

House Calendar

Saturday, May 05, 2012

124th DAY OF THE ADJOURNED SESSION

House Convenes at 10:30 A.M.

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ACTION CALENDAR

Unfinished Business of Friday, May 4 2012

Senate Proposal of Amendment

H. 794

An act relating to the management of search and rescue operations

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

Sec. 1. FINDINGS

The general assembly finds:

(1) Several recent cases involving the search and rescue of persons lost in Vermont's outdoor recreation areas, including the tragic death of Levi Duclos on January 9, 2012 as he was hiking on the Emily Proctor Trail in Ripton, have raised questions concerning whether supervision of backcountry search and rescue operations should be maintained by the department of public safety or shared with or transferred to another governmental entity and whether regional protocols should be put into place to allow for a local or regional response utilizing a combination of qualified professional and qualified volunteer searchers and rescuers.

(2) Under current law and practice, the Vermont state police division of the department of public safety has primary responsibility for finding lost hikers and other missing people in areas of the state which do not have municipal police departments and has the authority to call out qualified professional and qualified volunteer services. This duty was assigned when the Vermont state police was first created in 1946 and has not changed since that time. According to Howard Paul, a public information officer and member of the board of directors of the National Association for Search and Rescue, Vermont is one of only five states that require their state police to find and rescue people who are lost or missing outdoors.

(3) In other states in which a significant amount of outdoor recreational activity occurs, such as New Hampshire and Maine, state fish and game agencies are in charge of finding lost outdoor recreationalists. Most eastern states turn to park rangers and fish and game wardens for search and rescue.

(4) Many states collaborate with nonprofit organizations to aid in search and rescue. For example, the Maine Warden Service is in charge of search and rescue throughout that state, and it relies on the Maine Association for Search

and Rescue, which is composed of approximately 15 approved member organizations.

(5) Vermont has an extensive number of first responders and emergency service personnel with specific training and experience conducting outdoor search and rescue operations. The Lincoln Fire Department, for example, has significant search and rescue experience, well-established strategies for conducting such operations, and the ability to have a team on the ground in sometimes 30 minutes or less on nights and weekends. Despite these resources, only four civilian organizations are approved by the department of public safety to provide search and rescue assistance in Vermont.

(6) In light of Vermont's minority status in charging the state police with responsibility for search and rescue of lost hikers and outdoor recreationalists and in light of the department's recent challenges in fulfilling this responsibility, it is an appropriate time to consider whether some other state entity, working with Vermont's extensive volunteer community, should assume responsibility for outdoor search and rescue operations.

Sec. 2. BACKCOUNTRY SEARCH AND RESCUE STUDY COMMITTEE

(a) Creation of committee. There is created a backcountry search and rescue study committee to determine whether the department of public safety or a different state agency should have lead or coauthority for supervising search and rescue operations for missing persons in Vermont's backcountry and outdoor recreational areas and to recommend an appropriate organizational structure to manage Vermont's various search and rescue resources. As used in the section, "backcountry search and rescue" means the search for and provision of aid to people who are lost or stranded in the outdoors on Vermont's land or inland waterways.

(b) Membership. The backcountry search and rescue study committee shall be composed of four members. The members of the committee shall be as follows:

(1) Two members of the house appointed by the speaker.

(2) Two members of the senate appointed by the committee on committees.

(c) For purposes of its study, the committee shall consult with and seek testimony from interested parties, including the following individuals and entities or their designees:

(1) The commissioner of public safety.

(2) The commissioner of fish and wildlife.

(3) The Vermont League of Cities and Towns.

(4) Stowe Mountain Rescue.

(5) Colchester Technical Rescue.

(6) A certified first responder with search and rescue experience.

(7) The Professional Firefighters of Vermont.

(8) A member of a volunteer fire department with search and rescue experience designated by the president of the Vermont State Firefighters Association.

(9) A sheriff designated by the department of sheriffs and state's attorneys.

(10) North Bennington Volunteer Fire Department.

(d) Powers and duties. The committee shall study whether the department of public safety or a different state agency should be responsible for supervising search and rescue operations for missing persons in Vermont's backcountry and outdoor recreational areas. The committee's study shall include:

(1) reviewing the existing method and responsibility for conducting backcountry search and rescue operations in Vermont and identifying the advantages and disadvantages of the current system;

(2) considering models in other states for supervision of backcountry search and rescue operations, including the New Hampshire approach of providing authority to the New Hampshire fish and game department;

(3) evaluating whether backcountry search and rescue operations would be conducted in a more timely and efficient manner if the authority for conducting such operations were held by one or more state or nongovernmental entities other than the department of public safety or whether there should be a shared or regional approach depending on the location of the search;

(4) considering and evaluating different organizational structures to determine how to most effectively manage Vermont's backcountry search and rescue processes and resources;

(5) considering whether minimum qualifications should be set for participation in backcountry search and rescue operations and whether backcountry search and rescue responders who are not state employees should be provided with insurance coverage;

(6) considering the feasibility of establishing an online database of

missing persons that would provide automatic notice to first responders;

(7) developing methods of financing search and rescue operations, including consideration of methods used in other states such as:

(A) establishing an outdoor recreation search and rescue card available for purchase by users of outdoor recreation resources on a voluntary basis to help reimburse the expenses of search and rescue missions;

(B) imposing fees on recreational and outdoor licenses and permits; and

(C) permitting recovery of expenses from any person whose negligent conduct required a search and rescue response and, if so, who should bring such an action and who should be reimbursed; and

(8) proposing any statutory changes that the committee identifies as necessary to improve the conduct and supervision of backcountry search and rescue activities in Vermont.

(e) Report. The committee shall report its findings and recommendations, together with draft legislation if any legislative action is recommended, to the general assembly on or before January 15, 2013.

(f) The legislative council shall provide administrative and drafting support to the committee.

Sec. 3. 18 V.S.A. § 901 is amended to read:

§ 901. POLICY

It is the policy of the state of Vermont that all persons who suffer sudden and unexpected illness or injury should have access to the emergency medical services system in order to prevent loss of life or the aggravation of the illness or injury, and to alleviate suffering. The system should include competent emergency medical care provided by adequately trained, licensed, and equipped personnel acting under appropriate medical control. Persons involved in the delivery of emergency medical care should be encouraged to maintain and advance their levels of training and certification, and to upgrade the quality of their vehicles and equipment.

Sec. 4. 18 V.S.A. § 903 is amended to read:

§ 903. AUTHORIZATION FOR PROVISION OF EMERGENCY MEDICAL SERVICES

Notwithstanding any other provision of law, including provisions of chapter 23 of Title 26, persons who are ~~certified~~ licensed to provide emergency medical care pursuant to the requirements of this chapter and implementing

regulations are hereby authorized to provide such care without further certification, registration or licensing.

Sec. 5. 18 V.S.A. § 904 is amended to read:

§ 904. ADMINISTRATIVE PROVISIONS

(a) In order to carry out the purposes and responsibilities of this chapter, the department of health may contract for the provision of specific services.

(b) The secretary of human services, upon the recommendation of the ~~department~~ commissioner of health, may issue regulations to carry out the purposes and responsibilities of this chapter.

Sec. 6. 18 V.S.A. § 906 is amended to read:

§ 906. EMERGENCY MEDICAL SERVICES DIVISION;
RESPONSIBILITIES

To implement the policy of section 901, the department of health shall be responsible for:

(1) Developing and implementing minimum standards for training emergency medical personnel in basic life support and advanced life support, and ~~certifying their~~ licensing emergency medical personnel according to their level of training and competence.

(2) Developing and implementing minimum standards for vehicles used in providing emergency medical care, designating the types and quantities of equipment that must be carried by these vehicles, and registering those vehicles according to appropriate classifications.

(3) Developing a statewide system of emergency medical services including but not limited to planning, organizing, coordinating, improving, expanding, monitoring and evaluating emergency medical services.

(4) Developing response time benchmarks for urban and rural requests for emergency services.

(5) Training, or assisting in the training of, emergency medical personnel.

~~(5)~~(6) Assisting hospitals in the development of programs which will improve the quality of in-hospital services for persons requiring emergency medical care.

~~(6)~~(7) Developing and implementing procedures to insure that emergency medical services are rendered only with appropriate medical control. For the provision of advanced life support, appropriate medical control shall include at a minimum:

(A) written protocols between the appropriate officials of receiving hospitals and ~~ambulance services~~ emergency medical services districts defining their operational procedures;

(B) where necessary and practicable, direct communication between emergency medical personnel and a physician or person acting under the direct supervision of a physician;

(C) when such communication has been established, a specific order from the physician or person acting under the direct supervision of the physician to employ a certain medical procedure;

(D) use of advanced life support, when appropriate, only by emergency medical personnel who are certified by the department of health to employ advanced life support procedures.

~~(7)~~(8) Establishing requirements for the collection of data by emergency medical personnel and hospitals as may be necessary to evaluate emergency medical care.

~~(8)~~(9) Establishing, by rule, ~~levels of individual certification and application forms for advanced emergency medical care~~ license levels for emergency medical personnel. The commissioner shall use the guidelines established by the National Highway Traffic Safety Administration (NHTSA) in the U.S. Department of Transportation as a standard or other comparable standards, except that a felony conviction shall not ~~necessarily~~ disqualify an applicant unless the conviction is related to the delivery of emergency medical services. The rules shall also provide that:

(A) An individual may apply for and obtain one or more additional ~~certifications~~ licenses, including ~~certification~~ licensure as an advanced emergency medical technician or as a paramedic.

(B) An individual ~~certified~~ licensed by the commissioner as an emergency medical technician, advanced emergency medical technician, or a paramedic, who is affiliated with ~~a licensed ambulance service, fire department, or rescue service~~ an affiliated agency, shall be able to practice fully within the scope of practice for such level of ~~certification~~ licensure as defined by NHTSA's National EMS Scope of Practice Model ~~notwithstanding any law or rule to the contrary~~ consistent with the license level of the affiliated agency, and subject to the medical direction of the ~~commissioner or designee~~ emergency medical services district medical advisor.

(C) Unless otherwise provided under this section, an individual seeking any level of ~~certification~~ licensure shall be required to pass an examination approved by the commissioner for that level of ~~certification~~

licensure. Written and practical examinations shall not be required for ~~recertification~~ relicensure; however, to maintain ~~certification~~ licensure, all individuals shall complete a specified number of hours of continuing education as established by rule by the commissioner. The commissioner shall ensure that continuing education classes are available online and provided on a regional basis to accommodate the needs of volunteers and part-time individuals, including those in rural areas of the state.

(D) If there is a hardship imposed on any applicant for a ~~certification~~ license under this section because of unusual circumstances, the applicant may apply to the commissioner for a temporary or permanent waiver of one or more of the ~~certification~~ licensure requirements, which the commissioner may grant for good cause.

(E) An applicant who has served as ~~an advanced emergency medical technician, such as~~ a hospital corpsman or a medic in the United States Armed Forces, or who is licensed as a registered nurse or a physician's assistant shall be granted a permanent waiver of the training requirements to become a ~~certified~~ licensed emergency medical technician, an advanced emergency medical technician, or a paramedic, provided the applicant passes the applicable examination approved by the commissioner for that level of ~~certification~~ licensure and further provided that the applicant is affiliated with a ~~rescue service, fire department, or licensed ambulance service~~ an affiliated agency.

(F) An applicant who is ~~certified~~ registered on the National Registry of Emergency Medical Technicians as an ~~EMT basic, EMT intermediate, emergency medical technician, an advanced emergency medical technician,~~ or a paramedic shall be granted ~~certification~~ licensure as a Vermont ~~EMT basic, EMT intermediate, emergency medical technician, an advanced emergency medical technician,~~ or a paramedic without the need for further testing, provided he or she is affiliated with ~~an ambulance service, fire department, or rescue service,~~ an affiliated agency or is serving as a medic with the Vermont National Guard.

~~(G) No advanced certification shall be required for a trainee in established advanced training programs leading to certification as an advanced emergency medical technician, provided that the trainee is supervised by an individual holding a level of certification for which the trainee is training and the student is enrolled in an approved certification program.~~

Sec. 6a. 18 V.S.A. § 906a is added to read:

§ 906a. TRANSITION FROM CERTIFICATION TO LICENSURE

Every person certified as an emergency medical provider shall have his or

her certification converted to the comparable level of licensure. Until such time as the department of health issues licenses in lieu of certificates, each certified emergency medical provider shall have the right to practice in accordance with his or her level of certification.

Sec. 6b. 18 V.S.A. § 906b is added to read:

§ 906b. RELICENSURE; GRACE PERIOD

A person certified or licensed as an emergency medical provider shall have six months after his or her certification or license has expired to resubmit the necessary information for renewal of the certificate or license.

Sec. 7. 18 V.S.A. § 908 is added to read:

§ 908. EMERGENCY MEDICAL SERVICES SPECIAL FUND

(a) The emergency medical services special fund is established pursuant to 32 V.S.A. chapter 7, subchapter 5 comprising revenues received by the department from public and private sources as gifts, grants, and donations together with additions and interest accruing to the fund. The commissioner of health shall administer the fund to the extent funds are available to support online and regional training programs, data collection and analysis, and other activities relating to the training of emergency medical personnel and delivery of emergency medical services and ambulance services in Vermont, as determined by the commissioner, after consulting with the EMS advisory committee established under section 909 of this title. Any balance at the end of the fiscal year shall be carried forward in the fund.

(b) The commissioner of health shall develop online training opportunities and offer regional classes to enable individuals to comply with the requirements of subdivision 906(9)(c) of this title.

Sec. 8. 18 V.S.A. § 909 is added to read:

§ 909. EMS ADVISORY COMMITTEE

(a) The commissioner shall establish an advisory committee to advise on matters relating to the delivery of emergency medical services (EMS) in Vermont.

(b) The advisory committee shall be chaired by the commissioner or his or her designee and shall include the following 14 other members:

(1) four representatives of EMS districts. The representatives shall be selected by the EMS districts in four regions of the state. Those four regions shall correspond with the geographic lines used by the public safety districts pursuant to 20 V.S.A. § 5. For purposes of this subdivision, an EMS district located in more than one public safety district shall be deemed to be located in

the public safety district in which it serves the greatest number of people;

(2) a representative from the Vermont Ambulance Association, or designee;

(3) a representative from the initiative for rural emergency medical services program at the University of Vermont, or designee;

(4) a representative from the professional firefighters of Vermont, or designee;

(5) a representative from the Vermont Career Fire Chiefs Association, or designee;

(6) a representative from the Vermont State Firefighters' Association, or designee;

(7) an emergency department director of a Vermont hospital appointed by the Vermont Association of Emergency Department Directors, or designee;

(8) an emergency department nurse manager of a Vermont hospital appointed by the Vermont Association of Emergency Department Nurse Managers, or designee;

(9) a pediatric emergency medicine specialist appointed by the American Academy of Pediatrics, Vermont Chapter, or designee;

(10) a representative from the Vermont Association of Hospitals and Health Systems, or designee; and

(11) a local government member not affiliated with emergency medical services, firefighter services, or hospital services, appointed by the Vermont League of Cities and Towns.

(c) The committee shall meet not less than quarterly in the first year and not less than twice annually each subsequent year and may be convened at any time by the commissioner or his or her designee or at the request of seven committee members.

(d) The first committee meeting shall be after January 1, 2013, and, beginning January 1, 2014 and for the ensuing two years, the committee shall report annually on the emergency medical services system to the house committees on commerce and economic development and on human services and to the senate committees on economic development, housing and general affairs and on health and welfare. The committee's initial and ensuing reports shall include each EMS district's response times to 911 emergencies in the previous year based on information collected from the Vermont department of health's division of emergency medical services and recommendations on the following:

(1) whether Vermont EMS districts should be consolidated such as along the geographic lines used by the four public safety districts established under 20 V.S.A. § 5;

(2) whether every Vermont municipality should be required to have in effect an emergency medical services plan providing for timely and competent emergency responses; and.

(3) whether the state should establish directives addressing when an agency can respond to a nonemergency request for transportation of a patient if doing so will leave the service area unattended or unable to respond to an emergency call in a timely fashion.

Sec. 9. 24 V.S.A. § 2651 is amended to read:

§ 2651. DEFINITIONS

As used in this chapter:

(1) “Advanced emergency medical treatment” means those portions of emergency medical treatment as defined by the department of health, which may be performed by ~~certified~~ licensed emergency medical services personnel acting under the supervision of a physician within a system of medical control approved by the department of health.

* * *

(4) “Basic emergency medical treatment” means those portions of emergency medical treatment, as defined by the department of health, which may be exercised by ~~certified~~ licensed emergency medical services personnel acting under their own authority.

* * *

(6) “Emergency medical personnel” means persons, including volunteers, ~~certified~~ licensed by the department of health to provide emergency medical treatment ~~on behalf of an organization such as an ambulance service or first responder service~~ whose primary function is the provision of emergency medical treatment. The term does not include duly licensed or registered physicians, dentists, nurses or physicians’ assistants when practicing in their customary work setting.

* * *

(15) “Volunteer personnel” means persons who are ~~certified~~ licensed by the department of health to provide emergency medical treatment without expectation of remuneration for the treatment rendered other than nominal payments and reimbursement for expenses, and who do not depend in any significant way on the provision of such treatment for their livelihood.

