations and deposits returned thereon, and less dividends and experience credits thereon. "Premiums" does not include any amounts received for any policies or contracts or for the portions of any

policies or contracts for which coverage is not provided under subsection 4153(b) of this title except that assessable premium shall not be reduced on account of subdivisions 4153(b)(2)(C), relating to interest limitations, and 4158(8) of this title relating to limitations with respect to any one individual, any one participant and any one contract holder; provided that "premiums" shall not include any premiums in excess of ~~one million dollars~~ $5,000,000.00 on any unallocated annuity contract not issued under a governmental retirement plan established under section 401, subsection 403(b) or section 457 of the United States Internal Revenue Code.

(11)~~(10)~~ "Person" means any individual, corporation, partnership, association or voluntary organization.

~~(11)~~(12) "Resident" means any person who resides in this state ~~at the time the impairment is determined~~ on the date of entry of a court order that determines a member insurer to be an impaired insurer or of a court order that determines a member insurer to be an insolvent insurer, and to whom contractual obligations are owed. A person may be a resident of only one state, which in the case of a person other than a natural person shall be its principal place of business.

~~(12)~~(13) "Moody's Corporate Bond Yield Average" means the Monthly Average Corporates as published by Moody's Investors Service, Inc., or any successor thereto.

~~(13)~~(14) "Supplemental contract" means any agreement entered into for the distribution of policy or contract proceeds.

~~(14)~~(15) "Unallocated annuity contract" means any annuity contract or group annuity certificate which is not issued to and owned by an individual except to the extent of any annuity benefits guaranteed to an individual by an insurer under such contract or certificate and shall include guaranteed investment contracts, guaranteed interest contracts, guaranteed accumulation contracts, deposit administration contracts, and unallocated funding agreements.

Eleventh: By adding Sec. 7d to read as follows:

Sec. 7d. 8 V.S.A. § 4158 is amended to read as follows:

§ 4158. POWERS AND DUTIES OF THE ASSOCIATION

In addition to the powers and duties enumerated in other sections of this subchapter:

(1) If a ~~domestic insurer is an impaired insurer, the association,~~

~~(A) may, prior to an order of liquidation or rehabilitation, and subject~~

~~to any conditions imposed by the association other than those which impair the contractual obligations of the impaired insurer and approved by the impaired insurer and the commissioner; or~~

~~(B) shall, after entry of an order of liquidation or rehabilitation, subject to any conditions imposed by the association and approved by the commissioner, guarantee, assume, or reinsure, or cause to be guaranteed, assumed, or reinsured, the covered policies of the impaired insurer, and shall make or cause to be made prompt payment of the contractual obligations of the impaired insurer~~ member insurer is an impaired insurer, the association, in its discretion and subject to any conditions imposed by the association that do not impair the contractual obligations of the impaired insurer and that are approved by the commissioner, may:

(A) guarantee, assume, or reinsure, or cause to be guaranteed, assumed, or reinsured, any or all of the policies or contracts of the impaired insurer; and

(B) provide such monies, pledges, loans, notes, guarantees, or other means as are proper to effectuate subdivision (A) of this subdivision (1) and assure payment of the contractual obligations of the impaired insurer pending action under subdivision (A) of this subdivision (1).

(2) If a ~~foreign or alien insurer is an impaired insurer under an order of liquidation, rehabilitation, or conservation, the association shall, subject to any conditions imposed by the association and approved by the commissioner, guarantee, assume, or reinsure, or cause to be guaranteed, assumed, or reinsured, the covered policies of residents, and shall make or cause to be made prompt payment of the impaired insurer's contractual obligations to residents~~ member insurer is an insolvent insurer, the association, in its discretion, shall either:

(A)(i)(I) Guarantee, assume, or reinsure, or cause to be guaranteed, assumed, or reinsured, the policies or contracts of the insolvent insurer; or

(II) Assure payment of the contractual obligations of the insolvent insurer; and

(ii) Provide monies, pledges, loans, notes, guarantees, or other means reasonably necessary to discharge the association's duties; or

(B) Provide benefits and coverages in accordance with the following provisions:

(i) With respect to life and health insurance policies and annuities, assure payment of benefits for premiums identical to the premiums and benefits, except for terms of conversion and renewability, that would have

been payable under the policies or contracts of the insolvent insurer, for claims incurred:

(I) With respect to group policies and contracts, not later than the earlier of the next renewal date under those policies or contracts or 45 days, but in no event less than 30 days, after the date on which the association becomes obligated with respect to the policies and contracts.

(II) With respect to nongroup policies, contracts, and annuities, not later than the earlier of the next renewal date (if any) under the policies or contracts or one year, but in no event less than 30 days, from the date on which the association becomes obligated with respect to the policies or contracts.

(ii) Make diligent efforts to provide all known insureds or annuitants (for nongroup policies and contracts), or group policy owners with respect to group policies and contracts, 30 days notice of the termination, pursuant to subdivision (i) of this subdivision (B), of the benefits provided.

(iii) With respect to nongroup life and health insurance policies and annuities covered by the association, make available to each known insured or annuitant, or owner if other than the insured or annuitant, and with respect to an individual formerly insured or formerly an annuitant under a group policy who is not eligible for replacement group coverage, make available substitute coverage on an individual basis in accordance with the provisions of subdivision (iv) of this subdivision (B), if the insureds or annuitants had a right under law or the terminated policy or annuity to convert coverage to individual coverage or to continue an individual policy or annuity in force until a specified age or for a specified time, during which the insurer had no right unilaterally to make changes in any provision of the policy or annuity or had a right only to make changes in premium by class.

(iv)(I) In providing the substitute coverage required under subdivision (iii) of this subdivision (B), the association may offer either to reissue the terminated coverage or to issue an alternative policy.

(II) Alternative or reissued policies shall be offered without requiring evidence of insurability, and shall not provide for any waiting period or exclusion that would not have applied under the terminated policy.

(III) The association may reinsure any alternative or reissued policy.

(v)(I) Alternative policies adopted by the association shall be subject to the approval of the domiciliary insurance commissioner and the receivership court. The association may adopt alternative policies of various types for future issuance without regard to any particular impairment or

insolvency.

(II) Alternative policies shall contain at least the minimum statutory provisions required in this state and provide benefits that shall not be unreasonable in relation to the premium charged. The association shall set the premium in accordance with a table of rates that it shall adopt. The premium shall reflect the amount of insurance to be provided and the age and class of risk of each insured, but shall not reflect any changes in the health of the insured after the original policy was last underwritten.

(III) Any alternative policy issued by the association shall provide coverage of a type similar to that of the policy issued by the impaired or insolvent insurer, as determined by the association.

(vi) If the association elects to reissue terminated coverage at a premium rate different from that charged under the terminated policy, the premium shall be set by the association in accordance with the amount of insurance provided and the age and class of risk, subject to approval of the domiciliary insurance commissioner and the receivership court;

(vii) The association's obligations with respect to coverage under any policy of the impaired or insolvent insurer or under any reissued or alternative policy shall cease on the date the coverage or policy is replaced by another similar policy by the policy owner, the insured, or the association;

(viii) When proceeding under subdivision (B) with respect to a policy or contract carrying guaranteed minimum interest rates, the association shall assure the payment or crediting of a rate of interest consistent with subdivision 4153(b)(2)(C) of this title.

* * *

(6) The association shall have standing to appear before any court in this state with jurisdiction over an impaired or insolvent insurer concerning which the association is or may become obligated under this subchapter. Such standing shall extend to all matters germane to the powers and duties of the association.

(7)(A) Any person receiving benefits under this subchapter shall be deemed to have assigned his rights under the covered policy to the association to the extent of the benefits received because of this subchapter whether the benefits are payments of contractual obligations or continuation of coverage. The association may require an assignment to it of such rights by any payee, policy or contract owner, beneficiary, insured, or annuitant as a condition precedent to the receipt of any rights or benefits conferred by this subchapter upon such person. The association shall be subrogated to these rights against

the assets of any impaired or insolvent insurer.

(B) The subrogation rights of the association under this subdivision shall have the same priority against the assets of the impaired or insolvent insurer as that possessed by the person entitled to receive benefits under this subchapter.

(8) The benefits for which the association may become liable shall in no event exceed the lesser of:

(A) The contractual obligations for which the insurer is liable or would have been liable if it were not an impaired or insolvent insurer; or

(B)(i) With respect to any one life, regardless of the number of policies or contracts:

(I) $300,000.00 in life insurance death benefits, but not more than $100,000.00 in net cash surrender and net cash withdrawal values for life insurance;

(II) In health insurance benefits:

(aa) $100,000.00 for coverages not defined as disability insurance or basic hospital, medical, and surgical insurance, or major medical insurance, or long-term care insurance, including any net cash surrender and net cash withdrawal values;

(bb) $300,000.00 for disability insurance and $300,000.00 for long-term care insurance;

(cc) $500,000.00 for basic hospital, medical, and surgical insurance, or major medical insurance; or

(III) $250,000.00 in the present value of annuity benefits, including net cash surrender and net cash withdrawal values; or

(ii) With respect to each individual participating in a governmental retirement plan established under Section 401, 403(b), or 457 of the U.S. Internal Revenue Code covered by an unallocated annuity contract or the beneficiaries of each such individual if deceased, in the aggregate, $250,000.00 in present value annuity benefits, including net cash surrender and net cash withdrawal values; or

(iii) With respect to each payee of a structured settlement annuity (or beneficiary or beneficiaries of the payee if deceased) for which coverage is provided under subdivision 4153(a)(3) of this title, $ 250,000.00 in present value annuity benefits, in the aggregate, including net cash surrender and net cash withdrawal values, if any;

(iv) With respect to any one contract holder covered by any unallocated annuity contract not included in subdivision (B)(ii) of this subdivision (8), $5,000,000.00 in benefits, irrespective of the number of such contracts held by that contract holder; and

(iv) Provided, however, that in no event shall the association be liable to expend more than $300,000.00 in the aggregate with respect to any one individual under subdivisions (B)(i)(I), (B)(i)(II)(aa) and (bb), B(i)(III), (B)(ii), and (B)(iii) of this subdivision (8); and provided further, however, that in no event shall the association be liable to expend more than $500,000.00 in the aggregate with respect to any one individual under subdivision (B)(i)(II)(cc) of this subdivision (8).

* * *

(10)(A)(i) At any time within 180 days of the date of the order of liquidation, the association may elect to succeed to the rights and obligations of the ceding member insurer that relate to policies or annuities covered, in whole or in part, by the association, in each case under any one or more reinsurance contracts entered into by the insolvent insurer and its reinsurers and selected by the association. Any such assumption shall be effective as of the date of the order of liquidation. The election shall be effected by the association or the National Organization of Life and Health Insurance Guaranty Associations (NOLHGA) on its behalf sending written notice, return receipt requested, to the affected reinsurers.

(ii) To facilitate the earliest practicable decision about whether to assume any of the contracts of reinsurance, and in order to protect the financial position of the estate, the receiver and each reinsurer of the ceding member insurer shall make available upon request to the association or to NOLHGA on its behalf as soon as possible after commencement of formal delinquency proceedings: copies of in-force contracts of reinsurance and all related files and records relevant to the determination of whether such contracts should be assumed; and notices of any defaults under the reinsurance contacts or any known event or condition which with the passage of time could become a default under the reinsurance contracts.

(iii) The following subdivisions (I) through (IV) shall apply to reinsurance contracts so assumed by the association:

(I) The association shall be responsible for all unpaid premiums due under the reinsurance contracts for periods both before and after the date of the order of liquidation, and shall be responsible for the performance of all other obligations to be performed after the date of the order of liquidation, in each case which relate to policies or annuities covered, in whole or in part, by

the association. The association may charge policies or annuities covered in part by the association, through reasonable allocation methods, the costs for reinsurance in excess of the obligations of the association and shall provide notice and an accounting of these charges to the receiver.

(II) The association shall be entitled to any amounts payable by the reinsurer under the reinsurance contracts with respect to losses or events that occur in periods after the date of the order of liquidation and that relate to policies or annuities covered, in whole or in part, by the association, provided that, upon receipt of any such amounts, the association shall be obliged to pay to the beneficiary under the policy or annuity on account of which the amounts were paid a portion of the amount equal to the lesser of:

(aa) The amount received by the association; and

(bb) The excess of the amount received by the association over the amount equal to the benefits paid by the association on account of the policy or annuity less the retention of the insurer applicable to the loss or event.

(III) Within 30 days following the association's election (the "election date"), the association and each reinsurer under contracts assumed by the association shall calculate the net balance due to or from the association under each reinsurance contract as of the election date with respect to policies or annuities covered, in whole or in part, by the association, which calculation shall give full credit to all items paid by either the insurer or its receiver or the reinsurer prior to the election date. The reinsurer shall pay the receiver any amounts due for losses or events prior to the date of the order of liquidation, subject to any set-off for premiums unpaid for periods prior to the date, and the association or reinsurer shall pay any remaining balance due the other, in each case within five days of the completion of the aforementioned calculation. Any disputes over the amounts due to either the association or the reinsurer shall be resolved by arbitration pursuant to the terms of the affected reinsurance contracts or, if the contract contains no arbitration clause, as otherwise provided by law. If the receiver has received any amounts due the association pursuant to subdivision (iii)(II) of this subdivision (A), the receiver shall remit the same to the association as promptly as practicable.

(IV) If the association or receiver, on the association's behalf, within 60 days of the election date, pays the unpaid premiums due for periods both before and after the election date that relate to policies or annuities covered, in whole or in part, by the association, the reinsurer shall not be entitled to terminate the reinsurance contracts for failure to pay premium insofar as the reinsurance contracts relate to policies or annuities covered, in whole or in part, by the association, and shall not be entitled to set off any

unpaid amounts due under other contracts, or unpaid amounts due from parties other than the association, against amounts due the association.

(B) During the period from the date of the order of liquidation until the election date (or, if the election date does not occur, until 180 days after the date of the order of liquidation):

(i)(I) Neither the association nor the reinsurer shall have any rights or obligations under reinsurance contracts that the association has the right to assume under subdivision (A) of this subdivision (10), whether for periods prior to or after the date of the order of liquidation; and

(II) The reinsurer, the receiver, and the association shall, to the extent practicable, provide each other data and records reasonably requested;

(ii) Provided that once the association has elected to assume a reinsurance contract, the parties' rights and obligations shall be governed by subdivision (A) of this subdivision (10).

(C) If the association does not elect to assume a reinsurance contract by the election date pursuant to subdivision (A) of this subdivision (10), the association shall have no rights or obligations, in each case for periods both before and after the date of the order of liquidation, with respect to the reinsurance contract.

(D) When policies or annuities, or covered obligations with respect thereto, are transferred to an assuming insurer, reinsurance on the policies or annuities may also be transferred by the association, in the case of contracts assumed under subdivision (A) of this subdivision (10), subject to the following:

(i) Unless the reinsurer and the assuming insurer agree otherwise, the reinsurance contract transferred shall not cover any new policies of insurance or annuities in addition to those transferred;

(ii) The obligations described in subdivision (A) of this subdivision (10) shall no longer apply with respect to matters arising after the effective date of the transfer; and

(iii) Notice shall be given in writing, return receipt requested, by the transferring party to the affected reinsurer not less than 30 days prior to the effective date of the transfer.

(E) The provisions of this subdivision (10) shall supersede the provisions of any law or of any affected reinsurance contract that provides for or requires any payment of reinsurance proceeds, on account of losses or events that occur in periods after the date of the order of liquidation, to the receiver of the insolvent insurer or any other person. The receiver shall remain

entitled to any amounts payable by the reinsurer under the reinsurance contracts with respect to losses or events that occur in periods prior to the date of the order of liquidation, subject to applicable setoff provisions.

(F) Except as otherwise provided in this section, nothing in this subdivision (10) shall alter or modify the terms and conditions of any reinsurance contract. Nothing in this section shall abrogate or limit any rights of any reinsurer to claim that it is entitled to rescind a reinsurance contract. Nothing in this section shall give a policyholder or beneficiary an independent cause of action against a reinsurer that is not otherwise set forth in the reinsurance contract. Nothing in this section shall limit or affect the association's rights as a creditor of the estate against the assets of the estate. Nothing in this section shall apply to reinsurance agreements covering property or casualty risks.

Twelfth: By adding Sec. 7e to read as follows:

Sec. 7e. CONFORMING AMENDMENTS

The legislative council, when codifying the amendments enacted by this act to chapter 112 of Title 8, Vermont Statutes Annotated, shall also amend chapter 112 as follows:

(1) In 8 V.S.A. §§ 4158(3), (5) and (9), 4159, 4161(1) and (4), 4164, and 4169, by striking the word "impaired" wherever it appears and inserting in lieu thereof the words "impaired or insolvent"; and

(2) In 8 V.S.A. §§ 4152, 4161(1)(C), and 4162, by striking out the word "impairment" wherever it appears and inserting in lieu thereof the words "impairment or insolvency."

Thirteenth: By adding Sec. 7f to read as follows:

Sec. 7f. 8 V.S.A. § 8204 is amended to read:

§ 8204. ASSUMPTION, TRANSFER AND NOTICE REQUIREMENTS

(a) ~~The~~ Except as provided in, and subject to subsection 8207(d) of this title, the transferring insurer shall provide or cause to be provided to each policyholder a notice of transfer by first-class mail, addressed to the policyholder's last known address or to the address to which premium notices or other policy documents are sent or, with respect to home service business, by personal delivery with receipt acknowledged by the policyholder. A notice of transfer shall also be sent to the transferring insurer's agents or brokers of record on the affected policies.

