Senate Calendar

TUESDAY, MAY 11, 2010

SENATE CONVENES AT: 11:30 A.M.

TABLE OF CONTENTS

Report of Committee of Conference

ORDERED TO LIE

ORDERS OF THE DAY

ACTION CALENDAR

CONSIDERATION POSTPONED

House Proposal of Amendment

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.

The House proposes to the Senate to amend the bill 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 all 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 all 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. COMMISSIONER OF CORRECTIONS; INMATES WHO ARE PARENTS; FAMILIES; CONTACT POLICIES

(a) The commissioner of corrections may request information about minor children from anyone entering the system who is charged with or convicted of a criminal offense. Information the commissioner may request includes: how many minor children the person has; each child's date of birth and gender; who is the primary caregiver for each minor child; if the person is the primary caregiver, how the child is being cared for in the caregiver's absence.

(b) The commissioner of corrections shall examine department of corrections policies regarding use of mail, telephone, and personal visits and revise them to promote quality relations between inmates and their families as appropriate. Specifically, the commissioner shall:

(1) Review and revise if necessary policies and practices to better promote affordable telephone contact between inmates and their families.

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

(c) On or before January 15, 2011, the commissioner shall report on the information gathered and actions taken under this section to the senate committee on judiciary and the house committee on corrections and

institutions along with recommendations for policy and statutory change which may result in improved contact between inmates and their families.

Sec. 17. 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. 18. EFFECTIVE DATE

This act shall take effect on July 1, 2010.

NEW BUSINESS

Second Reading

Favorable with Proposal of Amendment

H. 66.

An act relating to including secondary students with disabilities in senior year activities and ceremonies.

Reported favorably with recommendation of proposal of amendment by Senator Starr for the Committee on Education.

The Committee recommends that the Senate propose to the House to amend the bill as follows:

First: In Sec. 1, 16 V.S.A. § 2944, by redesignating the section to be Sec. 22 and in the new Sec. 22 by redesignating subsections (h) and (i) as subsections (i) and (j) respectively and by inserting a new subsection to be subdivision (h) to read:

(h) A school shall not be required to permit a student to participate in a graduation ceremony or senior year activities pursuant to subsection (g) of this section if the student has not met graduation requirements for reasons that are wholly unrelated to the student's disability

Second: By adding 21 new sections to be numbered Secs. 1 through 21 to read as follows:

Sec. 1. FINDINGS

The general assembly finds that:

(1) the voluntary merger of Vermont's education governing units will support:

(A) increased educational opportunities for all students, including the effective use of technology to expand those opportunities;

(B) increased economies of scale;

(C) 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:

(A) 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;

(B) provides voters 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;

(C) recognizes school choice as a significant part of the Vermont elementary and secondary system as it currently exists and as it will continue to exist as changes to the structure are made in the future; and

(4) encouraging education governing units to enter into contracts to share administrative, educational, technical, labor, and material resources, which may be considered to be "virtual mergers," will also assist the governing units to reduce costs, to improve educational outcomes, and to eliminate barriers to increased efficiency.

* * * 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 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. Incentives shall be available, however, only if the effective date of merger is on or before

July 1, 2017.

(b) Board discussion. On or before December 1, 2010, the board of each supervisory union in the state shall discuss, and the board of every school district may discuss, whether it wishes to explore the merger of districts within the supervisory union or with one or more districts outside of the supervisory union, or both under the terms of this act.

(c) Board vote. On or before October 1, 2012, each supervisory union board shall vote whether 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 each member school district.

Sec. 3. VOLUNTARY SCHOOL DISTRICT MERGER INCENTIVE PROGRAM

(a) Size.

(1) School districts, which may include one or more union school districts, may merge to form a union school district pursuant to chapter 11 of Title 16 (a "Regional Education District" or "RED") that shall have an average daily membership of at least 1,250 or result from the merger of at least four districts, or both.

(2) School districts interested in merger may request the state board of education to grant them a waiver from the requirements of subdivision (1) of this subsection, which shall be granted if the districts can demonstrate that the requirements would not be cost-effective, would decrease educational opportunities, or would diminish student achievement, or any combination of these.

(b) Elementary and Secondary Education.

(1) A RED 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 RED, operate as a K–12 district, and receive the incentives in Sec. 4 of this act if the proposed RED operates one or more schools offering at least kindergarten through grade 6 for the resident students in those grade and implements one of the following options:

(A) The RED 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 RED pursuant to the provisions of 16 V.S.A. § 827.

(B) The RED provides for the education of students in all grades for which it does not operate a school by paying tuition pursuant to 16 V.S.A. § 824, provided that the RED will neither operate a school offering the grades for which it pays tuition nor designate a school that offers those grades.

(3) If they comply with all other provisions of this act, then notwithstanding subdivision (1) of this subsection, school districts that do not operate any schools may merge to form a RED, operate as a K–12 district, and receive the incentives in Sec. 4 of this act if the proposed RED provides for the education of students in all grades by paying tuition pursuant to 16 V.S.A. § 824, provided that the RED will neither operate a school offering the grades for which it pays tuition nor designate a school that offers those grades.

(c) Supervisory unions and supervisory districts.

(1) School districts that merge to form a RED do not need to be members of the same supervisory union prior to merger.

(2) Upon merger, the state board of education shall assign the RED to a supervisory union or determine that the RED will operate as a supervisory district. In addition, the state board shall assign any district or districts in the original supervisory union or unions that did not merge into the RED to one or more supervisory unions; provided, however, a district may request placement within a specified supervisory union pursuant to 16 V.S.A. § 261(b).

(d) Operation of schools. A RED shall not close any school within its boundaries during the first four years after the effective date of merger unless the electorate of the town in which the school is located consents to closure. The participating districts' plan of merger may include processes governing the manner in which the RED may close schools after the fourth year.

(e) Local participation. Because the RED 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 RED 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 RED may enroll in any school the RED operates, provided:

(1) a RED that operates or designates a secondary school shall comply with regional high school choice provisions of 16 V.S.A. § 1622;

(2) each RED shall provide, or provide access to, secondary technical education for students residing within its boundaries;

(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

RED 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 RED to pay tuition to that school; and

(4) if a RED is created pursuant to subdivision (b)(2) or (b)(3) of this section and provides for the education of resident secondary students by paying tuition, and if after the effective date of merger the RED electorate is asked to vote on a proposal to limit enrollment options in those grades, then the proposed amendment, as with any change to a specific term of a merger agreement, shall be affirmed or rejected by the voters of each member town pursuant to 16 V.S.A. § 706n(a).

(g) Employment and labor relations. On the first day of its existence, the RED 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 RED, until such time as it 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 RED;

(4) ensure that an employee of the former member district who is not a probationary employee shall not be considered a probationary employee of the RED; and

(5) have reached an agreement with the recognized representatives of the employees, effective on the first day of the RED'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.

(h) Cost-benefit analysis. School districts shall conduct a cost-benefit analysis as part of their merger planning. The plan for merger submitted to the state board of education pursuant to 16 V.S.A. § 706c and presented to the electorate for approval shall identify cost efficiencies and improved educational outcomes that will result from merger in order to demonstrate a rational basis for the decision to merge and shall address:

(A) real dollar efficiencies;

(B) operational efficiencies;

(C) student learning opportunities; and

(D) student outcomes.

(i) Qualification. No individual entitlement or private right of action is created by Secs. 2 through 4 of this act.

Sec. 4. VOLUNTARY SCHOOL DISTRICT MERGER; INCENTIVES

(a) Equalized homestead property tax rates.

(1)(A) Subject to the provisions of subdivision (2) of this subsection and notwithstanding any other provision of law, the RED's equalized homestead property tax rate shall be

(i) decreased by $0.08 in the first year after the effective date of merger;

(ii) decreased by $0.06 in the second year after the effective date of merger;

(iii) decreased by $0.04 in the third year after the effective date of merger; and

(iv) decreased by $0.02 in the fourth year after the effective date of merger.

(B) The household income percentage shall be calculated accordingly.

(2) During the years in which a RED's equalized homestead property tax rate is decreased pursuant to this subsection, the rate for each town within the RED shall not increase or decrease by more than five percent in a single year. The household income percentage shall be calculated accordingly.

(3) On and after the effective date of merger, the common level of appraisal shall be calculated independently for each town within the RED for purposes of determining the homestead property tax rate for each town.