(16) “Affiliated agency” means an ambulance service or first responder service licensed under this chapter, including a fire department, rescue squad, police department, ski patrol, hospital, or other entity licensed to provide rescue or emergency services under this chapter.

Sec. 10. 24 V.S.A. § 2657 is amended to read:

§ 2657. PURPOSES AND POWERS OF EMERGENCY MEDICAL SERVICES DISTRICTS

(a) It shall be the function of each emergency medical services district to foster and coordinate emergency medical services within the district, in the interest of affording adequate ambulance services within the district. Each emergency medical services district shall have powers which include, but are not limited to, the power to:

* * *

(3) Enter into agreements and contracts for furnishing technical, educational ~~or~~, and support services related to the provision of emergency medical treatment.

* * *

(8) Sponsor or approve programs of education approved by the department of health which lead to the ~~certification~~ licensure of emergency medical services personnel.

(9) ~~Cooperate~~ Establish medical control within the district with physicians or other licensed health care professionals and representatives of medical facilities to establish medical control within the district, including written protocols with the appropriate officials of receiving hospitals defining their operational procedures.

(10) Assist the department of health in a program of testing for ~~certification~~ licensure of emergency medical services personnel.

(11) Develop protocols for providing appropriate response times to requests for emergency medical services.

* * *

Sec. 11. 24 V.S.A. § 2682 is amended to read:

§ 2682. POWERS OF STATE BOARD

(a) The state board shall administer this subchapter and shall have power to:

(1) Issue licenses for ambulance services and first responder services

under this subchapter.

* * *

(3) Make, adopt, amend, and revise, as it deems necessary or expedient, reasonable rules in order to promote and protect the health, safety, and welfare of members of the public using, served by, or in need of, emergency medical treatment. Any rule may be repealed within 90 days of the date of its adoption by a majority vote of all the district boards. Such rules may cover or relate to:

(A) Age, training and physical requirements for emergency medical services personnel.

* * *

Sec. 12. REPEAL

Sec. 20(c) of No. 142 of the Acts of the 2009 Adj. Sess. (2010) (EMS services exceeding scope of practice of affiliated agency) is repealed.

Sec. 13. EFFECTIVE DATE

This act shall take effect July 1, 2012.

and that after passage the title of the bill be amended to read: “An act relating to a study of search and rescue operations and emergency medical services”

(For text see House Journal 4/19/2012 and 4/20/2012)

Senate Proposal of Amendment to House Proposal of Amendment

S. 106

An act relating to miscellaneous changes to municipal government law

The Senate concurs in the House proposal of amendment with the following proposal of amendment thereto:

First: In Sec. 24 (auditor website; audit findings), in subdivision (a)(1), after “a summary of all embezzlements and” by striking out “other financial fraud” and inserting in lieu thereof false claims, as that term is described in 13 V.S.A. § 3016.

Second: By adding a new section to be numbered Sec. 8a to read as follows:

Sec. 8a. PLAINFIELD TOWN MEETINGS

Notwithstanding any provision of law to the contrary, for three years subsequent to the effective date of this act, the polling place of the town of Plainfield may be located; any annual and special meetings may be conducted; and with the permission of the school, any other public meetings may be

conducted at the Twinfield Union School in Marshfield, Vermont.

(For text see House Journal 4/13/2012 and 4/18/2012)

Amendment to be offered by Rep. Jewett of Ripton et al to S. 106

Representatives Jewett of Ripton, Atkins of Winooski, Consejo of Sheldon, Devereux of Mount Holly, Evans of Essex, Higley of Lowell, Hubert of Milton, Martin of Wolcott, Mook of Bennington, Sweaney of Windsor, and Townsend of Randolph move that the House propose to the Senate that the bill be amended by striking out Sec. 30 (effective date) in its entirety and inserting in lieu thereof the following:

* * * Search and Rescue * * *

Sec. 30. SEARCH AND RESCUE OPERATIONS; INTERIM PROTOCOL;
DEPARTMENT OF PUBLIC SAFETY

(a) By the effective date of this act, the department of public safety (the “department”) shall develop and implement an interim protocol establishing responsibility and authority for search and rescue operations. The interim protocol shall be based upon the following standards and organizational structure:

(1) Standards. The interim protocol shall require:

(A) all search and rescue operations be made pursuant to the incident command system set forth in subdivision (2) of this subsection;

(B) an immediate response to every search and rescue call for help, which shall include an immediate call to the department’s search and rescue team without regard to whether the call for help may be classified as a missing person complaint as that term is described in 20 V.S.A. chapter 112; and

(C) the earliest possible rescue or recovery of every person needing search and rescue assistance.

(2) Incident command system. Notwithstanding any provision of law to the contrary, the search and rescue team within the department of public safety shall have lead responsibility for search and rescue operations in any municipality in Vermont without an established police department or which is not under contract with a sheriff to provide law enforcement services pursuant to 24 V.S.A. § 291a. In any municipality with an established police department that has at least one officer who has obtained high-level search and rescue training and training on the incident command system or in any municipality under contract with a sheriff who has obtained that training, the chief of police or the sheriff shall determine whether that police department or sheriff will assume lead responsibility for search and rescue operations in that

municipality. Only such a municipal police department or sheriff confirming in writing to the department its assumption of lead responsibility shall have that responsibility and, if so responsible, shall be required to collaborate with the department in the implementation of this interim protocol. In all other instances, the search and rescue team shall have lead responsibility. No matter what entity has lead responsibility in any municipality, the department shall be required to perform the following actions in order to form a reliable incident command system conforming to the standards set forth in this subsection.

(A) Assessment of resources.

(i) The department, on a barracks-by-barracks basis, shall assess all available resources existing within the state that are capable of assisting the department in search and rescue operations. These resources shall include all of those within the department and the departments of fish and wildlife and of health; sheriffs; local police departments; municipal and volunteer fire departments; local search and rescue organizations; and any other state, local, or nongovernmental agency with relevant expertise and experience.

(ii) The assessment shall include an evaluation of the strengths of each resource in terms of its capability to contribute to different aspects and types of search and rescue operations. The department shall confirm with a resource that resource's strengths and capabilities.

(B) Organization; database.

(i) Based on its assessment of resources, the department shall organize the resources into different categories based on geographic areas of the state; availability; and the capability to perform incident-specific search and rescue operations.

(ii) The department shall enter the resources into a database organized based on those categories. The database shall be maintained and continually updated by the department.

(C) Utilization. For every search and rescue call for help, the department shall utilize the database in order to deploy appropriate search and rescue resources when responding to a call for help.

(D) Training. By July 1, 2014, the department's search and rescue team and all Vermont game wardens shall obtain high level search and rescue operations training and training on the incident command system.

(b) The interim protocol shall be implemented pursuant to this section until further legislative action by the general assembly.

(c) As used in this section, "search and rescue" means the search for and provision of aid to people who are missing, lost, or stranded in the outdoors on

Vermont's land or inland waterways.

Sec. 31. SEARCH AND RESCUE STRATEGIC PLAN DEVELOPMENT COMMITTEE

(a) Creation of committee; purpose. There is created a search and rescue strategic plan development committee to recommend how search and rescue operations should be conducted in Vermont on a permanent basis. As used in this section, "search and rescue" means the search for and provision of aid to people who are missing, lost, or stranded in the outdoors on Vermont's land or inland waterways.

(b) Membership. The search and rescue strategic plan development committee shall be composed of 13 members. The members of the committee shall be as follows:

(1) One member of the house appointed by the speaker.

(2) One member of the senate appointed by the committee on committees.

(3) The commissioner of public safety or designee.

(4) The commissioner of fish and wildlife or designee.

(5) The president of the Vermont Police Association or designee.

(6) The president of the Vermont Sheriffs' Association, Inc. or designee.

(7) The team leader of Stowe Mountain Rescue or designee.

(8) The team leader of Colchester Technical Rescue or designee.

(9) One licensed first responder appointed by the commissioner of health.

(10) Two members of the Vermont Coalition of Fire & Rescue Services, Inc. appointed by the chair of the coalition, one of whom shall be a professional firefighter and one of whom shall be a volunteer firefighter.

(11) One public member with experience in search and rescue operations and in the incident command system appointed by the governor.

(12) One member of the National Ski Patrol appointed by the northern regional director of the National Ski Patrol's eastern division.

(c) Structure; decision-making. The committee shall elect two co-chairs from its membership, at least one of whom shall be a legislative member. The provisions of 1 V.S.A. § 172 (joint authority of three or more) shall apply to the meetings and decision-making of the committee.

(d) Powers and duties. The committee shall:

- (1) review the existing method, responsibility, and organizational structure for conducting search and rescue operations in Vermont, including any existing statutory, rule, or policy requirements, if any, and identify the advantages and disadvantages of the current system;
- (2) consider models used in other states for managing search and rescue operations;
- (3) determine whether the department of public safety or a different state agency should be responsible for supervising search and rescue operations for people who are missing, lost, or stranded in the outdoors on Vermont's land or inland waterways;
- (4) consider and evaluate different organizational structures in order to recommend how to most effectively manage Vermont's search and rescue processes and resources;
- (5) determine whether minimum qualifications, certification, or other credentialing should be required for persons participating in search and rescue operations and whether search and rescue responders who are not state employees should be provided with insurance coverage;
- (6) develop a database of available statewide resources capable of assisting in search and rescue operations, which may be organized pursuant to different geographic regions of the state;
- (7) consider the feasibility of establishing an online database of persons who are missing, lost, or stranded in the outdoors on Vermont's land or inland waterways that would provide automatic notice to first responders;
- (8) develop and recommend a method of reviewing completed search and rescue operations and how those operations could be improved;
- (9) recommend guidelines that would enable communication among search and rescue resources in responding to a call for help;
- (10) recommend methods of balancing speed versus safety in responding to calls for help in order to create the greatest level of efficiency;
- (11) determine whether a new chapter for search and rescue operations should be added within Title 20 of the Vermont Statutes Annotated; and
- (12) determine whether firefighters and law enforcement officers should be required to obtain training in search and rescue operations and on the incident command system as part of certification or recertification requirements.

(e) Consultant. The co-chairs of the committee, in consultation with the commissioner of the department of public safety, may hire a consultant who professionally specializes in search and rescue operations in order to assist the committee in its duties.

(f) Report. The committee shall report its findings and recommendations, together with draft legislation in order to implement those recommendations, to the general assembly on or before December 15, 2012.

(g) Number of meetings; term of committee. The committee may meet no more than five times and shall cease to exist on December 15, 2012.

(h) Reimbursement. Members of the committee who are not employees of the state of Vermont shall be reimbursed at the per diem rate set forth in 32 V.S.A. § 1010. Legislative members shall be entitled to the same per diem compensation and reimbursement for necessary expenses for attendance at a meeting when the general assembly is not in session as provided to members of standing committees under 2 V.S.A. § 406.

(i) Assistance. The legislative council shall provide administrative, legal, and drafting support to the committee.

* * * Emergency Medical Services * * *

Sec. 32. 18 V.S.A. § 901 is amended to read:

§ 901. POLICY

It is the policy of the state of Vermont that all persons who suffer sudden and unexpected illness or injury should have access to the emergency medical services system in order to prevent loss of life or the aggravation of the illness or injury, and to alleviate suffering. The system should include competent emergency medical care provided by adequately trained, licensed, credentialed, and equipped personnel acting under appropriate medical control. Persons involved in the delivery of emergency medical care should be encouraged to maintain and advance their levels of training and ~~certification~~ licensure, and to upgrade the quality of their vehicles and equipment.

Sec. 33. 18 V.S.A. § 903 is amended to read:

§ 903. AUTHORIZATION FOR PROVISION OF EMERGENCY
MEDICAL SERVICES

Notwithstanding any other provision of law, including provisions of 26 V.S.A. chapter 23 of Title 26, persons who are ~~certified~~ licensed and credentialed to provide emergency medical care pursuant to the requirements of this chapter and implementing regulations are hereby authorized to provide such care without further certification, registration or licensing.

Sec. 34. 18 V.S.A. § 904 is amended to read:

§ 904. ADMINISTRATIVE PROVISIONS

(a) In order to carry out the purposes and responsibilities of this chapter, the department of health may contract for the provision of specific services.

(b) The secretary of human services, upon the recommendation of the ~~department~~ commissioner of health, may issue regulations to carry out the purposes and responsibilities of this chapter.

Sec. 35. 18 V.S.A. § 906 is amended to read:

§ 906. EMERGENCY MEDICAL SERVICES DIVISION;
RESPONSIBILITIES

To implement the policy of section 901, the department of health shall be responsible for:

(1) Developing and implementing minimum standards for training emergency medical personnel in basic life support and advanced life support, and ~~certifying their~~ licensing emergency medical personnel according to their level of training and competence.

(2) Developing and implementing minimum standards for vehicles used in providing emergency medical care, designating the types and quantities of equipment that must be carried by these vehicles, and registering those vehicles according to appropriate classifications.

(3) Developing a statewide system of emergency medical services including but not limited to planning, organizing, coordinating, improving, expanding, monitoring and evaluating emergency medical services.

(4) Establishing by rule minimum standards for the credentialing of emergency medical personnel by their affiliated agency, which shall be required in addition to the licensing requirements of this chapter in order for a person to practice as an emergency medical provider. Credentialing shall consist of the minimum and appropriate requirements necessary to ensure that an emergency medical provider can demonstrate the competence and minimum skills necessary to practice within his or her scope of licensure. Any rule shall balance the need for documenting competency against the burden placed on rural or smaller volunteer squads with little or no administrative staff.

(5) Developing volunteer and career response time standards for urban and rural requests for emergency services.

(6) Training, or assisting in the training of, emergency medical personnel.

~~(5)~~(7) Assisting hospitals in the development of programs which will improve the quality of in-hospital services for persons requiring emergency medical care.

~~(6)~~(8) Developing and implementing procedures to insure that emergency medical services are rendered only with appropriate medical control. For the provision of advanced life support, appropriate medical control shall include at a minimum:

(A) written protocols between the appropriate officials of receiving hospitals and ~~ambulance services~~ emergency medical services districts defining their operational procedures;

(B) where necessary and practicable, direct communication between emergency medical personnel and a physician or person acting under the direct supervision of a physician;

(C) when such communication has been established, a specific order from the physician or person acting under the direct supervision of the physician to employ a certain medical procedure;

(D) use of advanced life support, when appropriate, only by emergency medical personnel who are certified by the department of health to employ advanced life support procedures.

~~(7)~~(9) Establishing requirements for the collection of data by emergency medical personnel and hospitals as may be necessary to evaluate emergency medical care.

~~(8)~~(10) Establishing, by rule, ~~levels of individual certification and application forms for advanced emergency medical care~~ license levels for emergency medical personnel. The commissioner shall use the guidelines established by the National Highway Traffic Safety Administration (NHTSA) in the U.S. Department of Transportation as a standard or other comparable standards, except that a felony conviction shall not necessarily disqualify an applicant. The rules shall also provide that:

(A) An individual may apply for and obtain one or more additional ~~certifications~~ licenses, including ~~certification~~ licensure as an advanced emergency medical technician or as a paramedic.

(B) An individual ~~certified~~ licensed by the commissioner as an emergency medical technician, advanced emergency medical technician, or a paramedic, who is ~~affiliated with a licensed ambulance service, fire department, or rescue service~~ credentialed by an affiliated agency, shall be able to practice fully within the scope of practice for such level of ~~certification~~ licensure as defined by NHTSA's National EMS Scope of Practice Model

~~notwithstanding any law or rule to the contrary~~ consistent with the license level of the affiliated agency, and subject to the medical direction of the commissioner or designee emergency medical services district medical advisor.

(C) Unless otherwise provided under this section, an individual seeking any level of ~~certification~~ licensure shall be required to pass an examination approved by the commissioner for that level of ~~certification~~ licensure. Written and practical examinations shall not be required for ~~recertification~~ relicensure; however, to maintain ~~certification~~ licensure, all individuals shall complete a specified number of hours of continuing education as established by rule by the commissioner. The commissioner shall ensure that continuing education classes are available online and provided on a regional basis to accommodate the needs of volunteers and part-time individuals, including those in rural areas of the state.

(D) If there is a hardship imposed on any applicant for a ~~certification~~ license under this section because of unusual circumstances, the applicant may apply to the commissioner for a temporary or permanent waiver of one or more of the ~~certification~~ licensure requirements, which the commissioner may grant for good cause.

(E) An applicant who has served as ~~an advanced emergency medical technician, such as a hospital corpsman or a medic in the United States Armed Forces, or who is licensed as a registered nurse or a physician's physician assistant~~ shall be granted a permanent waiver of the training requirements to become a ~~certified~~ licensed emergency medical technician, an advanced emergency medical technician, or a paramedic, provided the applicant passes the applicable examination approved by the commissioner for that level of ~~certification~~ licensure and further provided that the applicant is affiliated with a rescue service, fire department, or licensed ambulance service credentialed by an affiliated agency.

(F) An applicant who is ~~certified~~ registered on the National Registry of Emergency Medical Technicians as an ~~EMT basic, EMT intermediate, emergency medical technician, an advanced emergency medical technician, or a paramedic~~ shall be granted ~~certification~~ licensure as a Vermont ~~EMT basic, EMT intermediate, emergency medical technician, an advanced emergency medical technician, or a paramedic~~ without the need for further testing, provided he or she is affiliated with an ambulance service, fire department, or rescue service, credentialed by an affiliated agency or is serving as a medic with the Vermont National Guard.