* * *

(j) ~~The~~ Except as provided in, and subject to subsection 8207(d) of this

title, the commissioner may modify the notice requirements of this chapter if the commissioner determines that the transfer is between affiliates or that the transfer is not contemplated within the purposes of this chapter.

Fourteenth: By adding Sec. 7g to read as follows:

Sec. 7g. 8 V.S.A. § 8207(d) is amended to read:

(d) In the case of policyholders who do not reside in this state, and where the insurance regulatory authority in such other state has approved or intends to approve the notice requirements and other policyholder rights with respect such policyholders, the commissioner shall defer to the decisions of such other insurance regulatory authority. In the case of policyholders who do not reside in this state, and where the insurance regulatory authority in such other state has not established an obligation to file forms used by an insurer in a transaction under this subchapter, the commissioner may modify notice requirements and other policyholder rights when in his or her judgment it appears that the interests of the policyholders and insurers are best served by the exercise of such discretion. Factors to be considered in making this determination shall include the following:

* * *

Fifteenth: By striking out Sec. 8 in its entirety and by inserting in lieu thereof the following:

Sec. 8. 8 V.S.A. § 4800(4) is added to read:

(4) In order to assist in the performance of the commissioner's duties under this chapter, the commissioner may:

(A) contract with nongovernmental entities, including the National Association of Insurance Commissioners (NAIC) or any affiliates or subsidiaries that the NAIC oversees, to perform any ministerial functions, including the collection of fees, and the collection of system charges related to producer licensing or to any other activities which require a license under this chapter that the commissioner and the nongovernmental entity may deem appropriate;

(B) participate, in whole or in part, with the NAIC, or any affiliates or subsidiaries the NAIC oversees, in a centralized producer license registry to effect the licensure and appointment of producers and other persons required to be licensed under this chapter;

(C) adopt by rule any uniform standards and procedures as are necessary to participate in a centralized registry. Such rules may include the central collection of all fees and system charges for license or appointments that are processed through the registry, and the establishment of uniform

license and appointment renewal dates;

(D) require persons engaged in activities which require a license under this chapter to make any filings with the department in a digital, electronic manner approved by the commissioner for applications, renewal, amendments, notifications, reporting, appointments, terminations, the payment of fees and system charges, and such other activities relating to licensure under this chapter as the commissioner may require, subject to such hardship circumstances demonstrated by the applicant or licensee which the commissioner deems appropriate for the utilization of the central registry in a nondigital and nonelectronic manner; and

(E)(i) authorize the centralized producer license registry to collect fingerprints on behalf of the commissioner in order to receive or conduct criminal history background checks;

(ii) use the centralized producer license registry as a channeling agent for requesting information from and distributing information to the U.S. Department of Justice or any governmental agency, in order to reduce the points of contact which the Federal Bureau of Investigation (FBI) or the commissioner may have to maintain for purposes of this subsection; and

(iii) require persons engaged in activities that require a license under this chapter to submit fingerprints, and the commissioner may utilize the services of the centralized producer license registry to process the fingerprints and to submit the fingerprints to the FBI, the Vermont state police, or any equivalent state or federal law enforcement agency for the purpose of conducting a criminal history background check. The licensee or applicant shall pay the cost of such criminal history background check, including any charges imposed by the centralized producer licensing system.

Sixteenth: By adding a Sec. 9a to read as follows:

Sec. 9a. REPEAL

8 V.S.A. § 4807(b) (surplus lines broker; requirement of one year's experience) is repealed.

Seventeenth: By striking out Sec. 24 in its entirety and by inserting in lieu thereof the following:

Sec. 24. 8 V.S.A. § 4081 is amended to read:

§ 4081. BLANKET HEALTH INSURANCE

(a) Blanket health insurance is hereby declared to be that form of health insurance which is supplemental to comprehensive health insurance, or which provides coverage other than the payment of all or a portion of the cost of

health care services or products, and covering special groups of persons set forth as follows:

(1) Under a policy or contract issued to any common carrier, which shall be deemed the policyholder, covering a group defined as all persons who may become passengers on such common carrier;

(2) Under a policy or contract issued to an employer, who shall be deemed the policyholder, covering any group of employees defined by reference to exceptional hazards incident to such employment;

(3) Under a policy or contract issued to a college, school, or other institution of learning or to the head or principal thereof, who or which shall be deemed the policyholder, covering students or teachers;

(4) Under a policy or contract issued in the name of any volunteer fire department, first aid, or other such volunteer group, which shall be deemed the policyholder, covering all of the members of such department or group in connection with their department or group activities; or

(5) Under a policy or contract issued to any other substantially similar group which, in the discretion of the commissioner and after the prior approval by the commissioner of the group, may be subject to the issuance of a blanket health policy or contract.

Eighteenth: By striking out Sec. 25 in its entirety and by inserting in lieu thereof the following:

Sec. 25. 8 V.S.A. § 4082 is amended to read:

§ 4082. BLANKET INSURANCE; POLICY CONTENTS

1) (a) No such blanket health insurance policy shall contain any provision relative to notice of claim, proofs of loss, time of payment of claims, or time within which legal action must be brought upon the policy which, in the opinion of the commissioner, is less favorable to the persons insured than would be permitted by the provisions set forth in section 4065 of this title. An individual application shall not be required from a person covered under a blanket health policy or contract, nor shall it be necessary for the insurer to furnish each person a certificate. All benefits under any blanket health policy shall, unless for hospital and physician service or surgical benefits, be payable to the person insured, or to his or her designated beneficiary or beneficiaries, or to his or her estate, except that if the person insured be a minor, such benefits may be made payable to his or her parent, guardian, or other person actually supporting him or her. Nothing contained in this section or section 4081 of this title shall be deemed to affect the legal liability of policyholders for the death of, or injury to, any such members of such group.

(b) No such blanket health insurance policy which provides coverage for the payment of all or a portion of the cost of health care services or products shall contain any provision not in compliance with a requirement of this title, or a rule adopted pursuant to this title applicable to health insurance, other than those requirements applicable to nongroup health insurance or small group health insurance. The commissioner may waive the application to a blanket insurance policy of one or more of the health insurance requirements of this title, or a rule adopted pursuant to this title, if such requirement is not relevant to the types of risks and duration of risks insured against in such blanket insurance policy.

Nineteenth: By adding Sec. 26a to read as follows:

Sec. 26a. Sec. 51(h) of No. 61 of the Acts of 2009 is amended to read:

(h) The summary disclosure form required by 18 V.S.A. § 9418c(b), shall be included in all contracts entered into or ~~renewed~~ renegotiated on or after July 1, 2009, and shall be provided for all other existing contracts no later than July 1, 2014.

Twentieth: By adding Sec. 28a to read as follows:

Sec. 28a. 32 V.S.A. § 8557(b) is added to read:

(b) The executive director of the division of fire safety shall, at the end of each fiscal quarter, prepare a comprehensive written report on the status of training programs and expenditures to date. The report shall be submitted to the commissioner of public safety, the chairperson of the legislative joint fiscal committee when the legislature is not in session and the chairperson of the house appropriations committee when the legislature is in session. The department of public safety shall continue to provide budgeting, accounting and administrative support to the Vermont division of fire safety as such was originally described in Sec. 98 of Act No. 245 of the Acts of 1992.

Twenty-first: In Sec. 29, by striking out subsection (a) in its entirety and by inserting in lieu thereof the following:

(a) This act shall take effect on July 1, 2010, except that this section, Secs. 16 through 23 (captive insurance companies), 26a (fair contract standards; summary disclosure form), and 27 (health information technology assessment) shall take effect on passage.

(b) Sec. 4 (registered agent for financial institutions) shall take effect on October 1, 2010.

and by relettering the remaining subsections to be alphabetically correct

(Committee vote: 11-0-0)

(For text see Senate Journal 2/4/10)

Rep. Masland of Thetford, for the Committee on **Ways and Means,** recommends the bill ought to pass when amended as recommended by the Committee on **Commerce and Economic Development.**

(Committee Vote: 10-0-1)

Amendment to be offered by Rep. Bissonnette of Winooski to the recommendation of amendment of the Committee on Commerce and Economic Development to S. 278

Rep. Bissonnette of Winooski moves that the bill be amended by striking out Secs. 4b (relating to reinsurance collateral requirements) and 4c (relating to a report on reinsurance collateral requirements) in their entirety.

S. 292

An act relating to term probation, the right to bail, medical care of inmates, and a reduction in the number of nonviolent prisoners, probationers, and detainees

Rep. Myers of Essex, for the Committee on Corrections and Institutions**,** recommends that the House propose to the Senate that the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. PROBATION; LEGISLATIVE FINDINGS AND INTENT

(a) It is the intent of the general assembly that term probation be the standard, the default, for misdemeanors and nonviolent felonies and that the exception in the law that allows a court to deviate from this standard in the interest of justice should be used judiciously and sparingly.

(b) Similarly, it is the intent of the general assembly that administrative probation be the standard, the default, for qualifying offenses for which probation is ordered and that the exception in the law that allows a court to deviate from this standard in the interest of justice should be used judiciously and sparingly.

Sec. 2. OFFENDERS WITH SERIOUS FUNCTIONAL IMPAIRMENT; LEGISLATIVE FINDING

The general assembly finds that successful community discharge for offenders with serious functional impairment requires community planning with appropriate departments of the agency of human services and community organizations, including law enforcement, designated agencies, and housing providers and that the state interagency team and local interagency teams for persons with serious functional impairment offer the best model for such planning.

Sec. 3. 13 V.S.A. § 5411a is amended to read:

§ 5411a. ELECTRONIC POSTING OF THE SEX OFFENDER REGISTRY

(a) Notwithstanding sections 2056a-2056e of Title 20, the department shall electronically post information on the Internet in accordance with subsection (b) of this section regarding the following sex offenders, upon their release from confinement:

(1) Sex offenders who have been convicted of:

* * *

(M) an attempt to commit any offense listed in this subdivision (a)(1).

* * *

(b) The department shall electronically post the following information on sex offenders designated in subsection (a) of this section:

* * *

(6) except as provided in subsection (l) of this section, the offender's address or, if the offender does not have a fixed address, other information about where the offender habitually lives, if:

* * *

(l) A sex offender's street address shall not be posted electronically if the offender has a developmental disability, receives funding from the department of disabilities, aging, and independent living (DAIL) for 24-hour supervision and treatment, and resides in a residence that is equipped with alarms. However, this information shall be otherwise available pursuant to this section. An agency designated pursuant to 18 V.S.A. § 8907 to provide mental health and developmental disability services (DA), or a specialized service agency (SSA) operating under an agreement entered into pursuant to 18 V.S.A. § 8912 which is providing supervision for the offender shall immediately notify the administrator of the sex offender registry and local law enforcement if the individual's level of supervision is decreased from 24 hours or if the offender leaves his or her residence without authorization, and thereafter this subsection shall cease to apply to that offender. If after notice and hearing, the commissioner of DAIL finds that the DA or SSA has failed to notify the administrator of the sex offender registry and local law enforcement of a decrease from 24-hour supervision or absence without authorization by the offender within 24 hours of the change in status, the commissioner may impose an administrative penalty of not more than $1,000.00 for each day of the violation. A DA or SSA shall have the right to a de novo appeal of a decision under this subsection pursuant to rule 75 of the Vermont rules of civil procedure.

Sec. 4 24 V.S.A. § 290(b) is amended to read:

(b) Full-time deputy sheriffs whose primary responsibility is transportation of prisoners and mentally ill persons shall be paid by the state of Vermont. The appointment of such deputies and their salary shall be approved by the governor, or his or her designee. The executive committee of the Vermont sheriffs association and the executive director of the department of state's attorneys and sheriffs shall jointly have authority for the assignment of position locations in the counties of state-paid deputy sheriffs and shall review the county location assignments periodically for efficient use of resources.

Sec. 5. 28 V.S.A. § 301 is amended to read:

§ 301. SUMMONS OR ARREST OF PROBATIONER

* * *

(4) Detention pending hearing for probationer. Pending arraignment for any charge of violation, the probationer shall continue to be detained at a correctional facility. Thereafter, the court may release the probationer pursuant to ~~section 7554 of Title 13~~ 13 V.S.A. § 7554. There shall be no right to bail or release, unless the person is on probation for a nonviolent misdemeanor or nonviolent felony and the probation violation did not constitute a new crime. For purposes of this subdivision:

(A) "Nonviolent felony" means a felony offense which is not a listed crime as defined in 13 V.S.A. § 5301(7) or an offense involving sexual exploitation of children in violation of chapter 64 of Title 13.

(B) "Nonviolent misdemeanor" means a misdemeanor offense which is not a listed crime as defined in 13 V.S.A. § 5301(7) or an offense involving sexual exploitation of children in violation of chapter 64 of Title 13 or 13 V.S.A. § 1030.

Sec. 6. 28 V.S.A. § 801(e) and (f) are added to read:

(e) Except as otherwise provided in this subsection, an offender who is admitted to a correctional facility while under the medical care of a licensed physician, a licensed advanced practice registered nurse, or a licensed nurse practitioner and who is taking medication at the time of admission pursuant to a valid prescription as verified by the inmate's pharmacy of record, primary care provider, other licensed care provider, or as verified by the Vermont prescription monitoring system or other prescription monitoring or information system shall be entitled to continue that medication and to be provided that medication by the department pending an evaluation by a licensed physician, a licensed physician's assistant, a licensed nurse practitioner, or a licensed advanced practice registered nurse. However, the department may defer

provision of medication in accordance with this subsection if, in the clinical judgment of a licensed physician, a physician's assistant, a nurse practitioner, or an advanced practice registered nurse, it is not in the inmate's best interest to continue the medication at that time. The licensed practitioner who makes the clinical judgment shall enter the reason for the discontinuance into the inmate's permanent medical record. It is not the intent of the general assembly that this subsection shall create a new or additional private right of action.

(f) Any contract between the department and a provider of physical or mental health services shall establish policies and procedures for continuation and provision of medication at the time of admission and thereafter, as determined by an appropriate evaluation, which will protect the mental and physical health of inmates.

Sec. 7. 28 V.S.A. § 808(a) is amended to read:

§ 808. FURLOUGHS GRANTED TO INMATES

(a) The department may extend the limits of the place of confinement of an inmate at any correctional facility if the inmate agrees to comply with such conditions of supervision the department, in its sole discretion, deems appropriate for that inmate's furlough. The department may authorize furlough for any of the following reasons:

(1) To visit a critically ill relative~~; or~~.

(2) To attend a funeral of a relative~~; or~~.

(3) To obtain medical services~~; or~~.

(4) To contact prospective employers~~; or~~.

(5) To secure a suitable residence for use upon discharge~~; or~~.

(6) To continue the process of reintegration initiated in a correctional facility. The inmate may be placed in a program of conditional reentry status by the department upon the inmate's completion of the minimum term of sentence. While on conditional reentry status, the inmate shall be required to participate in programs and activities that hold the inmate accountable to victims and the community pursuant to section 2a of this title~~; or~~.

(7) When recommended by the department and ordered by a court.

(A) Treatment furlough. The inmate may be sentenced to serve a term of imprisonment but placed by a court on furlough to participate in such programs administered by the department in the community that reduce the offender's risk to reoffend or that provide reparation to the community in the form of supervised work activities; ~~or~~

(B)(i) Home confinement furlough. The inmate may be sentenced to serve a term of imprisonment but placed by a court on home confinement furlough that restricts the defendant to a preapproved place of residence continuously, except for authorized absences, enforced by appropriate means of supervision, including electronic monitoring and other conditions such as limitations on alcohol, visitors, and access to firearms imposed by the court or the department or both. A sentence to home confinement furlough shall not exceed a total of 180 days and shall require the defendant:

(I) to remain at a preapproved residence at all times except for scheduled and preapproved absences for work, school, treatment, attorney appointments, court appearances, and other obligations as the court may order; or

(II) to remain at a preapproved residence 24 hours a day on lock-down status except for medical appointments and court appearances.

(ii) In determining whether a home confinement furlough sentence is appropriate and whether a place of residence is suitable for such a sentence, the court shall consider:

(I) the nature of the offense with which the defendant was charged and the nature of the offense with which the defendant was convicted;

(II) the defendant's criminal history record, history of violence, medical and mental health needs, history of supervision, and risk of flight; and

(III) any risk or undue burden to other persons who reside at the proposed residence or risk to third parties or to public safety that may result from such placement.

* * *

Sec. 8. 28 V.S.A. § 808(h) is added to read:

(h) While appropriate community housing is an important consideration in release of inmates, the department of corrections shall not use lack of housing as the sole factor in denying furlough to inmates who have served at least their minimum sentence for a nonviolent misdemeanor or nonviolent felony provided that public safety and the best interests of the inmate will be served by reentering the community on furlough.

Sec. 9. Sec. 49 of No. 1 of the Acts of 2009 is amended to read:

Sec. 49. AUDIT OF THE STATE'S SEXUAL ABUSE RESPONSE SYSTEM

~~(a) On or before November 15, 2011, and every five years thereafter, the auditor of accounts shall submit to the house and senate committees on~~

~~judiciary, the house committees on corrections and institutions, on appropriations, on education, and on human services, and the senate committee on health and welfare an independent audit which assesses the status of the state's sexual abuse response system, including prevention, criminal investigations, presentence investigations and sentencing of offenders, supervision and treatment of offenders, victim and family assistance and treatment, and training for those working in the system.~~

~~(b) The audit shall be conducted in consultation with the center for the prevention and treatment of sexual abuse.~~

The auditor of accounts and the Vermont network against domestic and sexual violence shall collaborate as to the best approach to conducting an audit of the state's sexual abuse response system while protecting confidentiality of victims and shall report their recommendations to the senate and house committees on judiciary no later than February 1, 2011.

