

# Journal of the House

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**Friday, April 16, 2010**

At nine o'clock and thirty minutes in the forenoon the Speaker called the House to order.

## **Devotional Exercises**

Devotional exercises were conducted by the State House Singers.

### **Bill Referred to Committee on Appropriations**

**S. 88**

Senate bill, entitled

An act relating to health care financing and universal access to health care in Vermont

Appearing on the Calendar, carrying an appropriation, under rule 35a, was referred to the committee on Appropriations.

### **Bill Referred to Committee on Ways and Means**

**S. 287**

Senate bill, entitled

An act relating to the licensing and regulation of loan servicers

Appearing on the Calendar, affecting the revenue of the state, under the rule, was referred to the committee on Ways and Means.

### **Third Reading; Bill Passed**

**H. 770**

House bill, entitled

An act relating to approval of amendments to the charter of the city of Barre

Was taken up, read the third time and passed.

### **Third Reading; Bill Passed; Rules Suspended; Bill was Ordered Messaged to the Senate Forthwith**

**H. 781**

House bill, entitled

An act relating to renewable energy

Was taken up, read the third time and passed.

On motion of **Rep. Komline of Dorset**, the rules were suspended and the bill was ordered messaged to the Senate forthwith.

**Message from the Senate No. 36**

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

Mr. Speaker:

I am directed to inform the House that:

The Senate has considered House proposal of amendment to Senate bill of the following title:

**S. 272. An act relating to human trafficking.**

And has concurred therein.

**Bill Amended, Consideration Interrupted by Recess**

**H. 792**

House bill, entitled

An act relating to implementation of challenges for change

Was taken up and pending third reading of the bill, **Rep. Browning of Arlington** moved to amend the bill as follows:

By inserting a new Sec. 68 to read:

**Sec. 68. STATE TREASURER; BONDING AUTHORITY**

(a) The state treasurer is authorized to issue \$10 million in short-term general obligation bonds for the purpose of funding this act. The state treasurer, with the approval of the governor, shall determine the appropriate form and maturity of the bonds authorized by this section consistent with the underlying nature of the project to be funded.

(b) Proceeds from bonds issued under this section are appropriated as follows:

(1) to the commissioner of corrections for the purpose of investing in programs and services which will reduce incarceration and recidivism:

\$3,164,000

(2) to the secretary of administration to implement Sec. 2 of this act, and to finance other investments in information technology, productive assets,

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programs, or operations authorized in this act that will ensure lower costs and better outcomes for state agencies in the future: \$6,836,000

and by renumbering the existing Sec. 68 to be Sec. 69

Thereupon, **Rep. Browning of Arlington** asked and was granted leave of the House to withdraw her amendment.

Pending third reading of the bill, **Rep. Jewett of Ripton** moved to amend the bill as follows:

First: By adding a Sec. 24a to read as follows:

\* \* \* Home Detention\* \* \*

Sec. 24a. 13 V.S.A. § 7554b is added to read:

§ 7554b. HOME DETENTION PROGRAM FOR DETAINEES

(a) As used in this section, “home detention” means a program of confinement and supervision that restricts a defendant to a preapproved residence continuously, except for authorized absences, and is enforced by appropriate means of surveillance and electronic monitoring by the department of corrections. The court may authorize scheduled absences such as work, school, or treatment. Any changes in the schedule shall be solely at the discretion of the department of corrections. A defendant who is on home detention shall remain in the custody of the commissioner of the department of corrections with conditions set by the court.

(b) Procedure. The status of a defendant who is detained pretrial for more than seven days in a correctional facility for lack of bail may be reviewed by the court to determine whether the defendant is appropriate for home detention. The request for review may be made by either the department of corrections or the defendant. After a hearing, the court may order that the defendant be released to the home detention program, providing that the court finds placing the defendant on home detention will reasonably assure his or her appearance in court when required and the proposed residence is appropriate for home detention. In making such a determination, the court shall consider:

- (1) the nature of the offense with which the defendant is charged;
- (2) the defendant’s prior convictions, history of violence, medical and mental health needs, history of supervision, and risk of flight; and
- (3) 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.

(c) Failure to comply. The department of corrections may revoke a defendant's home detention status for an unauthorized absence or failure to comply with any other condition of the program and shall return the defendant to a correctional facility.

(d) Sentence computation. Upon conviction and at the time of sentencing, the defendant shall be given credit for any day spent in the home detention program as though it had been spent in a correctional facility.

Second: By adding Secs. 25a and 25b to read:

\* \* \* Expand Diversion\* \* \*

Sec. 25a. 3 V.S.A. § 164 is amended to read:

§ 164. ADULT COURT DIVERSION PROJECT

(a) The attorney general shall develop and administer an adult court diversion project in all counties. The project shall be operated through the juvenile diversion project and shall be designed to assist ~~adult first time offenders~~ adults who have been charged with a first or second misdemeanor or a first felony. The attorney general shall adopt only such rules as are necessary to establish an adult court diversion project for adults, in compliance with this section.

\* \* \*

(c) All adult court diversion projects receiving financial assistance from the attorney general shall adhere to the following provisions:

\* \* \*

(4) Each state's attorney, in cooperation with the adult court diversion project, shall develop clear criteria for deciding what types of offenses and offenders will be eligible for diversion; however, the state's attorney shall retain final discretion over the referral of each case for diversion.

\* \* \*

Sec. 25b. COURT DIVERSION PROJECT

The Vermont association of court diversion programs, the department of state's attorneys and sheriffs and the Vermont network against domestic and sexual violence shall jointly develop referral criteria to appropriately screen charges for the purpose of identifying those that have elements of underlying domestic violence, sexual violence, or stalking.

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

\* \* \*Permit the Office of Child Support to Prosecute Nonsupport\* \* \*

Sec. 26a. 15 V.S.A. § 202 is amended to read:

§ 202. PENALTY FOR DESERTION OR NONSUPPORT

A married person who, without just cause, shall desert or willfully neglect or refuse to provide for the support and maintenance of his or her spouse and children, leaving them in destitute or necessitous circumstances or a parent who, without lawful excuse, shall desert or willfully neglect or refuse to provide for the support and maintenance of his child or an adult child possessed of sufficient pecuniary or physical ability to support his parents, who unreasonably neglects or refuses to provide such support when the parent is destitute, unable to support himself and resident in this state, shall be imprisoned not more than two years or fined not more than \$300.00, or both. Should a fine be imposed, the court may order the same to be paid in whole or in part to the needy spouse, parent or to the guardian, custodian or trustee of the child. The office of child support attorneys, in addition to any other duly authorized person, may prosecute cases under this section in Vermont district court.

Which was agreed to.

Pending third reading of the bill, **Rep. Zuckerman of Burlington** moved to amend the bill as follows:

By inserting a new Sec. 5 to read:

Sec. 5. TWO-YEAR SURTAX ON TOP FOUR INCOME TAX BRACKETS

For taxable years beginning on or after January 1, 2010, and before January 1, 2013, there is imposed a surtax on the tax imposed pursuant to 32 V.S.A. § 5822 equal to four and one-half percent of Vermont personal income tax liability if the last dollar of taxable income is subject to one of the following marginal tax rates: 7%, 8.25%, 8.9%, and 9.4%.

and by renumbering the remaining sections and all cross-references in the bill to be numerically correct and internally consistent

**Rep. Deen of Westminster** raised a Point of Order that the amendment is not germane to the bill in that the bill does not deal with taxes. Which Point of Order the Speaker ruled well taken.

Pending third reading of the bill, **Rep. Sweaney of Windsor** moved to amend the bill as follows:

First: In Sec. 65, 2 V.S.A. § 970(a), by striking subdivision (6) in its entirety and inserting in lieu thereof a new subdivision (6) to read:

(6) Review the fiscal condition of the state on a two-year and five-year basis, including relevant data such as comparisons of budgeted amounts to actual expenditures, comparison of current and projected expenditures to current and projected revenues, and capital investments funded by bonding.