(b) 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 RED to its lender on borrowing in anticipation of any state school construction aid that was owed to a merging member of the RED as of the effective date of this act and has not been paid to the RED by the state as of July 1, 2016.

(c) Sale of school buildings. Subject to the provisions of Sec. 3(d) of this act:

(1) if a RED closes a school building and sells the school building, or

an energy saving measure within it as contemplated in 16 V.S.A. § 3448f(g), then neither the RED 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.

(d) Merger support grant. If the merging districts of a RED 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 RED 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.

(e) Consulting services reimbursement grant. From the education fund, the commissioner of education shall pay up to $20,000.00 to the merger study committee established under 16 V.S.A. § 706 to reimburse the participating districts for legal and other consulting fees necessary for the analysis and report required by 16 V.S.A. § 706b. The study committee shall forward invoices to the commissioner on a quarterly basis. The commissioner shall reimburse one-half of the total amount reflected in each set of invoices and the remaining one-half upon completion of the final report, provided that no payment shall cause the total amount paid to exceed the $20,00.00 limit. In addition, any facilitation grant funds paid to the RED pursuant to Sec. 5 of this act shall be reduced by the total amount of funds provided under this subsection (e).

(f) 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 RED 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

that will be included as part of the plan that must be approved by the electorate in order to create the RED.

(B) A multiyear budget for the third and fourth fiscal years of its existence that is presented to the electorate for approval at the RED's annual meeting convened in its second fiscal year.

(2) The plan presented to the electorate to authorize creation of the RED may contain a provision authorizing the RED, beginning in the fifth fiscal year of its existence to present multiyear proposed budgets to the electorate once in every two or three years.

(g) 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 this section that it elects and is otherwise eligible to receive if, on or before July 1, 2011:

(1) it notifies the commissioner of its election; and

(2) it provides the commissioner with a cost-benefit analysis as required by Sec. 3(h) of this act.

Sec. 5. Sec. 168a of No. 122 of the Acts of the 2003 Adj. Sess. (2004) as amended by Sec. 23 of No. 66 of the Acts of 2007 is amended to read:

Sec. 168a. SCHOOL DISTRICT CONSOLIDATION; TRANSITION AID; APPROPRIATION SUNSET

(a) After voter approval of the establishment of a union, unified union, or interstate school district, the commissioner of education shall pay to the board of the union, unified union, or interstate school district a facilitation grant of five percent of the base education ~~payment~~ amount in 16 V.S.A. § 4001(13) based on the combined enrollment of the participating districts on October 1 of the year in which the successful vote was taken or $150,000.00, whichever is less, from the education fund. The grant shall be in addition to funds received under 16 V.S.A. § 4028.

(b) This section shall sunset on June 30, 2010 2014.

Sec. 6. STUDY; TUITION VOUCHERS

On or before January 15, 2011, the state board of education's commission on redistricting shall research, analyze, and report to the senate and house committees on education, the senate committee on finance, and the house committee on ways and means regarding the fiscal impacts on the education fund, the general fund, property tax rates, and school budgets as well as the effects on educational outcomes if the state were to make tuition vouchers available to all Vermont students. The report shall include a summary of

peer-reviewed research, with particular emphasis on research related to Vermont or other demographically or geographically similar states. Areas of inquiry shall include student achievement, property values, special education services, transportation, income levels served, community involvement, and social and economic stratification, if any.

Sec. 7. MERGER TEMPLATE

After reviewing existing models, the department of education shall develop a merger template to assist study committees formed pursuant 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. 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.

Sec. 8. REPORTS; EFFECTS OF MERGER; RECOMMENDATIONS

(a) On or before January 15, 2011, and in every January thereafter through 2018, the commissioner shall report to the house and senate committees on education regarding the status of merger discussions and votes.

(b) 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 USDs 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.

* * * Virtual Merger; Supervisory Unions; Superintendents; Class Sizes * * *

Sec. 9. 16 V.S.A. § 261a is amended to read:

§ 261a. DUTIES OF SUPERVISORY UNION BOARD

(a) Duties. 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~~ professional development programs or arrange for 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; a supervisory union has the discretion to 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~~;

(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 its 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; provided, however, if a supervisory union determines that services would be provided more efficiently and effectively in another manner, then it may ask the commissioner to grant it a waiver from this provision;

(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~~ in a manner that promotes the efficient use of financial and human resources, which shall be provided pursuant to joint agreements under section 267 of this title whenever feasible; provided, however, if a supervisory union determines that services would be provided more efficiently and effectively in another manner, then it may ask the commissioner to grant it a waiver from this subdivision:

(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

(i) contract terms may vary by district; and

(ii) contracts may include terms facilitating arrangements between or among districts to share the services of teachers, administrators, and other school personnel;

(E) ~~transportation~~ provide transportation or arrange for the provision of transportation, or both in any districts in which it is offered within the supervisory union; ~~and~~

(F) provide human resources management support; and

(G) provide other appropriate services according to joint agreements pursuant to section 267 of this title;

(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 union-wide truancy policies consistent with the model protocols developed by the commissioner.

(13)–(17) [Repealed.]

(b) Virtual merger. In order to promote the efficient use of financial and human resources, and whenever legally permissible, supervisory unions are encouraged to reach agreements with other supervisory unions jointly to provide any service or perform any duty under this section pursuant to section 267 of this title. Agreements between supervisory unions are not subject to the waiver requirement of subdivision (a)(8) of this section. Agreements shall include a cost-benefit analysis outlining the projected financial savings or enhanced outcomes, or both, that the parties expect to realize through shared services or programs.

Sec. 10. 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;

* * *

Sec. 11. 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. 12. REPEAL

16 V.S.A. § 563(13) (duty of school district board to report financial information to the commissioner) is repealed.

Sec. 13. 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. 14. 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. 15. Sec. 10. 16 V.S.A. § 242(5) is amended to read:

(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. 16. MINIMUM AND OPTIMAL CLASS SIZE POLICIES

(a) On or before January 15, 2011, the policy required by Sec. 15 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. 17. STUDENT-TO-STAFF RATIOS; DATA

In order to develop meaningful proposals to determine optimal cost-effective student-to-staff ratios, the commissioner of education shall research and, on or before January 15, 2011, shall present to the senate and house committees on education the following statistics for the most recent academic year for which data is available:

(1) the total staff-to-student ratios at a supervisory unionwide level, without including transportation, food service, maintenance, enterprise operations, or community service operations;

(2) classroom teacher-to-student ratios at a supervisory unionwide level, without including transportation, food service, maintenance, enterprise operations, or community service operations;

(3) administrative staff-to-student ratios at a supervisory unionwide level, without including transportation, food service, maintenance, enterprise operations, or community service operations;

(4) licensed educator-to-student ratios at a supervisory unionwide level, without including transportation, food service, maintenance, enterprise operations, or community service operations; and

(5) total expenditures, at both the supervisory unionwide and statewide levels, of transportation, food service, maintenance, enterprise operations, or community service operations, with a breakdown of contractual services and services provided by the supervisory union or school district.

Sec. 18. 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. 9 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 an employee of a member district who is not a probationary employee shall not 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. 19. INTEGRATED FINANCIAL MANAGEMENT PROCESS

(a) The commissioner of education shall develop an integrated process, including consistent policies and practices, for financial management and reporting that includes common accounting standards, to be used by supervisory unions in the state to enable the supervisory unions share financial information with each other, with the public, and with the department and to ensure that all districts and supervisory unions consistently use uniform, high quality practices. In developing the integrated process, the commissioner shall include standards requiring that persons responsible for the financial management of Vermont education entities share an equivalent level of training and expertise.

(b) The commissioner shall ensure that the integrated process of financial management and reporting is fully implemented no later than July 1, 2011, and shall report to the senate and house committees on education regarding implementation on or before January 15, 2012.

Sec. 20. HIGH SCHOOL TUITION; UNDERCHARGES AND OVERCHARGES

On or before January 15, 2011, the department of education shall:

(1) review 16 V.S.A. § 824(b)(1) regarding tuition payments that are three percent more or less than the calculated net cost per secondary pupil for the year of attendance;

(2) calculate the number of receiving schools that have been subject to the provisions of subdivision 824(b)(1) during the last three years;

(3) calculate the total amount of additional tuition that sending districts have paid to receiving schools pursuant to the provisions of subdivision 824(b)(1) during the last three years;

(4) calculate the number of total amount of tuition that receiving schools

have credited to sending districts pursuant to the provisions of subdivision 824(b)(1) during the last three years;

(5) calculate the number of total amount of tuition that receiving schools have refunded to sending districts pursuant to the provisions of subdivision 824(b)(1) during the last three years;

(6) consider and propose to the senate and house committees on education alternative means by which tuition payments that are three percent more or less than the calculated net cost per secondary pupil can be addressed.