Sec. 10. REINTEGRATION INTO THE COMMUNITY FROM THE CUSTODY OF THE DEPARTMENT OF CORRECTIONS

(a) For purposes of this section:

(1) "Nonviolent felony" means a felony offense which is not a listed crime as defined in 13 V.S.A. § 5301(7) or an offense involving sexual exploitation of children in violation of chapter 64 of Title 13.

(2) "Nonviolent misdemeanor" means a misdemeanor offense which is not a listed crime as defined in 13 V.S.A. § 5301(7) an offense involving sexual exploitation of children in violation of chapter 64 of Title 13 or 13 V.S.A. § 1030.

(b) The department of corrections shall request that the court discharge from probation offenders who on July 1, 2010:

(1) have served at least two years of an unlimited term of probation for a nonviolent misdemeanor and have completed any court-ordered services or programming designed to reduce the risk of recidivism; and

(2) have less than six months of term probation remaining for a nonviolent misdemeanor or a nonviolent felony, except those who are on probation pursuant to 23 V.S.A. § 1210(d), and who have completed any court-ordered services or programming designed to reduce the risk of recidivism.

(c) During the first three months of the fiscal year, pursuant to 28 V.S.A. § 808 including subsection 808(h), the department of corrections shall release to furlough inmates who on July 1, 2010, are incarcerated for nonviolent misdemeanors and nonviolent felonies, except those who are serving a sentence pursuant to 23 V.S.A. § 1210(d), who have served at least their

minimum sentence and who:

(1) have not been released because of lack of housing; and

(2) have completed or are not required to complete a program designed to ensure successful reintegration into the community.

(d) Consistent with subdivisions (1) and (3) of Sec. 29 of H.792 of 2010, a portion of the money saved through implementation of this section shall be used to provide grants to community justice centers and similar programs to support offenders who are released pursuant to subsection (c) of this section to reintegrate into the community and to community providers for transitional beds, support services, and residential treatment services for offenders reentering the community. It is the intent of the general assembly that these grants shall be paid for from the amounts appropriated to the department of corrections and prior to actually realizing the savings from the provisions of this section. Support for offenders released pursuant to subsection (c) of this section may include helping them to seek employment, pursue an education, or engage in community service while they are on furlough. As appropriate, the department shall facilitate the offenders' engagement in such meaningful endeavors by removing barriers that impede offenders' participation in these activities. This may include removing unnecessary driving restrictions and changing workday-timed probation appointments and programs that inhibit regular employment.

(e) Offenders who are discharged from probation or released from incarceration pursuant to this section shall be eligible to continue voluntary attendance at the community high school of Vermont.

(f) In his or her monthly reports to the corrections oversight committee, the commissioner of corrections shall report on progress made in implementing subsections (b) and (c) of this section as well as in reductions in the number of detainees realized pursuant to Sec. 11 of this act.

Sec. 11. REDUCTION IN NUMBER OF PERSONS DETAINED

(a) The general assembly finds that the number of persons detained in Vermont's correctional system is rising. The average number of detainees has been reported by the department of corrections as follows:

(1) 336 for fiscal year 2008.

(2) 370 for fiscal year 2009.

(3) 402 for the first six months of fiscal year 2010.

(b) The court administrator, the administrative judge of the trial courts, the commissioner of the department of corrections, the executive director of the

department of state's attorneys and sheriffs, and the defender general shall work cooperatively to reduce, to the extent possible, the average daily number of incarcerated detainees to 300 persons or less and to maintain the average daily number at this level. The group shall attempt to reach this level by January 1, 2011.

(c) Improvement in and greater implementation of existing strategies such as term probation, administrative probation, graduated sanctions, alternative sentences, home detention, and electronic monitoring shall be considered, in addition to new approaches and best practices employed in other states. Consideration shall be given to victim and community safety.

Sec. 12. STRATEGIES TO REDUCE NUMBER OF PEOPLE IN CUSTODY OF COMMISSIONER OF CORRECTIONS; REPORT

(a) The commissioner of corrections, the administrative judge of the trial courts, the court administrator, the executive director of the department of state's attorneys and sheriffs, and the defender general shall collaborate on strategies to reduce the number of people entering the custody of the commissioner of corrections and to minimize the time served of those who do enter the commissioner's custody, consistent with public safety.

(b) On or before March 15, 2011, the group described in subsection (a) of this section shall jointly report to the senate and house committees on judiciary, the senate committee on institutions, and the house committee on corrections and institutions on potential strategies including, but not limited to, the following:

(1) methods for increasing compliance with Sec. 1 of this act regarding term and administrative probation.

(2) strategies employed and success in reducing the average daily detainee population to 300 persons by January 1, 2011.

(3) a plan to coordinate efficient scheduling of court hearings and transportation of persons in the custody of the commissioner of corrections.

Sec. 13. OFFICE OF ALCOHOL AND DRUG ABUSE PROGRAMS; SUPERVISED BEDS; PUBLIC INEBRIATE SCREENING TOOL

(a) The office of alcohol and drug abuse programs shall develop a uniform screening tool which can be used to determine whether or not an inebriated person is incapacitated or in need of medical or other treatment or some combination of these. The screening tool shall be used by public inebriate screeners under contract with the office. To the extent practicable, the tool shall be based on evidence-based practices and standard emergency department policies and procedures.

(b) The office of alcohol and drug abuse programs shall develop supervised two-bed units for location of incapacitated persons taken into custody pursuant to 33 V.S.A. § 708. Units shall be developed as funding is available and placed in counties in which no bed space for incapacitated persons exists. Priority shall be based on population density and on demonstrated collaboration between stakeholders.

Sec. 14. Sec. 22(a) of No. 179 of the Acts of the 2007 Adj. Sess. (2008) is amended to read:

(a) Secs. 11 and 12 of this act shall take effect on July 1, ~~2011~~ 2012.

Sec. 15. 24 V.S.A. § 1940(c) is amended to read:

(c) A specialized investigative unit grants board is created which shall be comprised of the attorney general, the secretary of administration, the executive director of the department of state's attorneys, the commissioner of the department of public safety, the commissioner of the department of children and families, a representative of the Vermont sheriffs' association, a representative of the Vermont association of chiefs of police, the executive director of the center for crime victim services, and the executive director of the Vermont League of Cities and Towns, Inc. Specialized investigative units organized and operating under this section for the investigation of sex crimes, child abuse, elder abuse, domestic violence, or crimes against those with physical or developmental disabilities may apply to the board for a grant or grants covering the costs of salaries and employee benefits to be expended during a given year for the performance of unit duties as well as unit operating costs for rent, utilities, equipment, training, and supplies. Grants under this section shall be approved by a majority of the entire board and shall not exceed 50 percent of the yearly salary and employee benefit costs of the unit. Preference shall be given to grant applications which include the participation of the department of public safety, the department for children and families, sheriffs' departments, community victims' advocacy organizations, and municipalities within the region.

Sec. 16. EFFECTIVE DATE

This act shall take effect on July 1, 2010.

(Committee vote: 11-0-0)

(For text see Senate Journal 3/16/ - 3/17/10)

Amendment to be offered by Reps. Lorber of Burlington, Branagan of Georgia and Haas of Rochester, and to S. 292

Reps. Lorber of Burlington, Branagan of Georgia and Haas of Rochester move that the report of the Committee on Corrections and Institutions be

amended following Sec. 15 by adding seven new Secs. to read:

Sec. 16. 13 V.S.A. § 7030(a) is amended to read:

(a) In determining which of the following should be ordered, the court shall consider the nature and circumstances of the crime, the history and character of the defendant, the need for treatment, the impact on minor children if any, and the risk to self, others, and the community at large presented by the defendant:

(1) A deferred sentence pursuant to section 7041 of this title.

(2) Probation pursuant to ~~section~~ 28 V.S.A. § 205 ~~of Title 28~~.

(3) Supervised community sentence pursuant to ~~section~~ 28 V.S.A. § 352 ~~of Title 28~~.

(4) Sentence of imprisonment.

Sec. 17. 28 V.S.A. § 102(b)(17) is added to read:

(17) To request information from each inmate about minor children. Information the commissioner may request includes: how many children the inmate has; who is the primary caregiver for the children; each child's date of birth and gender; and what living arrangements have been made for the children and the place of residence.

Sec. 18. 28 V.S.A. § 102(b)(5) is amended to read:

(5) To order the assignment and transfer of persons committed to the custody of the commissioner to correctional facilities, including out-of-state facilities. However, the commissioner shall consider family connections in determining in which facility to place an inmate and shall attempt to locate each inmate as close to his or her minor children as possible.

Sec. 19. 28 V.S.A. § 701 is amended to read:

§ 701. COMMITMENT TO THE CUSTODY OF THE COMMISSIONER

* * *

(b) The commissioner shall have the authority to designate the place of confinement where the sentence shall be served. However, the commissioner shall consider family connections in determining in which facility to place an inmate and shall attempt to locate each inmate as close to his or her minor children as possible.

* * *

(e) Upon entry into the system, whether convicted of an offense or not, the person shall be asked if he or she is a primary caregiver for a minor child. If the answer is affirmative, department personnel shall ask how the child is

being cared for in the caregiver's absence and, if appropriate, ask the department for children and families to intervene on the child's behalf.

Sec. 20. COMMISSIONER OF CORRECTIONS; FAMILIES; DATA COLLECTION

(a) The commissioner shall gather information which will help policy makers develop policies that will work to nurture and enhance relationships between children and their incarcerated parents. Information gathered shall include:

(1) The number of children who have a parent in prison.

(2) What living arrangements are made for these children.

(3) How frequently and in what form children and their incarcerated parents have contact.

(4) Barriers to more frequent contact between children and their incarcerated parents.

(5) The percentage of children who are successfully reunited with their parents after release.

(6) How often a child is used to smuggle illegal substances into a Vermont prison.

(7) The number of inmates who have a parent who was incarcerated.

(b) The commissioner shall present the data gathered pursuant to subsection (a) of this section and any other data the commissioner believes would help policy makers as they consider how to nurture family relationships among inmates and their children to the senate committee on judiciary and the house committee on corrections and institutions on or before each January 15 during the years 2011–2016.

Sec. 21. COMMISSIONER OF CORRECTIONS; FAMILIES; CONTACT POLICIES

(a) The commissioner of corrections shall examine department of corrections (DOC) policies regarding use of the mail, telephone, and personal visits and revise them to make them more family friendly as appropriate. In redesigning these policies, the DOC shall take special care to consider them from the point of view of the child who may be affected by them as well as the security of the facility. Specifically, the commissioner shall:

(1) Revise policies and practices to better promote daily, affordable telephone contact between incarcerated parents and their children. The commissioner shall consider alternatives, for example, installation of a toll-free

telephone line.

(2) Eliminate any existing policy which limits telephone calls and visitation as a disciplinary measure.

(3) Examine the policies adopted and followed by individual facilities and determine ways to revise them to be more child-friendly for visits.

(b) The commissioner shall report on actions he or she has taken to enhance family visits to the senate committee on judiciary and the house committee on corrections and institutions on or before each January 15.

Sec. 22. CHILDREN OF ARRESTED AND INCARCERATED PARENTS; POLICIES, GUIDELINES, AND PROCEDURES; AGENCY REPORTS

(a) It is the policy of the state of Vermont that, in order to reduce recidivism and intergenerational incarceration, the well-being of children shall be considered at every step of the process when it becomes necessary to arrest and incarcerate their parents. Therefore, state agencies and others involved in the criminal justice system shall develop policies, guidelines, and procedures designed to ensure that children of arrested and incarcerated parents are informed and kept safe at the time of a parent's arrest, are considered when decisions are made about a parent, are well cared for when the parent is absent, and are able to spend quality time with an incarcerated parent unless contact would be detrimental to the child. Each agency head or judge listed in this section shall present a draft of the policies, guidelines, and procedures as requested in this section to the corrections oversight committee on or before December 15, 2010. Following discussion with the corrections oversight committee, the agency head or judge may revise the policies, guidelines, or procedures and shall then adopt and follow them when working with arrested or incarcerated parents of minor children.

(b) In this section, "minor child" means a person under the age of 18.

(c) The attorney general, in consultation with the executive director of the department of sheriffs and state's attorneys, shall establish guidelines for prosecutors to use when prosecuting the parent of a minor child. The guidelines shall consider:

(1) the need of the child to be informed about the process;

(2) the need of the child to maintain quality contact with the parent; and

(3) the impact of any proposed sentence on termination of parental rights under the Federal Adoption and Safe Families Act of 1997.

(d) The administrative judge shall establish a policy which requires a family impact statement prior to sentencing a parent of a minor child, and which requires the judge when setting the sentence to consider the impact of any proposed sentence on termination of parental rights under the Federal Adoption and Safe Families Act of 1997.

(e) The commissioner of corrections shall:

(1) evaluate whether policies and procedures regarding family contact should be revised, and whether the geographic location of currently incarcerated parents of a minor child should be changed in order to ensure appropriate and maximum visitation and engagement between an inmate and his or her minor child;

(2) establish policies and procedures for ensuring appropriate and maximum visitation and engagement between an inmate and his or her minor child; and

(3) establish policies and procedures to ensure that the needs of families with a minor child are considered when setting up conditions of probation or parole.

(f) The commissioner for children and families shall evaluate whether caregivers of a minor child of an incarcerated parent are receiving support adequate to facilitate normal child development while reducing recidivism and intergenerational incarceration, and shall establish guidelines regarding the supports that caregivers and minor children should receive while a parent is incarcerated.

and by renumbering the remaining Sec. to be numerically correct

Amendment to be offered by Rep. Myers of Essex to S. 292

Rep. Myers of Essex moves that the report of the Committee on Corrections and Institutions be amended as follows:

First: In Sec. 10, subdivision (b)(1), following the words "have completed" by striking "any" and inserting in lieu thereof "all"

Second: In Sec. 10, subdivision (b)(2), following the words "have completed" by striking "any" and inserting in lieu thereof "all"

S. 297

An act relating to miscellaneous changes to education law

Rep. Mook of Bennington, for the Committee on Education**,** recommends that the House propose to the Senate that the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

* * * Distance Learning; Out-of-State Programs * * *

Sec. 1. 16 V.S.A. § 166(b)(6) is amended to read:

(6) This subdivision applies to an independent school located in Vermont ~~which~~ that offers a distance learning program ~~of elementary or secondary education through correspondence, electronic mail, satellite communication, or other means~~ and ~~which~~ that, because of its structure, does not meet some or all the rules of the state board for approved independent schools. In order to be approved under this subdivision, a school shall meet the standards adopted by rule of the state board for approved independent schools ~~which~~ that can be applied to the applicant school and any other standards or rules adopted by the state board regarding these types of schools. A school approved under this subdivision shall not be eligible to receive tuition payments from public school districts under chapter 21 of this title. ~~However, a school district may enter into a contract or contracts with a school approved under this subdivision for provisions of some education services for its students.~~

Sec. 2. 16 V.S.A. § 563(32) is added to read:

(32) May enter into a contract or contracts with a school offering a distance learning program that is approved by one or more accrediting agencies recognized by the U.S. Department of Education or is approved in Vermont pursuant to subdivision 166(b)(6) of this title.

* * * Supervisory Unions; Special Education; Early Intervention * * *

Sec. 3. 16 V.S.A. § 261a(6) is amended to read:

(6) ~~provide or, if agreed upon by unanimous vote at a supervisory union meeting, coordinate provision of the following educational services on behalf of member districts:~~

(A) ~~special education;~~

~~(B) except as provided in section 144b of this title, compensatory and remedial services; and~~

~~(C) other services as directed by the state board and local boards~~ provide special education services on behalf of member districts and, except as provided in section 144b of this title, compensatory and remedial services; provided, however, the supervisory union may obtain a waiver from the commissioner based on a demonstration that any of the services would be provided more efficiently and effectively in another manner; and

(B) engage in negotiations with special education employees pursuant to chapter 57 of this title and chapter 22 of Title 21, as appropriate, at

the supervisory union level, provided that contract terms may vary by district;

Sec. 4. TRANSITION

Each supervisory union shall provide for any transition of employment of special education staff by member districts to employment by the supervisory union, pursuant to Sec. 3 of this act, 16 V.S.A. § 261a(6), by:

(1) providing that the supervisory union assumes all obligations of each existing collective bargaining agreement in effect between the member districts and their special education employees until the agreement's expiration, subject to employee compliance with performance standards and any lawful reduction in force, layoff, nonrenewal, or dismissal;

(2) providing, in the absence of an existing recognized representative of its employees, for the immediate and voluntary recognition by the supervisory union of the recognized representatives of the employees of the member districts as the recognized representatives of the employees of the supervisory union;

(3) ensuring that no nonprobationary employee of a member district shall be considered a probationary employee upon transition to the supervisory union; and

(4) containing an agreement with the recognized representatives of the employees of the member districts that is effective on the day the supervisory union assumes obligations of existing agreements regarding how the supervisory union, prior to reaching its first collective bargaining agreement with its special education employees, will address issues of seniority, reduction in force, layoff, and recall.

Sec. 5. SPECIAL EDUCATION; BEST PRACTICES; MATERIALS AND GUIDELINES

On or before July 1, 2011, the department of education, in collaboration with the Vermont Superintendents Association, Vermont Principals' Association, and the Vermont Council of Special Education Administrators, shall:

(1) identify and publish on its website Internet links to current information regarding best practices for implementing:

(A) tiered levels of educational support, including positive behavioral supports and response to intervention; and

(B) co-teaching and differentiated instruction.