~~(G) No advanced certification shall be required for a trainee in established advanced training programs leading to certification as an advanced~~

~~emergency medical technician, provided that the trainee is supervised by an individual holding a level of certification for which the trainee is training and the student is enrolled in an approved certification program.~~

Sec. 36. 18 V.S.A. § 906a is added to read:

§ 906a. RELICENSURE; GRACE PERIOD

A person certified or licensed as an emergency medical provider shall have six months after his or her certification or license has expired to resubmit the necessary information for renewal of the certificate or license.

Sec. 37. 18 V.S.A. § 906b is added to read:

§ 906b. TRANSITIONAL PROVISION; CERTIFICATION TO LICENSURE

Every person certified as an emergency medical provider shall have his or her certification converted to the comparable level of licensure. Until such time as the department of health issues licenses in lieu of certificates, each certified emergency medical provider shall have the right to practice in accordance with his or her level of certification.

Sec. 38. 18 V.S.A. § 908 is added to read:

§ 908. EMERGENCY MEDICAL SERVICES SPECIAL FUND

(a) The emergency medical services special fund is established pursuant to 32 V.S.A. chapter 7, subchapter 5 comprising revenues received by the department from the general fund that are designated for this special fund and public and private sources as gifts, grants, and donations together with additions and interest accruing to the fund. The commissioner of health shall administer the fund to the extent funds are available to support online and regional training programs, data collection and analysis, and other activities relating to the training of emergency medical personnel and delivery of emergency medical services and ambulance services in Vermont, as determined by the commissioner, after consulting with the EMS advisory committee established under section 909 of this title. Any balance at the end of the fiscal year shall be carried forward in the fund.

(b) From the funds in the emergency medical services special fund, the commissioner of health shall develop and implement by September 1, 2012 online training opportunities and offer regional classes to enable individuals to comply with the requirements of subdivision 906(9)(c) of this title.

Sec. 39. 18 V.S.A. § 909 is added to read:

§ 909. EMS ADVISORY COMMITTEE

(a) The commissioner shall establish an advisory committee to advise on matters relating to the delivery of emergency medical services (EMS) in Vermont.

(b) The advisory committee shall be chaired by the commissioner or his or her designee and shall include the following 14 other members:

(1) four representatives of EMS districts. The representatives shall be selected by the EMS districts in four regions of the state. Those four regions shall correspond with the geographic lines used by the public safety districts pursuant to 20 V.S.A. § 5. For purposes of this subdivision, an EMS district located in more than one public safety district shall be deemed to be located in the public safety district in which it serves the greatest number of people;

(2) a representative from the Vermont Ambulance Association, or designee;

(3) a representative from the initiative for rural emergency medical services program at the University of Vermont, or designee;

(4) a representative from the Professional Firefighters of Vermont, or designee;

(5) a representative from the Vermont Career Fire Chiefs Association, or designee;

(6) a representative from the Vermont State Firefighters' Association, or designee;

(7) an emergency department director of a Vermont hospital appointed by the Vermont Association of Emergency Department Directors, or designee;

(8) an emergency department nurse manager of a Vermont hospital appointed by the Vermont Association of Emergency Department Nurse Managers, or designee;

(9) a representative from the Vermont State Firefighters' Association who serves on a first response or FAST squad;

(10) a representative from the Vermont Association of Hospitals and Health Systems, or designee; and

(11) a local government member not affiliated with emergency medical services, firefighter services, or hospital services, appointed by the Vermont League of Cities and Towns.

(c) The committee shall meet not less than quarterly in the first year and not less than twice annually each subsequent year and may be convened at any time by the commissioner or his or her designee or at the request of seven

committee members.

(d) Beginning January 1, 2014 and for the ensuing two years, the committee shall report annually on the emergency medical services system to the house committees on commerce and economic development and on human services and to the senate committees on economic development, housing and general affairs and on health and welfare. The committee's initial and ensuing reports shall include each EMS district's response times to 911 emergencies in the previous year based on information collected from the Vermont department of health's division of emergency medical services and recommendations on the following:

(1) whether Vermont EMS districts should be consolidated such as along the geographic lines used by the four public safety districts established under 20 V.S.A. § 5;

(2) whether every Vermont municipality should be required to have in effect an emergency medical services plan providing for timely and competent emergency responses; and.

(3) whether the state should establish directives addressing when an agency can respond to a nonemergency request for transportation of a patient if doing so will leave the service area unattended or unable to respond to an emergency call in a timely fashion.

Sec. 40. 24 V.S.A. § 2651 is amended to read:

§ 2651. DEFINITIONS

As used in this chapter:

(1) "Advanced emergency medical treatment" means those portions of emergency medical treatment as defined by the department of health, which may be performed by ~~certified~~ licensed emergency medical services personnel acting under the supervision of a physician within a system of medical control approved by the department of health.

* * *

(4) "Basic emergency medical treatment" means those portions of emergency medical treatment, as defined by the department of health, which may be exercised by ~~certified~~ licensed emergency medical services personnel acting under their own authority.

* * *

(6) "Emergency medical personnel" means persons, including volunteers, ~~certified~~ licensed by the department of health to provide emergency medical treatment on behalf of an ~~organization such as an ambulance service~~

~~or first responder service~~ affiliated agency whose primary function is the provision of emergency medical treatment. The term does not include duly licensed or registered physicians, dentists, nurses, or ~~physicians'~~ physician assistants when practicing in their customary work setting.

* * *

(15) "Volunteer personnel" means persons who are ~~certified~~ licensed by the department of health to provide emergency medical treatment on behalf of an affiliated agency without expectation of remuneration for the treatment rendered other than nominal payments and reimbursement for expenses, and who do not depend in any significant way on the provision of such treatment for their livelihood.

(16) "Affiliated agency" means an ambulance service or first responder service licensed under this chapter, including a fire department, rescue squad, police department, ski patrol, hospital, or other entity licensed to provide emergency medical services under this chapter.

Sec. 41. 24 V.S.A. § 2657 is amended to read:

§ 2657. PURPOSES AND POWERS OF EMERGENCY MEDICAL SERVICES DISTRICTS

(a) It shall be the function of each emergency medical services district to foster and coordinate emergency medical services within the district, in the interest of affording adequate ambulance services within the district. Each emergency medical services district shall have powers which include, but are not limited to, the power to:

* * *

(3) Enter into agreements and contracts for furnishing technical, educational ~~or,~~ and support services and credentialing related to the provision of emergency medical treatment.

* * *

(8) Sponsor or approve programs of education approved by the department of health which lead to the ~~certification~~ licensure of emergency medical services personnel.

(9) ~~Cooperate~~ Establish medical control within the district with physicians and representatives of medical facilities ~~to establish medical control within the district,~~ including written protocols with the appropriate officials of receiving hospitals defining their operational procedures.

(10) Assist the department of health in a program of testing for ~~certification~~ licensure of emergency medical services personnel.

(11) Assure that each affiliated agency in the district has implemented a system for the credentialing of all its licensed emergency medical personnel.

(12) Develop protocols for providing appropriate response times to requests for emergency medical services.

* * *

Sec. 42. 24 V.S.A. § 2682 is amended to read:

§ 2682. POWERS OF STATE BOARD

(a) The state board shall administer this subchapter and shall have power to:

(1) Issue licenses for ambulance services and first responder services under this subchapter.

* * *

(3) Make, adopt, amend, and revise, as it deems necessary or expedient, reasonable rules in order to promote and protect the health, safety, and welfare of members of the public using, served by, or in need of, emergency medical treatment. Any rule may be repealed within 90 days of the date of its adoption by a majority vote of all the district boards. Such rules may cover or relate to:

(A) Age, training, credentialing, and physical requirements for emergency medical services personnel.

* * *

Sec. 43. REPEAL

Sec. 20(c) of No. 142 of the Acts of the 2009 Adj. Sess. (2010) (EMS services exceeding scope of practice of affiliated agency) is repealed.

Sec. 44. 21 V.S.A. § 601 is amended to read:

§ 601. DEFINITIONS

Unless the context otherwise requires, words and phrases used in this chapter shall be construed as follows:

* * *

(12) “Public employment” means the following:

* * *

(K) other municipal workers, including volunteer firefighters and rescue and ambulance squads while acting in ~~the line of duty, after the governing officials of such municipal body so vote~~ any capacity under the direction and control of the fire department or rescue and ambulance squads;

(L) members of any regularly organized private volunteer fire department while acting in ~~the line of duty after election by the organization to have its members covered by this chapter~~ any capacity under the direction and control of the fire department;

(M) members of any regularly organized private volunteer rescue or ambulance squad while acting in ~~the line of duty after election by the organization to have its members covered by this chapter~~ any capacity under the direction and control of the rescue or ambulance squad;

* * *

Sec. 45. EFFECTIVE DATES

This act shall take effect on July 1, 2012 except for this section and the following sections, which shall take effect on passage:

(1) Sec. 22 (amending 30 V.S.A. § 8102);

(2) Sec. 24 (auditor website; audit findings);

(3) Sec. 30 (search and rescue operations; interim protocol; department of public safety); and

(4) Sec. 31 (search and rescue strategic plan development committee).

and that after passage the title of the bill be amended to read: “An act relating to miscellaneous changes to municipal government law, to internal financial controls, and to the management of search and rescue operations”

NEW BUSINESS

Favorable

S. 180

An act relating to the universal service fund and establishment of a high-cost program

Rep. Shand of Weathersfield, for the Committee on **Commerce and Economic Development**, recommends that the bill ought to pass in concurrence.

(Committee Vote: 9-0-2)

(For text see Senate Journal 4/10/2012)

Rep. Acinapura of Brandon, for the Committee on **Appropriations**, recommends that the bill ought to pass in concurrence.

(Committee Vote: 5-4-2)

Senate Proposal of Amendment

H. 774

An act relating to meat inspection, delivery of liquid fuels, dairy operations, and animal foot baths

The Senate proposes to the House to amend the bill as follows:

First: By adding Sec. 3a to read:

Sec. 3a. AGENCY OF AGRICULTURE, FOOD AND MARKETS; EDUCATION AND OUTREACH REGARDING HUMANE HANDLING AND SLAUGHTER

(a) On or before October 15, 2012, the secretary of agriculture, food and markets, after consultation with representatives of organizations with an interest in itinerant or custom slaughter, shall:

(1) conduct regional outreach regarding humane treatment of livestock, humane slaughter of livestock, and sanitary slaughtering and processing methods; and

(2) make available to the public, including itinerant slaughterers and their customers, informational materials regarding humane treatment of livestock, humane slaughter of livestock, and sanitary slaughtering and processing methods.

(b) On or before January 15, 2013, the secretary of agriculture, food and markets shall report back to the senate and house committees on agriculture regarding how the secretary of agriculture, food and markets complied with the requirements of subsection (a) of this section.

Second: In Sec. 4, subsection (b) in the first sentence after the word “fuels”, by inserting sold at retail, as defined by 32 V.S.A. § 9701(5)

Third: In Sec. 9, in 6 V.S.A. § 796, by striking out subsection (b) in its entirety and inserting in lieu thereof the following:

(b)(1) The secretary shall adopt rules to implement regulation of animal foot baths for livestock, including:

(A) if appropriate, a ban on the use of certain chemicals, such as formaldehyde, as foot baths; and

(B) requirements for the administration of foot baths, the type of chemicals used, disposal of the chemicals found in used foot baths, and additional requirements deemed necessary by the secretary.

(2) The secretary shall work with the commissioner of health and the

secretary of natural resources in drafting the rules to be adopted under this subsection.

(3) In adopting the rules required by this subsection, the secretary shall utilize information regarding the use of formaldehyde from the federal Department of Health and Human Services Agency for Toxic Substances and Disease Registry and from the ongoing investigation of the use of formaldehyde for agricultural practices conducted by the commissioner of health in collaboration with the secretary of agriculture, food and markets and the secretary of natural resources.

(4) The secretary may adopt emergency rules for the use of foot baths on Vermont farms if the secretary determines such rules are necessary to protect the public health, safety, and welfare.

Fourth: By adding Secs. 10a–10e to read as follows:

Sec. 10a. STATEMENT OF PURPOSE; HUMANE TREATMENT; GESTATION

It shall be the purpose of Secs. 10b through 10e of this act related to humane treatment of animals to prohibit the cruel confinement of sows during gestation in a manner that does not allow them to turn around freely, lie down, stand up, or fully extend their limbs.

Sec. 10b. 13 V.S.A. § 351 is amended to read:

§ 351. DEFINITIONS

As used in this chapter:

- (1) “Animal” means all living sentient creatures, not human beings.
- (2) “Secretary” means the secretary of agriculture, food and markets.

* * *

(13) “Livestock and poultry husbandry practices” means the raising, management, and using of animals to provide humans with food, fiber, or transportation in a manner consistent with:

(A) husbandry practices recommended for the species by agricultural colleges and the U.S. Department of Agriculture Extension Service;

(B) husbandry practices modified for the species to conform to the Vermont environment and terrain; and

(C) husbandry practices that minimize pain and suffering.

* * *

(14) “Enclosure” means a cage, crate, or other structure used to confine an animal, including what is commonly described as a “gestation crate” for sows.

(15) “Farm” means the land, buildings, support facilities, and other equipment that are wholly or partially used for the commercial production of animals or animal products used for food or fiber and does not include live animal markets.

(16) “Farm owner or operator” means any person who owns or controls the operations of a farm and does not include any nonmanagement employee, contractor, or consultant.

(17) “Fully extending the animal’s limbs” means fully extending all limbs without touching the side of an enclosure.

(18) “Sow in gestation” means a pregnant animal of the porcine species kept for the primary purpose of breeding.

(19) “Turning around freely” means turning in a complete circle without any impediment, including a tether, and without touching the side of an enclosure.

Sec. 10c. 13 V.S.A. § 351b is amended to read:

§ 351b. SCOPE OF SUBCHAPTER

This subchapter shall not apply to:

(1) activities regulated by the department of fish and wildlife pursuant to 10 V.S.A. Part 4 of Title 10;

(2) scientific research governed by accepted procedural standards subject to review by an institutional animal care and use committee;

(3) livestock and poultry husbandry practices for raising, management and use of animals, provided that livestock and husbandry practices for raising, management, and use of animals shall not be an exception to a violation of section 367 of this title;

(4) veterinary medical or surgical procedures; and

(5) the killing of an animal as provided by ~~sections~~ 20 V.S.A. §§ 3809 and 3545 of Title 20.

Sec. 10d. 13 V.S.A. § 353 is amended to read:

§ 353. DEGREE OF OFFENSE; SENTENCING UPON CONVICTION

(a) Penalties.

* * *

(4)(A) Except as provided in subdivision (B) of this subdivision (4), a person found in violation of subdivision 352(3), (4), or (9) of this title pursuant to this subdivision shall be imprisoned not more than one year or fined not more than \$2,000.00, or both. Second and subsequent convictions shall be punishable by a sentence of imprisonment of not more than two years or a fine of not more than \$5,000.00, or both.

(B) A law enforcement officer shall issue a civil citation to a person who violates subdivision 352(3), (4), or (9) of this title if the person has not been previously adjudicated in violation of this chapter. A person adjudicated in violation of subdivision 352(3), (4), or (9) of this title pursuant to this subdivision shall be assessed a civil penalty of not more than \$500.00. At any time prior to the person admitting the violation and paying the assessed penalty, the state's attorney may withdraw the complaint filed with the judicial bureau and file an information charging a violation of subdivision 352(3), (4), or (9) of this title in the criminal division of the superior court.

(b) In addition to any other sentence the court may impose, the court may require a defendant convicted of a violation under section 352 or 352a of this title to:

(1) Forfeit any rights to the animal subjected to cruelty, and to any other animal, except livestock or poultry owned, possessed, or in the custody of the defendant.

(2) Repay the reasonable costs incurred by any person, municipality, or agency for providing care for the animal prior to judgment. If the court does not order a defendant to pay all the applicable costs incurred or orders only partial payment, it shall state on the record the reasons for that action.

(3) Forfeit any future right to own, possess, or care for any animal for a period which the court deems appropriate.

(4) Participate in available animal cruelty prevention programs or educational programs, or both, or obtain psychiatric or psychological counseling, within a reasonable distance from the defendant's residence. If a juvenile is adjudicated delinquent under section 352 or 352a of this title, the court may order the juvenile to undergo a psychiatric or psychological evaluation and to participate in treatment that the court determines to be appropriate after due consideration of the evaluation. The court may impose the costs of such programs or counseling upon the defendant when appropriate.

(5) Permit periodic unannounced visits for a period up to one year by a humane officer to inspect the care and condition of any animal permitted by

the court to remain in the care, custody, or possession of the defendant. Such period may be extended by the court upon motion made by the state.

(6) Enjoin a slaughterer, packer, or stockyard operator, as those terms are defined in 6 V.S.A. § 3131, from operating due to a violation of section 367 of this title.