* * * Small Schools * * *

Sec. 21. 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.

Third: By adding a new section to be numbered Sec. 23 to read as follows:

Sec. 23. EFFECTIVE DATES

(a) Secs. 5 and 22 of this act shall take effect on passage.

(b) Secs 9 through 12 of this act shall take effect on July 1, 2012, subject to the provisions of existing contracts.

(c) This section and all other sections of this act not mentioned in subsections (a) and (b) of this section shall take effect on July 1, 2010.

And that after passage the title of the bill be amended to read:

"An act relating to voluntary school district merger, virtual merger, supervisory union duties, and including secondary students with disabilities in senior year activities and ceremonies."

(Committee vote: 5-0-0)

Reported favorably by Senator Bartlett for the Committee on Appropriations.

(Committee vote: 7-0-0)

Reported favorably with recommendation of proposal of amendment by Senator Giard for the Committee on Finance.

The Committee recommends that the Senate propose to the House to amend the bill as follows:

First: In the second proposal of amendment, in Sec. 2, subsection (a), in the first sentence, by striking out the word "secondary"

Second: In the second proposal of amendment, in Sec. 3, by striking out subsection (h) in its entirety and inserting in lieu thereof a new subsection (h) to read:

(h) Cost-benefit analysis. School districts shall conduct a cost-benefit analysis as part of their merger planning. The plan for merger submitted to the state board of education pursuant to 16 V.S.A. § 706c and presented to the voters for approval shall identify cost efficiencies and improved educational outcomes that will result from merger in order to demonstrate a rational basis for the decision to merge and shall outline and, to the extent possible, document projected:

(A) real dollar efficiencies;

(B) operational efficiencies;

(C) expanded student learning opportunities; and

(D) improved student outcomes.

Third: In the second proposal of amendment, in Sec. 6, in the first sentence, by striking out the words "the state board of education's commission on redistricting" and inserting in lieu thereof the words: "the joint fiscal office and the office of legislative council"

Fourth: In the second proposal of amendment, in Sec. 9, 16 V.S.A. § 261a, in subdivision (a)(6), by striking out the words "in another manner" and inserting in lieu thereof the words: "in whole or in part at the district level"

Fifth: In the second proposal of amendment, after Sec. 9, by inserting a new section to be Sec. 9a to read:

Sec. 9a. AGREEMENTS BETWEEN SUPERVISORY UNIONS; REIMBURSEMENT

From the education fund, the commissioner of education shall pay up to $10,000.00 to supervisory unions to reimburse the transitional costs, including

legal and other consulting fees, necessary for the supervisory unions to enter into agreements to provide services or perform duties jointly pursuant to the provisions of 16 V.S.A. §§ 261a(b) and 267.

Sixth: In the third proposal of amendment, in Sec. 23, by striking out subsection (b) in its entirety and inserting in lieu thereof a new subsection (b) to read:

(b) Secs 9 through 12 of this act shall take effect on passage and shall be fully implemented by July 1, 2012, subject to the provisions of existing contracts."

(Committee vote: 5-0-2)

(For House amendments, see House Journal for February 23, 2010, page 284.)

PROPOSAL OF AMENDMENT TO H. 66 TO BE OFFERED BY SENATOR LYONS

Senator Lyons moves that the second proposal of amendment of the Committee on Education be amended by adding two new sections to be Secs. 18a and 18b to read as follows:

Sec. 18a. 16 V.S.A. § 1071(b) is amended to read:

(b) Hours of operation; academic year. Within the minimum set by the state board, the school board shall fix the number of hours that shall constitute a school day, subject to change upon the order of the state board. The first student day shall not occur before Labor Day in any academic year.

Sec. 18b. APPLICATION

Sec. 18a of this act shall apply in the 2011–2012 academic year and after.

PROPOSAL OF AMENDMENT TO H. 66 TO BE OFFERED BY SENATOR FLORY, ON BEHALF OF THE COMMITTEE ON EDUCATION

Senator Flory, on behalf of the Committee on Education, moves to amend the Committee's second proposal of amendment to House Bill No. 66 by adding an internal caption and a new section to be Sec. 21a to read:

* * * Designation; Codification * * *

Sec. 21a. 16 V.S.A. § 827(e) is added to read:

(e) Notwithstanding any other provision of law to the contrary:

(1) 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; and

(2) unless otherwise directed by an affirmative vote of the school district, when the Wells board approves parental requests to pay tuition to a nondesignated approved independent or public school, the board shall pay tuition in an amount not to exceed the base education amount as determined under section 4011 of this title for the fiscal year in which tuition is being paid.

PROPOSAL OF AMENDMENT TO H. 66 TO BE OFFERED BY SENATOR STARR, ON BEHALF OF THE COMMITTEE ON EDUCATION

Senator Starr, on behalf of the Committee on Education, moves that the bill be amended by adding a new section to be Sec. 21b to read:

Sec. 21b. 16 V.S.A. § 1049a(a)(1) is amended to read:

(1) "Graduation education plan" means a written plan leading to a high school diploma for a person who is ~~16~~ 15 to 22 years of age and has not received a high school diploma, who may or may not be enrolled in a public or approved independent school; provided, however, for an enrolled student, the principal or other designated school official at the school in which the student is enrolled shall have determined that the student is at imminent risk of leaving school prior to graduation based upon credit completion, grade point average, attendance history, disciplinary record, or other factor. The plan shall define the scope and rigor of services necessary for the student to attain a high school diploma, and may describe educational services to be provided by a public high school, an approved independent high school, an approved provider, or a combination of these.

H. 498.

An act relating to maintenance of private roads.

Reported favorably with recommendation of proposal of amendment by Senator Scott for the Committee on Transportation.

The Committee recommends that the Senate propose to the House to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

respectfully reports that it has considered the same and recommends that the Senate propose to the House to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following::

Sec. 1. 19 V.S.A. § chapter 27 is added to read:

CHAPTER 27. PRIVATE ROADS

§ 2701. DEFINITIONS

As used in this chapter, "private road" means a road whose owner is not the state of Vermont, a municipality, or a single private property owner, but two or more owners of private property abutting the road and the owners of any easements recorded in the municipal land records of the town in which the road is located granting a right to cross the road in order to access their property.

§ 2702. PRIVATE ROAD MAINTENANCE

(a) For the purposes of this section, the term "maintenance" shall include activities related to the upkeep of a private road in its existing condition or as necessary to allow safe passage on a private road within its existing scope of use and shall not be construed to include any expansions of or improvements to a private road.

(b) In the absence of any other agreement for the maintenance of a private road, including covenants, requirements contained in deeds, and state or local permits, the owners of the property abutting a private road and the holders of recorded easements with a right to use a private road shall divide reasonable maintenance costs commensurate with their use of the private road.

(For House amendments, see House Journal for March 9, 2010, page 355.)

House Proposal of Amendment

S. 88

An act relating to health care financing and universal access to heath care inVermont.

The House proposes to the Senate to amend the proposal of amendment as follows:

First: By striking Sec. 33 in its entirety and inserting in lieu thereof the following:

Sec. 33. 18 V.S.A. § 4632 is amended to read:

§ 4632. DISCLOSURE OF ALLOWABLE EXPENDITURES AND GIFTS BY MANUFACTURERS OF PRESCRIBED PRODUCTS

(a)(1) Annually on or before October 1 of each year, every manufacturer of prescribed products shall disclose to the office of the attorney general for the fiscal year ending the previous June 30th the value, nature, purpose, and recipient information of:

(A) any allowable expenditure or gift permitted under subdivision 4631a(b)(2) of this title to any health care provider, except:

(i) royalties and licensing fees as described in subdivision 4631a(a)(1)(F) of this title;

(ii) rebates and discounts for prescribed products provided in the normal course of business as described in subdivision 4631a(b)(2)(F) of this title;

(iii) payments for clinical trials as described in subdivision 4631a(a)(1)(C) of this title, which shall be disclosed after the earlier of the date of the approval or clearance of the prescribed product by the Food and Drug Administration or two calendar years after the date the payment was made. For a clinical trial for which disclosure is delayed under this subdivision (iii), the manufacturer shall identify to the attorney general the clinical trial, the start date, and the web link to the clinical trial registration on the national clinical trials registry; ~~and~~

(iv) ~~samples of a prescription drug or biological product provided to a health care professional for free distribution to patients~~ interview expenses as described in subdivision 4631a(a)(1)(G) of this title; and

(v) coffee or other snacks or refreshments at a booth at a conference or seminar.