(2) develop and publish on its website guidelines to assist individualized education plan ("IEP") team decision-making for necessary services,

paraeducator services, and placement.

Sec. 6. TRAINING; EDUCATION SERVICES AGENCIES

On or before July 1, 2011, the department of education, working with education service agencies ("ESAs") and other external partners, shall develop training modules and arrange for the availability of ongoing training to:

(1) encourage co-teaching. positive behavioral supports; differentiated instruction, and response to intervention in Vermont public schools;

(3) assist IEP teams to implement the decision-making guidelines developed pursuant to Sec. 5(2) of this act.

Sec. 7. LOCAL EDUCATION AGENCIES; REPRESENTATIVES; TRAINING

(a) On or before July 1, 2011, the department of education shall develop training materials for local education agency ("LEA") representatives on IEP teams regarding roles, requirements, prerequisite knowledge, and procedures for making service and placement decisions.

(b) On or before July 1, 2011, and no less than annually thereafter, each superintendent shall arrange for each LEA representative within the supervisory union to receive training pursuant to the materials prepared under subsection (a) of this section.

Sec. 8. SPECIAL EDUCATION; FUNDING MECHANISMS

On or before July 1, 2012, the joint fiscal office, in consultation with the department of education, shall examine block grants and other special education funding mechanisms used by other states, shall evaluate which mechanisms would be effective in Vermont, and shall provide its conclusions and recommendations to the house and senate committees on education and on appropriations, the house committee on ways and means, and the senate committee on finance.

* * * Designation of Public and Approved Independent High Schools * * *

Sec. 9. 16 V.S.A. § 827 is amended to read:

§ 827. DESIGNATION OF A PUBLIC HIGH SCHOOL OR AN APPROVED INDEPENDENT HIGH SCHOOL AS THE SOLE PUBLIC HIGH SCHOOL OF A SCHOOL DISTRICT

* * *

(d) The school board may pay tuition to another approved high school as requested by the parent or legal guardian if in its judgment that will best serve the interests of the pupil. Its decision shall be final in regard to the institution

the pupil may attend. If the board approves the parent's request, the board shall pay tuition for the pupil in an amount not to exceed the least of:

(1) The statewide average announced tuition of Vermont union high schools, provided the parent shall pay the balance of the tuition charged by the nondesignated school.

(2) The per-pupil tuition the district pays to the designated school in the year in which the pupil is enrolled in the nondesignated school, provided the parent shall pay the balance of the tuition charged by the nondesignated school.

(3) The tuition charged by the approved nondesignated school in the year in which the pupil is enrolled.

(e) Notwithstanding any provision of law to the contrary, the school districts of Pawlet, Rupert, and Wells may designate a public high school located in New York as the public high school of the district pursuant to the provisions of this section.

Sec. 10. 16 V.S.A. § 827(b) is amended to read:

(b) Except as otherwise provided in this section, if the board of trustees or the school board of the designated school votes to accept this designation the school shall be regarded as a public school for tuition purposes under subsection 824(b) of this title ~~and the~~ and for special education and technical education purposes. The sending school district shall pay tuition to that school only, until such time as the sending school district or the designated school votes to rescind the designation.

* * * Driver Education * * *

Sec. 11. 16 V.S.A. § 1045 is amended to read:

§ 1045. DRIVER TRAINING COURSE

(a) A driver education and training course, approved by the department of ~~education and the department of~~ motor vehicles shall be made available to pupils whose parent or guardian is a resident of Vermont and who have reached their ~~fifteenth~~ 15th birthday and who are regularly enrolled in a public or independent high school approved by the state board.

(b) After June 30, 1984, all driver education courses shall include a course of instruction~~, approved by the state board and the council~~ on the effects of alcohol and drugs on driving.

(c) All driver education courses shall include instruction on motor vehicle liability insurance and the motor vehicle financial responsibility laws of the state.

Sec. 12. DRIVER EDUCATION; RESTRUCTURING

(a) The department of education, in consultation with the department of motor vehicles, the Vermont Driver and Traffic Safety Education Association, the Vermont Superintendents Association, and other interested entities, shall explore options for restructuring the delivery of driver education to Vermonters between the ages of 15 and 20, including consideration of:

(1) the development, implementation, evaluation, and enforcement of standards for teen driver education programs and instructors;

(2) the development and public dissemination of information regarding teen driver education issues;

(3) the creation of an advisory board to oversee all teen driver education programs, program instructors, and public communication efforts; and

(4) available funding sources for driver education programs and advisory board responsibilities.

(b) On or before January 15, 2011, the department shall present a detailed restructuring proposal to the house and senate committees on education and on transportation.

* * * School Food Programs; Supervisory Unions * * *

Sec. 13. 16 V.S.A. § 1262a is amended to read:

§ 1262a. AWARD OF GRANTS

(a) The state board of education may, from funds appropriated for this subsection to the department of education, award grants to ~~school boards which~~ supervisory unions that establish and operate food programs, provided the amount of any grant shall not be more than the amount necessary, in addition to the charge made for the meal and any reimbursement from federal funds, to pay the actual cost of the meal.

(b) The state board may, from funds available to the department of education for this subsection, award grants to ~~school districts which~~ supervisory unions that need to initiate or expand food programs in order to meet the requirements of section 1264 of this title and ~~which~~ that seek assistance in meeting the cost of initiation or expansion. The amount of the grants shall be limited to seventy-five percent of the cost deemed necessary by the commissioner to construct, renovate or acquire additional facilities and equipment to provide lunches to all pupils, and shall be reduced by the amount of funds available from federal or other sources, including those funds available under section 3448 of this title. The state board, upon recommendation of the commissioner, shall direct ~~school districts~~ supervisory

unions seeking grants under this section to share facilities and equipment within the supervisory union and with other supervisory unions for the provision of lunches wherever more efficient and effective operation of food programs can be expected to result.

(c) On a quarterly basis, from state funds appropriated to the department of education for this subsection, the state board shall award to each ~~school district~~ supervisory unions a sum equal to the amount that would have been the student share of the cost of all breakfasts actually provided in the district during the previous quarter to students eligible for a reduced price breakfast under the federal school breakfast program.

Sec. 14. 16 V.S.A. § 1262b is amended to read:

§ 1262b. REGULATIONS

The state board of education shall adopt regulations governing grants under section 1262a of this title. Such regulations shall provide for grants to ~~local school programs~~ supervisory unions from state funds in accordance with guidelines of food programs as defined under federal law. The state board of education may adopt such other rules and regulations as are necessary to carry out the provisions of this subchapter.

Sec. 15. 16 V.S.A. § 1264 is amended to read:

§ 1264. FOOD PROGRAM

(a) Each ~~school board actually operating a public school shall cause to operate within the school district~~ supervisory union shall ensure that there is a food program ~~which~~ that makes ~~available~~ a school lunch, as provided in the National School Lunch Act as amended, and a school breakfast, as provided in the National Child Nutrition Act as amended, available to each attending pupil every school day in all public schools within the supervisory union. In the event of an emergency, ~~the school board~~ a supervisory union may apply to the department for a temporary waiver of this daily operating requirement for one or more schools within the supervisory union. The commissioner shall grant the requested waiver if he or she finds that it is unduly difficult for the school ~~district~~ or schools to serve a school lunch or breakfast, or both, and if he or she finds that the ~~school district~~ supervisory union has exercised due diligence in its efforts to avoid the emergency situation ~~which~~ that gives rise to the need for the requested waiver. In no event shall the waiver extend for a period to exceed 20 school days.

(b) The state shall be responsible for the student share of the cost of breakfasts provided to all students eligible for a reduced price breakfast under the federal school breakfast program.

Sec. 16. 16 V.S.A. § 1265 is amended to read:

§ 1265. EXEMPTION; PUBLIC DISCUSSION

(a) The ~~school~~ board of a school district ~~which~~ that wishes to be exempt from the provisions of section 1264 of this title may vote at a meeting warned and held for that purpose to exempt itself from the requirement to operate either the school lunch program or the school breakfast program, or both, for a period of one year.

(b) If a school ~~board~~ is exempt from operating a breakfast or lunch program, ~~annually it~~ the school board shall conduct a discussion annually on whether to continue the exemption. The pending discussion shall be included on the agenda at a regular or special school board meeting publicly noticed in accordance with ~~subsection~~ 1 V.S.A. § 312(c) ~~of Title 1~~, and citizens shall be provided an opportunity to participate in the discussion. The school board shall send a copy of the notice to the commissioner and to the superintendent of the supervisory union at least ten days prior to the meeting. Following the discussion, the school board shall vote on whether to continue the exemption for one additional year.

(c) On or before the November 1~~, previous~~ prior to the date on which an exemption voted under this section is due to expire, the commissioner shall notify the ~~school board~~ boards of the affected school district and supervisory union in writing that the exemption will expire.

(d) Following a meeting held pursuant to subsection (b) of this section, the school board shall send a copy of the agenda and minutes to the commissioner and the superintendent of the supervisory union.

(e) The commissioner may grant a supervisory union a waiver from duties required of it under this subchapter if the supervisory union demonstrates that the duties would be performed more efficiently and effectively by individual school districts or in another manner.

* * * Technical Centers; Periodic Review * * *

Sec. 17. 16 V.S.A. § 1533(a) is amended to read:

(a) ~~At least once in each period of five years, and in coordination with the Vermont advisory council on technical education, the~~ The commissioner ~~or his designee~~ shall arrange for the Commission on Career and Technical Institutions of the New England Association of Schools and Colleges to evaluate the effectiveness of each technical center in the state according to the schedule established by that organization. ~~The state board by rule shall prescribe the method for conducting these evaluations.~~

* * * Data Errors * * *

Sec. 18. 16 V.S.A. § 4030 is amended to read:

§ 4030. DATA SUBMISSION; CORRECTIONS

(a) Upon discovering an error or change in data submitted to the commissioner for the purpose of determining payments to or from the education fund, a school district shall report the error or change to the commissioner as soon as possible. Any budget deficit or surplus due to the error or change shall be carried forward to the following year.

(b) The commissioner shall use data submitted on or before January 15 prior to the fiscal year which begins the following July 1, in order to calculate the amounts due each school district for any fiscal year for the following:

(1) ~~the adjusted education payments due under section 4011 of this title;~~

~~(2)~~ transportation aid due under ~~Sec. 98 of Act No. 71 of 1998~~ section 4016 of this title; and

~~(3)~~(2) the small school support grant due under section 4015 of this title.

(c) The commissioner shall use data corrections regarding local education budget amounts submitted on or before June 15 prior to the fiscal year which begins the following July 1, in order to calculate the ~~amounts due each school district~~ education payments due under section ~~4027~~ 4011 of this title. However, the commissioner may use data submitted after June 15 and prior to July 15 due to unusual or exceptional circumstances as determined by the commissioner.

(d) The commissioner shall not use data corrected due to an error submitted following the deadlines to recalculate the equalized pupil ratio under subdivision 4001(3) of this title. The commissioner shall not adjust ~~payments to or from the education fund~~ average daily membership counts if an error or change is reported more than three fiscal years following the date that the original data was due. ~~Adjustments to payments to or from the education fund under this section shall be made on the earliest date possible after the fiscal year in which the error was reported, and in accordance with the schedules set forth in subsection 4028(a) of this title and section 5402 of Title 32, and after the necessary appropriation by the general assembly.~~

(e) The board may adopt rules as necessary to implement the provisions of this section..

* * * Integrated Statewide Student Information System * * *

Sec. 19. Sec. 3(3) of No. 38 of the Acts of 2009 is amended to read:

(3) To the extent funds are available, begin phased implementation of the data system no later than January 1, 2010, to be complete in all districts in

the state by January 1, ~~2017~~ 2013.

* * * Secondary Completion; Postsecondary Aspirations * * *

Sec. 20. ADVANCED PLACEMENT COURSES; DUAL ENROLLMENT AND OTHER POSTSECONDARY COURSES; POSTSECONDARY CREDIT

On or before January 15, 2011, each Vermont postsecondary institution that receives general fund or capital appropriations from the state shall consider and provide recommendations to the house and senate committees on education regarding ways in which it could improve secondary completion and postsecondary aspiration rates by awarding postsecondary academic credit for the successful completion of one or more of the following:

(1) An advanced placement course at a Vermont secondary school and a score of 3 or higher on the advanced placement examination.

(2) A postsecondary-level course in a dual enrollment program.

(3) A postsecondary-level course offered online or by correspondence with an accredited college or university.

* * * Blue Ribbon Tax Commission; Education Finance * * *

Sec. 21. EDUCATION FINANCE; BLUE RIBBON TAX COMMISSION

(a) To advance the purpose for which it was formed and any education-related purpose with which it is charged during the 2009-2010 biennium , the Blue Ribbon Tax Structure Commission, created in Sec. H.56 of No. 1 of the Acts of the Special Session of 2009, shall also examine and propose an appropriate balance between education funding from education property taxes and education funding from the general fund and other sources and analyze and recommend alternative means of maintaining that balance. In fiscal year 2011, the balance will be 68.2 percent of education funding from education property tax revenues and 31.8 percent of education funding from the general fund and other education funding sources. In comparison, in fiscal year 2005 the balance was 60.8 percent and 39.2 percent respectively.

(b) The commission shall report its analysis and recommendations to the house and senate committees on education and on appropriations, the house committee on ways and means, and the senate committee on finance on or before July 1, 2011.

* * * Effective Dates * * *

Sec. 22. EFFECTIVE DATES

(a) Secs. 3 and 4 of this act shall take effect on July 1, 2012.

(b) Sec. 10 of this act shall take effect on July 1, 2013.

(c) Secs. 13 through 16 of this act shall take effect on passage and apply beginning in the 2011-2012 academic year.

(d) This section and all other section of this act shall take effect on passage.

(Committee vote: 10-0-1)

(For text see Senate Journal 3/23/10)

Favorable

S. 187

An act relating to municipal financial audits

Rep. Townsend of Randolph, for the Committee on **Government Operations**, recommends that the bill ought to pass in concurrence.

(Committee Vote: 9-0-2)

(For text see Senate Journal 2/2/10)

Action Postponed Until May 28, 2010
Governors Veto
H. 436

An act relating to decommissioning funds of nuclear energy generation plants.

Pending Question: Shall the House sustain the Governor's veto?

NOTICE CALENDAR

Favorable with Amendment

H. 782

An act relating to a voluntary school district merger incentive program, supervisory union duties, and other education issues

Rep. Peltz of Woodbury, for the Committee on **Education,** recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. INTENT

It is the intent of the general assembly:

(1) to ensure that any change to the governance structure of the Vermont educational system will create better opportunities for students, reasonably increase economies of scale, preserve a sense of community, and provide incentives for cost efficiencies available in personnel assignment and the management of resources;

(2) to provide technical assistance, incentives, and statutory changes to encourage voluntary merger of school districts;

(3) to assist schools and education governing units to use meaningful, standardized metrics for evaluating programs, comparing local, national, and international student data, and assessing and identifying system improvements;

(4) to ensure that there are meaningful methods to analyze the costs and benefits of resource allocations;

(5) to make effective use of technology to expand educational opportunities for all students; and

(6) to ensure that voters have opportunities to make local decisions regarding school choice and other enrollment options, in Vermont public schools and in approved independent schools, that are appropriate for their communities.

* * * School District Merger Incentive Program * * *

Sec. 2. SCHOOL DISTRICT MERGER INCENTIVE PROGRAM

(a) Program created. There is created a school district merger incentive program under which the incentives outlined in Sec. 4 of this act shall be available to each new unified union school district, as defined in 16 V.S.A. § 722 or as provided in Sec. 3(b) of this act, created on or before July 1, 2016 by the voluntary merger of existing school districts pursuant to Sec. 3 of this act.

(b) Board discussion. On or before November 1, 2010, the board of every school district in the state shall discuss whether it wishes to explore merger within its supervisory union or with one or more contiguous districts outside its supervisory union, which for the purposes of this act includes supervisory districts, or both under the terms of this act.

(c) Board vote. On or before December 1, 2010, each school district board shall vote whether to work with other boards to perform a more comprehensive analysis of potential merger, and shall report the results of its vote to the commissioner of education and the voters of the district.

Sec. 3. INCENTIVE PROGRAM REQUIREMENTS RELATING TO DISTRICT STRUCTURE

(a) Size and schools. Contiguous school districts, which may include one or more union school districts, may merge to form a unified union school district ("UUSD") pursuant to chapter 11 of Title 16 that, except as provided in subsection (k) of this section, shall have an average daily membership of at least 1,250 or result from the merger of at least five districts, or both.

(b) Elementary and secondary education. A UUSD shall operate one or more approved public schools offering elementary and secondary education as required by 16 V.S.A. § 722; provided, however:

(1) A proposed UUSD shall be deemed to operate grades 9 through 12 as required by 16 V.S.A. § 722 if it will designate, pursuant to the provisions of 16 V.S.A. § 827, either a Vermont public school outside the district or a Vermont approved independent school located inside or outside the district as the sole public high school of the UUSD.

(2) Two or more contiguous schools districts that, when merged, would operate one or more approved schools offering kindergarten through grade 8 and would provide for the education of resident pupils in grades 9 through 12 by paying tuition pursuant to 16 V.S.A. § 824, are eligible for the incentives outlined in Sec. 4 of this act and for purposes of this act shall be considered a UUSD if:

(A) the districts, when merged, will neither operate a school offering grades 9 through 12 nor designate a school pursuant to 16 V.S.A. § 827 that offers those grades;

(B) for at least two fiscal years prior to merger, none of the merging districts operated a school offering grades 9 through 12;

(C) on the day on which the merger takes effect and the new merged district comes into existence, none of the merging districts is a member of a union school district that operates a school offering grades 9 through 12; and

(D) the merging districts and the new, merged district comply with all other provisions of this act, or otherwise in law, that apply to a UUSD formed under the school district merger incentive program created by this act, including the provision in subdivision (d)(2) of this section that the new merged district is a distinct supervisory district and shall not be assigned to be a member of a supervisory union.