Second: In Sec. 65, 2 V.S.A. § 970(a)(7), by striking “Create and implement” and inserting in lieu thereof “Recommend”

Third: In Sec. 65, 2 V.S.A. § 970, by striking subsection (b) in its entirety and inserting in lieu thereof a new subsection (b) to read:

(b) The membership of the committee shall be appointed each biennial session of the general assembly. The committee shall be comprised of eight members: four members of the house of representatives who shall not all be from the same party: one from the committee on government operations, one from the committee on appropriations, one from the committee on ways and means, and one from the committee on corrections and institutions, appointed by the speaker of the house; and four members of the senate who shall not all be from the same party: one from the committee on government operations, one from the committee on appropriations, one from the committee on finance, and one from the committee on institutions, appointed by the committee on committees. The governor shall appoint one person to serve as a nonvoting liaison to the committee.

Which was agreed to.

Pending third reading of the bill, **Rep. Martin of Wolcott** moved to amend the bill as follows:

First: In Sec. 1, by adding subsection (d) to read:

(d) The general assembly recommends that all branches, elected offices and units of government participate in the performance contracting and grant making challenge, as defined in Sec. 3 of No. 68 of the Acts of the 2009 Adj. Sess. (2010), and it is the intent of the general assembly that, notwithstanding any other provision of law, memorandums of understanding be executed between the administration and all executive branch government units to achieve the desired outcomes and implementation of this initiative.

Second: By adding a Sec. 2a to read:

Sec. 2a. SECRETARY OF ADMINISTRATION; EXCESS SAVINGS AND REVENUES

Notwithstanding any other provisions of law to the contrary, for a period of two years after the effective date of this section the secretary of administration

may grant to a designated charter units the ability to retain and reinvest savings or revenues if the combined savings of the charter units is in excess of the two million dollar savings or revenue target and may transfer appropriations or funds as deemed necessary to accomplish the results specified for the charter unit challenge and consistent with plans to improve business processes presented to the secretary.

Third: By striking Sec. 36 in its entirety and inserting in lieu thereof a new Sec. 36 to read:

Sec. 36. SECRETARY OF STATE; PUBLICATION OF PROPOSED  
RULES

(a) The secretary of state shall arrange for one formal publication, in a consolidated advertisement in newspapers having general circulation in different parts of the state as newspapers of record approved by the secretary of state, of information relating to all proposed rules that includes the following information:

(1) the name of the agency and its Internet address;

(2) the title or subject of the rule;

(3) the name, telephone number, and address of an agency official able to answer questions and receive comments on the proposal; and

(4) a statement that as of January 1, 2011, notice of proposed rules will no longer be published in newspapers.

(b) The secretary of state shall be reimbursed by agencies making publication so that all costs are prorated among agencies publishing at the same time.

Pending the question, Shall the House amend the bill as recommended by Rep. Martin of Wolcott? **Rep. Donahue of Northfield** moved to amend the recommendation of amendment offered by Rep. Martin of Wolcott as follows:

In the Third instance of amendment, subdivision (a)(4) after "January" by striking "1" and inserting in lieu thereof "30"

Which was agreed to.

Thereupon, the recommendation of amendment offered by Rep. Martin of Wolcott, as amended, was agreed to.

Pending third reading of the bill, **Rep. Kilmartin of Newport City** moved to amend the bill as follows:

After Sec. 33 and before the internal caption “\* \* \* Environmental and Energy Regulation \* \* \*” by inserting 23 new sections to be Secs. 33a – 33w to read:

Sec. 33a. INTENT

It is the intent of the general assembly:

(1) to ensure that any change to the governance structure of the Vermont educational system will create better opportunities for students, reasonably increase economies of scale, preserve a sense of community, and provide incentives for cost efficiencies available in personnel assignment and the management of resources;

(2) to provide technical assistance, incentives, and statutory changes to encourage voluntary merger of school districts;

(3) to assist schools and education governing units to use meaningful, standardized metrics for evaluating programs, comparing local, national, and international student data, and assessing and identifying system improvements;

(4) to ensure that there are meaningful methods to analyze the costs and benefits of resource allocations;

(5) to make effective use of technology to expand educational opportunities for all students; and

(6) to ensure that voters have opportunities to make local decisions regarding school choice and other enrollment options, in Vermont public schools and in approved independent schools, that are appropriate for their communities.

\* \* \* School District Merger Incentive Program \* \* \*

Sec. 33b. SCHOOL DISTRICT MERGER INCENTIVE PROGRAM

There is created a school district merger incentive program to be in effect through fiscal year 2017 under which each new unified union school district created by the voluntary merger of existing school districts pursuant to Secs. 33c and 33e of this act shall receive the incentives outlined in Sec. 33d of this act.

Sec. 33c. INCENTIVE PROGRAM REQUIREMENTS RELATING TO DISTRICT STRUCTURE

(a) Size and Schools. Two or more contiguous school districts, which may include one or more union school districts, may merge to form a unified union school district (“UUSD”) that (except as provided in Sec. 33f of this act) shall:



(1) have an average daily membership of at least 1,250 or result from the merger of at least five districts, or both; and

(2) maintain one or more approved public schools offering elementary and secondary education. Notwithstanding any other provision of law to the contrary:

(A) and for purposes of this subdivision, a UUSD shall be deemed to maintain a public high school if it has designated a public school outside the district or an approved independent school as its public high school pursuant to the provisions of 16 V.S.A. § 827 and if a UUSD designates a school to satisfy the requirement of this subdivision, the act of designation will not limit the enrollment options available to the UUSD under the proposal approved by the electorate in Sec. 33e(b)(2)(B)(ii) of this act, including tuitioning students to public schools or approved independent schools inside or outside the UUSD; and

(B) the fact that an existing union high school district is among the districts merging to form a UUSD shall not limit the enrollment options available to the UUSD under the proposal approved by the electorate in Sec. 33e(b)(2)(B)(ii) of this act, including tuitioning students to public schools or approved independent schools inside or outside the UUSD.

(b) Supervisory unions.

(1) School districts that merge to form a UUSD do not need to be from the same supervisory union.

(2) If a UUSD includes all school districts within one or more supervisory unions, then the UUSD shall replace the school districts, the supervisory union or unions, and all related elected boards.

(3) If a UUSD forms and does not include all school districts within one or more supervisory unions, then:

(A) the UUSD is an independent entity distinct from the remaining school districts and the supervisory union or unions; and

(B) any school district that is a member of the same supervisory union as one or more of the merging districts and that does not merge to form the UUSD shall maintain its existing governance structure; provided, however, that upon vote of the electorate, the school district may notify the state board of education of its intent to operate as a supervisory district as defined in 16 V.S.A. § 11(24) or may request the state board to assign it to an existing supervisory union pursuant to 16 V.S.A. § 261.

(c) Organization. A UUSD is a supervisory district consisting of a single unified union school district, as explicitly contemplated by 16 V.S.A. § 11(a)(24). Subject to the provisions of this act, a UUSD is a unified union school district as defined by 16 V.S.A. § 722 that is not assigned to a supervisory union pursuant to 16 V.S.A. § 706 and operates pursuant to chapter 11 of Title 16.

(d) Operation of schools. A UUSD shall not close any school within its boundaries during the first four years of merger or prior to fiscal year 2018, whichever is earlier, unless the electorate of the municipality in which the school is located consents to closure.

(e) UUSD board.

(1) Membership. The UUSD shall be governed by one board. Members of the board shall be elected pursuant to 16 V.S.A. §§ 706e and 706k and any other related provisions of chapter 11 of Title 16.

(2) Duties. The UUSD board shall:

(A) develop, approve, and ensure implementation of educational and other policies for schools within the UUSD, which shall include those required by 16 V.S.A. §§ 563 and 261a;

(B) adopt a proposed budget;

(C) hire no more than one superintendent; and

(D) perform other duties for which school district and supervisory union boards are legally responsible, as applicable.

(f) Local participation. The plan for merger presented to the electorate for approval under Sec. 33e of this act shall include structures and processes that provide opportunities for local participation in the creation of UUSD policy and budget development.

(g) Enrollment options.

(1) As part of the merger process, each UUSD shall implement the student enrollment options proposed by the subcommittee under Sec. 33e(b)(2)(B)(ii) of this act and approved by the electorate.

(2) Notwithstanding the authority to establish enrollment options pursuant to subdivision (1) of this subsection, the UUSD shall comply with the regional high school choice provisions of 16 V.S.A. § 1622.

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(h) Educational requirements.