(B) any allowable expenditure or gift ~~permitted under subdivision 4631a(b)(2) of this title~~ to an academic institution, to a nonprofit hospital foundation, or to a professional, educational, or patient organization representing or serving health care providers or consumers located in or providing services in Vermont, except:

(i) royalties and licensing fees as described in subdivision 4631a(a)(1)(F) of this title;

(ii) rebates and discounts for prescribed products provided in the normal course of business as described in subdivision 4631a(b)(2)(F) of this title; and

(iii) payments for clinical trials as described in subdivision 4631a(a)(1)(C) of this title, which shall be disclosed after the earlier of the date of the approval or clearance of the prescribed product by the Food and Drug Administration or two calendar years after the date the payment was made. For a clinical trial for which disclosure is delayed under this subdivision (iii), the manufacturer shall identify to the attorney general the clinical trial, the start date, and the web link to the clinical trial registration on the national clinical trials registry~~; and~~

~~(iv) samples of a prescription drug provided to a health care professional for free distribution to patients~~.

(2)(A)(i) Subject to the provisions of subdivision (B) of this subdivision (a)(2) and to the extent allowed under federal law, annually on or before April 1 of each year beginning in 2012, each manufacturer of prescribed

products shall disclose to the office of the attorney general all free samples of prescribed products provided to health care providers during the preceding calendar year, identifying for each sample the product, recipient, number of units, and dosage.

(ii) The office of the attorney general may contract with academic researchers to release to such researchers data relating to manufacturer distribution of free samples, subject to confidentiality provisions and without including the names or license numbers of individual recipients, for analysis and aggregated public reporting.

(iii) Any public reporting of manufacturer distribution of free samples shall not include information that allows for the identification of individual recipients of samples or connects individual recipients with the monetary value of the samples provided.

(B) Subdivision (A) of this subdivision (a)(2) shall not apply to samples of prescription drugs required to be reported under Sec. 6004 of the Patient Protection and Affordable Care Act of 2010, Public Law 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Public Law 111-152, if as of January 1, 2011, the office of the attorney general has determined that the U.S. Department of Health and Human Services will collect and report state- and recipient-specific information regarding manufacturer distribution of free samples of such prescription drugs.

~~(2)~~(3) Annually on July 1, each manufacturer of prescribed products also shall disclose to the office of the attorney general the name and address of the individual responsible for the manufacturer's compliance with the provisions of this section.

~~(3)~~(4) Disclosure shall be made on a form and in a manner prescribed by the office of the attorney general and shall require manufacturers of prescribed products to report each allowable expenditure or gift permitted under subdivision 4631a(b)(2) of this title including:

(A) except as otherwise provided in subdivision (a)(2) of this section, the value, nature, and purpose of each allowable expenditure, and gift permitted under subdivision 4631a(b)(2) of this title according to specific categories identified by the office of the attorney general;

(B) the name of the recipient;

(C) the recipient's address;

(D) the recipient's institutional affiliation;

(E) prescribed product or products being marketed, if any; and

(F) the recipient's state board number.

~~(4)~~(5) The office of the attorney general shall report annually on the disclosures made under this section to the general assembly and the governor on or before April 1. The report shall include:

(A) Information on allowable expenditures and gifts required to be disclosed under this section, which shall be presented in both aggregate form and by selected types of health care providers or individual health care providers, as prioritized each year by the office.

(B) Information on violations and enforcement actions brought pursuant to this section and section 4631a of this title.

~~(5)~~(6) After issuance of the report required by subdivision ~~(a)~~(5) of this ~~section~~ subsection and except as otherwise provided in subdivision (2)(A)(i) of this subsection, the office of the attorney general shall make all disclosed data used for the report publicly available and searchable through an Internet website.

~~(6)~~(7) The office of Vermont health access shall examine the data available from the office of the attorney general for relevant expenditures and determine whether and to what extent prescribing patterns by health care providers of prescribed products reimbursed by Medicaid, VHAP, Dr. Dynasaur, VermontRx, and VPharm may reflect manufacturer influence. The office may select the data most relevant to its analysis. The office shall report its analysis annually to the general assembly and the governor on or before October 1.

(b)(1) Annually on July 1, the office of the attorney general shall collect a $500.00 fee from each manufacturer of prescribed products filing annual disclosures of expenditures greater than zero described in subsection (a) of this section.

(2) Fees collected under this section shall fund collection and analysis of information on activities related to the marketing of prescribed products under ~~sections~~ section 4631a ~~and 4632~~ of ~~Title 18~~ this title and under this section. The fees shall be collected in a special fund assigned to the office.

(c) The attorney general may bring an action in Washington superior court for injunctive relief, costs, and attorney's fees, and to impose on a manufacturer of prescribed products that fails to disclose as required by subsection (a) of this section a civil penalty of no more than $10,000.00 per violation. Each unlawful failure to disclose shall constitute a separate violation.

(d) The terms used in this section shall have the same meanings as they do in section 4631a of this title.

Second: By striking Sec. 38b in its entirety and inserting in lieu thereof the following:

Sec. 38b. 18 V.S.A. chapter 82, subchapter 2 is added to read:

Subchapter 2. Menu Labeling

§ 4086. MENUS AND MENU BOARDS

(a) Restaurants and similar food establishments that are part of a chain with 20 or more locations doing business under the same name and offering for sale substantially the same menu items shall disclose on the menu and on the menu board:

(1) adjacent to the name of each standard menu item the number of calories contained in the item; and

(2) a succinct statement concerning suggested daily caloric intake.

(b) This section shall not apply to alcoholic beverages or to grocery stores except for separately owned food facilities to which this section otherwise applies that are located in a grocery store. For purposes of this section, grocery stores include convenience stores.

(c) If at any time subsection (a) or (b) of this section or both are preempted by federal law, then restaurants and similar food establishments that are part of a chain with 20 or more locations doing business under the same name and offering for sale substantially the same menu items shall comply with the menu labeling provisions of the applicable federal statutes and regulations.

(d) A violation of this section shall be deemed a violation of the Consumer Fraud Act, chapter 63 of Title 9, provided that no private right of action shall arise from the provisions of this section. The attorney general has the same authority to make rules, conduct civil investigations, enter into assurances of discontinuance, and bring civil actions as provided under subchapter 1 of chapter 63 of Title 9.

Third: In Sec. 41, by adding a subsection (e) to read:

(e) Secs. 38a (statutory revision) and 38b (menu labeling) of this act shall take effect on January 1, 2011.

Fourth: In Sec. 6, in subdivision (g)(3), in the first sentence, following "health care reform efforts", by adding ", the new federal insurance exchange, insurance regulatory provisions, and other provisions in the Patient Protection and Affordable Care Act of 2010, as amended by the Health Care and Education Reconciliation Act of 2010"

NOTICE CALENDAR

Second Reading

Favorable with Proposal of Amendment

H. 542.

An act relating to transfers of mobile homes and rent-to-own transactions.

Reported favorably with recommendation of proposal of amendment by Senator Ashe for the Committee on Economic Development, Housing and General Affairs.

The Committee recommends that the Senate propose to the House to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

respectfully reports that it has considered the same and recommends that the Senate propose to the House to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following::

Sec. 1. 9 V.S.A. § 2602 is amended to read:

§ 2602. SALE OR TRANSFER; PRICE DISCLOSURE; ~~UNIFORM~~ MOBILE HOME UNIFORM BILL OF SALE

* * *

(b) ~~No mobile home may be sold unless a mobile home uniform bill of sale as described in subsection (c) is completed and furnished by the seller to the buyer. The mobile home uniform bill of sale must be filed with the town clerk of the town in which the mobile home is to be located. Prior to resale, a mobile home uniform bill of sale must be endorsed by the town clerk of the town in which the mobile home is located and a copy sent to the town clerk where the mobile home will be located.~~ **Sale or transfer of all mobile homes.**

(1) Prior to the sale or transfer of ownership of a mobile home, the seller or transferor shall provide a copy of a completed, unexecuted, mobile home bill of sale:

(A) to the town clerk in which the mobile home is located for his or her endorsement; and

(B) in the case of a mobile home being sold or transferred separately from the real property on which it is located, to the record owner of the real property on which the mobile home is located by certified mail, return receipt requested, at least 21 days prior to the transfer or sale.