* * *

Sec. 10e. 13 V.S.A. § 367 is added to read:

§ 367. UNLAWFUL CONFINEMENT OF SOW DURING GESTATION

(a) Prohibition. No farm owner or operator may knowingly tether or confine a sow during gestation in an enclosure in a manner that prevents the sow from turning around freely, lying down, standing up, and fully extending its limbs.

(b) Exceptions. The prohibition in subsection (a) of this section shall not apply:

(1) During examination or testing or individual treatment of or operation on an animal for veterinary purposes;

(2) During transportation;

(3) During rodeo exhibitions, state or county fair exhibitions, 4-H programs, and similar exhibitions or educational programs;

(4) To the humane slaughter of an animal in accordance with 6 V.S.A. chapter 201 and the rules adopted pursuant to 6 V.S.A. § 3133 pertaining to the slaughter of animals; and

(5) To a sow during the seven-day period prior to the sow's expected date of giving birth.

(No House Amendments)

Committee of Conference Report

S. 113

An act relating to prevention, identification, and reporting of child abuse and neglect at independent schools

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. 113 An act relating to prevention, identification, and reporting of child abuse and neglect at independent schools

Respectfully report that they have met and considered the same and recommend that the bill be amended as follows:

that the Senate accede to the House proposals of amendment in the first, second, and fourth instances, that the House recede from its third proposal of amendment, and that the bill be further amended as follows:

First: After Sec. 2, before the internal reference preceding Sec. 3, by adding two new sections to be Secs. 2a and 2b to read:

Sec. 2a. 16 V.S.A. § 131 is amended to read:

§ 131. DEFINITIONS

For the purposes of this subchapter, “comprehensive health education” means a systematic and extensive elementary and secondary educational program designed to provide a variety of learning experiences based upon knowledge of the human organism as it functions within its environment. The term includes the study of:

* * *

(11) How to recognize and prevent sexual abuse and sexual violence, including developmentally appropriate instruction about promoting healthy and respectful relationships, developing and maintaining effective communication with trusted adults, recognizing sexually offending behaviors, and gaining awareness of available school and community resources. An employee of the school shall be in the room during the provision of all instruction or information presented under this subdivision (11).

Sec. 2b. REPORT; MANDATORY REPORTERS

On or before January 15, 2013, the commissioner for children and families or designee, the commissioner of education or designee, and a representative of the Vermont Network Against Domestic and Sexual Violence shall consider and present recommendations to the general assembly for best practices in responding to a student’s disclosures of abuse or neglect revealed in connection with the provision of comprehensive health education under 16 V.S.A. § 131(11).

Second: By striking out Sec. 3 in its entirety and inserting in lieu thereof a new Sec. 3 to read:

Sec. 3. EDUCATIONAL OPPORTUNITIES WORKING GROUP

(a) There is created a working group that, in consultation with the James M. Jeffords Center for Policy Research at the University of Vermont (“the Jeffords Center”), shall review and evaluate how Vermont’s current education system allocates financial and other resources in a way that promotes

high quality, equitable educational opportunities for students throughout the state and how impediments to opportunity, such as poverty and substance abuse, may be mitigated. Using a facilitated process, the working group shall identify the data needed to fulfill its charge, the availability of the data, and the process by which it will obtain the data.

(b) The working group shall be composed of:

(1) one member of the house appointed by the speaker of the house;

(2) one member of the senate appointed by the committee on committees;

(3) one member of the administration appointed by the governor; and

(4) three members of the public, one each appointed by the governor, the speaker, and the committee on committees.

(c) The office of legislative council, the joint fiscal office, the office of finance and management, and the departments of education, of information and innovation, and of taxes shall assist the working group to identify the data required for its examination of the issues outlined in this section.

(d) Appointments pursuant to subsection (b) of this section shall be made by June 1, 2012. The office of legislative council shall convene the first meeting of the working group by July 1, 2012, at which meeting the members shall elect a chair and design the facilitated process to guide the group's work.

(e) By December 15, 2012, the working group shall report to the house and senate committees on education its findings and recommendations for the design of further studies and implementation strategies.

(f) The working group may meet no more than six times during the 2012–2013 interim. For attendance at meetings during adjournment of the general assembly, legislative members of the working group shall be entitled to compensation and reimbursement for expenses as provided in 2 V.S.A. § 406. Members of the public shall be reimbursed at the per diem rate set in 32 V.S.A. § 1010.

(g) The working group may spend up to \$30,000.00 of funds appropriated to the legislature for fiscal year 2013 for research services and other assistance from the Jeffords Center as the working group establishes a work plan and conducts its evaluations.

Third: In Sec. 6, in 16 V.S.A. § 570(d)(2) (harassment, hazing, and bullying prevention advisory council), by striking out subdivision (G) in its entirety and inserting in lieu thereof a new subdivision (G) to read:

(G) other members selected by the commissioner, at least one of

whom shall be a current secondary student who has witnessed or experienced harassment, hazing, or bullying in the school environment.

Rep. Johannah Donovan

Rep. Gary Gilbert

Rep. Sarah Buxton

Committee on the part of the House

Sen. Kevin Mullin

Sen. Philip Baruth

Sen. Sara Kittell

Committee on the part of the Senate

NOTICE CALENDAR

Senate Proposal of Amendment

H. 753

An act relating to encouraging school districts and supervisory unions to provide services cooperatively or to consolidate governance structures

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

Sec. 1. Sec. 2 of No. 153 of the Acts of the 2009 Adj. Sess. (2010) is amended to read:

Sec. 2. SCHOOL DISTRICT MERGER INCENTIVE PROGRAM

* * *

~~(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. [Repealed.]~~

* * * Reimbursement; Initial Exploration of Joint Activity * * *

Sec. 2. REIMBURSEMENT OF FEES FOR CONSULTING SERVICES; INITIAL EXPLORATION OF JOINT ACTIVITY; SUPERVISORY UNIONS; SCHOOL DISTRICTS; SUNSET

(a) From the education fund, the commissioner of education shall reimburse up to \$5,000.00 of fees paid by two or more supervisory unions or two or more school districts for facilitation, legal, and other consulting services

necessary for initial exploration of the value of providing services or performing duties jointly, which may include community engagement and lead to the identification of possible joint action, including the provision of shared programming, the operation of a joint contract school, the merger of supervisory unions, or the creation of union school districts pursuant to 16 V.S.A. chapter 11, subchapter 4 or the variations authorized by Secs. 15, 16, and 17 of this act and by No. 153 of the Acts of the 2009 Adj. Sess. (2010).

(b) This section is repealed on July 1, 2017.

* * * Reimbursement; Joint Activity other than Merger * * *

Sec. 3. REPEAL

Sec. 9a of No. 153 of the Acts of the 2009 Adj. Sess. (2010) (\$10,000.00 reimbursement of transitional costs for supervisory unions performing duties jointly) is repealed.

Sec. 4. REIMBURSEMENT OF FEES FOR CONSULTING SERVICES; JOINT ACTIVITY OTHER THAN MERGER; SUPERVISORY UNIONS; SCHOOL DISTRICTS; SUNSET

(a) From the education fund, the commissioner of education shall reimburse up to \$10,000.00 of fees paid by two or more supervisory unions or two or more school districts for:

(1) legal and other consulting services necessary to analyze in detail the advisability of providing services or performing duties jointly that will result in a measurable increase in opportunities for students and a decrease in costs; or

(2) transitional costs necessary to enter into and implement agreements to provide those services or perform those duties jointly; or

(3) both subdivisions (1) and (2) of this subsection.

(b) Each group of supervisory unions or school districts 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 submission to the commissioner of a written statement of the entities' analysis and conclusions, provided that no payment shall cause the total amount paid to exceed the \$10,000.00 limit.

(c) A group of supervisory unions or school districts that receives reimbursement under this section shall not be eligible to receive additional reimbursement under Sec. 5 or 9 of this act for the same proposal.

(d) This section is repealed on July 1, 2017.

* * * Reimbursement and Incentives; Merger of Supervisory Unions * * *

Sec. 5. REIMBURSEMENT OF FEES FOR CONSULTING SERVICES;
MERGER; SUPERVISORY UNIONS; SUNSET

(a) From the education fund, the commissioner of education shall reimburse up to \$20,000.00 of fees paid by two or more supervisory unions for legal and other consulting services necessary to analyze the advisability of the merger into a fewer number of supervisory unions and to prepare a petition to the state board of education requesting adjustment of supervisory union boundaries.

(b) Each group of supervisory unions 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 submission of either a petition to the state board requesting that the boundaries be redrawn or a written statement of the entities' analysis supporting preservation of the current boundaries, provided that no payment shall cause the total amount paid to exceed the \$20,000.00 limit.

(c) Any transition facilitation grant funds paid pursuant to Sec. 6 of this act shall be reduced by the total amount of reimbursement provided under this section.

(d) This section is repealed on July 1, 2017.

Sec. 6. TRANSITION FACILITATION GRANT; MERGER;
SUPERVISORY UNIONS; SUNSET

(a) After state board of education approval of the petition of two or more supervisory unions to merge into a fewer number of supervisory unions, the commissioner of education shall pay to the new supervisory union board or the new group of boards a transition facilitation grant from the education fund of \$150,000.00, less reimbursement funds received under Sec. 5 of this act.

(b) This section is repealed on July 1, 2017.

Sec. 7. APPLICABILITY; RUTLAND-WINDSOR AND WINDSOR
SOUTHWEST SUPERVISORY UNIONS

If on or before July 1, 2012 the state board of education approves the petition of the Rutland-Windsor and Windsor Southwest Supervisory Unions to merge into a single, new supervisory union on or before July 1, 2013, then the new supervisory union shall be eligible to receive:

(1) the transition facilitation grant available under Sec. 6 of this act; and

(2) a one-time grant of \$100,000.00 from the education fund for the purposes of reducing taxes in the affected towns during fiscal year 2014.

Sec. 8. SUPERVISORY UNION SIZE AND STRUCTURE

(a) The secretary of administration or designee, in consultation with the commissioner of education or designee, shall explore the purpose, structure, duties, and authority of supervisory unions and design a revised structure based roughly on existing technical center service regions that results in no more than three supervisory unions within each region. The primary purpose of any design shall be to improve education quality. The secretary shall analyze the feasibility of the revised structure and shall develop a plan of transition. Among other things, the secretary shall:

(1) consider the optimal size of supervisory unions, in terms of geography and numbers of students, technical centers, schools, and school districts served;

(2) consider structural elements, such as:

(A) management models;

(B) staffing, including the most appropriate way to address existing contracts, staff consolidation, and salary equalization;

(C) special education services;

(D) financial and other data collection and management systems;

(E) transportation, including ownership of buses, merger of systems, and consolidation of routes;

(F) supervisory union boards, including structure, selection of members, district representation, and the purpose, authority, and membership of executive committees;

(G) supervisory union budgets, including the manner in which they are adopted and the method by which costs are assessed to the member districts;

(H) ownership of real and personal property;

(I) ability to borrow money; and

(J) alignment of curricula and calendars;

(3) consider ways in which the department and state board of education would support transition to a proposed structure; and

(4) estimate both the financial cost of transitioning to and the potential savings in the proposed structure.

(b) By January 15, 2013, the secretary shall report to the senate and house committees on education on the work required by this section. The secretary shall also provide recommendations for legislative action necessary to

implement its proposed plan.

* * * Reimbursement and Incentives; Merger of School Districts * * *

Sec. 9. REIMBURSEMENT OF FEES FOR CONSULTING SERVICES;
MERGER; SCHOOL DISTRICTS; SUNSET

(a) From the education fund, the commissioner of education shall reimburse up to \$20,000.00 of fees paid by a study committee established under 16 V.S.A. § 706 for legal and other consulting services necessary to analyze the advisability of creating a union school district or a unified union school district and to prepare the report required by 16 V.S.A. § 706b.

(b) 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 submission of the final report pursuant to 16 V.S.A. § 706c, provided that no payment shall cause the total amount paid to exceed the \$20,000.00 limit.

(c) Any transition facilitation grant funds paid to the union school board pursuant to Sec. 11 of this act shall be reduced by the total amount of reimbursement provided under this section.

(d) A regional education district ("RED") receiving incentives pursuant to Sec. 4 of No. 153 of the Acts of the 2009 Adj. Sess. (2010) as amended by this act is not eligible to receive reimbursement under this section.

(e) This section is repealed on July 1, 2017.

Sec. 10. REPEAL

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 and further amended by Sec. 5 of No. 153 of the Acts of the 2009 Adj. Sess. (2010) (\$150,000.00 or five-percent transition aid to merging school districts), is repealed.

Sec. 11. TRANSITION FACILITATION GRANT; MERGER; SCHOOL
DISTRICTS; 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 district a transition facilitation grant from the education fund equal to the lesser of:

(1) five percent of the base education amount established in 16 V.S.A. § 4001(13) multiplied by the greater of either the combined enrollment or the average daily membership of the merging districts on October 1 of the year in which the successful vote is taken; or

(2) \$150,000.00.

(b) A grant awarded under this section shall be reduced by the total amount of reimbursement paid under Sec. 9 of this act.

(c)(1) A RED receiving incentives pursuant to Sec. 4 of No. 153 of the Acts of the 2009 Adj. Sess. (2010) as amended by this act (“Act 153”) is not eligible to receive a grant under this section.

(2) An interstate, union, or unified union school district, including a RED, that expands by merging with one or more additional school districts is not eligible to receive a grant under this section if the original merged district received a transition facilitation grant under this section, Act 153, or 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, as further amended by Sec. 5 of No. 153 of the Acts of the 2009 Adj. Sess. (2010), and as repealed by Sec. 10 of this act.

(d) This section is repealed on July 1, 2017.

Sec. 12. APPLICABILITY; JOINT CONTRACT SCHOOL

A transition facilitation grant pursuant to Sec. 11 of this act shall be paid proportionally based on enrollment to any group of districts if in fiscal year 2012 or 2013 the voters of each district approve the issuance of bonds upon which establishment of a joint contract school is conditioned. The combined enrollment of the grades newly being offered jointly by the contracting districts shall be used to calculate the amount awarded.

* * * Incentives; Regional Education Districts * * *

Sec. 13. Sec. 4 of No. 153 of the Acts of the 2009 Adj. Sess. (2010) is amended to read:

Sec. 4. VOLUNTARY SCHOOL DISTRICT MERGER; INCENTIVES

(a) Equalized homestead property tax rates or RED incentive grant. A RED’s plan of merger shall provide whether, upon merger, the RED shall receive an equalization of its homestead property tax rates during the first four years following merger or an incentive grant during the first year following merger.

(1)(A) Equalized homestead property tax rates. Subject to the provisions of subdivision ~~(2)~~(C) of this subsection subdivision (1) 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)~~(C) 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.

(2) RED incentive grant. During the first year after the effective date of merger, the commissioner of education shall pay to the RED board a RED incentive grant from the education fund equal to \$400.00 per pupil based on the combined enrollment of the participating districts on October 1 of the year in which the successful vote was taken. The grant shall be in addition to funds received under 16 V.S.A. § 4028.

(3) ~~On~~ Common level of appraisal. Regardless of whether a RED chooses to receive an equalization of its homestead property tax rates or a RED incentive grant, 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.

* * *

(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 \$20,000.00 limit. In addition, any transition facilitation grant funds paid to the RED pursuant to ~~Sec. 5 of this act~~ subsection (g) of this section shall be reduced by the total amount of ~~funds provided~~ reimbursement paid under this subsection (e).

* * *

~~(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. Transition facilitation grant.~~

(1) After voter approval of the plan of merger, the commissioner of education shall pay the RED a transition facilitation grant from the education fund equal to the lesser of:

(A) five percent of the base education amount established in 16 V.S.A. § 4001(13) multiplied by the greater of either the combined enrollment or the average daily membership of the merging districts on October 1 of the year in which the successful vote is taken; or

(B) \$150,000.00.

(2) A transition facilitation grant awarded under this subsection (g) shall be reduced by the total amount of reimbursement paid under subsection (e) of this section.

(h) This section is repealed on July 1, 2017.

* * * Interstate School Districts * * *

Sec. 14. Sec. 2(a) of No. 153 of the Acts of the 2009 Adj. Sess. (2010) is amended to read:

(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~~ Sec. 3 of this act by the merger of districts that provide education by paying tuition; and to the Vermont members of any new interstate school district if the Vermont members jointly satisfy the size criterion of Sec. 3(a)(1) of this act and the new, merged district meets all other requirements of Sec. 3 of this act. Incentives shall be available, however, only if the effective date of merger is on or before July 1, 2017.

* * * Other Types of Mergers Eligible for RED Incentives * * *

Sec. 15. TWO OR MORE MERGERS; REGIONAL EDUCATION DISTRICT INCENTIVES

(a) Notwithstanding Sec. 3(a)(1) of No. 153 of the Acts of the 2009 Adj. Sess. (2010) that requires a single regional education district ("RED") to have

an average daily membership of at least 1,250 or result from the merger of at least four districts, or both, two or more new districts shall be eligible jointly for the incentives provided in Sec. 4 of No. 153 if:

(1) each new district is formed by the merger of at least two existing districts;

(2) each new district meets all criteria for RED formation other than the size criterion of Sec. 3(a)(1) of No. 153;

(3) one of the new districts provides education in all elementary and secondary grades by operating one or more schools and the other new district or districts pay tuition for students in one or more grades;

(4) each new district has the same effective date of merger;

(5) the new districts, when merged, are members of one supervisory union; and

(6) the new districts jointly satisfy the size criterion of Sec. 3(a)(1) of No. 153.