(c) Existing union school districts. Pursuant to 16 V.S.A. § 701b(b), if an existing union school district is among the districts merging to form a UUSD, a successful vote to form the UUSD dissolves the existing union district.

(d) Supervisory unions and supervisory districts.

(1) School districts that merge to form a UUSD do not need to be members of the same supervisory union prior to merger.

(2) For purposes of this act, a UUSD is a supervisory district consisting of a single unified union school district, as explicitly contemplated by 16 V.S.A. § 11(a)(24), and shall not be assigned to a supervisory union pursuant to 16 V.S.A. § 706h.

(3) If a UUSD includes all school districts within one or more existing supervisory unions, then a successful vote to form the UUSD dissolves the school districts, the supervisory union or unions, and all related elected boards on the day the new UUSD becomes operative.

(4) If a UUSD forms and does not include all school districts within one or more supervisory unions, then:

(A) the UUSD is an independent entity distinct from the remaining school districts and the supervisory union or unions; and

(B) any school district that is a member of the same supervisory union as one or more of the merging districts and that does not merge to form the UUSD shall maintain its existing governance structure; provided, however, that upon vote of the electorate, the school district may notify the state board of education of its intent to operate as a supervisory district as defined in 16 V.S.A. § 11(24) or may request the state board to assign it to an existing supervisory union pursuant to 16 V.S.A. § 261.

(e) Operation of schools. A UUSD shall not close any school within its boundaries during the first four years of merger or prior to fiscal year 2018, whichever is earlier, unless the electorate of the municipality in which the school is located consents to closure.

(f) Local participation. Because the UUSD shall be governed by one board, the plan for merger presented to the electorate for approval under chapter 11 of Title 16 shall include structures and processes that provide opportunities for local participation in the creation of UUSD policy and budget development.

(g) Enrollment options. The plan for merger presented to the electorate for approval shall include whether and to what extent the voters of the participating districts wish to allow the elementary and secondary students residing within the UUSD to enroll in any school the UUSD operates, provided:

(1) the UUSD shall comply with the regional high school choice provisions of 16 V.S.A. § 1622;

(2) the UUSD shall provide, or provide access to, secondary technical education for students residing within its boundaries; and

(3) if the proposed enrollment plan would provide fewer options to the students in one or more of the districts interested in merger than they have prior to merger, then the plan shall require the UUSD to pay tuition to a school pursuant to the provisions of chapter 21 of Title 16 for any student who resides within the UUSD if that student resided in one of the participating districts

prior to merger and as a result of that residency was enrolled in the school at public expense at the time of merger, even if the UUSD's approved merger plan has determined that the school is not otherwise a school to which it will pay tuition.

(h) Special education; local education agency. The UUSD shall be the local education agency for purposes of both 20 U.S.C. §§ 1400–1485 (Individuals with Disabilities Education Act) and 20 U.S.C. §§ 6311–6318 (the Elementary and Secondary Education Act of 1965 and the No Child Left Behind Act of 2001) and their implementing regulations, as amended from time to time. The UUSD shall provide special education services and shall be responsible for developing the individualized education plans for eligible students residing within its boundaries.

(i) Curriculum. The UUSD shall have a UUSD-wide curriculum that meets the standards adopted pursuant to 16 V.S.A. § 165(a)(3) and that is approved by the UUSD board and fully implemented no later than the sixth year of the UUSD's existence. UUSDs are encouraged to increase opportunities for students through distance learning, dual enrollment, internships, and other programs.

(j) Employment and labor relations. The UUSD, upon assuming operating responsibility on the first day of its existence, shall:

(1) assume the obligations of individual employment contracts between the participating districts and their bargaining unit employees;

(2) assume the collective bargaining agreements between the participating districts and their respective representative organizations, including any provisions that address the transition to the UUSD, until such time as it reaches its own agreement with teachers and administrators under 16 V.S.A. § 2005, and with respect to other employees under 21 V.S.A. § 1725(a); and

(3) otherwise comply with all laws regarding labor relations applicable to school districts and supervisory unions, including chapter 57 of Title 16 and chapter 22 of Title 21.

(k) Waiver. School districts interested in merger may request the state board of education to grant them a waiver from the requirements of subsection (a) of this section, which shall be granted if the districts can demonstrate that for them the requirements of that subsection would not be cost-effective, would decrease educational opportunities, or would diminish student achievement, or any combination of these.

(l) Qualification. No individual entitlement or private right of action is

created by Secs. 2 through 8 of this act.

Sec. 4. VOLUNTARY MERGER PROGRAM INCENTIVES

(a) Multiyear budgets.

(1) In addition to the option of proposing a single-year budget on an annual basis pursuant to the provisions of chapter 11 of Title 16 and notwithstanding any other provision of law, a UUSD formed pursuant to Secs. 2 and 3 of this act shall also have the option to propose one or both of the following:

(A) A multiyear budget for the first two fiscal years of its existence, provided the years are prior to fiscal year 2018, that will be included as part of the plan that must be approved by the electorate in order to create the UUSD.

(B) A multiyear budget for the third and fourth fiscal years of its existence, provided the years are prior to fiscal year 2018, that is presented to the electorate for approval at the UUSD's annual meeting convened in its second fiscal year.

(2) The plan presented to the electorate to authorize creation of the UUSD may contain a provision authorizing the UUSD, beginning in the earlier of the fifth fiscal year of its existence or fiscal year 2018, to present multiyear proposed budgets to the electorate once in every two or three years.

(3) A UUSD that spends less than the budgeted amount prior to fiscal year 2018 shall be entitled to retain the budget surplus to lower its tax rate in fiscal year 2018 or after, or for another purpose approved by the electorate.

(b) Tax rates.

(1) Subject to the provisions of subdivision (3) of this subsection and notwithstanding any other provision of law, for no more than four consecutive years prior to fiscal year 2018:

(A) if the UUSD's approved annual education spending in one fiscal year is less than its education spending in the prior fiscal year, then for purposes of calculating the UUSD's homestead property tax rate for the year, the UUSD's education spending per equalized pupil shall be decreased by $875.00;

(B) if the UUSD's approved annual education spending in one fiscal year is equal to its education spending in the prior fiscal year, then for purposes of calculating the UUSD's homestead property tax rate for the year, the UUSD's education spending per equalized pupil shall be decreased by $750.00;

(C) if the UUSD's approved annual education spending in one fiscal

year is greater than its education spending in the prior fiscal year by one percent or less, then for purposes of calculating the UUSD's homestead property tax rate for the year, the UUSD's education spending per equalized pupil shall be decreased by $600.00;

(D) if the UUSD's approved annual education spending in one fiscal year is greater than its education spending in the prior fiscal year by more than one percent but not by more than two percent, then for purposes of calculating the UUSD's homestead property tax rate for the year, the UUSD's education spending per equalized pupil shall be decreased by $400.00; and

(E) if the UUSD's approved annual education spending in one fiscal year is greater than its education spending in the prior fiscal year by more than two percent but not by more than four percent, then for purposes of calculating the UUSD's homestead property tax rate for the year, the UUSD's education spending per equalized pupil shall be decreased by $200.00.

(2) For purposes of determining the UUSD's homestead property tax rate under this subsection for the first fiscal year of merger, the UUSD's education spending in the first fiscal year of merger shall be compared to the combined education spending of the merging districts from the fiscal year two years prior to the first fiscal year of merger increased by the percentage change in the New England Economic Partnership Cumulative Price Index for state and local government purchases of goods and services between the fiscal year two years prior to the first year of UUSD operation and the fiscal year one year prior to the first year of operation, as of November 15 prior to the first year of operation.

(3) During the years in which a UUSD's homestead property tax rate is calculated pursuant to this subsection, the equalized homestead property tax rate for each municipality within the UUSD shall not increase or decrease by more than five percent in a single year.

(c) Capital debt service. Beginning in fiscal year 2018, and notwithstanding any other provision of law, the commissioner annually shall reimburse from the education fund the amount of interest paid in the prior year by a UUSD to its lender on borrowing in anticipation of any state school construction aid that was owed to a merging member of the UUSD as of the effective date of this act and has not been paid to the UUSD by the state as of July 1, 2016.

(d) Sale of school buildings. Subject to the provisions of Sec. 3(e) of this act:

(1) if a UUSD closes a school building before the earlier of its fifth fiscal year or fiscal year 2018 and sells the school building, or an energy

saving measure as contemplated in 16 V.S.A. § 3448f(g), then neither the UUSD nor any other entity shall be required to refund a percentage of the sale price to the state pursuant to chapter 123 of Title 16; and

(2) if a participating district retains ownership of and closes a school building as part of the electorate-approved plan for merger and the participating district sells the school building or energy saving measure associated with the building, then neither the district nor any other entity shall be required to refund a percentage of the sale price to the state pursuant to chapter 123 of Title 16.

(e) Merger support grant. If the merging districts of a UUSD included at least one "eligible school district," as defined in 16 V.S.A. § 4015, that had received a small school support grant under section 4015 in the fiscal year two years prior to the first fiscal year of merger, then the UUSD shall be eligible to receive a merger support grant in each of its first five fiscal years in an amount equal to the small school support grant received by the eligible school district in the fiscal year two years prior to the first fiscal year of merger. If more than one merging district was an eligible school district, then the merger support grant shall be in an amount equal to the total combined small school support grants they received in the fiscal year two years prior to the first fiscal year of merger.

(f) Recent merger. If the Addison Northwest Unified Union School District becomes a body corporate and politic on or before July 1, 2010, then the merged district shall be entitled to receive any of the benefits set forth in subsections (b)–(e) of this section that it elects and is otherwise eligible to receive by notifying the commissioner of its election on or before July 1, 2011.

Sec. 5. TRANSITION

The UUSD merger plan presented to the electorate for approval pursuant to this act shall provide for any transition of employment of staff by member districts to employment by the UUSD by:

(1) providing for the UUSD to assume all contractual obligations of the member districts under each existing collective bargaining agreement or other employment contract until the agreement's or contract's expiration, subject to employee compliance with performance standards and any lawful reduction in force, layoff, nonrenewal, or dismissal;

(2) providing for the immediate and voluntary recognition by the UUSD of the recognized representatives of the employees of the member districts as the recognized representatives of the employees of the UUSD;

(3) ensuring that no nonprobationary employee of a member district

shall be considered a probationary employee upon the transition to the UUSD; and

(4) containing an agreement with the recognized representatives of the employees of the member districts, which is effective on the date on which the UUSD comes into existence, regarding how the UUSD, prior to reaching its first collective bargaining agreement with its employees, will address issues of seniority, reduction in force, layoff, and recall.

Sec. 6. REPORTS; RECOMMENDATIONS

(a) On or before December 31, 2010, the commissioner of education shall report to the house and senate committees on education regarding the school boards that have voted to consider merger.

(b) On or before March 15, 2011, and in every January thereafter through 2017, the commissioner shall report to the house and senate committees on education regarding the status of merger discussions and votes.

(c) The James M. Jeffords Center of the University of the Vermont, the department of education, and school districts participating in the voluntary merger process authorized by this act shall collaborate to study:

(1) data and comments from school districts and supervisory unions statewide that are discussing voluntary merger;

(2) the results of local district elections to approve voluntary merger under the provisions of this act; and

(3) in connection with UUSDs that are formed under the provisions of this act:

(A) real dollar efficiencies realized;

(B) operational efficiencies realized;

(C) changes in student learning opportunities; and

(D) changes in student outcomes.

(d) On or before January 15, 2018, the James M. Jeffords Center and the department of education shall present a final report concerning the study required in subsection (c) of this section, including recommendations to the house and senate committees on education regarding what further actions, if any, should be pursued to encourage or require merger by nonparticipating school districts, and shall provide interim reports in each January until that date.

Sec. 7. 16 V.S.A. § 261(e) is added to read:

(e) Notwithstanding subsections (a)–(c) of this section, the state board shall not adjust the boundaries of a supervisory district consisting of one unified union school district unless the municipalities within the district approve the adjustment pursuant to subchapter 4, article 4 of chapter 11 of Title 16 and request the state board to make the adjustment.

Sec. 8. MERGER TEMPLATE

The department of education shall develop a merger template to assist subcommittees formed pursuant to Sec. 5(b) of this act or 16 V.S.A. § 706 to consider the advisability of and prepare a proposal for merger. Among other things, the template shall provide data regarding the enrollment and finances of the participating school districts and demographic statistics regarding Vermont municipalities. It shall also outline common issues considered by districts exploring merger and provide links to related resources. The department shall publish the template on its website on or before December 15, 2010.

* * * Distance Learning; Out-of-State Programs * * *

Sec. 9. 16 V.S.A. § 166(b)(6) is amended to read:

(6) This subdivision applies to an independent school located in Vermont ~~which~~ that offers a distance learning program ~~of elementary or secondary education through correspondence, electronic mail, satellite communication, or other means~~ and ~~which~~ that, because of its structure, does not meet some or all the rules of the state board for approved independent schools. In order to be approved under this subdivision, a school shall meet the standards adopted by rule of the state board for approved independent schools ~~which~~ that can be applied to the applicant school and any other standards or rules adopted by the state board regarding these types of schools. A school approved under this subdivision shall not be eligible to receive tuition payments from public school districts under chapter 21 of this title. ~~However, a school district may enter into a contract or contracts with a school approved under this subdivision for provisions of some education services for its students.~~

Sec. 10. 16 V.S.A. § 563(32) is added to read:

(32) May enter into a contract or contracts with a school offering a distance learning program that is approved by one or more accrediting agencies recognized by the U.S. Department of Education or is approved in Vermont pursuant to subdivision 166(b)(6) of this title.

* * * Duties of Supervisory Unions and Superintendents; Special Education; Class Size; Delayed Effective Dates * * *

Sec. 11. 16 V.S.A. § 261a is amended to read:

§ 261a. DUTIES OF SUPERVISORY UNION BOARD

The board of each supervisory union shall:

(1) ~~set policy to coordinate curriculum plans among the sending and receiving schools in that supervisory union~~ establish a supervisory union-wide curriculum, by either developing the curriculum or assisting the member districts to develop it jointly, and ensure implementation of the curriculum. The curriculum ~~plans~~ shall meet the requirements adopted by the state board under subdivision 165(a)(3)(B) of this title;

(2) ~~take reasonable steps to~~ assist each school in the supervisory union to follow ~~its respective~~ the curriculum ~~plan~~ as adopted under the requirements of the state board pursuant to subdivision 165(a)(3)(B) of this title;

(3) if students residing in the supervisory union receive their education outside the supervisory union, periodically review the compatibility of the supervisory union's curriculum ~~plans~~ with those other schools;

(4) in accordance with criteria established by the state board, establish and implement a plan for receiving and disbursing federal and state funds distributed by the department of education, including funds awarded under P.L. 89-10, the Elementary and Secondary Education Act of 1965 as amended;

(5) provide ~~for the establishment of a written policy on professional development of teachers employed in the supervisory union and periodically review that policy. The policy may provide financial assistance outside the negotiated agreements for teachers' professional development activities and may require the superintendent periodically to develop and offer professional development activities within the supervisory union~~ professional development programs or arrange for or enable the provision of them, or both, for teachers, administrators, and staff within the supervisory union, which may include programs offered solely to one school or other component of the entire supervisory union to meet the specific needs or interests of that component;

(6) ~~provide or, if agreed upon by unanimous vote at a supervisory union meeting, coordinate provision of the following educational services on behalf of member districts:~~

~~(A) special education;~~

~~(B) except as provided in section 144b of this title, compensatory and remedial services; and~~

~~(C) other services as directed by the state board and local boards~~ provide special education services to member districts and, except as provided in section 144b of this title, compensatory and remedial services; and provide or coordinate the provision of other educational services as directed by the

state board or local boards;

(7) employ a person or persons qualified to ~~manage~~ provide financial and student data management services for the supervisory union ~~accounts~~;

(8) at the option of the supervisory union, provide the following services for the benefit of member districts according to joint agreements under section 267 of this title and in a manner that promotes the efficient use of financial and human resources:

(A) ~~centralized purchasing~~ manage a system to procure and distribute goods and operational services;

(B) ~~construction management~~ manage construction projects;

(C) ~~budgeting, accounting and other financial management~~ provide financial and student data management services, including grant writing and fundraising as requested;

(D) ~~teacher negotiations~~ negotiate with teachers and administrators, pursuant to chapter 57 of this title, and with other school personnel, pursuant to chapter 22 of Title 21, at the supervisory union level provided that contracts may vary by district;

(E) ~~transportation~~ provide transportation or arrange for the provision of transportation, or both, if it is offered in any districts within the supervisory union; ~~and~~

(F) provide human resources management support; and

(G) provide other appropriate services;

(9) ~~require that the superintendent as executive officer of the supervisory union board be responsible to the commissioner and state board for reporting on all financial transactions within the supervisory union. On or before August 15 of each year, the superintendent, using a format approved by the commissioner, shall forward to the commissioner a report describing the financial operations of the supervisory union for the preceding school year. The state board may withhold any state funds from distribution to a supervisory union until such returns are made;~~ [Repealed.]