(1) Technical education. The UUSD shall provide access to secondary technical education for students pursuant to 16 V.S.A. § 1541a and shall permit any qualified student in grades 9–12 residing within its boundaries to enroll, as capacity permits, in appropriate classes and programs offered by the technical center or centers.

(2) Special education; local education agency. The UUSD shall be the local education agency for purposes of both 20 U.S.C. §§ 1400–1485 (Individuals with Disabilities Education Act) and 20 U.S.C. §§ 6311–6318 (the Elementary and Secondary Education Act of 1965 and the No Child Left Behind Act of 2001) and their implementing regulations, as amended from time to time. The UUSD shall provide special education services and shall be responsible for developing the individualized education plans for students residing within its boundaries.

(3) Curriculum. The UUSD shall have a UUSD-wide curriculum that meets the standards adopted pursuant to 16 V.S.A. § 165(a)(3) and that is approved by the UUSD board and fully implemented no later than the sixth year of the UUSD’s existence.

(4) Higher education. Prior to the beginning of the third year of merger, the UUSD shall provide opportunities for students to enroll in postsecondary classes for secondary credit and to enroll in postsecondary classes for both secondary and postsecondary credit.

(5) Distance learning. To the extent there is sufficient bandwidth capacity, the UUSD shall provide opportunities for students attending a school operated by the UUSD to enroll in distance learning programs pursuant to 16 V.S.A. § 563(32).

(6) Connections to the workforce. The UUSD shall offer opportunities for students to participate in internships or other work experiences with area businesses, artisans, and organizations.

(7) Graduation. The UUSD shall provide opportunities for students who have completed all graduation requirements to graduate from secondary school prior to the student’s expected year of graduation.

(i) Daily schedule. Secondary schools within the UUSD and the affiliated technical center or centers shall develop daily schedules that support opportunities for students to participate in available educational opportunities.

(j) Transportation. The UUSD board shall decide to what extent the UUSD will offer transportation to students.

(k) Employment and labor relations. The UUSD, upon assuming operating responsibility on the first day of its existence, shall:

(1) assume the obligations of individual employment contracts between the participating districts and their bargaining unit employees;

(2) assume the collective bargaining agreements between the participating districts and their respective representative organizations, including any provisions that address the transition to the UUSD, until such time as it reaches its own agreement with teachers and administrators under 16 V.S.A. § 2005, and with respect to other employees under 21 V.S.A. § 1725(a); and

(3) otherwise comply with all laws regarding labor relations, including chapter 57 of Title 16 and chapter 22 of Title 21.

#### Sec. 33d. UUSD PROGRAM INCENTIVES

(a) Multi-year budgets.

(1) In addition to the option of proposing a single-year budget on an annual basis pursuant to the provisions of chapter 11 of Title 16 and notwithstanding any other provision of law, a UUSD formed pursuant to Secs. 33c and 33e of this act shall also have the option to propose one or both of the following:

(A) A multi-year budget for the first two fiscal years of its existence, provided the years are prior to fiscal year 2018, that will be included as part of the plan that must be approved by the electorate in order to create the UUSD.

(B) A multi-year budget for the third and fourth fiscal years of its existence, provided the years are prior to fiscal year 2018, that is presented to the electorate for approval at the UUSD's annual meeting convened in its second fiscal year.

(2) The plan presented to the electorate to authorize creation of the UUSD may contain a provision authorizing the UUSD, beginning in the earlier of the fifth fiscal year of its existence or fiscal year 2018, to present multi-year proposed budgets to the electorate once in every two or three years.

(3) A UUSD that spends less than the budgeted amount prior to fiscal year 2018 shall be entitled to retain the budget surplus to lower its tax rate in fiscal year 2018 or after, or for another purpose approved by the electorate.

(b) Tax rates.

(1) Subject to the provisions of subdivision (3) of this subsection and notwithstanding any other provision of law, for no more than four consecutive years prior to fiscal year 2018:

(A) if the UUSD's approved annual education spending in one fiscal year is less than its education spending in the prior fiscal year, then for purposes of calculating the UUSD's homestead property tax rate for the year, the UUSD's education spending per equalized pupil shall be decreased by \$875.00;

(B) if the UUSD's approved annual education spending in one fiscal year is equal to its education spending in the prior fiscal year, then for purposes of calculating the UUSD's homestead property tax rate for the year, the UUSD's education spending per equalized pupil shall be decreased by \$750.00;

(C) if the UUSD's approved annual education spending in one fiscal year is greater than its education spending in the prior fiscal year by one percent or less, then for purposes of calculating the UUSD's homestead property tax rate for the year, the UUSD's education spending per equalized pupil shall be decreased by \$600.00;

(D) if the UUSD's approved annual education spending in one fiscal year is greater than its education spending in the prior fiscal year by more than one percent but not by more than two percent, then for purposes of calculating the UUSD's homestead property tax rate for the year, the UUSD's education spending per equalized pupil shall be decreased by \$400.00; and

(E) if the UUSD's approved annual education spending in one fiscal year is greater than its education spending in the prior fiscal year by more than two percent but not by more than four percent, then for purposes of calculating the UUSD's homestead property tax rate for the year, the UUSD's education spending per equalized pupil shall be decreased by \$200.00.

(2) For purposes of determining the UUSD's homestead property tax rate under this subsection for the first fiscal year of merger, the UUSD's education spending in the first fiscal year of merger shall be compared to the combined education spending of the merging districts from the fiscal year two years prior to the first fiscal year of merger increased by the percentage change in the New England Economic Partnership Cumulative Price Index for state and local government purchases of goods and services between the fiscal year two years prior to the first year of UUSD operation and the fiscal year one year prior to the first year of operation, as of November 15 prior to the first year of operation.

(3) During the years in which a UUSD's homestead property tax rate is calculated pursuant to this subsection, the equalized homestead property tax rate for each municipality within the UUSD shall not increase or decrease by more than five percent in a single year.

(c) Capital debt service. Beginning in fiscal year 2018, and notwithstanding any other provision of law, the commissioner shall pay from the education fund the interest owed by a UUSD on that portion of capital debt incurred prior to fiscal year 2012 that has been determined to be eligible for state construction aid but is subject to the suspension imposed by Sec. 45 of No. 200 of the Acts of the 2007 Adj. Sess. (2008), as amended by Sec. 22 of No. 54 of the Acts of 2009.

(d) Sale of school buildings. Subject to the provisions of Sec. 33c(d) of this act:

(1) if a UUSD closes a school building before the earlier of its fifth fiscal year or 2018 and sells the school building or energy saving measure associated with the building, then neither the UUSD nor any other entity shall be required to refund a percentage of the sale price to the state pursuant to chapter 123 of Title 16; and

(2) if a participating district retains ownership of and closes a school building as part of the electorate-approved plan for merger and the participating district sells the school building or energy saving measure associated with the building, then neither the district nor any other entity shall be required to refund a percentage of the sale price to the state pursuant to chapter 123 of Title 16.

(e) Consolidation support grant. If the merging districts of a UUSD included at least one "eligible school district," as defined in 16 V.S.A. § 4015, that had received a small school support grant under section 4015 in the fiscal year two years prior to the first fiscal year of merger shall, then the UUSD shall be eligible to receive a consolidation 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 consolidation 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.

#### Sec. 33e. UUSD FORMATION

(a) Vote to explore merger. On or before November 1, 2010, the board of every school district in the state shall discuss whether it wishes to explore

merger within the supervisory union or with one or more contiguous districts outside the supervisory union or both under the terms of this act. On or before December 1, 2010, each school district board shall vote whether to work with other boards to perform a more comprehensive analysis of potential merger, and shall report the results of its vote to the commissioner of education and the voters of the district.

(b) Subcommittee.

(1) If the boards of two or more contiguous districts vote in favor of considering merger, then the districts shall form a subcommittee, in which the vote of each district shall be weighted equally, to explore the possibility of merger, analyze its implications, and, if it concludes it is advisable, develop a merger proposal pursuant to 16 V.S.A. §§ 706, 706a, and 706b to the extent they are not contrary to specific provisions of this act.