(b) This section is repealed on July 1, 2017.

Sec. 16. UNION ELEMENTARY SCHOOL DISTRICTS; REGIONAL EDUCATION DISTRICT INCENTIVES

(a) If a majority of the local elementary school districts in the member towns of an existing union high school district merge to form a union elementary school district pursuant to 16 V.S.A. chapter 11 that operates all grades not offered by the union high school district, then, notwithstanding provisions of No. 153 of the Acts of the 2009 Adj. Sess. (2010) to the contrary, the new union elementary school district is eligible for the incentives provided to a regional education district ("RED") in Sec. 4 of that act, provided that the new district complies with the employment and labor relations provisions of Sec. 4(g) of that act and further provided that the effective date of the merger into the union elementary school district is within the period required for RED formation.

(b) This section is repealed on July 1, 2017.

Sec. 17. MODIFIED UNIFIED UNION SCHOOL DISTRICT

(a) Notwithstanding any provision of law to the contrary:

(1)(A) if all local elementary school districts in the member towns of an existing union high school or union middle school-high school district ("union high school district") vote whether to establish a unified union school district providing prekindergarten or kindergarten through grade 12, and

(B) if a majority but not all of the elementary school districts votes in favor of establishing the unified union school district, then

(2) a new modified union school district (the “modified union school district”) shall be established that shall:

(A) provide to the students residing in the member towns of the union high school district education in those grades provided by the union high school district; and

(B) provide elementary education to the students residing in the current elementary school districts that voted in favor of the unified union school district.

(b) Establishment of the modified union school district shall:

(1) dissolve the union high school district, and any assets or liabilities held by the union high school district shall be transferred to the modified union school district; and

(2) dissolve the elementary school districts that voted in favor of establishing the unified union school district, and any assets or liabilities they hold as individual districts shall be transferred to the modified union school district.

(c) Notwithstanding provisions of No. 153 of the Acts of the 2009 Adj. Sess. (2010) as amended by this act to the contrary, the modified union school district is eligible for the incentives provided to a regional education district (“RED”) in Sec. 4 of that act, provided that the new district complies with the employment and labor relations provisions of Sec. 4(g) of that act and further provided that the effective date of the merger into the modified union school district is within the period required for RED formation.

(d) This section is repealed on July 1, 2017.

* * * Union School Districts Including REDs; Process * * *

Sec. 18. 16 V.S.A. § 706c is amended to read:

§ 706c. CONSIDERATION BY LOCAL SCHOOL DISTRICT BOARDS AND APPROVAL BY STATE BOARD OF EDUCATION

(a) If a study committee prepares a report under section 706b of this chapter, the committee shall transmit the report to the school boards of each school district that participated in the study committee and any other school districts that the report identifies as necessary or advisable to the establishment of the proposed union school district for the review and comment of each school board.

(b) The study committee shall transmit the report to the commissioner who shall submit the report with his or her recommendations to the state board of education. That board after notice to the study committee and after giving the committee an opportunity to be heard shall consider the report and the commissioner's recommendations, and decide whether the formation of such union school district will be for the best interest of the state, the students, and the school districts proposed to be members of the union. The board may request the commissioner and the study committee to make further investigation and may consider any other information deemed by it to be pertinent. If, after due consideration and any further meetings as it may deem necessary, the board finds that the formation of the proposed union school district is in the best interests of the state, the students, and the school districts, it shall approve the report submitted by the committee, together with any amendments, as a final report of the study committee, and shall give notice of its action to the committee. The chair of the study committee shall file a copy of the final report with the town clerk of each proposed member district at least 20 days prior to the vote to establish the union.

Sec. 19. 16 V.S.A. § 706n is amended to read:

§ 706n. AMENDMENTS TO AGREEMENTS REACHED BY ESTABLISHMENT VOTE, ORGANIZATION MEETING, OR FINAL REPORT

(a) ~~Any~~ A specific condition or agreement set forth as a distinct subsection under Article 1 of the warning required by section 706f of this chapter and adopted by the member districts pursuant to section 706f of this chapter at the vote held to establish the union school district, or any amendment subsequently adopted pursuant to the terms of this section, may be amended only at a special or annual union district meeting; provided that the prior approval of the state board of education shall be secured if the proposed amendment concerns reducing the number of grades that the union is to operate. The warning for the meeting shall contain each proposed amendment as a separate article. The vote on each proposed amendment shall be by Australian ballot. Ballots shall be counted in each member district, and the clerks of each member district shall transmit the results of the vote in that district to the union school district clerk. ~~Results~~ Although the results shall be reported to the public by member district; ~~however, no, an~~ amendment is effective ~~unless~~ if approved by a majority of ~~those~~ the electorate of the union district voting at that meeting.

(b) Any decision at the organization meeting may be amended by a majority of those present and voting at a union district meeting duly warned for that purpose.

(c) Any provision of the final report ~~which was not contained in a separate~~

article that was included in the warning required pursuant to section 706f of this chapter for the vote to form the union by reference to or incorporation of the entire report but that was not set forth as a distinct subsection under Article 1 of the warning may be amended by a simple majority vote of the union board of school directors, or by any other majority of the board as is specified for a particular matter in the report.

* * * Special Education; Transition to Employment
by Supervisory Unions * * *

Sec. 20. Sec. 23(b) of No. 153 of the Acts of the 2009 Adj Sess. (2010), as amended by Sec. 1 of No. 30 of the Acts of 2011, is further amended to read:

(b) Secs. 9 through 12 of this act shall take effect on passage and shall be fully implemented on July 1, 2013, subject to the provisions of existing contracts; provided, however, that the special education provisions of Sec. 9, 16 V.S.A. § 261a(a)(6), and the transportation provisions of Sec. 9, 16 V.S.A. § 261a(a)(8)(E), shall be fully implemented on July 1, 2014.

Sec. 21. SUPERVISORY UNION EMPLOYEES; SPECIAL EDUCATION;
WORKING GROUP

(a) On or before July 1, 2012, the commissioner of education or the commissioner's designee shall convene a working group to develop a detailed plan by which supervisory unions shall fully implement, by July 1, 2014, the transition of special education staff employed by school districts to employment by supervisory unions as required by 16 V.S.A. § 261a(a)(6).

(b) The working group shall include department staff and representatives from at least the following constituencies: superintendents; school boards; principals; special educators; a teachers' organization as defined in 16 V.S.A. chapter 57; and business managers.

(c) The working group shall report to the advisory council on special education created by 16 V.S.A. § 2945 and to the house and senate committees on education during the first week of the 2013 and 2014 legislative sessions regarding the progress of the plan required by this section, including a description of the ways in which specific impediments to implementation are being addressed. The working group also shall identify any amendments to statute necessary to achieve implementation by July 1, 2014 of the requirements of 16 V.S.A. § 261a.

* * * Appropriation * * *

Sec. 22. APPROPRIATION

The sum of \$650,000.00 is appropriated from the education fund to be used for

the purposes of this act in fiscal year 2013.

* * * Excess Spending Provisions * * *

Sec. 23. 16 V.S.A. § 4001(6)(B) is amended to read:

(B) For purposes of calculating excess spending pursuant to 32 V.S.A. § 5401(12), “education spending” shall not include:

* * *

(viii) Tuition paid by a district that does not operate a school and pays tuition for all resident students in kindergarten through grade 12, except in a district in which the electorate has authorized payment of an amount higher than the statutory rate pursuant to subsection 823(b) or 824(c) of this title.

Sec. 23a. 16 V.S.A. § 4001(6)(B)(ix) is added to read:

(ix) For a regional education district formed pursuant to the provisions of Sec. 3 of No. 153 of the Acts of the 2009 Adj. Sess. (2010), as amended from time to time, that provides for the education of resident pupils in one or more grades by paying tuition and does not maintain a school that includes that grade or grades:

(I) a budget deficit under the terms set forth in subdivision (vi) of this subdivision (6)(B); or

(II) unexpected tuition costs under the terms set forth in subdivision (vii) of this subdivision (6)(B).

* * * Vermont Municipal Employees’ Retirement System; Special Education Instructional Assistants and Transportation Employees; Transfer to Supervisory Union * * *

Sec. 24. 24 V.S.A. § 5051(10) and (11) are amended to read:

(10) “Employee” means the following persons employed on a regular basis by a school district or by a supervisory union for not less no fewer than 1,040 hours in a year and for not less no fewer than 30 hours a week for the school year, as defined in section 1071 of Title 16 V.S.A. § 1071, or for not less no fewer than 1,040 hours in a year and for not less no fewer than 24 hours a week year-round; provided, however, that if a person who was employed on a regular basis by a school district as either a special education or transportation employee and who was transferred to and is working in a supervisory union in the same capacity pursuant to 16 V.S.A. § 261a(a)(6) or (8)(E) and if that person is also employed on a regular basis by a school district within the supervisory union, then the person is an “employee” if these criteria are met by the combined hours worked for the supervisory union and school

district. The term shall also mean persons employed on a regular basis by a municipality other than a school district for ~~not less~~ no fewer than 1,040 hours in a year and for ~~not less~~ no fewer than 24 hours per week, including persons employed in a library at least ~~half~~ one-half of whose operating expenses are met by municipal funding:

* * *

(11) “Employer” means a municipality ~~or~~, a library at least ~~half~~ one-half of whose operating expenses are paid from municipal funds, or a supervisory union.

Sec. 25. 24 V.S.A. § 5053a is added to read:

§ 5053a. EMPLOYEES OF A SUPERVISORY UNION

(a) For purposes of this section, the term “transferred employee” means an employee under this chapter who transitioned from employment solely by a school district to employment, wholly or in part, by a supervisory union pursuant to 16 V.S.A. § 261a(a)(6) or (8)(E) as amended on June 3, 2010.

(b) A transferred employee from a participating school district shall remain an employee of the school district solely for the purpose of employer participation and employee membership in the system regardless of whether the supervisory union is a participant in the system on the date of transition. The membership and benefits of the transferred employee shall not be impaired or reduced by either negotiations with the supervisory union or school district under 21 V.S.A. chapter 22 or otherwise.

(c) If a supervisory union is a participant in the system on the date of transition, then:

(1) a transferred employee from a nonparticipating district shall not become a member of the system unless, through negotiations with the supervisory union under 21 V.S.A. chapter 22, the supervisory union becomes a participant in the system on the employee’s behalf;

(2) an existing employee of the supervisory union on the date of transition shall be a member to the extent the supervisory union is or becomes a participant in the system on the employee’s behalf; and

(3) a new employee of the supervisory union after the date of transition shall be a member to the extent the supervisory union is or becomes a participant in the system on the employee’s behalf.

(d) If a supervisory union is not a participant in the system on the date of transition, then:

(1) a transferred employee from a nonparticipating district shall not be a

member of the system unless, through negotiations with the supervisory union under 21 V.S.A. chapter 22, the supervisory union becomes a participant in the system on the employee's behalf;

(2) an existing employee of the supervisory union on the date of transition shall not be a member of the system unless, through negotiations with the supervisory union under 21 V.S.A. chapter 22, the supervisory union becomes a participant in the system on the employee's behalf; and

(3) a new employee of the supervisory union after the date of transition shall not be a member of the system unless, through negotiations with the supervisory union under 21 V.S.A. chapter 22, the supervisory union becomes a participant in the system on the employee's behalf.

Sec. 26. TRANSITION; NEWLY MERGED DISTRICTS

(a) If two or more districts merge to form a union school district pursuant to 16 V.S.A. chapter 11, subchapter 4, or a regional education district pursuant to No. 153 of the Acts of the 2009 Adj. Sess. (2010) ("the new district") prior to the date on which employees covered by the municipal employees' retirement system provisions of 24 V.S.A. chapter 125 ("the system") transitioned from employment solely by a school district to employment, wholly or in part, by a supervisory union pursuant to 16 V.S.A. § 261a(a)(6) or (8)(E) as amended on June 3, 2010 ("the transition date"), then:

(1) on the first day of merger, the new district shall be a participant in the system on behalf of:

(A) an employee from a school district that merged to form the new district if the merging district was a participant in the system prior to merger; and

(B) a new employee hired by the new district after the effective date of merger into a job classification for which the new district is a participant in the system, if any;

(2) an employee from a school district that was not a participant in the system prior to merger shall not be a member of the system unless, through negotiations with the new district under 21 V.S.A. chapter 22, the new district becomes a participant in the system on the employee's behalf.

(b) If a new district is formed after the transition date, then the new district shall assume the responsibilities of any one or more of the merging districts that participate in the system; provided, however, that this subsection shall not be construed to extend benefits to an employee who would not otherwise be a member of the system under any other provision of law.

(c) The existing membership and benefits of an employee shall not be

impaired or reduced either by negotiations with the new district under 21 V.S.A. chapter 22 or otherwise.

(d) In addition to general responsibility for the operation of the Vermont municipal employees' retirement system pursuant to 24 V.S.A. § 5062(a), the responsibility for implementation of all sections of this act relating to the system is vested in the retirement board.

Sec. 26a. 16 V.S.A. § 1982 is amended to read:

§ 1982. RIGHTS

(a) Teachers shall have the right to or not to join, assist, or participate in any teachers' organization of their choosing. However, teachers ~~may be required to pay an agency fee~~ who choose not to join the teachers' organization, recognized pursuant to an agreement negotiated under section 1992 of this chapter as the exclusive representative, shall pay an agency fee in the same manner as teachers who choose to join the teachers' organization pay membership fees.

(b) Principals, assistant principals, and administrators other than superintendent and assistant superintendent shall have the right to or not to join, assist, or participate in any administrators' organization or as a separate unit of any teachers' organization of their choosing. However, administrators other than the superintendent and assistant superintendent ~~may be required to pay an agency fee~~ who choose not to join the administrators' organization, recognized pursuant to an agreement negotiated under section 1992 of this chapter as the exclusive representative, shall pay an agency fee in the same manner as administrators who choose to join the administrators' organization pay membership fees.

(c) Neither the school board nor any employee of the school board serving in any capacity, nor any other person or organization shall interfere with, restrain, coerce, or discriminate in any way against or for any teacher or administrator engaged in activities protected by this legislation.

Sec. 26b. 21 V.S.A. § 1726 is amended to read:

§ 1726. UNFAIR LABOR PRACTICES

(a) It shall be an unfair labor practice for an employer:

* * *

(8) Nothing in this chapter or any other statute of this state shall preclude a municipal employer from making an agreement with the exclusive bargaining agent ~~to require an agency service fee to be paid as a condition of employment, or to require as a condition of employment membership in such~~

employee organization on or after the 30th day following the beginning of such employment or the effective date of such agreement, whichever is the later. Absent such an agreement, an employee who does not become a member of the employee organization shall, in the same manner as employees who choose to join the employee organization pay membership fees, pay an agency service fee to that organization. No municipal employer shall discharge or discriminate against any employee for nonpayment of an agency service fee or for nonmembership in an employee organization:

(A) If the employer has reasonable grounds for believing that membership was not available to the employee on the same terms and conditions generally applicable to other members; or

(B) If the employer has reasonable grounds for believing that membership was denied or terminated for reasons other than the failure of the employee to tender the periodic dues and the initiation fees uniformly required as a condition of acquiring or retaining membership.

(b) It shall be an unfair labor practice for an employee organization or its agents:

* * *

(6) To require employees covered by an agency service fee ~~agreement~~ requirement or other union security agreement authorized under subsection (a) of this section to pay an initiation fee which the board finds excessive or discriminatory under all the circumstances, including the practices and customs of employee organizations representing municipal employees, and the wages paid to the employees affected.

* * *

(12) To charge an agency service fee unless the employee organization has established and maintained a procedure to provide nonmembers with all the following:

(A) An audited financial statement that identifies the major categories of expenses and divides them into chargeable and nonchargeable expenses.

(B) An opportunity to object to the amount of the fee requested and to place in escrow any amount reasonably in dispute.

(C) Prompt arbitration by an arbitrator selected jointly by the objecting fee payer and the labor organization or pursuant to the rules of the American Arbitration Association to resolve any objection over the amount of the agency service fee.

* * * Effective Dates * * *

Sec. 27. EFFECTIVE DATES

(a) This section and Secs. 7, 8, 12, 24, 25, and 26 of this act shall take effect on passage.

(b) All other sections of this act shall take effect on July 1, 2012.

(For text see House Journal 2/21/2012 and 2/22/2012)

Amendment to be offered by Rep. Scheuermann of Stowe to H. 753

Rep. Scheuermann of Stowe moves that the Senate proposal of amendment be further amended by striking out Secs. 26a and 26b in their entirety

Amendment to be offered by Rep. Olsen of Jamaica to H. 753

Representative Olsen of Jamaica moves that the Senate proposal of amendment be further amended after Sec. 26b, by adding a new section to be Sec. 26c to read:

Sec. 26c. AGENCY FEES; APPLICABILITY

The amendments to 16 V.S.A. § 1982(a) and (b) and 21 V.S.A. § 1726(a)(8) made by Secs. 26a and 26b of this act that require certain individuals who are not members of a union to pay agency fees shall not apply to any individual to whom the amendments would otherwise apply if, on the day preceding the effective date of Secs. 26a and 26b, the individual was employed in the same capacity and was not a member of the applicable union.