(10) submit to the town auditors of each member school district or to the person authorized to perform the duties of an auditor for the school district, on or before January 15 of each year, a summary report of financial operations of the supervisory union for the preceding school year, an estimate of its financial operations for the current school year, and a preliminary budget for the supervisory union for the ensuing school year. This requirement shall not apply to a supervisory district. For each school year, the report shall show the

actual or estimated amount expended by the supervisory union for special education-related services, including:

(A) A breakdown of that figure showing the amount paid by each school district within the supervisory union;

(B) A summary of the services provided by the supervisory union's use of the expended funds;

(11) on or before June 30 of each year, adopt a budget for the ensuing school year; and

(12) adopt supervisory unionwide truancy policies consistent with the model protocols developed by the commissioner.

(13)–(17) [Repealed.]

Sec. 12. 16 V.S.A. § 242 is amended to read:

§ 242. DUTIES OF SUPERINTENDENTS

The superintendent shall be the chief executive officer for the supervisory union board and for each school board ~~in~~ within the supervisory ~~district~~ union, and shall:

(1) carry out the policies adopted by the school ~~board~~ boards relating to the educational or business affairs of the school district or supervisory union, and develop procedures to do so;

(2) ~~identify~~ prepare, for adoption by a local school board, plans to achieve the educational goals and objectives ~~of~~ established by the school district ~~and prepare plans to achieve those goals and objectives for adoption by the school board~~;

(3) ~~recommend that the school board employ or dismiss persons as necessary to carry out the work of the school district~~ (A) nominate a candidate for employment by the school district or supervisory union if the vacant position requires a licensed employee; provided, if the appropriate board declines to hire a candidate, then the superintendent shall nominate a new candidate;

(B) select nonlicensed employees to be employed by the district or supervisory union; and

(C) dismiss licensed and nonlicensed employees of a school district or the supervisory union as necessary, subject to all procedural and other protections provided by contract, collective bargaining agreement, or provision of state and federal law;

(4)(A) ~~furnish the commissioner~~ provide data and information required

by the commissioner; ~~and~~

(B) report all financial operations within the supervisory union to the commissioner and state board for the preceding school year on or before August 15 of each year, using a format approved by the commissioner;

(C) report all financial operations for each member school district to the commissioner and state board for the preceding school year on or before August 15 of each year, using a format approved by the commissioner; and

(D) prepare for each district an itemized report detailing the portion of the proposed supervisory union budget for which the district would be assessed for the subsequent school year identifying the component costs by category and explaining the method by which the district's share for each cost was calculated; and provide the report to each district at least 14 days before a budget, including the supervisory union assessment, is voted on by the electorate of the district;

(5) work with the school boards of the member districts to develop and implement policies regarding minimum and optimal average class sizes for regular and technical education classes. The policies may be supervisory union-wide, may be course- or grade-specific, and may reflect differences among school districts due to geography or other factors; and

(6) provide for the general supervision of the public schools in the supervisory union or district.

Sec. 13. 16 V.S.A. § 563(11)(C) is amended to read:

(C) At a school district's annual or special meeting, the electorate may vote to provide notice of availability of the school budget required by this subdivision to the electorate in lieu of distributing the budget. If the electorate of the school district votes to provide notice of availability, it must specify how notice of availability shall be given, and such notice of availability shall be provided to the electorate at least 30 days before the district's annual meeting. The proposed budget shall be prepared and distributed at least ten days before a sum of money is voted on by the electorate. Any proposed budget shall show the following information in a format prescribed by the commissioner of education:

(i) all revenues from all sources, and expenses, including as separate items any assessment for a supervisory union of which it is a member~~,~~ and any tuition to be paid to a technical center; and including the report required in subdivision 242(4)(D) of this title itemizing the component costs of the supervisory union assessment;

* * *

Sec. 14. REPEAL

16 V.S.A. § 563(13) (duty of school district board to report financial information to the commissioner) is repealed.

Sec. 15. 16 V.S.A. § 1981(8) and (9) are amended to read:

(8) "School board negotiations council" means, for a supervisory district, its school board, and, for school districts within a supervisory union, the body comprising representatives designated by each school board within the supervisory union to engage in professional negotiations with a teachers' or administrators' organization.

~~(A) School districts within a supervisory union that has more than one public high school, however, may form separate negotiations councils, each consisting of representatives, as appropriate, designated by:~~

~~(i) Each school district providing kindergarten through grade 12 within the supervisory union; or~~

~~(ii) The school board for a high school within the supervisory union and the board of each elementary school, if any, that sends its students to the high school.~~

~~(B) A school district, however, may form a separate negotiations council if it:~~

~~(i) Maintains a school but does not offer grades 9 through 12;~~

~~(ii) Is not a member of a union high school district; and~~

~~(iii) Is in a supervisory union that includes a district providing kindergarten through grade 12.~~

(9) "Teachers' organization negotiations council" or "administrators' organization negotiations council" means the body comprising representatives designated by each teachers' organization or administrators' organization within a supervisory district or supervisory union to act as its representative for professional negotiations.

~~(A) Teachers' or administrators' organizations within a supervisory union that has more than one public high school, however, may form separate negotiations councils, each consisting of representatives designated by the teachers' or administrators' organization, as appropriate, of:~~

~~(i) Each school district providing kindergarten through grade 12 within the supervisory union; or~~

~~(ii) A high school within the supervisory union and of each elementary school, if any, that sends its students to the high school.~~

~~(B) A teachers' or administrators' organization, however, may form a separate negotiations council if it is within a school district that:~~

~~(i) Maintains a school but does not offer grades 9 through 12;~~

~~(ii) Is not a member of a union high school district; and~~

~~(iii) Is in a supervisory union that includes a district providing kindergarten through grade 12.~~

Sec. 16. 21 V.S.A. § 1722(18) and (19) are amended to read:

(18) "School board negotiations council" means, for a supervisory district, its school board, and, for school districts within a supervisory union, the body comprising representatives designated by each school board within the supervisory union to engage in collective bargaining with their school employees' negotiations council.

~~(A) School districts within a supervisory union that has more than one public high school, however, may form separate negotiations councils, each consisting of representatives, as appropriate, designated by:~~

~~(i) Each school district providing kindergarten through grade 12 within the supervisory union; or~~

~~(ii) The school board for a high school within the supervisory union and the board of each elementary school, if any, that sends its students to the high school.~~

~~(B) A school district, however, may form a separate negotiations council if it:~~

~~(i) Maintains a school but does not offer grades nine through 12;~~

~~(ii) Is not a member of a union high school district; and~~

~~(iii) Is in a supervisory union that includes a district providing kindergarten through grade 12.~~

(19) "School employees' negotiations council" means the body comprising representatives designated by each exclusive bargaining agent within a supervisory district or supervisory union to engage in collective bargaining with its school board negotiations council.

~~(A) Exclusive bargaining agents within a supervisory union that has more than one public high school, however, may form separate negotiations councils, each consisting of representatives designated by the exclusive bargaining agent, as appropriate, of:~~

~~(i) Each school district providing kindergarten through grade 12~~

~~within the supervisory union; or~~

~~(ii) A high school within the supervisory union and of each elementary school, if any, that sends its students to the high school.~~

~~(B) An exclusive bargaining agent, however, may form a separate negotiations council if it is within a school district that:~~

~~(i) Maintains a school but does not offer grades nine through 12;~~

~~(ii) Is not a member of a union high school district; and~~

~~(iii) Is in a supervisory union that includes a district providing kindergarten through grade 12.~~

Sec. 17. MINIMUM AND OPTIMAL CLASS SIZE POLICIES

(a) On or before July 1, 2012, the policy required by Sec. 12 of this act, 16 V.S.A. § 242(5), regarding minimum and optimal average class size shall be:

(1) adopted by each supervisory union board and member district board;

(2) posted on the website maintained by the supervisory union; and

(3) forwarded to the commissioner of education.

(b) On or before August 31, 2010, the commissioner of education shall develop two or more model policies regarding minimum and optimal class size and shall post them on the department's website.

Sec. 18. SPECIAL EDUCATORS; TRANSITION

Each supervisory union shall provide for any transition of employment of special education staff by member districts to employment by the supervisory union, pursuant to Sec. 11 of this act, 16 V.S.A. § 261a(6), by:

(1) providing that the supervisory union assumes all obligations of each existing collective bargaining agreement in effect between the member districts and their special education employees until the agreement's expiration, subject to employee compliance with performance standards and any lawful reduction in force, layoff, nonrenewal, or dismissal;

(2) providing, in the absence of an existing recognized representative of its employees, for the immediate and voluntary recognition by the supervisory union of the recognized representatives of the employees of the member districts as the recognized representatives of the employees of the supervisory union;

(3) ensuring that no nonprobationary employee of a member district shall be considered a probationary employee upon transition to the supervisory

union; and

(4) containing an agreement with the recognized representatives of the employees of the member districts that is effective on the day the supervisory union assumes obligations of existing agreements regarding how the supervisory union, prior to reaching its first collective bargaining agreement with its special education employees, will address issues of seniority, reduction in force, layoff, and recall.

* * * Small Schools * * *

Sec. 19. RECOMMENDATIONS; SMALL SCHOOLS

On or before January 15, 2011, the commissioner of education shall develop and present to the general assembly a detailed proposal to:

(1) identify annually the school districts that are "eligible school districts" pursuant to 16 V.S.A. § 4015 due to geographic necessity, including the criteria that indicate geographic necessity;

(2) calculate and adjust the level of additional financial support necessary for the districts identified in subdivision (1) of this section to provide an education to resident students in compliance with state education quality standards and other state and federal laws; and

(3) withdraw small school support gradually from districts that are "eligible school districts" pursuant to 16 V.S.A. § 4015 as currently enacted but will not be identified as "eligible school districts" pursuant to subdivision (1) of this section.

* * *Statutory Revision; Effective Dates * * *

Sec. 20. LEGISLATIVE COUNCIL; STATUTORY REVISION

(a) Pursuant to the statutory revision authority provided in 2 V.S.A. § 424, the legislative council shall make technical amendments to the Vermont Statutes Annotated that are necessary to effect the intent of this act.

(b) On or before January 1, 2011, the legislative council shall prepare a draft bill and provide it to the house and senate committees on education that proposes statutory changes necessary to effect the intent of this act.

Sec. 21. EFFECTIVE DATES

(a) Secs 11–14 of this act shall take effect on July 1, 2012.

(b) This section and all other sections of this act shall take effect on passage, subject to the provisions of existing contracts.

(Committee Vote: 7-4-0)

Rep. Ancel of Calais, for the Committee on **Ways and Means,** recommends the bill ought to pass when amended as recommended by the Committee on **Education.**

(Committee Vote: 8-1-2)

Amendment to be offered by Rep. Peltz of Woodbury to H. 782

Sec. 1. FINDINGS

The general assembly finds that:

(1) the voluntary merger of Vermont's education governing units will support opportunities for students, increased economies of scale, and enhanced cost efficiencies available in personnel assignment and the management of resources, particularly at a time when many districts are experiencing declining enrollment;

(2) providing incentives, technical assistance, and statutory changes to encourage voluntary merger of school districts will allow governance changes to occur while preserving the authority of voters to make local decisions that are appropriate for their communities; and

(3) the voluntary merger of Vermont's education governing units will assist schools and education governing units to obtain meaningful, standardized metrics for evaluating programs; comparing local, national, and international student data; assessing and identifying system improvements; and analyzing the costs and benefits of resource allocations.

Sec. 2. SCHOOL DISTRICT MERGER INCENTIVE PROGRAM

(a) Program created. There is created a school district merger incentive program under which the incentives outlined in Sec. 4 of this act shall be available to each new unified union school district created pursuant to Sec. 3 of this act and to each new district created under that section by the merger of districts that provide secondary education by paying tuition; provided that the effective date of merger shall be on or before July 1, 2016.

(b) Board discussion. On or before November 1, 2010, the board of every school district in the state shall discuss whether it wishes to explore merger within its supervisory union or with one or more districts outside its supervisory union, which for the purposes of this act includes supervisory districts, or both under the terms of this act.

(c) Board vote. On or before December 1, 2010, each school district board shall vote whether to work with other boards to perform a more comprehensive analysis of potential merger, and shall report the results of its vote to the commissioner of education and the voters of the district.

Sec. 3. INCENTIVE PROGRAM REQUIREMENTS RELATING TO DISTRICT STRUCTURE

(a) Size and contiguity.

(1) Contiguous school districts, which may include one or more union school districts, may merge to form a unified union school district ("Merged District") pursuant to chapter 11 of Title 16 that shall have an average daily membership of at least 1,250 or result from the merger of at least five districts, or both.

(2) School districts interested in merger may request the state board of education to grant them a waiver from one or more of the requirements of subdivision (1) of this subsection (contiguity; average daily membership; number of districts), which shall be granted if the state board determines that merger is not allowed under that subdivision without a waiver and that granting a waiver would enable a merger that is supportive of one or more of the following:

(A) Increased cost-efficiencies.

(B) Increased educational opportunities.

(C) Enhanced student achievement.

(b) Elementary and secondary education.

(1) A Merged District formed under this act shall provide for the education of its resident students by operating one or more public schools offering elementary and secondary education.

(2) If they comply with all other provisions of this act, then notwithstanding subdivision (1) of this subsection, school districts that do not operate secondary schools may merge to form a Merged District, operate as a K-12 district, receive the incentives as provided in Sec. 4 of this act, and be considered a unified union school district if the proposed Merged District implements either of the following options:

(A) The Merged District designates either a Vermont public school outside the district or a Vermont-approved independent school located inside or outside the district as the sole public secondary school of the Merged District pursuant to the provisions of 16 V.S.A. § 827.

(B) The Merged District operates one or more schools offering at least kindergarten through grade 8 for the resident students in those grades and provides for the education of students in all other grades by paying tuition pursuant to 16 V.S.A. § 824, provided that:

(i) The Merged District will neither operate a school offering the

grades for which it pays tuition nor designate a school that offers those grades; and

(ii) For at least two fiscal years prior to the effective date of merger, none of the merging districts shall have operated a school offering the grades for which the Merged District will pay tuition.

(c) Supervisory unions and supervisory districts.

(1) School districts that merge to form a Merged District do not need to be members of the same supervisory union prior to merger.

(2) A Merged District created under this act is a supervisory district consisting of a single unified union school district and shall not be assigned to a supervisory union pursuant to 16 V.S.A. § 706h.

(3) If a Merged District forms and does not include all school districts within one or more supervisory unions, then any school district that is a member of the same supervisory union as one or more of the merging districts and that does not merge to form the Merged District shall maintain its existing governance structure; provided, however, that upon vote of the electorate, the school district may notify the state board of education of its intent to operate as a supervisory district as defined in 16 V.S.A. § 11(24) or may request the state board to assign it to an existing supervisory union pursuant to 16 V.S.A. § 261.

(d) Operation of schools. A Merged District shall not close any school within its boundaries during the first four years after the effective date of merger or prior to fiscal year 2018, whichever is earlier, unless the electorate of the town in which the school is located consents to closure.

(e) Local participation. Because the Merged District shall be governed by one board, the plan for merger presented to the electorate for approval under chapter 11 of Title 16 shall include structures and processes that provide opportunities for local participation in the creation of Merged District policy and budget development.

(f) Enrollment options. The plan for merger presented to the electorate for approval shall include whether and to what extent elementary and secondary students residing within the Merged District may enroll in any school the Merged District operates, provided:

(1) a Merged District that operates or designates a secondary school shall comply with the regional high school choice provisions of 16 V.S.A. § 1622;

(2) each Merged District shall provide or shall provide access to secondary technical education for students residing within its boundaries; and

(3) if the approved merger plan provides fewer options to the students in one or more of the merging districts than they have prior to merger, then the Merged District shall pay tuition to a school pursuant to the provisions of 16 V.S.A. §§ 823 and 824 for any resident student who resided in one of those districts and was enrolled in the school at public expense at the time of merger, even if the approved merger plan does not otherwise require the Merged District to pay tuition to that school.

(g) Curriculum. The Merged District shall have a Merged District-wide curriculum that meets the standards adopted pursuant to 16 V.S.A. § 165(a)(3) and that is approved by the Merged District board and is fully implemented no later than in the sixth year of the Merged District's existence. Merged Districts are encouraged to increase opportunities for students through prekindergarten programs, distance learning, dual enrollment, internships, and other programs.

(h) Employment and labor relations. On the first day of its existence, the Merged District shall:

(1) assume the obligations of individual employment contracts between the participating districts and their bargaining unit employees;

(2) assume the collective bargaining agreements between the participating districts and their respective representative organizations, including any provisions that address the transition to the Merged District, until such time as the Merged District reaches its own agreement with teachers and administrators under 16 V.S.A. § 2005 and with other employees under 21 V.S.A. § 1725(a);

(3) recognize the representatives of the employees of the former member districts as the recognized representatives of the employees of the Merged District;

(4) ensure that an employee of a former member district who is not a probationary employee shall not be considered a probationary employee of the Merged District; and

(5) have reached an agreement with the recognized representatives of the employees, effective on the first day of the Merged District's existence, regarding how to address issues of seniority, reduction in force, layoff, and recall prior to reaching its first collective bargaining agreement with its employees.

Sec. 4. VOLUNTARY MERGER PROGRAM INCENTIVES

(a) Multiyear budgets.

(1) In addition to the option of proposing a single-year budget on an annual basis pursuant to the provisions of chapter 11 of Title 16 and

notwithstanding any other provision of law, a Merged District formed pursuant to Secs. 2 and 3 of this act shall also have the option to propose one or both of the following:

(A) A multiyear budget for the first two fiscal years of its existence, provided the years are prior to fiscal year 2018, that will be included as part of the plan that must be approved by the electorate in order to create the Merged District.