(2) With assistance, as requested, from the department of education, the superintendent of each supervisory union of which the participating districts are members, and the UUSD merger template required by Sec. 33h of this act:

(A) the subcommittee shall analyze the advisability of merger;

(B) if the subcommittee determines that merger is advisable, then it shall prepare a proposal in the form of an agreement pursuant to 16 V.S.A. § 706b to be entered into by the districts upon affirmative vote of the electorate in each participating district determined to be “necessary” under subdivision 706b(b)(1) that, in addition to the items required by subsection 706b(b), specifies:

(i) the structures and processes that will provide opportunities for local participation, including the precise nature and authority of local participation;

(ii) whether and to what extent the voters of the participating districts wish to allow the elementary and secondary students residing within the UUSD to enroll in any school the UUSD maintains and in other schools, and whether and in what manner approved independent schools and designated schools will be included; provided, however:

(I) that the determinations shall be made in a manner that allows all students substantially equal access to educational programs and services available to students in the UUSD; and

(II) that if the proposed merger plans would provide fewer options to the students in one or more of the districts interested in merger, then the plan shall include a process by which the UUSD will pay tuition to a school

pursuant to the provisions of chapter 21 of Title 16 for any student who resides within the UUSD if the student resided in one of the participating districts prior to merger and as a result of that residency was enrolled in the school at public expense at the time of merger, even if the UUSD has determined that the school is not otherwise a school to which it would pay tuition.

(iii) the proposed UUSD budget for the first fiscal year or the first and second fiscal years of its operation, together with an explanation that if the merger proposal is approved and the proposed budget is for more than one year, then the electorate would not vote on a school budget until it voted whether to approve the proposed budget for the third fiscal year or the third and fourth fiscal years of operation;

(iv) at the subcommittee's option, a provision authorizing the UUSD, beginning in fiscal year 2018, to present multi-year proposed budgets to the electorate once in every two or three years; and

(v) a plan that addresses transitional matters related to employees of the member districts and the proposed UUSD and that:

(I) provides for the UUSD to assume all contractual obligations of the member districts under each existing collective bargaining agreement or other employment contract until the agreement's or contract's expiration, subject to employee compliance with performance standards and any lawful reduction in force, layoff, nonrenewal, or dismissal;

(II) provides for the immediate and voluntary recognition by the UUSD of the recognized representatives of the employees of the member districts as the recognized representatives of the employees of the UUSD;

(III) ensures that no nonprobationary employee of a member district shall be considered a probationary employee upon the transition to the UUSD; and

(IV) contains an agreement with the recognized representatives of the employees of the member districts, which is effective on the date on which the UUSD comes into existence, regarding how the UUSD, prior to reaching its first collective bargaining agreement with its employees, will address issues of seniority, reduction in force, layoff, and recall;

(vi) the date on which the new UUSD and its board of directors shall come into existence, which shall also be the date on which:

(I) all component districts and supervisory unions and their respective elected boards cease to exist;



(II) the members of the UUSD board, who shall be provisionally elected on the day the electorate of each potential member district votes whether to approve merger and creation of the UUSD, shall begin their respective terms; and

(III) the incentives created in Sec. 33d of this act shall begin to apply to the UUSD.

(c) Approval of merger, designation as a new unified union school district, and operation. Except as specifically provided in this act, the subcommittee shall obtain state board of education approval of the merger proposal prepared pursuant to this section, the electorate of each participating district shall vote whether to approve the proposed merger, the new UUSD shall be designated a new unified union school district, and the UUSD shall operate pursuant to the provisions of chapter 11 of Title 16.

#### Sec. 33f. ALTERNATIVE PATHS TO MERGER

Two or more school districts interested in merger may request the state board of education to consider granting them a waiver from the requirements of Sec. 33c(a) of this act, which shall be granted if the districts can demonstrate that for them the requirements of that subsection would not be cost-effective, would decrease educational opportunities, or would diminish student achievement, or any combination of these.

Sec. 33g. 16 V.S.A. § 261(e) is added to read:

(e) Notwithstanding subsections (a)–(c) of this section, the state board shall not adjust the boundaries of a supervisory district consisting of one unified union school district unless the municipalities within the district approve the adjustment pursuant to chapter 11, subchapter 4, article 4 of Title 16 and request the state board to make the adjustment.

#### Sec. 33h. MERGER TEMPLATE

The department of education shall develop a merger template to assist subcommittees formed pursuant to Sec. 33e(b) of this act or 16 V.S.A. § 706 to consider the advisability of and prepare a proposal for merger. Among other things, the template shall provide data regarding the enrollment and finances of the participating school districts and demographic statistics regarding Vermont municipalities. It shall also outline common issues considered by districts exploring merger and provide links to related resources. The department shall publish the template on its website on or before December 15, 2010.

## Sec. 33i. APPLICATION OF LAW

(a) All provisions of chapter 11 of Title 16 and state board rules relating to unified union school districts, including the study, formation, operation, and change in membership, shall apply to UUSDs unless the provision is inconsistent with this act.

(b) 16 V.S.A. § 706h (assignment of a union school district to a supervisory union) does not apply to UUSDs formed pursuant to this act.

(c) Districts interested in forming a UUSD under the provisions of this act may request the state board of education to grant a waiver from one or more provisions of chapter 11 of Title 16, relating to union school district formation.

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

## Sec. 33j. 16 V.S.A. § 166(b)(6) is amended to read:

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

## Sec. 33k. 16 V.S.A. § 563(32) is added to read:

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

\* \* \* Supervisory Union Duties; Class Size \* \* \*

## Sec. 33 l. 16 V.S.A. § 261a is amended to read:

## § 261a. DUTIES OF SUPERVISORY UNION BOARD

The board of each supervisory union shall:

~~(1) set policy to coordinate curriculum plans among the sending and receiving schools in that supervisory union~~ establish a supervisory union-wide curriculum, by either developing the curriculum or assisting the member districts to develop it jointly, and ensure implementation of the curriculum. The curriculum plans shall meet the requirements adopted by the state board under subdivision 165(a)(3)(B) of this title;

~~(2) take reasonable steps to assist each school in the supervisory union to follow its respective~~ the curriculum plan as adopted under the requirements of the state board pursuant to subdivision 165(a)(3)(B) of this title;

(3) if students residing in the supervisory union receive their education outside the supervisory union, periodically review the compatibility of the supervisory union's curriculum plans with those other schools;

(4) in accordance with criteria established by the state board, establish and implement a plan for receiving and disbursing federal and state funds distributed by the department of education, including funds awarded under P.L. 89-10, the Elementary and Secondary Education Act of 1965 as amended;

~~(5) provide for the establishment of a written policy on professional development of teachers employed in the supervisory union and periodically review that policy. The policy may provide financial assistance outside the negotiated agreements for teachers' professional development activities and may require the superintendent periodically to develop and offer professional development activities within the supervisory union~~ professional development programs or arrange for or enable the provision of them, or both, for teachers, administrators, and staff within the supervisory union, which may include programs offered solely to one school or other component of the entire supervisory union to meet the specific needs or interests of that component;

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

~~(A) special education;~~

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

~~(C) other services as directed by the state board and local boards~~ provide special education services to member districts and, except as provided in section 144b of this title, compensatory and remedial services; and provide or coordinate the provision of other educational services as directed by the state board or local boards;

(7) employ a person or persons qualified to ~~manage~~ provide financial and student data management services for the supervisory union accounts;

(8) at the option of the supervisory union, provide the following services for the benefit of member districts according to joint agreements under section 267 of this title and in a manner that promotes the efficient use of financial and human resources:

(A) ~~centralized purchasing~~ manage a system to procure and distribute goods and operational services;

(B) ~~construction management~~ manage construction projects;

(C) ~~budgeting, accounting and other financial management~~ provide financial and student data management services, including grant writing and fundraising as requested;

(D) ~~teacher negotiations~~ negotiate with teachers and administrators, pursuant to chapter 57 of this title, and with other school personnel, pursuant to chapter 22 of Title 21, at the supervisory union level provided that contracts may vary by district;

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

(F) provide human resources management support; and

(G) provide other appropriate services;

(9) ~~require that the superintendent as executive officer of the supervisory union board be responsible to the commissioner and state board for reporting on all financial transactions within the supervisory union. On or before August 15 of each year, the superintendent, using a format approved by the commissioner, shall forward to the commissioner a report describing the financial operations of the supervisory union for the preceding school year. The state board may withhold any state funds from distribution to a supervisory union until such returns are made; [Repealed.]~~

(10) submit to the town auditors of each member school district or to the person authorized to perform the duties of an auditor for the school district, on or before January 15 of each year, a summary report of financial operations of the supervisory union for the preceding school year, an estimate of its financial operations for the current school year, and a preliminary budget for the supervisory union for the ensuing school year. This requirement shall not apply to a supervisory district. For each school year, the report shall show the

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actual or estimated amount expended by the supervisory union for special education-related services, including:

(A) A breakdown of that figure showing the amount paid by each school district within the supervisory union;

(B) A summary of the services provided by the supervisory union's use of the expended funds;

(11) on or before June 30 of each year, adopt a budget for the ensuing school year; and

(12) adopt supervisory unionwide truancy policies consistent with the model protocols developed by the commissioner.