Amendment to be offered by Rep. Olsen of Jamaica to H. 753

Representative Olsen of Jamaica moves that the Senate proposal of amendment be further amended as follows:

First: In Sec. 26a, 16 V.S.A. § 1982, in subsection (a), before the final period, by inserting the following:

; provided, however, that a teacher shall be exempt from this requirement in any year in which the teacher's annual compensation is less than:

(1) 50 percent of the total annual compensation of the highest paid employee or officer of the state teacher's union; or

(2) 10 percent of the total annual compensation of the highest paid employee or officer of the national affiliate of the state teacher's union

Second: In Sec. 26a, 16 V.S.A. § 1982, in subsection (b), before the final period, by inserting the following:

; provided, however, that an administrator shall be exempt from this requirement in any year in which the administrator's annual compensation is

less than:

(1) 50 percent of the total annual compensation of the highest paid employee or officer of the state administrator's union; or

(2) 10 percent of the total annual compensation of the highest paid employee or officer of the national affiliate of the state administrator's union

Third: In Sec. 26b, 21 V.S.A. § 1726(a), in subdivision (8), in the second sentence, before the final period, by inserting the following:

; provided, however, that an employee shall be exempt from this requirement in any year in which the employee's annual compensation is less than:

(1) 50 percent of the total annual compensation of the highest paid employee or officer of the state office of the appropriate employee's union; or

(2) 10 percent of the total annual compensation of the highest paid employee or officer of the national affiliate of the appropriate employee's union

Amendment to be offered by Rep. Olsen of Jamaica et al to H. 753

Representatives Olsen of Jamaica, Degree of St. Albans City, Branagan of Georgia and Donahue of Northfield movs that the Senate proposal of amendment be further amended as follows:

First: In Sec. 26a, 16 V.S.A. § 1982, in subsection (a), before the final period, by inserting the following:

; provided, however, that a teacher shall be exempt from this requirement in any year in which he or she claims a philosophical objection to the payment of agency fees

Second: In Sec. 26a, 16 V.S.A. § 1982, in subsection (b), before the final period, by inserting the following:

; provided, however, that an administrator shall be exempt from this requirement in any year in which he or she claims a philosophical objection to the payment of agency fees

Third: In Sec. 26b, 21 V.S.A. § 1726(a), in subdivision (8), in the second sentence, before the final period, by inserting the following:

; provided, however, that an employee shall be exempt from this requirement in any year in which he or she claims a philosophical objection to the payment of agency fees

Amendment to be offered by Rep. Bouchard of Colchester to H. 753

Rep. Bouchard of Colchester moves that the Senate proposal of amendment be further amended as follows:

First: In Sec. 26a, 16 V.S.A. § 1982, in subsection (a), before the final period, by inserting the following:

; provided, however, that a teacher shall be exempt from this requirement in any year in which fewer than 75 percent of the eligible teachers are members of the local bargaining unit

Second: In Sec. 26a, 16 V.S.A. § 1982, in subsection (b), before the final period, by inserting the following:

; provided, however, that an administrator shall be exempt from this requirement in any year in which fewer than 75 percent of the eligible administrators are members of the local bargaining unit

Third: In Sec. 26b, 21 V.S.A. § 1726(a), in subdivision (8), in the second sentence, before the final period, by inserting the following:

; provided, however, that an employee shall be exempt from this requirement in any year in which fewer than 75 percent of the eligible employees are members of the local bargaining unit

Amendment to be offered by Rep. Greshin of Warren to H. 753

Representative Greshin of Warren moves that the bill be further amended after Sec. 26b by inserting an additional section to be Sec. 26c to read:

Sec. 26c. INTENT

It is the intent of the general assembly that the payment of agency fees as required by Secs. 26a and 26b of this act shall not result in a budget increase for the applicable representative organization but shall instead be used primarily to moderate the amount of fees paid by individual members and nonmembers to the organization.

H. 766

An act relating to the national guard

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

Sec. 1. The Office of the Adjutant General is directed to report by January 15, 2013 to the senate committees on judiciary and government operations and to the house committees on judiciary and general and military affairs on recommendations for statutory changes regarding discipline of enlisted

personnel in the Vermont National Guard. The report shall present the various offenses that have resulted in discharges from the Vermont National Guard during the last five (5) or more years, and shall be presented in such form as to not cause to be revealed the identity of the enlisted personnel. The report shall also contain a detailed comparison of other states which have elected to make or not make similar changes, and any other information the Office of the Adjutant General believes to be relevant.

Sec. 2. 20 V.S.A. § 369 is added to read:

§ 369. AWARDS AND MEDALS

Upon the approval of the governor, the adjutant general may, from time to time, create and design such awards and medals to recognize meritorious service or outstanding achievement for members of the Vermont National Guard. The adjutant general will cause to be published a roster of these awards and medals, the criteria and process for awarding them, and a description or specification of the award and medals. All awards and medals will be presented in the name of the state of Vermont and be awarded to a member or retired member of the Vermont National Guard or if the member is deceased to the member's spouse, child, parent, sibling, or grandchild or, if none, to a person designated by the executor of the estate.

Sec. 3. 20 V.S.A. § 603 is amended to read:

§ 603. ARMS AND EQUIPMENT; PAY AND RATIONS

When the national guard, or part thereof, is ordered out under the provisions of section 366, 601, or 602 of this title, the state shall furnish arms and equipment necessary for each officer, warrant officer, and enlisted person; and they shall be entitled to ~~pay and rations~~ pay, subsistence, and quarters allowance equivalent to that paid to members of the armed forces of the United States for officers, warrant officers, and enlisted persons of corresponding grade and time in service as designated in the U.S. pay tables.

Sec. 4. 20 V.S.A. § 608 is added to read:

§ 608. CIVILIAN LEAVE OPTION

If any member of the Vermont national guard is ordered to state active duty by the governor, the service member shall have the right to take leave without pay from his or her civilian employment. No member of the national guard shall be required to use or exhaust his or her vacation or other accrued leave from his or her civilian employment for a period of active service.

Sec. 5. 20 V.S.A. § 609 is added to read:

§ 609. STAY OF LEGAL PROCEEDINGS BECAUSE OF SERVICE IN

NATIONAL GUARD

(a)(1) If a service member of the Vermont National Guard who is ordered to state active duty by the governor is a party to a civil or administrative proceeding in any Vermont court, the proceeding:

(A) may be stayed by the court on its own motion; or

(B) shall be stayed by application of the member or person acting on behalf of the member, unless the court finds that the proceeding would not be materially affected by reason of the member's absence or that the member can participate by telephone or other electronic means.

(2) A motion for a stay under this subsection may be filed or the court may issue such a stay at any time during the period of active service. Any stay issued shall not remain in effect for more than 30 days after the completion of state active duty.

(b) An application for a stay pursuant to subdivision (a)(1)(B) of this section shall include a letter or other communication from the member or a person on his or her behalf setting forth facts stating the manner in which the member's duty requirements materially affect the member's ability to appear and stating a date when the member is expected to be available to appear, together with any information from the member's commanding officer.

(c)(1) This section shall not apply to:

(A) proceedings involving relief from abuse orders under 15 V.S.A. chapter 21, subchapter 1;

(B) proceedings involving orders against stalking or sexual assault under 12 V.S.A. chapter 178;

(C) proceedings involving abuse prevention orders for vulnerable adults under 33 V.S.A. chapter 69, subchapter 1; or

(D) civil operator's license suspension proceedings under 23 V.S.A. § 1205.

(2) If a service member is unable to appear at a hearing due to responsibilities related to state active duty service, the court may issue interim or ex parte orders in proceedings identified in subdivision (A), (B), or (C) of this subsection, and the department of motor vehicles may suspend a civil operator's license. If the court issued any order while the member was on state active duty, upon the member's return, he or she shall, upon request, be entitled to a hearing and the opportunity to move to strike or modify the order or suspension issued in his or her absence. If the civil operator's license is reinstated, there shall be no reinstatement fee.

Sec. 5a. 12 V.S.A. § 553 is amended to read:

§ 553. MEMBER OF ARMED SERVICES; TOLLING STATUTE OF LIMITATIONS

When an inhabitant of this state is in the military or naval service of the United States; or is a member of the Vermont National Guard and has been ordered to state active duty and, at the time of entering such service or duty, had a cause of action against another person, or another person had a cause of action against him or her, the time spent in such military or naval service out of this state or the time spent in state active duty shall not be taken as part of the time limited for the bringing of an action by or against him or her founded on such causes. The limitation period for a cause of action shall be tolled during the duration of the person's out of state military or naval service, or state active duty service, plus an additional 60 days.

Sec. 6. 21 V.S.A. § 492 is amended to read:

§ 492. RIGHTS AND BENEFITS

* * *

(c)(1) If any member of the Vermont National Guard with civilian employer-sponsored insurance coverage is ordered to state active duty by the governor for up to 30 days, the service member may, at the member's option, continue his or her civilian health insurance under the same terms and conditions as were in effect for the month preceding the member's call to state active duty, including a continuation of the same levels of employer and employee contributions toward premiums and cost-sharing.

(2) If a member of the Vermont National Guard is called to state active duty for more than 30 days, the member may continue his or her civilian health insurance. For a member whose employer chooses not to continue regular contributions toward premiums and cost-sharing during the period of the member's state active duty in excess of 30 days, the state of Vermont shall be responsible for paying the employer's share of the premium and cost-sharing.

(3) The office of the adjutant general shall administer this subsection and may adopt policies, procedures, and guidelines to carry out the purposes of this subsection, including developing employee notice requirements, enforcement provisions, and a process for the state to remit the employer's share of premiums and cost-sharing to the appropriate entities pursuant to subdivision (2) of this subsection.

Sec. 7. 16 V.S.A. § 2537 is amended to read:

§ 2537. ARMED SERVICES SCHOLARSHIPS

* * *

(b) Definitions:

(1) "Vermont National ~~guard~~ Guard" as used in this section will be deemed to include Vermont army national guard and Vermont air national guard.

(2) "Active duty for ~~national guard~~ Vermont National Guard and for active reserve forces" means full-time duty in the active military service of the United States and includes full-time training duty, annual training duty, and attendance, while in the active military service, at a school designated as a service school by law or by the Secretary of the military department concerned.

(3) "Inactive duty" means training performed by members of a reserve component while not on active duty and includes unit training assemblies, training periods, military flight periods and other equivalent duty and while on state duty on order of the governor or the governor's representative.

(4) "Armed forces of the United States" means the Army, Navy, Air Force, Marine Corps, and Coast Guard.

(5) "Child" means a natural or adoptive child of a member of the Vermont National Guard or armed forces, and includes a stepchild.

Sec. 8. 16 V.S.A. § 2856 is amended to read:

§ 2856. EDUCATIONAL ASSISTANCE; INTEREST FREE LOANS

(a) An active member of the Vermont ~~army national guard or the air national guard~~ National Guard may be eligible for an interest-free loan in an academic year for financial assistance to pay for tuition and fees for courses taken at a Vermont college, university, regional technical center, or other programs approved pursuant to policies adopted in accordance with subsection (f) of this section. ~~Academic year awards may be up to the in-state tuition rate at the University of Vermont for that year.~~

(b) To be eligible for an educational loan under this section, a person shall:

(1) be an active member in good standing of a ~~federally recognized~~ federally recognized unit of the Vermont ~~army national guard or air national guard~~ National Guard;

(2) have successfully completed basic training or commissioning; and

(3) ~~not hold a baccalaureate degree or higher; and~~

(4) be enrolled in a program that leads to a postsecondary degree, diploma or be studying for relevant continuing education purposes.

(c) A loan made under this section shall be interest free and may be partially or completely cancelled and forgiven for a person who:

(1) submits certification that the person has successfully completed the course; and

(2) submits certification that the person has completed two years of national guard service for each full academic year award. Service requirements for less than a full academic year award shall be proportionate to the amount of the award. The board shall determine the amount of loan to be cancelled for each completed year of service. The amount cancelled for each year of service shall not exceed 50 percent of the loan.

(d) The adjutant general shall provide ~~a certificate~~ documentation of eligibility ~~to each person who has been found to be eligible~~ for educational assistance under this section for each academic period. ~~The certificate shall be valid for one academic year.~~

(e) ~~A person shall not be eligible for educational assistance under this section for any courses taken after he or she has been awarded a baccalaureate degree or is no longer an active member in good standing of the Vermont army national guard or the air national guard~~ The loan of a person who loses eligibility under this section while enrolled in a course shall go into repayment pursuant to the terms of the loan, and the person shall be ineligible for further assistance under this section until the loan is repaid in full.

(f) The board, in consultation with the office of the adjutant general, shall adopt ~~rules policies, procedures, and guidelines~~ necessary to implement the provisions of this section, which shall include application requirements, annual loan requirements, loan forgiveness requirements, and annual loan amounts based on available funds. ~~Rules~~ The policies, procedures, and guidelines shall include definitions of “successful completion of a course,” “relevant continuing education courses” and what constitutes an “academic year.” Rules adopted by the Vermont ~~state colleges~~ State Colleges under section 2183 of this title, prior to its repeal, shall remain valid under this section and shall be administered by the corporation.

(g) [Repealed.]

(h) The availability of loans made under this subchapter is subject to funds appropriated to the Vermont ~~army or air national guard~~ National Guard for that purpose.

and that after passage the title of the bill be amended to read: “An act relating to the rehabilitation of Vermont National Guard members and certain rights and responsibilities of guard members and their employers”

(No House Amendments)

Senate Proposal of Amendment to House Proposal of Amendment

S. 138

An act relating to calculation of criminal sentences and record keeping for search warrants

The Senate concurs in the House proposal of amendment by adding Secs. 8-10 to read as follows:

Sec. 8. 18 V.S.A. § 4284 is amended to read:

§ 4284. PROTECTION AND DISCLOSURE OF INFORMATION

(a) The data collected pursuant to this chapter and all related information and records shall be confidential, except as provided in this chapter, and shall not be subject to public records law. The department shall maintain procedures to protect patient privacy, ensure the confidentiality of patient information collected, recorded, transmitted, and maintained, and ensure that information is not disclosed to any person except as provided in this section.

(b) The department shall ~~be authorized to~~ provide data to only the following persons:

* * *

(h) All information and correspondence relating to the disclosure of information by the commissioner to a patient's health care provider pursuant to subdivision (b)(2) of this section shall be confidential and privileged, exempt from the public access to records law, immune from subpoena or other disclosure, and not subject to discovery or introduction into evidence.

Sec. 9. 18 V.S.A. § 4289 is added to read:

§ 4289. STANDARDS AND GUIDELINES FOR HEALTH CARE PROVIDERS AND DISPENSERS

(a) Each professional licensing authority for health care providers shall develop evidence-based standards to guide health care providers in the appropriate prescription of Schedules II, III, and IV controlled substances for treatment of chronic pain and for other medical conditions to be determined by the licensing authority.

(b)(1) Each health care provider who prescribes any Schedule II, III, or IV controlled substances shall register with the VPMS.

(2) If the VPMS shows that a patient has filled a prescription for a controlled substance written by a health care provider who is not a registered

user of VPMS, the commissioner of health shall notify such provider by mail of the provider's registration requirement pursuant to subdivision (1) of this subsection.

(3) The commissioner of health shall develop additional procedures to ensure that all health care providers who prescribe controlled substances are registered in compliance with subdivision (1) of this subsection.

(c) Each dispenser who dispenses any Schedule II, III, or IV controlled substances shall register with the VPMS.

(d)(1) Each professional licensing authority for health care providers and dispensers authorized to prescribe or dispense Schedules II, III, and IV controlled substances shall adopt standards regarding the frequency and circumstances under which their respective licensees shall query the VPMS.

(2) Each professional licensing authority for dispensers shall adopt standards regarding the frequency and circumstances under which its licensees shall report to the VPMS, which shall be no less than once every seven days.

(3) Each professional licensing authority for health care providers and dispensers shall consider the standards adopted pursuant to this section in disciplinary proceedings when determining whether a licensee has complied with the applicable standard of care.

Sec. 10. EFFECTIVE DATES

(a) Sec. 9 (18 V.S.A. § 4289; standards and guidelines) of this act shall take effect on October 1, 2012.

(b) The remaining sections of this act shall take effect on July 1, 2012.

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

An act relating to calculation of criminal sentences and possession and control of regulated drugs.

(For House Proposal of Amendment see House Journal 4/27/2012 and 4/28/2012 Page 0)

Amendment to be offered by Rep. Lippert of Hinesburg to S. 138

Representatives Lippert of Hinesburg, Burditt of West Rutland, Pugh of South Burlington and Trieber of Rockingham move that the House concur with the Senate proposal of amendment to the House proposal of amendment with further amendment by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 7 V.S.A. § 61 is amended to read:

§ 61. RESTRICTIONS; EXCEPTIONS

A person, partnership, association, or corporation shall not furnish or sell, or expose or keep with intent to sell, any malt or vinous beverage, or spirits, or manufacture, sell, barter, transport, import, export, deliver, prescribe, furnish, or possess any alcohol, except as authorized by this title. However, this chapter shall not apply to the furnishing of such beverages or spirits by a person in his or her private dwelling, ~~unless to an habitual drunkard, or unless~~ such dwelling becomes a place of public resort, nor to the sale of fermented cider by the barrel or cask of not less than 32 liquid gallons capacity, provided the same is delivered and removed from the vendor's premises in such barrel or cask at the time of such sale, nor to the use of sacramental wine, nor to the furnishing, purchase, sale, barter, transportation, importation, exportation, delivery, prescription, or possession of alcohol for manufacturing, mechanical, medicinal, and scientific purposes, provided the same is done under and in accordance with rules and regulations made and permits issued by the liquor control board as hereinafter provided, nor to the furnishing of such beverages or spirits by the Vermont criminal justice training council to drinking subjects during DUI enforcement courses of instruction at the Vermont police academy.