(2) A clerk shall not endorse a mobile home uniform bill of sale unless:

(A) all property taxes due and payable on the mobile home, but not the real property on which the mobile home is located if separately owned, have been paid in full as of the most recent assessment, or if the town collects taxes in installments pursuant to 32 V.S.A. § 4872, as of the most recent installment; or

(B) in the case of removal of a mobile home from the municipality, or of a sale, trade, or transfer that will result in the removal of the mobile home from the municipality, all property taxes assessed with regard to the mobile home, but not the mobile home site, have been paid.

(3) The seller or transferor shall execute and provide the endorsed bill of sale to the buyer or transferee at the time of sale or transfer.

(4) The buyer or transferee shall execute and file the bill of sale with the clerk of the town in which the mobile home will be located within 10 days of receipt from the seller or transferor. A clerk shall not accept a mobile home uniform bill of sale for filing that is not completed, executed, and endorsed as required by this subsection. Upon filing the clerk shall note the transfer on the mobile home uniform bill of sale whereby the seller acquired ownership of the mobile home, if available.

(5) If the mobile home will be relocated to real property that is not owned by the buyer or transferee, the buyer or transferee shall provide a copy of the mobile home uniform bill of sale to the record owner of the real property on which the mobile home will be located.

(6) Within 14 days of the filing of the bill of sale, the town clerk shall mail a copy of the bill of sale to each buyer, seller, and owner of real property for whom a mailing address is provided.

(7) The requirements of this subsection shall apply to a mobile home that is physically relocated by its owner to another town.

(8) This subsection shall not apply to:

(A) the valid transfer of a mobile home by deed when financed as residential real estate pursuant to this chapter;

(B) the valid transfer of a mobile home by a mobile home uniform bill of sale issued by the court pursuant to the abandonment process set forth in 10 V.S.A. § 6249;

(C) the physical relocation of a mobile home that is held as inventory by a manufacturer, distributor, or dealer, is stored or displayed on a sales lot, and is not connected to utilities.

~~(c) No mobile home shall be moved over the highways of this state unless the operator of the vehicle hauling such mobile home has in his or her~~

possession a copy of the mobile home uniform bill of sale endorsed pursuant to 32 V.S.A. § 5079 by the town clerk of the town in which the mobile home was last listed and by the clerk of the town in which the mobile home was last located. The mobile home uniform bill of sale shall contain the make, model, serial, size, year manufactured and location of each mobile home. It shall give the name and address of the owner of the property and whether the property is subject to a security interest and shall be substantially in the following form:

VERMONT MOBILE HOME UNIFORM BILL OF SALE KNOW ALL PEOPLE BY THESE PRESENTS THAT ....., Seller(s), of ..... County of ..... and State of ……....., in consideration of ..... Dollars ($) paid by ....., Buyer(s), of ..... County of ..... and State of ..... the receipt and sufficiency whereof is hereby acknowledged, do hereby grant, sell, transfer and deliver unto said Buyer(s) the following goods and chattels, namely:

Mobile Home Make: ..... Model: ..... Year: ..... Serial Number: ..... Size: ..... Color: ..... presently located at ..... in the Town of .....

[ ] Mobile Home will remain at above location.

[ ] Mobile Home will be located at ..... in Town of .....

TO HAVE AND TO HOLD all and singular the goods and chattels to the said Buyer(s) ..... and Buyer(s) executors, administrators, and assigns, to Buyer(s) own use and behoof forever. And the Seller(s) hereby covenant(s) with the said Buyer(s) that Seller(s) is/are the lawful owner(s) of said goods and chattels, that they are free from all encumbrances, that Seller(s) has/have good right to sell the same as aforesaid, and that Seller(s) will warrant and defend the same against the lawful claims and demands of all persons.

IN WITNESS WHEREOF, the Seller(s) hereto set(s) his/her/their hand(s), this ..... day of ..... A.D. 20 .....

....

Witness Seller

....

Witness Seller

~~NOTICE: Title 32 V.S.A. § 5079 requires that this Mobile Home Uniform Bill of Sale be signed by Sellers, Town Clerk of the Town where the Mobile Home is located prior to sale, and filed by Buyer with the Town Clerk of the Town where the Mobile Home will be located after the sale.~~

~~SECURITY INTEREST~~

~~This property is subject to the following security interest or interests of record:~~

~~Secured Party Date Discharged Town Record Number~~

~~TO BE COMPLETED BY TOWN CLERK WHERE MOBILE HOME IS PRESENTLY LOCATED.~~

~~I hereby acknowledge that:~~

~~1. Notation of above transfer has been made on the margin of the retained copy of the Mobile Home Uniform Bill of Sale whereby Seller(s) herein acquired title.~~

~~2. Copy of this bill of sale has been forwarded to Town Clerk of Town where above Mobile Home will be located.~~

~~3. Notation of security interest has been made.~~

~~DATED: ..... ATTEST: ..... TOWN CLERK~~

(c) **Mobile home uniform bill of sale.**

(1) A mobile home uniform bill of sale shall contain the following information regarding each mobile home being transferred:

(A) the name and address of each seller or transferor;

(B) the name and address of each buyer or transferee, and if more than one buyer or transferee, the estate under which the buyers or transferees will hold title to the mobile home;

(C) the make, model, serial number, size, and year manufactured;

(D) the current address or location of the mobile home;

(E) whether the mobile home will be moved following the sale or transfer, and if so, the future address of the mobile home;

(F) the name and address of the owner of the real property on which the mobile home is located;

(G) the name and address of the owner of the real property on which the mobile home will be located following the sale or transfer;

(H) the sale constitutes a "retail installment transaction" as defined in 9 V.S.A. § 2351(4) and is subject to 9 V.S.A. Chapter 59 (motor vehicle and mobile home retail installment sales financing);

(I) an itemized list of the mobile home's deficiencies known to the seller at the time of the sale, if the mobile home is sold "as is;" and

(J) an itemized list of known liens on the mobile home.

(2) A mobile home uniform bill of sale shall be substantially in the following form:

VERMONT MOBILE HOME UNIFORM BILL OF SALE

NOTICE

Vermont statute requires that this Mobile Home Uniform Bill of Sale be signed by each Buyer and Seller, endorsed by the Town Clerk of the Town where the Mobile Home is located at the time of sale, and filed by Buyer with the Town Clerk of the Town where the Mobile Home will be located after the sale. A financing statement evidencing a security interest in the Mobile Home must be filed with the Secretary of State.

Seller or Transferor ("Seller"):

Name:.....

Street:.....

Town/State/ZIP:.....

County:.....

Mailing Address (if different):

Street:.....

Town/State/ZIP:.....

Buyer or Transferee ("Buyer"):

Name:.....

Street:.....

Town/State/ZIP:.....

County:.....

Mailing Address (if different):

Street:.....

Town/State/ZIP:.....

If more than one Buyer, Buyers take title as:

[ ] Joint tenants (co-owners with right of survivorship).

[ ] Tenants by the entirety (joint tenancy of persons who are married).

[ ] Tenants in common (individual interests without right of survivorship).

[ ].....

Mobile Home Being Sold or Transferred ("Mobile Home")

Specifications:

Make: .....

Model:…….....

Year:.....

Serial Number: …….....

Size:.....

Color:…….....

Current Location:

Street:.....

Town/State/ZIP:.....

County:.....

Owner of Real Property on which Mobile Home is Located:

Name:.....

Street:.....

Town/State/ZIP:.....

Mailing Address (if different):

Street:.....

Town/State/ZIP:.....

Location of Mobile Home Following Sale

[ ] Mobile Home will remain at current location.

[ ] Mobile Home will be relocated to the following address:

Street:.....

Town/State/ZIP:.....

County:.....