(13)–(17) [Repealed.]

Sec. 33m. 16 V.S.A. § 242 is amended to read:

#### § 242. DUTIES OF SUPERINTENDENTS

The superintendent shall be the chief executive officer for the supervisory union board and for each school board in within the supervisory district union, and shall:

(1) carry out the policies adopted by the school ~~board~~ boards relating to the educational or business affairs of the school district or supervisory union, and develop procedures to do so;

(2) ~~identify~~ prepare, for adoption by a local school board, plans to achieve the educational goals and objectives ~~of established by~~ the school district ~~and prepare plans to achieve those goals and objectives for adoption by the school board;~~

(3) ~~recommend that the school board employ or dismiss persons as necessary to carry out the work of the school district~~ (A) nominate a candidate for employment by the school district or supervisory union if the vacant position requires a licensed employee; provided, if the appropriate board declines to hire a candidate, then the superintendent shall nominate a new candidate;

(B) select nonlicensed employees to be employed by the district or supervisory union; and

(C) dismiss licensed and nonlicensed employees of a school district or the supervisory union as necessary, subject to all procedural and other protections provided by contract, collective bargaining agreement, or provision of state and federal law;

(4)(A) ~~furnish the commissioner~~ provide data and information required by the commissioner; ~~and~~

(B) report all financial operations within the supervisory union to the commissioner and state board for the preceding school year on or before August 15 of each year, using a format approved by the commissioner;

(C) report all financial operations for each member school district to the commissioner and state board for the preceding school year on or before August 15 of each year, using a format approved by the commissioner; and

(D) prepare for each district an itemized report detailing the portion of the proposed supervisory union budget for which the district would be assessed for the subsequent school year identifying the component costs by category and explaining the method by which the district's share for each cost was calculated; and provide the report to each district at least 14 days before a budget, including the supervisory union assessment, is voted on by the electorate of the district;

(5) work with the school boards of the member districts to develop and implement policies regarding minimum and optimal average class sizes for regular and technical education classes. The policies may be supervisory union-wide, may be course- or grade-specific, and may reflect differences among school districts due to geography or other factors; and

(6) provide for the general supervision of the public schools in the supervisory union or district.

Sec. 33n. 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. 33o. 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. 33p. 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. 33q. MINIMUM AND OPTIMAL CLASS SIZE POLICIES

(a) On or before December 31, 2010, the policy required by Sec. 33m, 16 V.S.A. § 242(5), of this act 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. 33r. REPEAL

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

\* \* \* Reports; Effective Dates; Transitional Issues \* \* \*

#### Sec. 33s. REPORTS; EFFECTS OF MERGER; RECOMMENDATIONS

(a) On or before December 1, 2010, the commissioner of education shall report to the house and senate committees on education regarding the school boards that have voted to consider merger.

(b) On or before March 15, 2011, and in every January thereafter through 2017, the commissioner shall report to the house and senate committees on education regarding the status of merger discussions and votes.

(c) The James M. Jeffords Center of the University of the Vermont, the department of education, and school districts participating in the voluntary merger process authorized by this act shall collaborate to study:

(1) data and comments from school districts and supervisory unions statewide that are discussing voluntary merger;

(2) the results of local district elections to approve voluntary merger under the provisions of this act; and

(3) in connection with UUSDs that are formed under the provisions of this act:

(A) real dollar efficiencies realized;

(B) operational efficiencies realized;

(C) changes in student learning opportunities; and

(D) changes in student outcomes.

(d) On or before January 15, 2018, the James M. Jeffords Center and the department of education shall present a final report concerning the study required in subsection (c) of this section, including recommendations to the house and senate committees on education regarding what further actions, if any, should be pursued to encourage or require merger by nonparticipating school districts, and shall provide interim reports in each January until that date.

#### Sec. 33t. 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.

#### Sec. 33u. LEGISLATIVE COUNCIL; STATUTORY REVISION

(a) Pursuant to the statutory revision authority provided in 2 V.S.A. § 424, the legislative council shall make technical amendments to the Vermont Statutes Annotated that are necessary to effect the intent of this act.

(b) On or before January 1, 2011, the legislative council shall prepare a draft bill and provide it to the house and senate committees on education that proposes statutory changes necessary to effect the intent of this act.

Sec. 33v. 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. 33 l of this act, 16 V.S.A. § 261a(6), by:

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

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

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

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

Sec. 33w. EFFECTIVE DATES

(a) Secs 33 l through 33p of this act shall take effect on July 1, 2012.

(b) This section and all other sections of this act shall take effect on passage, subject to the provisions of existing contracts.

Pending the question, Shall the bill be amended as offered by Rep. Kilmartin of Newport City? **Rep. Branagan of Georgia** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the bill be amended as offered by Rep. Kilmartin of Newport City? was decided in the negative. Yeas, 35. Nays, 103.

Those who voted in the affirmative are:

Ainsworth of Royalton	Hubert of Milton	McFaun of Barre Town
Branagan of Georgia *	Johnson of Canaan	McNeil of Rutland Town
Brennan of Colchester	Kilmartin of Newport City	Myers of Essex
Canfield of Fair Haven	Koch of Barre Town	Pearce of Richford
Clark of Vergennes	Komline of Dorset	Peaslee of Guildhall
Clerkin of Hartford	Krawczyk of Bennington	Perley of Enosburg
Condon of Colchester	Krebs of South Hero	Reis of St. Johnsbury
Dickinson of St. Albans Town	Lawrence of Lyndon	Savage of Swanton
Donahue of Northfield	Lewis of Derby	Shaw of Pittsford
Fagan of Rutland City	Marcotte of Coventry	Turner of Milton
Higley of Lowell	McAllister of Highgate	Wheeler of Derby
	McDonald of Berlin	Winters of Williamstown

Those who voted in the negative are:

Acinapura of Brandon	Edwards of Brattleboro	Leriche of Hardwick
Adams of Hartland	Emmons of Springfield	Lorber of Burlington
Ancel of Calais	Evans of Essex	Macaig of Williston
Andrews of Rutland City	Fisher of Lincoln	Maier of Middlebury
Aswad of Burlington	Frank of Underhill	Malcolm of Pawlet
Atkins of Winooski	French of Randolph	Manwaring of Wilmington
Baker of West Rutland	Gilbert of Fairfax	Marek of Newfane
Bissonnette of Winooski	Grad of Moretown	Martin of Springfield
Bohi of Hartford	Greshin of Warren	Martin of Wolcott
Botzow of Pownal	Haas of Rochester	Masland of Thetford
Bray of New Haven	Head of South Burlington	McCullough of Williston
Browning of Arlington	Heath of Westford	Milkey of Brattleboro
Burke of Brattleboro	Helm of Castleton	Miller of Shaftsbury
Cheney of Norwich	Hooper of Montpelier	Minter of Waterbury
Clarkson of Woodstock	Howard of Cambridge	Mitchell of Barnard
Conquest of Newbury	Howard of Rutland City	Mook of Bennington
Consejo of Sheldon	Howrigan of Fairfield	Moran of Wardsboro
Copeland-Hanzas of Bradford	Jewett of Ripton	Morrissey of Bennington
Corcoran of Bennington	Johnson of South Hero	Mrowicki of Putney
Courcelle of Rutland City	Keenan of St. Albans City	Nease of Johnson
Davis of Washington	Kitzmiller of Montpelier	Nuovo of Middlebury
Deen of Westminster	Klein of East Montpelier	O'Brien of Richmond
Donaghy of Poultney	Lanpher of Vergennes	Obuchowski of Rockingham
Donovan of Burlington	Larson of Burlington	O'Donnell of Vernon
	Lenes of Shelburne	Olsen of Jamaica