Sec. 2. 13 V.S.A. § 7031 is amended to read:

§ 7031. FORM OF SENTENCES; MAXIMUM AND MINIMUM TERMS

(a) When a respondent is sentenced to any term of imprisonment, other than for life, the court imposing the sentence shall not fix the term of imprisonment, unless such term is definitely fixed by statute, but shall establish a maximum and may establish a minimum term for which such respondent may be held in imprisonment. The maximum term shall not be more than the longest term fixed by law for the offense of which the respondent is convicted and the minimum term shall be not less than the shortest term fixed by law for such offense. If the court suspends a portion of said sentence, the unsuspended portion of such sentence shall be the minimum term of sentence solely for the purpose of any reductions of term for good behavior as provided for in 28 V.S.A. § 811. A sentence shall not be considered fixed as long as the maximum and minimum terms are not identical.

(b) The sentence of imprisonment of any person convicted of an offense shall commence to run from the date on which the person is received at the correctional facility for service of the sentence. The court shall give the person credit toward service of his or her sentence for any days spent in custody ~~in connection with the offense for which sentence was imposed~~ as follows:

(1) The period of credit for concurrent and consecutive sentences shall

include all days served from the date of arraignment or the date of the earliest detention for the offense, whichever occurs first, and end on the date of the sentencing. Only a single credit shall be awarded in cases of consecutive sentences, and no credit for one period of time shall be applied to a later period.

(2) In sentencing a violation of probation, the court shall give the person credit for any days spent in custody from the time the violation is filed or the person is detained on the violation, whichever occurs first, until the violation is sentenced. In a case in which probation is revoked and the person is ordered to serve the underlying sentence, the person shall receive credit for all time previously served in connection with the offense.

(c) If any such person is committed to a jail or other place of detention to await transportation to the place at which his or her sentence is to be served, his or her sentence shall commence to run from the date on which he or she is received at such jail or such place of detention.

(d) A person who receives a zero minimum sentence for a conviction of a nonviolent misdemeanor or nonviolent felony as defined in 28 V.S.A. § 301 shall report to probation and parole as directed by the court and begin to serve the sentence in the community immediately, unless the person is serving a prior sentence at such time.

Sec. 3. 13 V.S.A. § 7032(c) is amended to read:

(c) In all cases where multiple or additional sentences have been or are imposed, the term or terms of imprisonment under those sentences shall be determined in accordance with the following definitions.

(1) When terms run concurrently, the shorter minimum terms merge in and are satisfied by serving the longest minimum and the shorter maximum terms merge in and are satisfied by discharge of the longest maximum term.

(2) When terms run consecutively, the minimum terms are added to arrive at an aggregate minimum to be served equal to the sum of all minimum terms and the maximum terms are added to arrive at an aggregate maximum equal to the sum of all maximum terms. No person shall serve more time on consecutive minimum sentences than the sum of the minimum terms, regardless of whether the sentences are imposed on the same or different dates. If a person has served a minimum term and subsequently incurs another criminal charge, the time the person spends in custody awaiting disposition of the new charge shall count toward the minimum term of the new sentence, if one is imposed. This subdivision shall not require the department of corrections to release a person from incarceration to community supervision at the person's minimum term.

Sec. 4. 18 V.S.A. § 4216 is amended to read:

§ 4216. AUTHORIZED POSSESSION BY INDIVIDUALS

(a) A person to whom or for whose use any regulated drug has been prescribed, sold or dispensed, and the owner of any animal for which any such drug has been prescribed, sold or dispensed, may lawfully possess the same on the condition that such drug was prescribed, sold or dispensed by a physician, dentist, pharmacist, or veterinarian licensed under this chapter or under the laws of another state or country wherein such person has his or her practice; ~~and further that all.~~

(b)(1) Except as otherwise provided in subdivision (2) of this subsection, all amounts of the drug are shall be retained in the lawful container in which it was delivered to him the patient by the person selling or dispensing the same; provided however, that for the purposes of this section an amount of regulated drugs of not more than two days' individual prescribed dosage may be possessed by a patient for his personal use.

(2) A patient may possess an amount of regulated drugs of not more than seven days' individual prescribed dosage, for personal use, which shall not be required to be retained in its lawful container. A patient may possess an amount of regulated drugs of more than seven days' individual prescribed dosage, for personal use, which shall not be required to be retained in its lawful container, provided the patient personally possesses proof of a lawful, written prescription.

Sec. 5. 28 V.S.A. § 808a(a) is amended to read:

(a) ~~An~~ When recommended by the department and ordered by the court, an offender may be sentenced to serve a term of imprisonment, but placed by a court on treatment 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.

Sec. 6. FEASIBILITY STUDY FOR A STATEWIDE ONLINE SENTENCING TOOL

(a) The general assembly established the Nonviolent Misdemeanor Sentence Review Committee (committee) in No. 41 of the Acts of 2011, an act relating to effective strategies to reduce criminal recidivism, to propose alternatives to incarceration for nonviolent, low-risk misdemeanor offenses. In its report, the committee expressed concern regarding "the varying degrees of justice meted out by the different counties in Vermont" and concluded that "any efforts to reduce recidivism and increase alternatives to incarceration must foster statewide equity in treatment of those charged or convicted with a

criminal offense.”

(b) The committee believes that judicial discretion is the cornerstone of sentencing in Vermont courts and that sentencing is at its best when the decision-makers have accurate and timely information about the offender, the offenses, and the options available for sentencing.

(c) Evidence-based practice research suggests that sentencing of criminal defendants should be based on the seriousness of the offense, risk, and probability of recidivism. Criminal sentencing that is based on these three principles is more likely to protect the public, reduce recidivism, and reduce costs than sentencing practices that are based on anecdotal experience.

(d) The committee took testimony on a new sentencing tool developed by the Missouri Sentencing Advisory Commission which employs these principles and which is available electronically to judges, attorneys, and other people involved in Missouri’s criminal justice system. According to the commission, the “goal of the system is to ensure sentencing that is fair, protects the public, uses corrections resources wisely, and reduces sentence disparity.”

(e) There is created a sentencing task force for the purpose of conducting a feasibility study to determine whether a set of sentencing data based on the seriousness of the offense, risk, and probability of recidivism can be developed and implemented in Vermont. The task force shall comprise the following members:

(1) A member of the senate committee on judiciary appointed by the committee on committees.

(2) A member of the house committee on judiciary appointed by the speaker of the house.

(3) A judge appointed by the chief justice of the Vermont supreme court.

(4) The commissioner of corrections.

(5) A state’s attorney appointed by the executive committee of the department of state’s attorneys.

(6) The defender general.

(f) The Vermont Center for Justice Research, the state’s criminal justice statistical analysis center, has been involved with the analysis of criminal sentencing data in Vermont for the past 20 years. At the direction of the task force, the center shall undertake the statistical analysis necessary to develop the policy decisions required for the sentencing matrices which are the

foundation of the project. The pilot analysis shall focus on five to ten felony or misdemeanor crimes prosecuted in Vermont during a two-year period. The center shall evaluate the availability and quality of data which would be required to generate sentencing information similar to those used in the Missouri model.

(g) The task force shall report the sentencing information for the crimes selected for the feasibility study along with a report with recommendations regarding the feasibility of a Vermont online sentencing tool to the senate and house committees on judiciary by March 15, 2013.

(h) The secretary of administration shall seek sources of grants and funding in fiscal year 2013 for the purpose of aiding the sentencing task force with a feasibility study to determine whether a set of sentencing data based on the seriousness of the offense, risk, and probability of recidivism can be developed and implemented in Vermont. The cost is currently estimated to be \$33,600.00.

Sec. 7. Sec. 4 of No. 41 of the Acts of 2011 is amended to read:

Sec. 4. NONVIOLENT MISDEMEANOR SENTENCE REVIEW
COMMITTEE

(a) Creation of committee. There is created a nonviolent misdemeanor sentence review committee to propose alternatives to incarceration for nonviolent, low-risk misdemeanor offenses and to study whether records produced by public agencies in the course of the detection and investigation of crime should be open to public inspection or confidential.

(b) Membership. The committee shall be composed of the following members:

(1) a former member of either the house committee on judiciary or the senate committee on judiciary appointed jointly by the speaker of the house and the senate ~~committee on committees~~ president pro tempore;

(2) the chair of the senate committee on judiciary;

(3) the chair of the house committee on judiciary;

(4) a member of the senate appointed by the senate committee on committees;

(5) a member of the house appointed by the speaker of the house;

(6) the governor's special assistant on corrections; and

(7) the administrative judge.

(c) Powers and duties.

* * *

(2) The committee shall study whether records produced by public agencies in the course of the detection and investigation of crime, including those maintained on any individual or compiled in the course of a criminal investigation by law enforcement, should be open to public inspection or confidential. The committee's study shall include:

(A) A determination of which records dealing with the detection and investigation of a crime should be public records and which records should be confidential.

(B) Consideration of the need to balance public safety and privacy when determining which criminal investigation records should be public and which records should be confidential and the societal benefit and promotion of due process and the rule of law which are served by permitting public inspection of criminal investigation records.

(C) Legislation to implement the policy recommended by the committee.

~~(2)~~(3) The committee shall consult with stakeholders while engaging in its mission, including the following:

(A) The secretary of human services or designee.

(B) The secretary of state or designee.

(C) The executive director of the American Civil Liberties Union of Vermont or designee.

(D) A representative of the Vermont Press Association.

(E) The defender general or designee.

(F) The attorney general or designee.

(G) The executive director of the Vermont association of chiefs of police or designee.

(H) The executive director of the Vermont Bar Association or designee.

(I) A representative from the department of public safety.

(J) The executive director of the state's attorneys and sheriffs' association or designee.

(K) A member of the supreme court public access to court records advisory rules committee appointed by the chief justice.

(L) The executive director of the Vermont Center for Crime Victims Services or designee.

~~(3)~~(4) For purposes of its study of these issues, the committee shall have the legal and administrative assistance of the office of legislative council and the department of corrections.

(d) Report. ~~By December 1, 2011, the~~ The committee shall report annually to the general assembly on its findings and any recommendations for legislative action.

(e) Number of meetings; term of committee; reimbursement. The committee may meet no more than ~~five~~ seven times annually and shall cease to exist on January 1, ~~2012~~ 2014.

* * *

Sec. 8. 18 V.S.A. § 4201 is amended to read:

§ 4201. DEFINITIONS

As used in this chapter, unless the context otherwise requires:

* * *

(26) "Prescription" means an order for a regulated drug made by a physician, advanced practice registered nurse, dentist, or veterinarian licensed under this chapter to prescribe such a drug which shall be in writing except as otherwise specified ~~herein in this subdivision~~. Prescriptions for such drugs shall be made to the order of an individual patient, dated as of the day of issue and signed by the prescriber. The prescription shall bear the full name ~~and~~ address, and date of birth of the patient, or if the patient is an animal, the name and address of the owner of the animal and the species of the animal. Such prescription shall also bear the full name, address, and registry number of the prescriber and shall be written with ink, indelible pencil, or typewriter; if typewritten, it shall be signed by the ~~physician~~ prescriber. A written or typewritten prescription for a controlled substance, as defined in 21 C.F.R. Part 1308, shall contain the quantity of the drug written both in numeric and word form.

* * *

Sec. 9. 18 V.S.A. § 4215b is added to read:

§ 4215b. IDENTIFICATION

Prior to dispensing a prescription for a Schedule II, III, or IV controlled substance, a pharmacist shall require the individual receiving the drug to provide a signature and show valid and current government-issued

photographic identification as evidence that the individual is the patient for whom the prescription was written, the owner of the animal for which the prescription was written, or the bona fide representative of the patient or animal owner. If the individual does not have valid, current government-issued photographic identification, the pharmacist may request alternative evidence of the individual's identity, as appropriate.

Sec. 10. 18 V.S.A. § 4218 is amended to read:

§ 4218. ENFORCEMENT

* * *

(d) Nothing in this section shall authorize the department of public safety and other authorities described in subsection (a) of this section to have access to VPMS (Vermont prescription monitoring system) created pursuant to chapter 84A of this title, except as provided in that chapter.

(e) The department of public safety shall adopt standard operating guidelines for accessing pharmacy records through the authority granted in this section. Any person authorized to access pharmacy records pursuant to subsection (a) of this section shall follow the department of public safety's guidelines. These guidelines shall be a public record.

Sec. 11. DEPARTMENT OF PUBLIC SAFETY; REPORTING STANDARD
OPERATING GUIDELINES

No later than December 15, 2012, the commissioner of public safety shall submit to the house and senate committees on judiciary, the house committee on human services, and the senate committee on health and welfare the department's written standard operating guidelines used to access pharmacy records at individual pharmacies pursuant to 18 V.S.A. § 4218. Subsequently, if the guidelines are substantively amended by the department, it shall submit the amended guidelines to the same committees as soon as practicable.

Sec. 12. 18 V.S.A. § 4282 is amended to read:

§ 4282. DEFINITIONS

As used in this chapter:

* * *

(5) "Delegate" means an individual employed by a health care facility or pharmacy or in the office of the chief medical examiner and authorized by a health care provider or dispenser or by the chief medical examiner to request information from the VPMS relating to a bona fide current patient of the health care provider or dispenser or to a bona fide investigation or inquiry into an

individual's death.

(6) "Department" means the department of health.

(7) "Drug diversion investigator" means an employee of the department of public safety whose primary duties include investigations involving violations of laws regarding prescription drugs or the diversion of prescribed controlled substances, and who has completed a training program established by the department of health by rule that is designed to ensure that officers have the training necessary to use responsibly and properly any information that they receive from the VPMS.

(8) "Evidence-based" means based on criteria and guidelines that reflect high-quality, cost-effective care. The methodology used to determine such guidelines shall meet recognized standards for systematic evaluation of all available research and shall be free from conflicts of interest. Consideration of the best available scientific evidence does not preclude consideration of experimental or investigational treatment or services under a clinical investigation approved by an institutional review board.

Sec. 13. 18 V.S.A. § 4283 is amended to read:

§ 4283. CREATION; IMPLEMENTATION

(a) ~~Contingent upon the receipt of funding, the~~ The department ~~may establish~~ shall maintain an electronic database and reporting system for monitoring Schedules II, III, and IV controlled substances, as defined in 21 C.F.R. Part 1308, as amended and as may be amended, that are dispensed within the state of Vermont by a health care provider or dispenser or dispensed to an address within the state by a pharmacy licensed by the Vermont board of pharmacy.

* * *

(e) It is not the intention of the department that a health care provider or a dispenser shall have to pay a fee or tax or purchase hardware or proprietary software required by the department specifically for the use, establishment, maintenance, or transmission of the data. The department shall seek grant funds and take any other action within its financial capability to minimize any cost impact to health care providers and dispensers.

* * *

Sec. 14. 18 V.S.A. § 4284 is amended to read:

§ 4284. PROTECTION AND DISCLOSURE OF INFORMATION

(a) The data collected pursuant to this chapter and all related information and records shall be confidential, except as provided in this chapter, and shall

not be subject to public records law. The department shall maintain procedures to protect patient privacy, ensure the confidentiality of patient information collected, recorded, transmitted, and maintained, and ensure that information is not disclosed to any person except as provided in this section.

(b)(1) The department shall be authorized to provide data to only provide only the following persons with access to query the VPMS:

~~(1) A patient or that person's health care provider, or both, when VPMS reveals that a patient may be receiving more than a therapeutic amount of one or more regulated substances.~~

~~(2)(A) A health care provider or, dispenser, or delegate who requests information is registered with the VPMS and certifies that the requested information is for the purpose of providing medical or pharmaceutical treatment to a bona fide current patient.~~

(B) Personnel or contractors, as necessary for establishing and maintaining the VPMS.

(C) The medical director of the department of Vermont health access, for the purposes of Medicaid quality assurance, utilization, and federal monitoring requirements with respect to Medicaid recipients for whom a Medicaid claim for a Schedule II, III, or IV controlled substance has been submitted.

(D) A medical examiner or delegate from the office of the chief medical examiner, for the purpose of conducting an investigation or inquiry into the cause, manner, and circumstances of an individual's death.

(E) A health care provider or medical examiner licensed to practice in another state, to the extent necessary to provide appropriate medical care to a Vermont resident or to investigate the death of a Vermont resident.

(2) The department shall provide reports of data available to the department through the VPMS only to the following persons:

(A) A patient or that person's health care provider, or both, when VPMS reveals that a patient may be receiving more than a therapeutic amount of one or more regulated substances.