(B) A multiyear budget for the third and fourth fiscal years of its existence, provided the years are prior to fiscal year 2018, that is presented to the electorate for approval at the Merged District's annual meeting convened in its second fiscal year.

(2) The plan presented to the electorate to authorize creation of the Merged District may contain a provision authorizing the Merged District, beginning in the earlier of the fifth fiscal year of its existence or fiscal year 2018, to present multiyear proposed budgets to the electorate once in every two or three years.

(3) A Merged District that spends less than the budgeted amount prior to fiscal year 2018 shall be entitled to retain the budget surplus to lower its tax rate in fiscal year 2018 or after, or for another purpose approved by the electorate.

(b) Tax rates.

(1) Subject to the provisions of subdivision (3) of this subsection and notwithstanding any other provision of law, for no more than four consecutive years prior to fiscal year 2018:

(A) if the Merged District's approved annual education spending in one fiscal year is less than its education spending in the prior fiscal year, then for purposes of calculating the Merged District's district spending adjustment for the year, the Merged District's education spending per equalized pupil shall be decreased by $875.00;

(B) if the Merged District's approved annual education spending in one fiscal year is equal to its education spending in the prior fiscal year, then for purposes of calculating the Merged District's district spending adjustment for the year, the Merged District's education spending per equalized pupil shall be decreased by $750.00;

(C) if the Merged District's approved annual education spending in one fiscal year is greater than its education spending in the prior fiscal year by one percent or less, then for purposes of calculating the Merged District's district spending adjustment for the year, the Merged District's education

spending per equalized pupil shall be decreased by $600.00;

(D) if the Merged District's approved annual education spending in one fiscal year is greater than its education spending in the prior fiscal year by more than one percent but not by more than two percent, then for purposes of calculating the Merged District's district spending adjustment for the year, the Merged District's education spending per equalized pupil shall be decreased by $400.00; and

(E) if the Merged District's approved annual education spending in one fiscal year is greater than its education spending in the prior fiscal year by more than two percent but not by more than four percent, then for purposes of calculating the Merged District's district spending adjustment for the year, the Merged District's education spending per equalized pupil shall be decreased by $200.00.

(2) For purposes of determining the Merged District's district spending adjustment under this subsection for the first fiscal year of merger, the Merged District's education spending in the first fiscal year of merger shall be compared to the combined education spending of the merging districts from the fiscal year two years prior to the first fiscal year of merger increased by the percentage change in the New England Economic Partnership Cumulative Price Index for state and local government purchases of goods and services between the fiscal year two years prior to the first year of the Merged District's operation and the fiscal year one year prior to the first year of operation, as of November 15 prior to the first year of operation.

(3) During the years in which a Merged District's district spending adjustment is calculated pursuant to this subsection, the equalized property tax rate for each municipality within the Merged District shall not increase or decrease by more than five percent in a single year, nor shall the household income percentage increase or decrease by more than five percent in a single year.

(4) On and after the effective date of merger, the common level of appraisal shall be calculated independently for each town within the Merged District for purposes of determining the homestead property tax rate for each town.

(c) Capital debt service. Beginning in fiscal year 2018, and notwithstanding any other provision of law, the commissioner annually shall reimburse from the education fund the amount of interest paid in the prior year by a Merged District to its lender on borrowing in anticipation of any state school construction aid that was owed to a merging member of the Merged District as of the effective date of this act and has not been paid to the

Merged District by the state as of July 1, 2016.

(d) Sale of school buildings. Subject to the provisions of Sec. 3(e) of this act:

(1) if a Merged District closes a school building before the earlier of its fifth fiscal year or fiscal year 2018 and sells the school building, or an energy saving measure as contemplated in 16 V.S.A. § 3448f(g), then neither the Merged District nor any other entity shall be required to refund a percentage of the sale price to the state pursuant to chapter 123 of Title 16; and

(2) if a participating district retains ownership of and closes a school building as part of the electorate-approved plan for merger and the participating district sells the school building or energy saving measure associated with the building, then neither the district nor any other entity shall be required to refund a percentage of the sale price to the state pursuant to chapter 123 of Title 16.

(e) Merger support grant. If the merging districts of a Merged District included at least one "eligible school district," as defined in 16 V.S.A. § 4015, that had received a small school support grant under section 4015 in the fiscal year two years prior to the first fiscal year of merger, then the Merged District shall be eligible to receive a merger support grant in each of its first five fiscal years in an amount equal to the small school support grant received by the eligible school district in the fiscal year two years prior to the first fiscal year of merger. If more than one merging district was an eligible school district, then the merger support grant shall be in an amount equal to the total combined small school support grants they received in the fiscal year two years prior to the first fiscal year of merger.

(f) Recent merger. If the Addison Northwest Unified Union School District becomes a body corporate and politic on or before July 1, 2010, then the district shall be entitled to receive any of the benefits set forth in this section that it elects and is otherwise eligible to receive by notifying the commissioner of its election on or before July 1, 2011.

Sec. 5. [Deleted.]

Sec. 6. REPORTS; RECOMMENDATIONS

(a) On or before December 31, 2010, the commissioner of education shall report to the house and senate committees on education regarding the school boards that have voted to consider merger.

(b) On or before March 15, 2011, and in every January thereafter through 2017, the commissioner shall report to the house and senate committees on education regarding the status of merger discussions and votes.

(c) The James M. Jeffords Center of the University of the Vermont, the department of education, and school districts participating in the voluntary merger process authorized by this act shall collaborate to study:

(1) data and comments from school districts and supervisory unions statewide that are discussing voluntary merger;

(2) the results of local district elections to approve voluntary merger under the provisions of this act; and

(3) in connection with Merged Districts that are formed under the provisions of this act:

(A) real dollar efficiencies realized;

(B) operational efficiencies realized;

(C) changes in student learning opportunities; and

(D) changes in student outcomes.

(d) On or before January 15, 2018, the James M. Jeffords Center and the department of education shall present a final report concerning the study required in subsection (c) of this section, including recommendations to the house and senate committees on education regarding what further actions, if any, should be pursued to encourage or require merger by nonparticipating school districts, and shall provide interim reports in each January until that date.

Sec. 7. 16 V.S.A. § 261(e) is added to read:

(e) Notwithstanding subsections (a)–(c) of this section, the state board shall not adjust the boundaries of a supervisory district consisting of one unified union school district unless the municipalities within the district approve the adjustment pursuant to subchapter 4, article 4 of chapter 11 of Title 16 and request the state board to make the adjustment.

Sec. 8. MERGER TEMPLATE

The department of education shall develop a merger template to assist subcommittees formed pursuant to 16 V.S.A. § 706 to consider the advisability of and prepare a proposal for merger. Among other things, the template shall provide data regarding the enrollment and finances of the participating school districts and demographic statistics regarding Vermont municipalities. It shall also outline common issues considered by districts exploring merger and provide links to related resources. The department shall publish the template on its website on or before December 15, 2010.

* * * Distance Learning; Out-of-State Programs * * *

Sec. 9. 16 V.S.A. § 166(b)(6) is amended to read:

(6) This subdivision applies to an independent school located in Vermont ~~which~~ that offers a distance learning program ~~of elementary or secondary education through correspondence, electronic mail, satellite communication, or other means~~ and ~~which~~ that, because of its structure, does not meet some or all the rules of the state board for approved independent schools. In order to be approved under this subdivision, a school shall meet the standards adopted by rule of the state board for approved independent schools ~~which~~ that can be applied to the applicant school and any other standards or rules adopted by the state board regarding these types of schools. A school approved under this subdivision shall not be eligible to receive tuition payments from public school districts under chapter 21 of this title. ~~However, a school district may enter into a contract or contracts with a school approved under this subdivision for provisions of some education services for its students.~~

Sec. 10. 16 V.S.A. § 563(32) is added to read:

(32) May enter into a contract or contracts with a school offering a distance learning program that is approved by one or more accrediting agencies recognized by the U.S. Department of Education or is approved in Vermont pursuant to subdivision 166(b)(6) of this title.

* * * Duties of Supervisory Unions and Superintendents; Special Education; Class Size; Delayed Effective Dates * * *

Sec. 11. 16 V.S.A. § 261a is amended to read:

§ 261a. DUTIES OF SUPERVISORY UNION BOARD

The board of each supervisory union shall:

(1) ~~set policy to coordinate curriculum plans among the sending and receiving schools in that supervisory union~~ establish a supervisory union-wide curriculum, by either developing the curriculum or assisting the member districts to develop it jointly, and ensure implementation of the curriculum. The curriculum ~~plans~~ shall meet the requirements adopted by the state board under subdivision 165(a)(3)(B) of this title;

(2) ~~take reasonable steps to~~ assist each school in the supervisory union to follow ~~its respective~~ the curriculum ~~plan~~ as adopted under the requirements of the state board pursuant to subdivision 165(a)(3)(B) of this title;

(3) if students residing in the supervisory union receive their education outside the supervisory union, periodically review the compatibility of the supervisory union's curriculum ~~plans~~ with those other schools;

(4) in accordance with criteria established by the state board, establish and implement a plan for receiving and disbursing federal and state funds distributed by the department of education, including funds awarded under P.L. 89-10, the Elementary and Secondary Education Act of 1965 as amended;

(5) provide ~~for the establishment of a written policy on professional development of teachers employed in the supervisory union and periodically review that policy. The policy may provide financial assistance outside the negotiated agreements for teachers' professional development activities and may require the superintendent periodically to develop and offer professional development activities within the supervisory union~~ professional development programs or arrange for or enable the provision of them, or both, for teachers, administrators, and staff within the supervisory union, which may include programs offered solely to one school or other component of the entire supervisory union to meet the specific needs or interests of that component;

(6) ~~provide or, if agreed upon by unanimous vote at a supervisory union meeting, coordinate provision of the following educational services on behalf of member districts:~~

~~(A) special education;~~

~~(B) except as provided in section 144b of this title, compensatory and remedial services; and~~

~~(C) other services as directed by the state board and local boards~~ provide special education services to member districts and, except as provided in section 144b of this title, compensatory and remedial services; and provide or coordinate the provision of other educational services as directed by the state board or local boards;

(7) employ a person or persons qualified to ~~manage~~ provide financial and student data management services for the supervisory union ~~accounts~~;

(8) at the option of the supervisory union, provide the following services for the benefit of member districts according to joint agreements under section 267 of this title and in a manner that promotes the efficient use of financial and human resources:

(A) ~~centralized purchasing~~ manage a system to procure and distribute goods and operational services;

(B) ~~construction management~~ manage construction projects;

(C) ~~budgeting, accounting and other financial management~~ provide financial and student data management services, including grant writing and fundraising as requested;

(D) ~~teacher negotiations~~ negotiate with teachers and administrators, pursuant to chapter 57 of this title, and with other school personnel, pursuant to chapter 22 of Title 21, at the supervisory union level provided that contracts may vary by district;

(E) ~~transportation~~ provide transportation or arrange for the provision of transportation, or both, if it is offered in any districts within the supervisory union; ~~and~~

(F) provide human resources management support; and

(G) provide other appropriate services;

(9) ~~require that the superintendent as executive officer of the supervisory union board be responsible to the commissioner and state board for reporting on all financial transactions within the supervisory union. On or before August 15 of each year, the superintendent, using a format approved by the commissioner, shall forward to the commissioner a report describing the financial operations of the supervisory union for the preceding school year. The state board may withhold any state funds from distribution to a supervisory union until such returns are made;~~ [Repealed.]

(10) submit to the town auditors of each member school district or to the person authorized to perform the duties of an auditor for the school district, on or before January 15 of each year, a summary report of financial operations of the supervisory union for the preceding school year, an estimate of its financial operations for the current school year, and a preliminary budget for the supervisory union for the ensuing school year. This requirement shall not apply to a supervisory district. For each school year, the report shall show the actual or estimated amount expended by the supervisory union for special education-related services, including:

(A) A breakdown of that figure showing the amount paid by each school district within the supervisory union;

(B) A summary of the services provided by the supervisory union's use of the expended funds;

(11) on or before June 30 of each year, adopt a budget for the ensuing school year; and

(12) adopt supervisory unionwide truancy policies consistent with the model protocols developed by the commissioner.

(13)–(17) [Repealed.]

Sec. 12. 16 V.S.A. § 242 is amended to read:

§ 242. DUTIES OF SUPERINTENDENTS

The superintendent shall be the chief executive officer for the supervisory union board and for each school board ~~in~~ within the supervisory ~~district~~ union, and shall:

(1) carry out the policies adopted by the school ~~board~~ boards relating to the educational or business affairs of the school district or supervisory union, and develop procedures to do so;

(2) ~~identify~~ prepare, for adoption by a local school board, plans to achieve the educational goals and objectives ~~of~~ established by the school district ~~and prepare plans to achieve those goals and objectives for adoption by the school board~~;

(3) ~~recommend that the school board employ or dismiss persons as necessary to carry out the work of the school district~~ (A) nominate a candidate for employment by the school district or supervisory union if the vacant position requires a licensed employee; provided, if the appropriate board declines to hire a candidate, then the superintendent shall nominate a new candidate;

(B) select nonlicensed employees to be employed by the district or supervisory union; and

(C) dismiss licensed and nonlicensed employees of a school district or the supervisory union as necessary, subject to all procedural and other protections provided by contract, collective bargaining agreement, or provision of state and federal law;

(4)(A) ~~furnish the commissioner~~ provide data and information required by the commissioner; ~~and~~

(B) report all financial operations within the supervisory union to the commissioner and state board for the preceding school year on or before August 15 of each year, using a format approved by the commissioner;

(C) report all financial operations for each member school district to the commissioner and state board for the preceding school year on or before August 15 of each year, using a format approved by the commissioner; and

(D) prepare for each district an itemized report detailing the portion of the proposed supervisory union budget for which the district would be assessed for the subsequent school year identifying the component costs by category and explaining the method by which the district's share for each cost was calculated; and provide the report to each district at least 14 days before a budget, including the supervisory union assessment, is voted on by the electorate of the district;

(5) work with the school boards of the member districts to develop and

implement policies regarding minimum and optimal average class sizes for regular and technical education classes. The policies may be supervisory union-wide, may be course- or grade-specific, and may reflect differences among school districts due to geography or other factors; and

(6) provide for the general supervision of the public schools in the supervisory union or district.

Sec. 13. 16 V.S.A. § 563(11)(C) is amended to read:

(C) At a school district's annual or special meeting, the electorate may vote to provide notice of availability of the school budget required by this subdivision to the electorate in lieu of distributing the budget. If the electorate of the school district votes to provide notice of availability, it must specify how notice of availability shall be given, and such notice of availability shall be provided to the electorate at least 30 days before the district's annual meeting. The proposed budget shall be prepared and distributed at least ten days before a sum of money is voted on by the electorate. Any proposed budget shall show the following information in a format prescribed by the commissioner of education:

(i) all revenues from all sources, and expenses, including as separate items any assessment for a supervisory union of which it is a member~~,~~ and any tuition to be paid to a technical center; and including the report required in subdivision 242(4)(D) of this title itemizing the component costs of the supervisory union assessment;

* * *

Sec. 14. REPEAL

16 V.S.A. § 563(13) (duty of school district board to report financial information to the commissioner) is repealed.

Sec. 15. 16 V.S.A. § 1981(8) and (9) are amended to read:

(8) "School board negotiations council" means, for a supervisory district, its school board, and, for school districts within a supervisory union, the body comprising representatives designated by each school board within the supervisory union to engage in professional negotiations with a teachers' or administrators' organization.

~~(A) School districts within a supervisory union that has more than one public high school, however, may form separate negotiations councils, each consisting of representatives, as appropriate, designated by:~~

~~(i) Each school district providing kindergarten through grade 12 within the supervisory union; or~~

~~(ii) The school board for a high school within the supervisory union and the board of each elementary school, if any, that sends its students to the high school.~~

~~(B) A school district, however, may form a separate negotiations council if it:~~

~~(i) Maintains a school but does not offer grades 9 through 12;~~

~~(ii) Is not a member of a union high school district; and~~

~~(iii) Is in a supervisory union that includes a district providing kindergarten through grade 12.~~

(9) "Teachers' organization negotiations council" or "administrators' organization negotiations council" means the body comprising representatives designated by each teachers' organization or administrators' organization within a supervisory district or supervisory union to act as its representative for professional negotiations.

~~(A) Teachers' or administrators' organizations within a supervisory union that has more than one public high school, however, may form separate negotiations councils, each consisting of representatives designated by the teachers' or administrators' organization, as appropriate, of:~~

~~(i) Each school district providing kindergarten through grade 12 within the supervisory union; or~~

~~(ii) A high school within the supervisory union and of each elementary school, if any, that sends its students to the high school.~~

~~(B) A teachers' or administrators' organization, however, may form a separate negotiations council if it is within a school district that:~~

~~(i) Maintains a school but does not offer grades 9 through 12;~~

~~(ii) Is not a member of a union high school district; and~~

~~(iii) Is in a supervisory union that includes a district providing kindergarten through grade 12.~~

Sec. 16. 21 V.S.A. § 1722(18) and (19) are amended to read:

(18) "School board negotiations council" means, for a supervisory district, its school board, and, for school districts within a supervisory union, the body comprising representatives designated by each school board within the supervisory union to engage in collective bargaining with their school employees' negotiations council.