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Orr of Charlotte	Smith of Mendon	Waite-Simpson of Essex *
Partridge of Windham	South of St. Johnsbury	Webb of Shelburne
Peltz of Woodbury	Spengler of Colchester	Weston of Burlington
Poirier of Barre City	Stevens of Waterbury	Wilson of Manchester
Potter of Clarendon	Stevens of Shoreham	Wizowaty of Burlington
Pugh of South Burlington	Sweaney of Windsor	Wright of Burlington
Ram of Burlington	Taylor of Barre City	Young of St. Albans City
Rodgers of Glover	Till of Jericho	Zenie of Colchester
Shand of Weathersfield	Toll of Danville	Zuckerman of Burlington
Sharpe of Bristol	Townsend of Randolph	

Those members absent with leave of the House and not voting are:

Audette of South Burlington	Geier of South Burlington	Morley of Barton
Crawford of Burke	Jerman of Essex	Pellett of Chester
Devereux of Mount Holly	Larocque of Barnet	Scheuermann of Stowe
French of Shrewsbury	Lippert of Hinesburg	

**Rep. Branagan of Georgia** explained her vote as follows:

“Mr. Speaker:

It is always better when local communities local school boards and parents make decisions for their own children. No one at the Dept. of Education, no state government official and no legislator knows what is best for my child’s educational placement. I do.”

**Rep. Waite-Simpson of Essex** explained her vote as follows:

“Mr. Speaker:

Although I support the underlying premise in this amendment, I also respect and support the committee process which, at this time, is unfinished.”

Pending third reading of the bill, **Rep. Marcotte of Coventry** moved to amend the bill as follows:

After Sec. 33 and before the internal caption “\* \* \* Environmental and Energy Regulation \* \* \*” by inserting a new section to be Sec. 33a to read:

Sec. 33a. COLLECTIVE BARGAINING; REDUCTIONS IN FORCE

Each collective bargaining agreement or other employment contract executed on or after this act’s date of passage between a supervisory union or school district and its employees for fiscal years 2011 through 2014 shall require that when making decisions related to reductions in force, the employer’s considerations shall include each licensed educator’s competency in one or more endorsement areas, competency in teaching the grade or grades or the subject or subjects for which a position is available, and seniority;

provided, however, that seniority shall not be the conclusive or determinative factor.

**Rep. Deen of Westminster** raised a Point of Order that the amendment is not germane to the bill in that the amendment deals with collective bargaining and not germane to the bill. Which Point of Order the Speaker ruled well taken.

Pending third reading of the bill, **Rep. Higley of Lowell** moved to amend the bill as follows:

After Sec. 33 and before the internal caption “\* \* \* Environmental and Energy Regulation \* \* \*” by inserting a new section to be Sec. 33a to read:

Sec. 33a. ONE-YEAR CONTRACTS; SCHOOL EMPLOYEES

No collective bargaining agreement or other employment contract executed on or after this act’s date of passage between a supervisory union or school district and its employees for fiscal years 2011 through 2014 shall contain any provision that shall be in effect for more than one year.

**Rep. Deen of Westminster** raised a Point of Order that the amendment is not germane to the bill in that the amendment deals with collective bargaining and is not germane to the bill. Which Point of Order the Speaker ruled well taken.

**Rep. Higley of Lowell** moved to suspend the rules to permit consideration of a non-germane question, which was disagreed to.

Pending third reading of the bill, **Reps. Pugh of South Burlington, Andrews of Rutland City, Frank of Underhill, French of Randolph, Haas of Rochester, McFaun of Barre Town, Mrowicki of Putney and Orr of Charlotte** moved to amend the bill as follows:

First: By striking Secs. 16 and 17 in their entirety and inserting in lieu thereof the following:

Sec. 16. STAKEHOLDER INVOLVEMENT

The agency of human services shall engage the direct participation of service recipients, their families, service providers, and other stakeholders in the identification and development of new proposals and the thorough evaluation and ongoing design and redesign of all of the proposals contained in the agency of human services addendum to the Challenges for Change Progress Report dated March 30, 2010.

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Sec. 17. EVALUATION OF PROPOSALS

(a) The general assembly is supportive of the following proposals in the agency of human services addendum to the Challenges for Change Progress Report dated March 30, 2010, and urges the agency to implement them, subject to other legislation enacted by the general assembly:

(1) creation of an interdepartmental team to serve clients of the department of disabilities, aging, and independent living with mental health needs;

(2) establishment of pilot programs in no more than three service areas for single contracts for integrated child development services, to be developed in collaboration with the communities to be served;

(3) continuing to support improvements, currently supported by federal grant funds, for individuals with co-occurring mental health and substance abuse conditions;

(4) allowing physicians, physician assistants, and nurse practitioners to document and bill for mental health services, engage in treatment planning, and approve case management and treatment plans;

(5) supporting collaboration between the designated agencies and federally qualified health centers to enable expanded participation in the 340B drug pricing program;

(6) modernization of the eligibility determination system in the department for children and families;

(7) establishment by the department of disabilities, aging, and independent living of a process to provide individuals with the department's services while their eligibility for such services is being determined;

(8) expansion of opportunities for elders and adults with physical disabilities to benefit from a full-time service option similar to the concept of a developmental home;

(9) refrain from duplicating through state review those designated agency and specialized service agency quality assurance measures that have been evaluated and certified through a national quality review and accreditation process;

(10) statewide expansion of the Blueprint for Health;

(11) removal of the requirement that a private entity administer the chronic care management program in the department of Vermont health access;

(12) creation of a clinical utilization review board to make recommendations to the department of Vermont health access; and

(13) pursuing a consolidated and coordinated approach to employment services under a single entity called “creative workforce solutions.”

(b) The agency of human services shall not implement the following proposals earlier than March 15, 2011:

(1) creating or requiring the designated agencies or another entity to create a “1-800” statewide mental health crisis service telephone line for after-hours needs;

(2) expanding the list of available providers of home- and community-based care services, not including case management or self-directed services, to include providers other than home care agencies certified by the Centers for Medicare and Medicaid Services; and

(3) reducing funding to individual service plans for Vermonters receiving developmental services.

(c) Except as otherwise specifically provided in subsections (a) and (b) of this section and in Secs. 19–21, 29, and 32 of this act, the agency of human services shall not implement any provision in its addendum to the Challenges for Change Progress Report dated March 30, 2010, until the agency has:

(1) Engaged the direct participation of service recipients, their families, service providers, and other stakeholders as provided for in Sec. 16 (stakeholder involvement) of this act; and

(2) Provided to the house committee on human services and the senate committee on health and welfare detailed new and revised proposals for implementing changes to the agency’s programs and delivery systems and demonstrated how they will result in more effective and efficient service delivery and achievement of the outcomes identified in No. 68 of the Acts of the 2009 Adj. Sess. (2010).

(d) The agency shall present its new and revised proposals pursuant to this section to the house committee on human services and the senate committee on health and welfare at their quarterly meetings during the 2010 legislative interim and shall present its final proposals no later than January 15, 2011. For each proposal, the agency shall identify the outcome or outcomes to be achieved by implementing the proposal. The agency shall not present any proposal that fails to meet one or more of the desired outcomes identified in No. 68 of the Acts of the 2009 Adj. Sess. (2010). The members of the



committees of jurisdiction shall evaluate each proposal to determine whether it satisfies one or more of the desired outcomes.

Second: By inserting a new Sec. 18 to read:

Sec. 18. NURSING HOME UTILIZATION RATE UPDATE

(a) As part of its quarterly reports pursuant to Sec. 67 of this act, the agency of human services shall provide an update to the house committee on human services and the senate committee on health and welfare regarding its efforts to develop coordinated and streamlined quality review processes for all services provided by the designated agencies and specialized service agencies.