Owner of Real Property on which Mobile Home will be Located:

Name:.....

Street:.....

Town/State/ZIP:.....

Mailing Address (if different):

Street:.....

Town/State/ZIP:.....

Retail Installment Transaction

This sale constitutes a "retail installment transaction" as defined in 9 V.S.A. § 4451(8) and is subject to 9 V.S.A. Chapter 59 (motor vehicle and mobile home retail installment sales financing).

KNOWN DEFICIENCIES IN "AS IS" SALES

In the case of an "as is" sale, the Seller is aware of the following deficiencies and defects of the Mobile Home:

.....

.....

.....

KNOWN LIENS

The Seller is aware of the following liens on the Mobile Home:

.....

.....

.....

For good and valuable consideration, the receipt and sufficiency of which is acknowledged, Seller hereby transfers to the Buyer the Mobile Home identified in this Bill of Sale, and Seller covenants with Buyer that Seller is the lawful owner of the Mobile Home, that it is free from all encumbrances, that Seller has good right to sell the Mobile Home, and that Seller will warrant and defend the same against the lawful claims and demands of all persons.

Seller Signature.....Date.....

Witness Signature.....Date.....

Buyer Signature.....Date.....

Witness Signature.....Date.....

TOWN CLERK ENDORSEMENT

TO BE COMPLETED BY TOWN CLERK WHERE MOBILE HOME IS CURRENTLY LOCATED PRIOR TO EXECUTION BY THE BUYER AND SELLER.

I hereby acknowledge that:

[ ] all property taxes due and payable on the mobile home, but not the real property on which the mobile home is located if separately owned, have been paid in full as of the most recent assessment, or if the town collects taxes in installments pursuant to 32 V.S.A. § 4872, as of the most recent installment; or

[ ] in the case of removal of a mobile home from the municipality, or of a sale, trade, or transfer that will result in the removal of the mobile home from the municipality, all property taxes assessed with regard to the mobile home, but not the mobile home site, have been paid.

Town Clerk Signature:.....Date:.....

(d) **Relocation of mobile home.**

Unless excluded under subdivision (b)(8) of this section, a mobile home shall not be moved over the highways of this state unless the operator of the vehicle hauling the mobile home has in his or her possession a copy of the mobile home uniform bill of sale endorsed pursuant to subsection (b) of this section. In addition to any penalty or remedy imposed under section 2607 of this title, a violation of this subsection shall be subject to the collection and enforcement provisions set forth in 32 V.S.A. § 5079.

(e) **Mobile home rent to own agreements.**

(1) **Definition of rent to own agreements for mobile homes**.

For purposes of this subsection, "an agreement to purchase a mobile home on a rent-to-own, lease-purchase, or similar basis" means any agreement, other than an agreement to purchase a mobile home, that will be financed as residential real estate, under which:

(A) a buyer or lessee, however named, agrees to pay consideration in one or more installments to the owner of a mobile home, or to a third party designated by the owner of the mobile home to receive payment on behalf of the owner, for the right to use or occupy the mobile home; and

(B) upon full compliance with the terms of the agreement, the buyer or lessee, however named, is bound to become, or for no further or a merely

nominal additional consideration, has the option of becoming, the owner of the mobile home.

(2) **Requirements to consummate sale under rent to own agreements**. An agreement to purchase a mobile home on a rent-to-own, lease-purchase, or similar basis shall not transfer ownership of the mobile home, or the rights, duties, and liabilities arising from ownership of the mobile home, unless and until:

(A) the buyer and seller execute a written retail installment contract complying with the requirements set forth in chapter 59 of this title; and

(B) a mobile home uniform bill of sale transferring the mobile home from the seller to the buyer is completed, endorsed, executed, and filed pursuant to subsection (b) of this section.

(3) **Compliance; sale**. Notwithstanding any provision of 9A V.S.A. Article 2 (uniform commercial code; sale of goods) to the contrary, an agreement to purchase a mobile home on a rent-to-own, lease-purchase, or similar basis that meets the requirements of subdivision (2) of this subsection shall constitute a "retail installment transaction" as defined in subdivision 2351(4) of this title, is subject to 9 V.S.A. Chapter 59, and shall not be subject to chapter 137 of this title relating to residential rental agreements.

(4) **Failure to comply; lease**. Notwithstanding any provision of 9A V.S.A. Article 2A (uniform commercial code; leases) to the contrary, an agreement to purchase a mobile home on a rent-to-own, lease-purchase, or similar basis that does not meet the requirements of subdivision (2) of this subsection shall constitute a residential rental agreement as defined in subdivision 4451(8) of this title, and shall be governed by chapter 137 of this title relating to residential rental agreements.

(f) **Sale of mobile homes in non-rent to own transactions.**

(1) The sale of a mobile home under subsection (b) of this section, is a sale of goods under 9A V.S.A. Article 2 (uniform commercial code; sale of goods), except to the extent of a direct conflict with this section.

(2) The sale of a mobile home under this section is subject to the provisions governing express and implied warranties on the sale of goods set forth in 9A V.S.A. Article 2, Part 3, with the following modifications:

(A) the warranty of title in a contract of sale under 9A V.S.A. § 2-312 may be excluded or modified only by a written agreement that is executed by the buyer and seller prior to sale and clearly states any deficiency or limitation on the seller's title, as well as any security interest, lien, or encumbrance on the mobile home that excludes or modifies the warranty of title;

(B) in the case of a new mobile home, the implied warranty of merchantability under 9A V.S.A. § 2-314 and the implied warranty of fitness for a particular purpose under 9A V.S.A. § 2-315 may not be waived if the seller has notice that the mobile home will be used by the buyer as his or her primary residence; and

(C) in the case of a used mobile home, the implied warranty of merchantability under 9A V.S.A. § 2-314 and the implied warranty of fitness for a particular purpose under 9A V.S.A. § 2-315 may be waived only if the seller notifies the buyer in writing that the mobile home is being offered for sale "as is."

Sec. 2. 32 V.S.A. § 5079 is amended to read:

§ 5079. SALE OR TRANSFER OF MOBILE HOMES; COLLECTION OF TAXES

(a) ~~Within 10 days of acquiring ownership by sale, trade, transfer, or other means, an owner of a mobile home as defined in 9 V.S.A. § 2601 or 10 V.S.A. § 6201 shall file with the clerk of the municipality in which the mobile home is located a mobile home uniform bill of sale, containing the make, model, serial number, size, year manufactured, and location of the mobile home. It shall give the name and address of the owner of the property, and whether the property is subject to a security interest, and shall be substantially in the form prescribed in 9 V.S.A. § 2602(c). This subsection shall not apply to mobile homes held solely for sale by a manufacturer, distributor, or dealer that are stored or displayed on a sales lot and are not connected to utilities.~~ A transfer of ownership of a mobile home shall be made pursuant to the requirements set forth in chapter 72 of Title 9.

(b) Repealed.

(c) Repealed.

(d) A mobile home removed from a town without a mobile home uniform bill of sale endorsed by the clerk of the municipality where the mobile home was located as required by ~~subsection (b) of this section~~ 9 V.S.A. § 2602 may be taken into possession by any sheriff, deputy sheriff, constable, or police officer, or by the treasurer or tax collector of the town in which the mobile home was last listed if known, or by the commissioner of taxes if that town is unknown. A mobile home taken into possession under this section ~~by an officer other than the collector of taxes~~ shall be ~~delivered promptly to the collector of taxes of the town in which the mobile home was last listed~~ in the constructive custody of the official, who shall control the use and movement of the mobile home. In taking possession, the authorized officer may proceed without judicial process only in the event that the taking of possession can be done without breach of the peace. Proceedings for collection of the taxes

assessed against and due with respect to the mobile home shall then be conducted in accordance with subchapter 9 of chapter 133 of this title.

(e) Taxes assessed against a mobile home shall be considered due for purposes of this section as of the date of removal of the mobile home from the town in which the mobile home was last listed, and the owner shall be liable for fees provided for in section 1674 of this title from the date of removal.

(f) The treasurer or tax collector of any town from which a mobile home is removed~~,~~ without an endorsed mobile home uniform bill of sale as required by ~~subsection (b) of this section~~ 9 V.S.A. § 2602(b) may notify the director of the division of property valuation and review of the removal giving a description of the mobile home by serial or other number if known. If the director is notified of the seizure of a mobile home as provided in subsection (d) of this section, he or she shall immediately notify the treasurer or tax collector of the town, if known, in which the mobile home was last listed on the grand list.