~~(A) School districts within a supervisory union that has more than~~

~~one public high school, however, may form separate negotiations councils, each consisting of representatives, as appropriate, designated by:~~

~~(i) Each school district providing kindergarten through grade 12 within the supervisory union; or~~

~~(ii) The school board for a high school within the supervisory union and the board of each elementary school, if any, that sends its students to the high school.~~

~~(B) A school district, however, may form a separate negotiations council if it:~~

~~(i) Maintains a school but does not offer grades nine through 12;~~

~~(ii) Is not a member of a union high school district; and~~

~~(iii) Is in a supervisory union that includes a district providing kindergarten through grade 12.~~

(19) "School employees' negotiations council" means the body comprising representatives designated by each exclusive bargaining agent within a supervisory district or supervisory union to engage in collective bargaining with its school board negotiations council.

~~(A) Exclusive bargaining agents within a supervisory union that has more than one public high school, however, may form separate negotiations councils, each consisting of representatives designated by the exclusive bargaining agent, as appropriate, of:~~

~~(i) Each school district providing kindergarten through grade 12 within the supervisory union; or~~

~~(ii) A high school within the supervisory union and of each elementary school, if any, that sends its students to the high school.~~

~~(B) An exclusive bargaining agent, however, may form a separate negotiations council if it is within a school district that:~~

~~(i) Maintains a school but does not offer grades nine through 12;~~

~~(ii) Is not a member of a union high school district; and~~

~~(iii) Is in a supervisory union that includes a district providing kindergarten through grade 12.~~

Sec. 17. MINIMUM AND OPTIMAL CLASS SIZE POLICIES

(a) On or before July 1, 2012, the policy required by Sec. 12 of this act, 16 V.S.A. § 242(5), regarding minimum and optimal average class size shall be:

(1) adopted by each supervisory union board and member district board;

(2) posted on the website maintained by the supervisory union; and

(3) forwarded to the commissioner of education.

(b) On or before August 31, 2010, the commissioner of education shall develop two or more model policies regarding minimum and optimal class size and shall post them on the department's website.

Sec. 18. SPECIAL EDUCATORS; TRANSITION

Each supervisory union shall provide for any transition of employment of special education staff by member districts to employment by the supervisory union, pursuant to Sec. 11 of this act, 16 V.S.A. § 261a(6), by:

(1) providing that the supervisory union assumes all obligations of each existing collective bargaining agreement in effect between the member districts and their special education employees until the agreement's expiration, subject to employee compliance with performance standards and any lawful reduction in force, layoff, nonrenewal, or dismissal;

(2) providing, in the absence of an existing recognized representative of its employees, for the immediate and voluntary recognition by the supervisory union of the recognized representatives of the employees of the member districts as the recognized representatives of the employees of the supervisory union;

(3) ensuring that no nonprobationary employee of a member district shall be considered a probationary employee upon transition to the supervisory union; and

(4) containing an agreement with the recognized representatives of the employees of the member districts that is effective on the day the supervisory union assumes obligations of existing agreements regarding how the supervisory union, prior to reaching its first collective bargaining agreement with its special education employees, will address issues of seniority, reduction in force, layoff, and recall.

* * * Small Schools * * *

Sec. 19. RECOMMENDATIONS; SMALL SCHOOLS

On or before January 15, 2011, the commissioner of education shall develop and present to the general assembly a detailed proposal to:

(1) identify annually the school districts that are "eligible school districts" pursuant to 16 V.S.A. § 4015 due to geographic necessity, including the criteria that indicate geographic necessity;

(2) calculate and adjust the level of additional financial support necessary for the districts identified in subdivision (1) of this section to provide an education to resident students in compliance with state education quality standards and other state and federal laws; and

(3) withdraw small school support gradually from districts that are "eligible school districts" pursuant to 16 V.S.A. § 4015 as currently enacted but will not be identified as "eligible school districts" pursuant to subdivision (1) of this section.

* * *Statutory Revision; Effective Dates * * *

Sec. 20. LEGISLATIVE COUNCIL; STATUTORY REVISION

(a) Pursuant to the statutory revision authority provided in 2 V.S.A. § 424, the legislative council shall make technical amendments to the Vermont Statutes Annotated that are necessary to effect the intent of this act.

(b) On or before January 1, 2011, the legislative council shall prepare a draft bill and provide it to the house and senate committees on education that proposes statutory changes necessary to effect the intent of this act.

Sec. 21. EFFECTIVE DATES

(a) Secs 11–14 of this act shall take effect on July 1, 2012.

(b) This section and all other sections of this act shall take effect on passage, subject to the provisions of existing contracts.

S. 207

An act relating to handling of milk samples

Rep. Ainsworth of Royalton, for the Committee on Agriculture**,** recommends that the House propose to the Senate that the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. MEETING CONCERNING PRELIMINARY INCUBATION COUNTS

(a) The secretary of agriculture, food and markets or the secretary's designee shall convene a meeting of persons with knowledge of Vermont's dairy industry by July 1, 2010 for the purpose of developing consensus findings and recommendations regarding the use of the preliminary incubation (PI) count of raw milk as a quality indicator.

(b) Participants invited shall include organic and conventional dairy producers and handlers, representatives from farm organizations, laboratory researchers, dairy haulers, employees of the agency of agriculture, food and markets, and representatives from Vermont colleges and universities.

(c) Participants shall discuss, at a minimum, proper milk sample handling protocol, buyer and producer responsibilities in addressing PI count problems, and the availability to producers of technical assistance, information, procedures, and access to laboratory results.

Sec. 2. EFFECTIVE DATE

This act shall take effect upon passage.

(Committee vote: 11-0-0)

(For text see Senate Journal 3/16 - 3/17/10)

Favorable

H. 793

An act relating to approval of amendments to the charter of the village of Essex Junction

Rep. Evans of Essex, for the Committee on **Government Operations,** recommends the bill ought to pass.

(Committee Vote: 7-0-4)

H. 794

An act relating to approval of the merger of the town of Cabot and the village of Cabot

Rep. Martin of Wolcott, for the Committee on **Government Operations,** recommends the bill ought to pass.

(Committee Vote: 7-0-4)

S. 247

An act relating to bisphenol A

Rep. Pugh of South Burlington, for the Committee on **Human Services**, recommends that the bill ought to pass in concurrence.

(Committee Vote: 8-3-0)

(For text see Senate Journal 3/30 - 4/6/10)

Senate Proposal of Amendment

H. 229

An act relating to mausoleums and columbaria

The Senate proposes to the House to amend the bill by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 18 V.S.A. § 5577 is amended to read:

§ 5577. MAUSOLEUM BECOMING UNTENABLE

If, in the opinion of the ~~state board~~ commissioner of health, a mausoleum, vault, crypt, or structure containing one or more deceased human bodies becomes a ~~menace to~~ public health hazard, and the owner or owners ~~thereof~~ of the structure fail to remedy or remove the ~~same~~ hazard to the satisfaction of the ~~state board~~ commissioner of health, the commissioner or a court of competent jurisdiction may order the ~~person, firm or corporation owning such~~ owner of the structure to abate the public health hazard or to remove the body or bodies for interment in some suitable cemetery at the expense of the ~~person, firm or corporation owning such~~ owner of the mausoleum, vault, or crypt. When ~~such person, firm or corporation can not~~ the owner cannot be found ~~in the county where such mausoleum, vault or crypt is located, then such~~ , removal and interment shall be at the expense of the cemetery or cemetery association~~, city or town where such~~ or the municipality in which the mausoleum, vault, or crypt is situated.

Sec. 2. REPEAL

18 V.S.A. §§ 5073, relating to construction requirements for mausoleums, columbaria, crypts, and niches, and 5074, relating to inspection of mausoleums and columbaria, are repealed.

(For text see House Journal 2/12 - 2/16/10)

H. 243

An act relating to the creation of a mentored hunting license

The Senate proposes to the House to amend the bill as follows:

By adding Secs. 5 and 6 to read as follows:

Sec. 5. DEPARTMENT OF FISH AND WILDLIFE REPORT ON MENTORED HUNTING

On or before January 15 annually, the commissioner of fish and wildlife shall report to the senate committee on natural resources and energy and the house committee on fish, wildlife and water resources regarding implementation of the mentored hunting license program under 10 V.S.A. § 4256. The report shall include:

(1) The number of mentored hunting licenses issued in the previous calendar year;

(2) The number of deer or other game taken by a mentored hunter in the previous calendar year, if discernible;

(3) A summary of each hunter safety incident or personal injury related to an individual hunting under a mentored license that occurred in the previous calendar year; and

(4) Any recommendation by the commissioner to improve or address implementation of the mentored hunting program, including whether 10 V.S.A. § 4256 should be amended or repealed.

Sec. 6. EFFECTIVE DATE

This act shall take effect January 1, 2011.

(For text see House Journal 3/17/2010 & 3/18/2010)

H. 622

An act relating to solicitation by prescreened trigger lead information

The Senate proposes to the House to amend the bill by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 8 V.S.A. § 10206 is added to read:

§ 10206. TRIGGER LEAD SOLICITATIONS FOR MORTGAGE LOANS

(a) In this section:

(1) "Consumer" means a natural person residing in this state.

(2) "Trigger lead" means information about a consumer, including the consumer's name, address, telephone number, and an identification of the amount, terms, or conditions of credit for which the consumer has applied, that is:

(A) a consumer report obtained pursuant to section 604(c)(1)(B) of the federal Fair Credit Reporting Act, 15 U.S.C. § 1681b, where the issuance of the report is triggered by an inquiry made with a consumer reporting agency in response to an application for a mortgage loan; and

(B) furnished by the consumer-reporting agency to a third party that is not affiliated with the financial institution or the credit-reporting agency. A trigger lead does not include information about a consumer obtained by a lender that holds or services the existing mortgage indebtedness of the consumer who is the subject of the information.

(3) "Trigger lead solicitation" means a written or verbal offer or attempt to sell any property, rights, or services to a consumer based on a trigger lead.

(b) A person conducting a trigger lead solicitation shall disclose to a consumer in the initial phase of the solicitation that:

(1) the person is not affiliated with the financial institution to which the consumer has submitted an application for credit;

(2) the financial institution to which the consumer has submitted an application for credit has not supplied the person with any personal or financial information; and

(3) the name of the person who paid for the trigger lead solicitation.

(c) A financial institution which has had its name, trade name, or trademark misrepresented in a trigger lead solicitation in violation of this section may, in addition to any other remedy provided by law, bring an action in superior court in the county of its primary place of business, or if its primary place of business is located outside Vermont, in Washington superior court. The court shall award damages for each violation in the amount of actual damages demonstrated by the financial institution or $5,000.00, whichever is greater. In any successful action for injunctive relief or for damages, the court shall award the financial institution reasonable attorney's fees and costs, including court costs.

Sec. 2. EFFECTIVE DATE

This act shall take July 1, 2010.

(For text see House Journal 2/19 - 2/23/10)

H. 689

An act relating to the Uniform Common Interest Ownership Act

The Senate proposes to the House to amend the bill as follows:

First: In Sec. 1, 27A V.S.A., § 1-103 by striking out subsection (7) in its entirety and inserting in lieu thereof a new subsection (7) to read as follows:

(7) "Common interest community" means real estate described in a declaration with respect to which ~~any~~ a person, by virtue of the person's ownership of a unit, is obligated to pay for a share of real estate taxes on~~;~~, insurance premiums, ~~on;~~ maintenance, ~~of;~~ or improvement of, ~~any~~ or services or other expenses related to common elements, other units, or ~~any~~ other real estate other than that unit described in the declaration. ~~Ownership~~ The term does not include an arrangement described in section 1-207 of this title. For purposes of this subdivision, ownership of a unit does not include holding a leasehold interest of less than five years in a unit, including renewal options.

Second: In Sec. 48 by striking out the following "2011" and inserting in lieu thereof the following 2012

(For text see House Journal 4/1 - 4/2/10)

H. 767

An act relating to the livestock care standards advisory council

The Senate proposes to the House to amend the bill by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 6 V.S.A. chapter 64 is added to read:

CHAPTER 64. LIVESTOCK CARE STANDARDS ADVISORY COUNCIL

§ 791. DEFINITIONS

As used in this chapter:

(1) "Agency" means the agency of agriculture, food and markets.

(2) "Council" means the livestock care standards advisory council.

(3) "Livestock" means cattle, calves, sheep, swine, horses, mules, goats, fallow deer, American bison, poultry, and any other animal that can or may be used in and for the preparation of meat, fiber, or poultry products.

(4) "Secretary" means the secretary of agriculture, food and markets.

§ 792. ESTABLISHMENT OF LIVESTOCK CARE STANDARDS ADVISORY COUNCIL

(a) There is established a livestock care standards advisory council for the purposes of evaluating the laws of the state and of providing policy recommendations regarding the care, handling, and well-being of livestock in the state. The livestock care standards advisory council shall be composed of the following members, all of whom shall be residents of Vermont:

(1) The secretary of agriculture, food and markets or his or her designee, who shall serve as the chair of the council.

(2) The state veterinarian.

(3) The following four members appointed by the governor:

(A) A person with knowledge of food safety and food safety regulation in the state who is a representative of an agricultural department of a Vermont college or university.

(B) A representative of the Vermont slaughter industry.

(C) A representative of the Vermont livestock dealer, hauler, or auction industry.

(D) A representative of a local humane society or organization

registered with the agency and organized under state law.

(4) The following two members appointed by the committee on committees:

(A) A Vermont resident with experience or expertise in equine husbandry practices or equine management.

(B) A Vermont licensed livestock or poultry veterinarian.

(5) The following two members appointed by the speaker of the house:

(A) An enforcement officer, as defined in 23 V.S.A. § 4, or an animal control officer elected, appointed, or employed by a municipality, provided that the enforcement officer or animal control officer has experience or expertise in investigations regarding livestock care and well-being and provided that no animal control officer receiving compensation from a national humane society or organization may be appointed under this subdivision.

(B) An operator of a Vermont dairy farm.

(b) Members of the board shall be appointed for staggered terms of three years. Except for the chair and the state veterinarian, no member of the council may serve for more than six consecutive years.

(c) With the concurrence of the chair, the council may use the services and staff of the agency in the performance of its duties.

§ 793. POWERS AND DUTIES OF LIVESTOCK CARE STANDARDS ADVISORY COUNCIL

(a) The council shall:

(1) Review and evaluate the laws and rules of the state applicable to the care and handling of livestock. In conducting the evaluation required by this section, the council shall consider the following:

(A) agricultural best management practices;

(B) biosecurity and disease prevention;

(C) animal morbidity and mortality data;

(D) food safety practices;

(E) the protection of local and affordable food supplies for consumers;

(F) the overall health and welfare of livestock species; and

(G) humane transport and slaughter practices.

(2) Submit policy recommendations to the secretary on any of the

subject matter set forth under subdivision (1) of this subsection. A copy of the policy recommendations submitted to the secretary shall be provided to the house and senate committees on agriculture. Recommendations may be in the form of proposed legislation.

(3) Meet at least annually and at such other times as the chair determines to be necessary.

(b) The council may engage in education and outreach activities related to the laws and regulations for the care and handling of livestock. The council may accept funds from public or private sources in compliance with 32 V.S.A. § 5.

Sec. 1a. TRAINING OF SLAUGHTERHOUSE EMPLOYEES; APPROPRIATIONS

In addition to any other funds appropriated to the agency of agriculture, food and markets in fiscal year 2011, there is transferred to the agency of agriculture, food and markets up to $50,000.00 from the funds appropriated to the agency of commerce and community development's Vermont training program for use by the agency of agriculture, food and markets for training employees of Vermont-licensed slaughterhouses regarding the humane treatment of animals that is required under state and federal law.

Sec. 2. 6 V.S.A. § 3134 is amended to read:

§ 3134. PENALTY

(a) A person who violates this chapter shall be fined not more than ~~$100.00 nor less than $50.00~~ $5,000.00 for the first violation, not more than $10,000.00 for the second violation, and not more than $25,000.00 for the third violation, or imprisoned not more than ~~90 days~~ two years, or both. In addition to the penalty provided above, the secretary may seek an injunction against a slaughterer, packer, or stockyard operator who engages in practices which are prohibited by section 3132 of this title, by application to the superior court for the county in which such slaughterer, packer or stockyard operator resides, or where such violations occur. The secretary may also take any action authorized under chapter 1 of this title.

(b) The secretary shall permanently revoke the commercial operating license of any person who is found to be in violation of this chapter more than two times, and the secretary shall not relicense any business which includes as any director or owner of the business any director or owner of a business whose license has been permanently revoked.

(c) In addition to the penalties set forth in subsection (a) of this section, the secretary shall require a person who violates this chapter to install video

monitoring equipment in all areas in which livestock is handled. The video equipment shall record continuously while live livestock are handled. As an alternative to video monitoring, a live video stream accessible by the secretary may be provided with prior approval of the secretary. The video tapes or recording files of the video monitoring required by this subsection shall be retained by the facility for 90 days and shall be readily retrievable and available for inspection by the secretary. After the retention period of 90 days has expired, the video tapes or recording files of the live video stream shall be submitted to the secretary by the 15th of the following month, on a monthly basis.

(d) The secretary shall refer a violation of this chapter to the attorney general or the state's attorney for prosecution.

Sec. 3. SUNSET

Sec. 1 of this act shall sunset on January 15, 2013, by which date any final recommendations to the general assembly and the secretary of agriculture shall be submitted by the advisory council.

Sec. 4. EFFECTIVE DATE

This act shall take effect upon passage.

(For text see House Journal 2/26/2010)

Ordered to Lie

H.R. 19

House resolution urging the agency of natural resources to retain delegated authority to administer the federal Clean Water Act in Vermont.

Pending Question: Shall the House adopt the resolution?

Public Hearings

Thursday, April 29, Room 11 - 5:00 - 7:00 PM - House Committee on Commerce and Economic Development - Draft Telecom Plan