(b) As part of its quarterly reports pursuant to Sec. 67 of this act, the department of disabilities, aging, and independent living shall provide an update to the house committee on human services and the senate committee on health and welfare regarding the progress of the department's efforts to reduce nursing home utilization rates.

and by renumbering the remaining sections and internal references to be numerically correct

Which was agreed to.

Pending third reading of the bill, **Rep. Emmons of Springfield** moved to amend the bill as follows:

First: In Sec. 29, by striking out the first sentence in its entirety and the second sentence before the colon, and inserting in lieu thereof: “The general assembly recognizes that savings will be achieved in the department of corrections budget due to the provisions of this act and of S.292 of 2010 as enacted, and it is the intent of the general assembly that, in anticipation of these savings, the department will invest in programs and services which will further reduce incarceration and recidivism in future years. Therefore, upon passage of this act and prior to actually realizing the savings, from the amounts appropriated to the department of corrections, the department shall expend \$3,164,500.00 and report on its expenditures to the corrections oversight committee at each of its 2010 meetings. Expenditures shall be as follows”

Second: In Sec. 31, by striking the title of the Sec. and inserting in lieu thereof a new title to read:

“RESTORATIVE JUSTICE; PLAN FOR INCREASE IN USE”

Third: In Sec. 31(b), in the first sentence, following “the court administrator's office,” by inserting “the defender general, the attorney

general,” and in the second sentence by striking “the departments and association” and inserting in lieu thereof “the agencies”

Fourth: In Sec. 29a, 28 V.S.A. § 102(b)(16), in subdivision (A), in the second sentence, following the words “prior to arrest” by inserting “, or has family ties or other connections there”

Thereupon, **Rep. Emmons of Springfield** asked and was granted leave of the House to withdraw her amendment.

Pending third reading of the bill, **Rep. Fagan of Rutland City** moved to amend the bill as follows:

In Sec. 29 by adding, before the period at the end of subsection (5), “; and the commissioner shall use 25 percent of the amount under this subsection for block grants to police departments in communities to which persons are released as a result of the early release program under this act, for any resulting increased police activities.

Pending the question, Shall the bill be amended as offered by Rep. Fagan of Rutland City? **Rep. Fagan of Rutland City** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the bill be amended as offered by Rep. Fagan of Rutland City? was decided in the negative. Yeas, 24. Nays, 117.

Those who voted in the affirmative are:

Adams of Hartland	Higley of Lowell	McFaun of Barre Town
Andrews of Rutland City	Howard of Rutland City	McNeil of Rutland Town
Baker of West Rutland	Hubert of Milton	O'Donnell of Vernon
Canfield of Fair Haven	Kilmartin of Newport City	Perley of Enosburg
Clark of Vergennes	Komline of Dorset	Poirier of Barre City
Courcelle of Rutland City	Krawczyk of Bennington	Smith of Mendon
Devereux of Mount Holly	Marcotte of Coventry	Taylor of Barre City
Fagan of Rutland City	McDonald of Berlin	Turner of Milton

Those who voted in the negative are:

Acinapura of Brandon	Bray of New Haven	Consejo of Sheldon
Ainsworth of Royalton	Brennan of Colchester	Copeland-Hanzas of Bradford
Ancel of Calais	Browning of Arlington	Corcoran of Bennington
Aswad of Burlington	Burke of Brattleboro	Davis of Washington
Atkins of Winooski	Cheney of Norwich	Deen of Westminster
Bissonnette of Winooski	Clarkson of Woodstock	Donaghy of Poultney
Bohi of Hartford	Clerkin of Hartford	Donahue of Northfield
Botzow of Pownal	Condon of Colchester	Donovan of Burlington
Branagan of Georgia	Conquest of Newbury	

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Edwards of Brattleboro	Lewis of Derby *	Peltz of Woodbury
Emmons of Springfield	Lorber of Burlington	Potter of Clarendon
Evans of Essex	Macaig of Williston	Pugh of South Burlington
Fisher of Lincoln	Maier of Middlebury	Ram of Burlington
Frank of Underhill	Malcolm of Pawlet	Reis of St. Johnsbury
French of Randolph	Manwaring of Wilmington	Rodgers of Glover
Gilbert of Fairfax	Marek of Newfane	Savage of Swanton
Grad of Moretown	Martin of Springfield	Shand of Weathersfield
Greshin of Warren	Martin of Wolcott	Sharpe of Bristol
Haas of Rochester	Masland of Thetford	Shaw of Pittsford
Head of South Burlington	McAllister of Highgate	South of St. Johnsbury
Heath of Westford	McCullough of Williston	Spengler of Colchester
Helm of Castleton	Milkey of Brattleboro	Stevens of Waterbury
Hooper of Montpelier	Miller of Shaftsbury	Stevens of Shoreham
Howard of Cambridge	Minter of Waterbury	Sweaney of Windsor
Howrigan of Fairfield	Mitchell of Barnard	Till of Jericho
Jerman of Essex	Mook of Bennington	Toll of Danville
Jewett of Ripton	Moran of Wardsboro	Townsend of Randolph
Johnson of South Hero	Morley of Barton	Waite-Simpson of Essex
Johnson of Canaan	Morrissey of Bennington	Webb of Shelburne
Keenan of St. Albans City	Mrowicki of Putney	Weston of Burlington
Kitzmiller of Montpelier	Myers of Essex	Wheeler of Derby
Klein of East Montpelier	Nease of Johnson	Wilson of Manchester
Koch of Barre Town	Nuovo of Middlebury	Winters of Williamstown
Krebs of South Hero	O'Brien of Richmond	Wizowaty of Burlington
Lanpher of Vergennes	Obuchowski of Rockingham	Wright of Burlington
Larocque of Barnet	Olsen of Jamaica	Young of St. Albans City
Larson of Burlington	Orr of Charlotte	Zenie of Colchester
Lawrence of Lyndon	Partridge of Windham	Zuckerman of Burlington
Lenes of Shelburne	Pearce of Richford	
Leriche of Hardwick	Peaslee of Guildhall	

Those members absent with leave of the House and not voting are:

Audette of South Burlington	French of Shrewsbury	Scheuermann of Stowe
Crawford of Burke	Geier of South Burlington	
Dickinson of St. Albans Town	Lippert of Hinesburg	
	Pellett of Chester	

**Rep. Lewis of Derby** explained his vote as follows:

“Mr. Speaker:

I am probably the biggest supporter of law enforcement. However, I vote no on this amendment because it has potential to break the bank with the number of agencies that could be eligible for money.”

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**Recess**

At twelve o'clock and fifty minutes in the afternoon, the Speaker declared a recess until the fall of the gavel.

At one o'clock and fifteen minutes in the afternoon, the Speaker called the House to order.

**Consideration Resumed; Bill Amended; Read Third Time and Passed****H. 792**

Consideration resumed on House bill, entitled

An act relating to implementation of challenges for change.

Pending third reading of the bill, **Rep. Emmons of Springfield** moved to amend the bill as follows:

First: In Sec. 29, by striking out the first sentence in its entirety and the second sentence before the colon, and inserting in lieu thereof: “The general assembly recognizes that savings will be achieved in the department of corrections budget due to the provisions of this act and of S.292 of 2010 as enacted, and it is the intent of the general assembly that, in anticipation of these savings, the department will invest in programs and services which will further reduce incarceration and recidivism in future years. Therefore, upon passage of this act and prior to actually realizing the savings, from the amounts appropriated to the department of corrections, the department shall expend \$3,164,500.00 and report on its expenditures to the corrections oversight committee at each of its 2010 meetings. Expenditures shall be as described in this section. For expenditures under subdivisions 1, 3, and 5 of this sec., the department shall give priority to projects located in communities in which the percentage of persons under custody of the commissioner of corrections exceeds two and one-half percent of the population”

Second: In Sec. 31, by striking the title of the Sec. and inserting in lieu thereof a new title to read:

“RESTORATIVE JUSTICE; PLAN FOR INCREASE IN USE”

Third: In Sec. 31(b), in the first sentence, following “the court administrator’s office,” by inserting “the defender general, the attorney general,” and in the second sentence by striking “the departments and association” and inserting in lieu thereof “the agencies”

Fourth: In Sec. 29a, 28 V.S.A. § 102(b)(16), in subdivision (A), in the second sentence, following the words “prior to arrest” by inserting “, or has family ties or other connections there”

Which was agreed to.