(g) Taxes lawfully assessed upon a mobile home shall attach as a lien on the mobile home as provided in section 5061 of this title.

Sec. 3. 10 V.S.A. § 6204(d) is amended to read:

(d) A mobile home occupied on the basis of a lease-purchase or ~~"rent-to-own"~~ rent-to-own contract, however named, shall be subject to the provisions of 9 V.S.A. ~~chapter 59~~ § 2602(e).

Sec. 4. AVAILABILITY OF MOBILE HOME UNIFORM BILL OF SALE

The agency of commerce and community development shall make publicly available on its website:

(a) a mobile home uniform bill of sale in a format substantially similar to the form set forth in 9 V.S.A. § 2602(c); and

(b) a copy of this act.

Sec. 5. EFFECTIVE DATE

This act shall take effect on September 1, 2010.

(Committee vote: 5-0-0)

And that the bill ought to pass in concurrence with such proposals of amendment.

(For House amendments, see House Journal for February 16, 2010, page 203.)

House Proposal of Amendment

S. 296

An act relating to sale or lease of the John H. Boylan state airport.

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

Sec. 1. SALE OR LEASE OF THE JOHN H. BOYLAN STATE AIRPORT

(a) Pursuant to the provisions of 5 V.S.A. § 204(3), the secretary of transportation is authorized to sell or lease the John H. Boylan state airport to the town of Brighton or to the Vermont Renewable Energy Company, LLC, d/b/a Vermont Biomass Energy at fair market value.

(b) Conditions of the lease or sale shall include:

(1) The state shall retain an ownership interest in sufficient flat, open acreage which is in close proximity to route 105 to be used for landing of helicopters. The land purchaser or lessee shall maintain the helicopter landing area so that it is accessible for authorized uses.

(2) The agency of transportation shall have received inactive status for the John H. Boylan state airport from the FAA in order to preserve air space for future use as an airport.

(3) If the conveyance is a lease agreement, the lessee shall purchase liability insurance sufficient to cover potential injuries and damages and shall indemnify the state from loss or injury during the lessee's tenancy.

(4) The purchaser or lessee shall have obtained all necessary permits.

(c) The property shall be conveyed subject to the following covenants:

(1) The property shall be used only for storage and processing of logs for a pellet manufacturing operation in the former Ethan Allen facility on route 105 in Brighton.

(2) If the property is conveyed through a sale, the property shall not be assigned to any other person except that:

(A) at the request of the purchaser, the land may be sold back to the state in the condition required under subdivision (3) of this subsection at the original sale price not increased by interest or an inflation index,

(B) the purchaser may sell the land to another party subject to the conditions and covenants of this section, or

(C) if the purchaser ceases to use the land for storage and processing of logs for a pellet manufacturing operation for 18 months or more, or uses the

land in a manner contrary to the conditions and covenants of this section, the land shall revert to the state at no cost to the state.

(3) Upon termination of a lease or sale of the property back to the state, the owner shall return the property to the state in a condition sufficient to support a grass strip airport of the size in existence at the time of the first sale. Upon lease or purchase of the property, the lessor or purchaser or assignee shall also purchase a 7-year performance bond of $50,000 to ensure that if the land is returned to the state, it will be returned to the state in the required condition.

(d) Any purchaser or lessee shall agree to purchase the hangars, including the concrete pads, on the property from their owners at replacement value as mutually agreed upon by the purchaser or lessee and hangar owner, or as determined by an appraiser mutually agreed upon by the purchaser or lessee and hangar owner, and paid for by the purchaser or lessee. The state shall terminate the hangar leases at the John H. Boylan state airport or, if the owner so desires, shall transfer the lease for placement of the hangar to a nearby airport on the same terms for the remainder of the lease.

(e) The secretary of transportation is authorized to sell the residence and up to an acre of associated land on the airport property to the highest bidder, provided that the residence and land shall not be sold for less than fair market value.

(f) Proceeds from the state of Vermont's sales or leases authorized by this section shall be deposited into the transportation fund, except for up to $5,000.00 which may be used by the agency of transportation to create a memorial park at a location mutually agreed upon by the town of Brighton and by the agency to commemorate the contributions to the state of Vermont of the late Senator John H. Boylan and the late Essex District Probate Court Judge Lena Boylan.

Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.

J.R.S. 47

Joint resolution strongly urging the Republic of Turkey to recognize the right to religious freedom for all its residents and to end all discriminatory policies directed against the Ecumenical Patriarchate of the Orthodox Church.

The House proposes to the Senate to amend the resolution by striking the second ***Resolved*** clause and insert in lieu thereof the following:

Resolved: That the Secretary of State be directed to send a copy of this resolution to the United States Secretary of State, the Order of Saint Andrew

the Apostle Archons of the Ecumenical Patriarchate in New York City, and the Vermont Congressional Delegation.

Report of Committee of Conference

S. 207.

An act relating to handling of milk samples.

To the Senate and House of Representatives:

The Committee of Conference to which were referred the disagreeing votes of the two Houses upon Senate Bill entitled:

S. 207. An act relating to handling of milk samples.

Respectfully report that it has met and considered the same and recommend that the House recede from its proposal of amendment, and that the bill be further amended as follows:

First: By striking Sec. 3 in its entirety and inserting in lieu thereof the following:

Sec. 3. REPORT ON RAW MILK QUALITY PROBLEMS

(a) By September 30, 2010, the agency of agriculture, food and markets shall study raw milk quality problems, including PI count and the handling of raw milk samples.

(b) On or before January 15, 2011, the agency shall report to the house and senate committees on agriculture the extent to which milk quality problems, including PI count, exist in Vermont's milk supply and advise the committees regarding potential regulatory and legislative solutions to address these problems.

Second: By striking Sec. 4 in its entirety and inserting in lieu thereof the following:

Sec. 4. 13 V.S.A. §§ 3601–3604 are added to read:

§ 3601. DEFINITIONS

As used in this chapter:

(1) "Diameter breast height" or "DBH" means the diameter of a standing tree at four and one-half feet from the ground.

(2) "Harvest" means the cutting, felling, or removal of timber.

(3) "Harvest unit" means the area of land from which timber will be harvested or the area of land on which timber stand improvement will occur.

(4) "Harvester" means a person, firm, company, corporation, or other legal entity that harvests timber.

(5) "Landowner" means the person, firm, company, corporation, or other legal entity that owns or controls the land or owns or controls the right to harvest timber on the land.

(6) "Landowner's agent" means a person, firm, company, corporation, or other legal entity representing the landowner in a timber sale, timber harvest, or land management.

(7) "Stump diameter" means the diameter of a tree stump remaining after cutting, felling, or destruction.

§ 3602. UNLAWFUL CUTTING OF TREES

(a) Any person who cuts, fells, destroys to the point of no value, or substantially damages the potential value of a tree without the consent of the owner of the property on which the tree stands shall be assessed a civil penalty in the following amounts for each tree over two inches in diameter that is cut, felled, or destroyed:

(1) if the tree is no more than six inches in stump diameter or DBH, not more than $25.00;

(2) if the tree is more than six inches and not more than ten inches in stump diameter or DBH, not more than $50.00;

(3) if the tree is more than 10 inches and not more than 14 inches in stump diameter or DBH, not more than $150.00;

(4) if the tree is more than 14 inches and not more than 18 inches in stump diameter or DBH, not more than $500.00;

(5) if the tree is more than 18 inches and not more than 22 inches in stump diameter or DBH, not more than $1,000.00;

(6) if the tree is greater than 22 inches in stump diameter or DBH, not more than $1,500.00.

(b) In calculating the diameter and number of trees cut, felled, or destroyed under this section, a law enforcement officer may rely on a written damage assessment completed by a professional arborist or forester.

§ 3603. MARKING HARVEST UNITS

A landowner who authorizes timber harvesting or who in fact harvests timber shall clearly and accurately mark with flagging or other temporary and visible means the harvest unit. Each mark of a harvest unit shall be visible from the next and shall not exceed 100 feet apart. The marking of a harvest unit shall be completed prior to commencement of a timber harvest. If a violation as described in section 3602 of this title occurs due to the failure of a landowner to mark a harvest unit, the landowner who failed to mark a harvest

unit in accordance with the requirements of this subsection shall be assessed a civil penalty of not less than $250.00 and not more than $1,000.00.