Thereupon, the bill was read the third time and passed.

**Proposal of Amendment Agreed to; Third Reading Ordered**

**S. 239**

**Rep. Weston of Burlington**, for the committee on Natural Resources and Energy, to which had been referred Senate bill, entitled

An act relating to retiring outdoor wood-fired boilers that do not meet the 2008 emission standard for particulate matter

Reported in favor of its passage in concurrence with proposal of amendment as follows:

First: In Sec. 2, 10 V.S.A. § 584, in subdivision (e)(1), after “another” by striking “type of”

Second: In Sec. 2, 10 V.S.A. § 584, in subsection (g), after “health” by adding “care” and in the phrase “and has resulted or results” by striking “and” and inserting in lieu thereof “or”

Third: In Sec. 2, 10 V.S.A. § 584, in subsection (i), in the first sentence, in the phrase “closer than 100 feet” by striking “100 feet” and inserting in lieu thereof “the setback distance”

**Rep. Winters of Williamstown**, for the committee in Appropriations recommended that the House propose to the Senate to amend the bill as recommended by the committee on Natural Resources and Energy, and when further amended as follows:

By adding a new Sec. 3 to read:

Sec. 3. USE OF FUNDS

The agency of natural resources is authorized to use funds from the American Electric Power Service Corporation Settlement Funds described in 10 V.S.A. § 584(b), for the purposes of this act, as follows:

(1) In fiscal year 2011, the agency is authorized to use \$360,000.00 of these funds, which amount is included in the sum appropriated in Sec. B.710 of H. 789 of the 2009 adjourned session, as enacted; and

(2) In fiscal year 2012, it is the intent of the general assembly that the agency be authorized to use at least \$140,000.00 from that same Settlement Fund source.

and by renumbering the existing Sec. 3 as Sec. 4

Thereupon, the bill was read the second time and the report of the committees on Natural Resources and Energy and Appropriations agreed upon on a Division Vote. Yeas, 77. Nays, 17 and third reading ordered.

**Senate Proposal of Amendment Not Concurred in;  
Committee of Conference Requested and Appointed**

**H. 540**

The Senate proposed to the House to amend House bill, entitled

An act relating to motor vehicles passing vulnerable users on the highway and to bicycle operation

By striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 23 V.S.A. § 4(81) is added to read:

(81) "Vulnerable user" means a pedestrian; an operator of highway building, repair, or maintenance equipment or of agricultural equipment; a person operating a wheelchair or other personal mobility device, whether motorized or not; a person operating a bicycle or other nonmotorized means of transportation (such as, but not limited to, roller skates, rollerblades, or roller skis); or a person riding, driving, or herding an animal.

Sec. 2. 23 V.S.A. § 1033 is amended to read:

§ 1033. PASSING ~~ON THE LEFT~~ MOTOR VEHICLES AND VULNERABLE USERS

(a) Vehicles Passing motor vehicles. Motor vehicles proceeding in the same direction may be overtaken and passed only as follows:

(1) The driver of a motor vehicle overtaking another motor vehicle proceeding in the same direction may pass to its left at a safe distance, and when so doing shall exercise due care, ~~may~~ shall not pass to the left of the center of the highway unless the way ahead is clear of approaching traffic, and shall not again drive to the right side of the roadway until safely clear of the overtaken vehicle.

(2) Except when overtaking and passing on the right is permitted, the driver of an overtaken motor vehicle shall give way to the right in favor of the overtaking motor vehicle on audible signal and shall not increase the speed of his or her vehicle until completely passed by the overtaking vehicle.

(b) Passing vulnerable users. The operator of a motor vehicle approaching or passing a vulnerable user as defined in subdivision 4(81) of this title shall

exercise due care, which includes increasing clearance, to pass safely the vulnerable user.

Sec. 3. 23 V.S.A. § 1039 is amended to read:

§ 1039. FOLLOWING TOO CLOSELY, CROWDING, AND HARASSMENT

(a) The driver of a vehicle shall not follow another vehicle more closely than is reasonable and prudent, having due regard for the speed of the vehicles and the traffic upon, and the conditions of, the highway. The operator of a vehicle shall not, in a careless or imprudent manner, approach, pass, or maintain speed unnecessarily close to a vulnerable user as defined in subdivision 4(81) of this title, and an occupant of a vehicle shall not throw any object or substance at a vulnerable user.

\* \* \*

Sec. 4. 23 V.S.A. § 1065 is amended to read:

§ 1065. HAND SIGNALS

(a) ~~All~~ A right or left turn shall not be made without first giving a signal of intention either by hand or by signal in accordance with section 1064 of this title. Except as provided in subsection (b) of this section, all signals to indicate change of speed or direction, when given by hand, shall be given from the left side of the vehicle and in the following manner:

- (1) Left turn. – Hand and arm extended horizontally.
- (2) Right turn. – Hand and arm extended upward.
- (3) Stop or decrease speed. – Hand and arm extended downward.

(b) ~~No turn to right or left may be made without first giving a signal of an intention to do so either by hand or by signal in accordance with section 1064 of this title~~ A person operating a bicycle may give a right-turn signal by extending the right hand and arm horizontally and to the right side of the bicycle.

Sec. 5. 23 V.S.A. § 1127 is amended to read:

§ 1127. CONTROL IN PRESENCE OF HORSES AND CATTLE ANIMALS

(a) Whenever upon a public highway and approaching a vehicle drawn by a ~~horse or other~~ draft animal, ~~or approaching a horse or other~~ an animal upon which a person is riding, or animals being herded, the operator of a motor vehicle shall operate the vehicle in such a manner as to exercise every reasonable precaution to prevent the frightening of ~~such horse or~~ any animal

and to ~~insure~~ ensure the safety and protection of the animal and the person riding or driving, or herding.

(b) The operator of a motor vehicle shall yield to any ~~cattle, sheep, or goats which are~~ animals being herded on or across a highway.

Sec. 6. 23 V.S.A. § 1139(a) is amended to read:

(a) A person operating a bicycle upon a roadway shall exercise due care when passing a standing vehicle or one proceeding in the same direction and generally shall ride as near to the right side of the roadway as practicable ~~exercising due care when passing a standing vehicle or one proceeding in the same direction, but shall ride to the left or in a left lane when:~~

(1) preparing for a left turn at an intersection or into a private roadway or driveway;

(2) approaching an intersection with a right turn lane if not turning right at the intersection;

(3) overtaking another highway user; or

(4) taking reasonably necessary precautions to avoid hazards or road conditions.

Sec. 7. 23 V.S.A. § 1141(a) is amended to read:

(a) ~~No~~ A person may shall not operate a bicycle at nighttime from one-half hour after sunset until one-half hour before sunrise unless it is equipped with a lamp on the front, which emits a white light visible from a distance of at least 500 feet to the front, and with a lamp on the rear, which emits a flashing or steady red reflector on the rear, which light that shall be visible at least 300 feet to the rear when directly in front of lawful upper beams of head lamps on a motor vehicle. ~~Lamps emitting red lights visible to the rear may be used in addition to the red reflector.~~ In addition, bicyclists shall operate during these hours with reflective, rear-facing material on pedals, shoes, or ankle bands.

Sec. 8. REPEAL

23 V.S.A. § 1053 (passing pedestrians on a highway) is repealed.

Pending the question, Will the House concur in the Senate proposal of amendment? **Rep. Burke of Brattleboro** moved that the House refuse to concur and ask for a Committee of Conference, which was agreed to, and the Speaker appointed as members of the Committee of Conference on the part of the House:



**Rep. Burke of Brattleboro**  
**Rep. Howard of Cambridge**  
**Rep. Lanpher of Vergennes**

**Action on Bill Postponed**

**H. 648**

House bill, entitled

An act relating to harassment and hazing policies at independent colleges;

Was taken up and pending the question, Shall the House concur in the Senate proposal of amendment? on motion of **Rep. Donovan of Burlington**, action on the bill was postponed until the next legislative day.

**Adjournment**

At two o'clock and fifteen minutes in the afternoon, on motion of **Rep. Komline of Dorset**, the House adjourned until Tuesday, April 20, 2010, at ten o'clock in the forenoon, pursuant to the provisions of J.R.S.61.