§ 3604. EXEMPTIONS

The cutting, felling, or destruction of a tree or the harvest of timber by the following is exempt from the requirements of sections 3602, 3603, and 3606 of this title:

(1) the agency of transportation conducting brush removal on state highways or agency-maintained trails;

(2) a municipality conducting brush removal subject to the requirements of 19 V.S.A. § 904;

(3) a utility conducting vegetation maintenance within the boundaries of the utility's established right-of-way;

(4) a harvester harvesting timber that a landowner has authorized for harvest within a harvest unit that has been marked by a landowner under section 3603 of this title. A landowner who harvests timber on his or her own property shall not be a "harvester" for the purposes of this subdivision;

(5) a railroad conducting vegetation maintenance or brush removal in the railroad right-of-way;

(6) a licensed surveyor establishing boundaries between abutting parcels under 27 V.S.A. § 4.

Sec. 5. 13 V.S.A. § 3606 is amended to read:

§ 3606. TREBLE DAMAGES FOR CONVERSION OF TREES OR DEFACING MARKS ON LOGS

If a person cuts down, destroys, or carries away any tree or trees placed or growing for any use or purpose whatsoever, or timber, wood, or underwood standing, lying, or growing belonging to another person, without leave from the owner of such trees, timber, wood, or underwood, or cuts out, alters, or defaces the mark of a log or other valuable timber, in a river or other place, the party injured may recover of such person, in an action on this statute, treble damages ~~in an action on this statute~~ or for each tree the same amount that would be assessed as a civil penalty under section 3602 of this title, whichever is greater. However, if it appears on trial that the defendant acted through mistake, or had good reason to believe that the trees, timber, wood, or underwood belonged to him or her, or that he or she had a legal right to perform the acts complained of, the plaintiff shall recover single damages only, with costs. For purposes of this section, "damages" shall include any damage caused to the land or improvements thereon as a result of a person cutting, felling, destroying to the point of no value, substantially reducing the potential

value, or carrying away a tree, timber, wood, or underwood without the consent of the owner of the property on which the tree stands. If a person cuts down, destroys, or carries away a tree or trees placed or growing for any use or purpose whatsoever or timber, wood, or underwood standing, lying, or growing belonging to another person due to the failure of the landowner or the landowner's agent to mark the harvest unit properly, as required under section 3603 of this title, a cause of action for damages may be brought against the landowner.

Sec. 6. 4 V.S.A. § 1102(b) is amended to read:

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

* * *

(18) Violations of 23 V.S.A. § 3327(d), relating to obeying a law enforcement officer while operating a vessel.

(19) Violations of 13 V.S.A. §§ 3602 and 3603, relating to the unlawful cutting of trees and the marking of harvest units.

Sec. 7. EFFECTIVE DATES

(a) This section and Secs. 1 and 3 shall take effect upon passage.

(b) Sec. 2 of this act shall take effect on July 1, 2011.

(c) Secs. 4 (unlawful cutting of trees), 5 (damages for unlawful cutting of trees), and 6 (judicial bureau offenses) of this act shall take effect July 1, 2010.

MATTHEW A. CHOATE
M. JANE KITCHEL
ROBERT A. STARR

Committee on the part of the Senate

DAVID M. AINSWORTH
JAMES L. MCNEIL
CATHERINE B. TOLL

Committee on the part of the House

S. 264.

An act relating to stop and hauling charges.

To the Senate and House of Representatives:

The Committee of Conference to which were referred the disagreeing votes of the two Houses upon Senate Bill entitled:

S. 264. An act relating to stop and hauling charges.

Respectfully report that they have met and considered the same and recommend that the House recede from its proposal of amendment.

SARA BRANON KITTELL
ROBERT A. STARR
HAROLD W. GIARD

Committee on the part of the Senate

JOHN W. MALCOLM
DAVID M. AINSWORTH
NORMAN H. MCALLISTER

Committee on the part of the House

J.R.S. 54.

Joint resolution relating to the payment of dairy hauling costs.

To the Senate and House of Representatives:

The Committee of Conference to which were referred the disagreeing votes of the two Houses upon Joint Senate Resolution entitled:

J.R.S. 54 Joint resolution relating to the payment of dairy hauling costs.

Respectfully report that they have met and considered the same and recommend that the House recede from its proposal of amendment and that the resolution be further amended by striking all after the title and inserting in lieu thereof the following:

Whereas, the Vermont secretary of agriculture, food and markets recently has warned that there is a grave possibility that Vermont could lose up to 20 percent of its dairy farms in 2010, and

Whereas, in virtually every other nonagricultural industry, the purchaser of goods pays the costs of transporting the goods from the place of manufacture to the purchaser, and

Whereas, in the past three years, the Vermont General Assembly has carefully considered the issue of dairy hauling costs and the impact upon Vermont dairy farmers, and

Whereas, in New England, dairy farmers typically are responsible for the majority of the costs of hauling milk from the farm to a buyer's processing plant or similar facility, and

Whereas, dairy hauling costs are incurred by dairy farmers, regardless of the price of milk, and

Whereas, the average dairy hauling costs for a Vermont farm milking approximately 200 cows can exceed $20,000.00 per year, and

Whereas, according to a recent New York study of dairy hauling costs, hauling charges paid by dairy producers range from an annual average of $0.50 to $0.57 per hundredweight of milk for all size farms, and the average hauling charge, including transportation credits, ranges from 3.1 to 4.4 percent of the gross value of the farm milk, and

Whereas, pursuant to Vermont's Act 50 (2007), the Vermont Milk Commission carefully considered the potential economic impacts of shifting responsibility for dairy hauling costs from the producer to the purchaser of milk, and

Whereas, the Vermont Milk Commission has concluded, and legislative testimony received from the Vermont agency of agriculture, food and markets, industry representatives, and dairy farmers has confirmed that shifting the payment of dairy hauling costs from producer to purchaser will result in Vermont milk being more expensive than milk produced in neighboring states, thereby making Vermont milk less competitive in the northeastern dairy market, and

Whereas, Vermont, or any other state which unilaterally mandates a shift in the cost of dairy hauling from producer to purchaser, will suffer a competitive disadvantage relative to neighboring producer states due to the increased cost of its milk, and

Whereas, given this reality and the economic crisis facing dairy farmers throughout New England, it is extremely unlikely that any state will elect to be the first to mandate this shift in dairy hauling costs, therefore requiring a solution that is national in scope, and

Whereas, in November 2009, United States Representatives Michael Arcuri and Chris Lee of New York introduced federal legislation (H.R. 4117) to eliminate all hauling costs for milk producers, and

Whereas, United States Secretary of Agriculture Thomas Vilsack has convened a 17-member United States Department of Agriculture Dairy Industry Advisory Committee to review the issues of farm milk price volatility and dairy farmer profitability, and to offer suggestions and ideas on how the United States Department of Agriculture can best address these issues to meet the dairy industry's needs, now therefore be it

Resolved by the Senate and House of Representatives:

That the Vermont General Assembly urges United States Secretary of Agriculture Thomas Vilsack and the United States Department of Agriculture Dairy Industry Advisory Committee to pursue a national policy requiring that

dairy hauling costs be borne by the marketplace rather than dairy producers as a means to address dairy farmer profitability, and be it further

Resolved: That the Secretary of State be directed to send a copy of this resolution to United States Secretary of Agriculture Thomas Vilsack, the Vermont congressional delegation, and the members of the United States Department of Agriculture Dairy Industry Advisory Committee.

SARA BRANON KITTELL
HAROLD W. GIARD
ROBERT A. STARR

Committee on the part of the Senate

CHRISTOPHER A. BRAY
CHARLES W. CONQUEST
NORMAN H. MCALLISTER

Committee on the part of the House

ORDERED TO LIE

S. 99.

An act relating to amending the Act 250 criteria relating to traffic, scattered development, and rural growth areas.

S. 110.

An act relating to sheltering livestock.

S. 226.

An act relating to medical marijuana dispensaries.

H. 331.

An act relating to technical changes to the records management authority of the Vermont State Archives and Records Administration.

S.R. 25.

Senate resolution relating to the animal slaughtering and meat packaging operations of Bushway Packing, Inc. and Champlain Valley Meats, Inc. .