~~(3)(B) A designated representative of a board responsible for the licensure, regulation, or discipline of health care providers or dispensers pursuant to a bona fide specific investigation.~~

~~(4)(C) A patient for whom a prescription is written, insofar as the information relates to that patient.~~

~~(5)(D) The relevant occupational licensing or certification authority if~~

the commissioner reasonably suspects fraudulent or illegal activity by a health care provider. The licensing or certification authority may report the data that are the evidence for the suspected fraudulent or illegal activity to a ~~trained law enforcement officer~~ drug diversion investigator.

~~(6)(E)(i)~~ The commissioner of public safety, personally, or the deputy commissioner of public safety, personally, if the commissioner of health, personally, or the deputy commissioner for alcohol and drug abuse programs, personally, makes the disclosure, has consulted with at least one of the patient's health care providers, and believes that the disclosure is necessary to avert a serious and imminent threat to a person or the public.

(ii) The commissioner of public safety, personally, or the deputy commissioner of public safety, personally, when he or she requests data from the commissioner of health, and the commissioner of health believes, after consultation with at least one of the patient's health care providers, that disclosure is necessary to avert a serious and imminent threat to a person or the public.

(iii) The commissioner or deputy commissioner of public safety may disclose such data received pursuant to this subdivision (E) as is necessary, in his or her discretion, to avert the serious and imminent threat.

~~(7) Personnel or contractors, as necessary for establishing and maintaining the VPMS.~~

(F) A prescription monitoring system or similar entity in another state pursuant to a reciprocal agreement to share prescription monitoring information with the Vermont department of health as described in section 4288 of this title.

(c) A person who receives data or a report from VPMS or from the department shall not share that data or report with any other person or entity not eligible to receive that data pursuant to subsection (b) of this section, except as necessary and consistent with the purpose of the disclosure and in the normal course of business. Nothing shall restrict the right of a patient to share his or her own data.

(d) The commissioner shall offer health care providers and dispensers training in the proper use of information they may receive from VPMS. Training may be provided in collaboration with professional associations representing health care providers and dispensers.

(e) A ~~trained law enforcement officer~~ drug diversion investigator who may receive information pursuant to this section shall not have access to VPMS except for information provided to the officer by the licensing or certification

authority.

(f) The department is authorized to use information from VPMS for research, trend analysis, and other public health promotion purposes provided that data are aggregated or otherwise de-identified. The department shall post the results of trend analyses on its website for use by health care providers, dispensers, and the general public. When appropriate, the department shall send alerts relating to identified trends to health care providers and dispensers by electronic mail.

(g) Knowing disclosure of transmitted data to a person not authorized by subsection (b) of this section, or obtaining information under this section not relating to a bona fide specific investigation, shall be punishable by imprisonment for not more than one year or a fine of not more than \$1,000.00, or both, in addition to any penalties under federal law.

(h) All information and correspondence relating to the disclosure of information by the commissioner to a patient's health care provider pursuant to subdivision (b)(2)(A) of this section shall be confidential and privileged, exempt from the public access to records law, immune from subpoena or other disclosure, and not subject to discovery or introduction into evidence.

(i) Each request for disclosure of data pursuant to subdivision (b)(2)(B) of this section shall document a bona fide specific investigation and shall specify the name of the person who is the subject of the investigation.

Sec. 15. 18 V.S.A. § 4286 is amended to read:

§ 4286. ADVISORY COMMITTEE

(a)(1) The commissioner shall establish an advisory committee to assist in the implementation and periodic evaluation of VPMS.

(2) The department shall consult with the committee concerning any potential operational or economic impacts on dispensers and health care providers related to transmission system equipment and software requirements.

(3) The committee shall develop guidelines for use of VPMS by dispensers ~~and~~, health care providers, and delegates, and shall make recommendations concerning under what circumstances, if any, the department shall or may give VPMS data, including data thresholds for such disclosures, to law enforcement personnel. The committee shall also review and approve advisory notices prior to publication.

(4) The committee shall make recommendations regarding ways to improve the utility of the VPMS and its data.

(5) The committee shall have access to aggregated, de-identified data

from the VPMS.

* * *

(d) The committee shall issue a report to the senate and house committees on judiciary, the senate committee on health and welfare, and the house committee on human services no later than January 15th in 2008, 2010, ~~and 2012,~~ and 2014.

(e) This section shall sunset on July 1, 2012 2014 and thereafter the committee shall cease to exist.

Sec. 16. 18 V.S.A. § 4287 is amended to read:

§ 4287. RULEMAKING

The department shall adopt rules for the implementation of VPMS as defined in this chapter consistent with 45 C.F.R. Part 164, as amended and as may be amended, that limit the disclosure to the minimum information necessary for purposes of this act ~~and shall keep the senate and house committees on judiciary, the senate committee on health and welfare, and the house committee on human services advised of the substance and progress of initial rulemaking pursuant to this section.~~

Sec. 17. 18 V.S.A. § 4288 is added to read:

§ 4288. RECIPROCAL AGREEMENTS

The department of health may enter into reciprocal agreements with other states that have prescription monitoring programs so long as access under such agreement is consistent with the privacy, security, and disclosure protections in this chapter.

Sec. 18. 18 V.S.A. § 4289 is added to read:

§ 4289. STANDARDS AND GUIDELINES FOR HEALTH CARE PROVIDERS AND DISPENSERS

(a) Each professional licensing authority for health care providers shall develop evidence-based standards to guide health care providers in the appropriate prescription of Schedules II, III, and IV controlled substances for treatment of chronic pain and for other medical conditions to be determined by the licensing authority.

(b)(1) Each health care provider who prescribes any Schedule II, III, or IV controlled substances shall register with the VPMS.

(2) If the VPMS shows that a patient has filled a prescription for a controlled substance written by a health care provider who is not a registered

user of VPMS, the commissioner of health shall notify such provider by mail of the provider's registration requirement pursuant to subdivision (1) of this subsection.

(3) The commissioner of health shall develop additional procedures to ensure that all health care providers who prescribe controlled substances are registered in compliance with subdivision (1) of this subsection.

(c) Each dispenser who dispenses any Schedule II, III, or IV controlled substances shall register with the VPMS.

(d)(1) Each professional licensing authority for health care providers and dispensers authorized to prescribe or dispense Schedules II, III, and IV controlled substances shall adopt standards regarding the frequency and circumstances under which their respective licensees shall query the VPMS.

(2) Each professional licensing authority for dispensers shall adopt standards regarding the frequency and circumstances under which its licensees shall report to the VPMS, which shall be no less than once every seven days.

(3) Each professional licensing authority for health care providers and dispensers shall consider the standards adopted pursuant to this section in disciplinary proceedings when determining whether a licensee has complied with the applicable standard of care.

(4) No later than January 15, 2013, each professional licensing authority subject to this subsection shall submit its standards to the VPMS advisory committee established in section 4286 of this title.

Sec. 19. 18 V.S.A. § 4290 is added to read:

§ 4290. REPLACEMENT PRESCRIPTIONS AND MEDICATIONS

(a) As used in this section, "replacement prescription" means an unscheduled prescription request in the event that the document on which a patient's prescription was written or the patient's prescribed medication is reported to the prescriber as having been lost or stolen.

(b) When a patient or a patient's parent or guardian requests a replacement prescription for a Schedule II, III, or IV controlled substance, the patient's health care provider shall query the VPMS prior to writing the replacement prescription to determine whether the patient may be receiving more than a therapeutic dosage of the controlled substance.

(c) When a health care provider writes a replacement prescription pursuant to this section, the provider shall clearly indicate as much by writing the word "REPLACEMENT" on the face of the prescription.

(d) When a dispenser fills a replacement prescription, the dispenser shall

report the required information to the VPMS and shall indicate that the prescription is a replacement by completing the VPMS field provided for such purpose. In addition, the dispenser shall report to the VPMS the name of the person picking up the replacement prescription, if not the patient.

(e) The VPMS shall create a mechanism by which individuals authorized to access the system pursuant to section 4284 of this title may search the database for information on all or a subset of all replacement prescriptions.

Sec. 20. UNIFIED PAIN MANAGEMENT SYSTEM ADVISORY
COUNCIL

(a) There is hereby created a unified pain management system advisory council for the purpose of advising the commissioner of health on matters relating to the appropriate use of controlled substances in treating chronic pain and addiction and in preventing prescription drug abuse.

(b) The unified pain management system advisory council shall consist of the following members:

(1) the commissioner of health or designee, who shall serve as chair;

(2) the deputy commissioner of health for alcohol and drug abuse programs or designee;

(3) the commissioner of mental health or designee;

(4) the director of the Blueprint for Health or designee;

(5) the chair of the board of medical practice or designee, who shall be a clinician;

(6) a representative of the Vermont state dental society, who shall be a dentist;

(7) a representative of the Vermont board of pharmacy, who shall be a pharmacist;

(8) a faculty member of the academic detailing program at the University of Vermont's College of Medicine;

(9) a faculty member of the University of Vermont's College of Medicine with expertise in the treatment of addiction or chronic pain management;

(10) a representative of the Vermont Medical Society, who shall be a primary care clinician;

(11) a representative of the American Academy of Family Physicians, Vermont chapter, who shall be a primary care clinician;

(12) a representative of the federally qualified health centers, who shall be a primary care clinician selected by the Bi-State Primary Care Association;

(13) a representative of the Vermont Ethics Network;

(14) a representative of the Hospice and Palliative Care Council of Vermont;

(15) a representative of the office of the health care ombudsman;

(16) the medical director for the department of Vermont health access;

(17) a clinician who works in the emergency department of a hospital, to be selected by the Vermont Association of Hospitals and Health Systems in consultation with any nonmember hospitals;

(18) a member of the Vermont board of nursing subcommittee on APRN practice, who shall be an advanced practice registered nurse;

(19) a representative from the Vermont Assembly of Home Health and Hospice Agencies;

(20) a psychologist licensed pursuant to 26 V.S.A. chapter 55 who has experience in treating chronic pain, to be selected by the board of psychological examiners;

(21) a drug and alcohol abuse counselor licensed pursuant to 33 V.S.A. chapter 8, to be selected by the deputy commissioner of health for alcohol and drug abuse programs; and

(22) a consumer representative who is either a consumer in recovery from prescription drug abuse or a consumer receiving medical treatment for chronic noncancer-related pain.

(c) Advisory council members who are not employed by the state or whose participation is not supported through their employment or association shall be entitled to per diem and expenses as provided by 32 V.S.A. § 1010.

(d) A majority of the members of the advisory council shall constitute a quorum. The advisory council shall act only by a majority vote of the members present and voting and only at meetings called by the chair or by any three of the members.

(e) To the extent funds are available, the advisory council shall have the following duties:

(1) to develop and recommend principles and components of a unified pain management system, including the appropriate use of controlled substances in treating noncancer-related chronic pain and addiction and in preventing prescription drug abuse;

(2) to identify and recommend components of evidence-based training modules and minimum requirements for the continuing education of all licensed health care providers in the state who treat chronic pain or addiction or prescribe controlled substances in Schedule II, III, or IV consistent with a unified pain management system;

(3) to identify and recommend evidence-based training modules for all employees of the agency of human services who have direct contact with recipients of services provided by the agency or any of its departments; and

(4) to identify and recommend system goals and planned assessment tools to ensure that the initiative's progress can be monitored and adapted as needed.

(f) The commissioner of health may designate subcommittees as appropriate to carry out the work of the advisory council.

(g) On or before January 15, 2013, the advisory council shall submit its recommendations to the senate committee on health and welfare, the house committee on human services, and the house committee on health care.

Sec. 21. UNUSED DRUG DISPOSAL PROGRAM PROPOSAL

(a) No later than October 15, 2012, the commissioners of health and of public safety shall provide recommendations to the house and senate committees on judiciary, the house committee on human services, and the senate committee on health and welfare regarding the design and implementation of a statewide drug disposal program for unused over-the-counter and prescription drugs at no charge to the consumer. In preparing their recommendations, the commissioners shall consider successful unused drug disposal programs in Vermont, including the Bennington County sheriff's department's program, and in other states.

(b) No later than January 15, 2013, the commissioners of health and of public safety shall implement the unused drug disposal program developed pursuant to subsection (a) of this section and shall take steps to publicize the program and to make all Vermont residents aware of opportunities to avail themselves of it.

Sec. 22. TRACK AND TRACE PILOT PROJECT

(a) The departments of health and of Vermont health access shall establish a track and trace pilot project with one or more manufacturers of buprenorphine to create a high-integrity monitoring tool capable of use across disciplines. The tool shall be designed to identify irregularities related to dosing and quality in a manner that disrupts practice operations to the least extent possible. The departments shall work with all willing

Medicaid-enrolled prescribing practices and pharmacies to utilize the tool.

(b) No later than January 15, 2013, the commissioners of health and of Vermont health access shall provide testimony on the status of the pilot project established pursuant to this section to the house committees on human services and on judiciary and the senate committees on health and welfare and on judiciary.

Sec. 23. DEPARTMENT OF HEALTH REPORT; OPIOID

ANTAGONISTS

No later than November 15, 2012, the department of health shall report to the general assembly detailed recommendations for permitting a practitioner to lawfully prescribe and dispense naloxone or another opioid antagonist to a person at risk of experiencing an opiate-related overdose or to a family member, friend, or other person in a position to assist a person at risk of experiencing an opiate-related overdose.

Sec. 24. ADVISORY COMMITTEE REPORT

No later than January 15, 2013, the VPMS advisory committee established in 18 V.S.A. § 4286 shall provide recommendations to the house committee on human services and the senate committee on health and welfare regarding ways to maximize the effectiveness and appropriate use of the VPMS database, including adding new reporting capabilities, in order to improve patient outcomes and avoid prescription drug diversion.

Sec. 25. SPENDING AUTHORITY

Providing financial support for the unified pain management system advisory council established in Sec. 13 of this act, upgrading the VPMS software, and implementing enhancements to the VPMS shall all be acceptable uses of the monies in the evidence-based education and advertising fund established in 33 V.S.A. § 2004a. The commissioner of health shall seek excess receipts authority to make expenditures as needed from the evidence-based education and advertising fund for these purposes.

Sec. 26. INTEGRATION; LEGISLATIVE INTENT

It is the intent of the general assembly that the initiatives described in this act should be integrated to the extent possible with the Blueprint for Health and the mental health system of care.

Sec. 27. EFFECTIVE DATES

(a) This section and Sec. 15 of this act (18 V.S.A. § 4286) shall take effect on passage and shall apply retroactively as of January 15, 2012.

(b) Secs. 14 (18 V.S.A. § 4284(b)(2)(F); interstate data sharing), 17 (18 V.S.A. § 4288; reciprocal agreements), 18 (18 V.S.A. § 4289; standards and guidelines), and 19 (18 V.S.A. § 4290; replacement prescriptions) of this act shall take effect on October 1, 2012.

(c) The remaining sections of this act shall take effect on July 1, 2012.

and that after passage the title of the bill be amended to read: “An act relating to calculation of criminal sentences, expansion of the Misdemeanor Sentence Review Committee, and the Vermont prescription monitoring system”

Ordered to Lie

H. 775

An act relating to allowed interest rates for installment loans.

Pending Action: Second Reading of the bill.

Consent Calendar

Concurrent Resolutions

The following concurrent resolutions have been introduced for approval by the Senate and House and will be adopted automatically unless a Senator or Representative requests floor consideration before the end of the session of the next legislative day. Requests for floor consideration in either chamber should be communicated to the Secretary’s office and/or the House Clerk’s office, respectively. For text of resolutions, see Addendum to House Calendar and Senate Calendar.

H.C.R. 392

House concurrent resolution designating April 2012 as Fair Housing Month in Vermont

H.C.R. 393

House concurrent resolution honoring Audrey and William Keyes of Bridport for their exemplary community spirit

H.C.R. 394

House concurrent resolution honoring William Paine of New Haven for his civic accomplishments

H.C.R. 395

House concurrent resolution in memory of Addison County Sheriff James Coons

H.C.R. 396

House concurrent resolution honoring John R. Stone Jr. on his 55th firefighting anniversary and for his outstanding community service in Bennington

H.C.R. 397

House concurrent resolution honoring Kerry Clifford for her devotion to teaching young children

H.C.R. 398

House concurrent resolution honoring Caroline and Hubert Daberer on their 90th birthdays and as the founders of Alpine Haven

H.C.R. 399

House concurrent resolution commemorating the 85th anniversary of the landing in Springfield of Col. Charles A. Lindbergh in the Spirit of St. Louis

H.C.R. 400

House concurrent resolution congratulating the Rutland Free Library on its 125th anniversary

H.C.R. 401

House concurrent resolution congratulating Scott Santamore of Rutland on being the named the 2012 Boys & Girls Clubs of America Vermont Youth of the Year

H.C.R. 402

House concurrent resolution congratulating the city of Burlington on being named a 2012 Tree City U.S.A.

H.C.R. 403

House concurrent resolution honoring Nathaniel Tripp as an outstanding protector of the Connecticut River and its watershed

H.C.R. 404

House concurrent resolution honoring former Representative Michael Bernhardt for his record of outstanding public service to Vermont

H.C.R. 405

House concurrent resolution honoring former Londonderry town clerk and treasurer James Twitchell for his outstanding civic and community service

H.C.R. 406

House concurrent resolution honoring Walter Mandel as an outstanding community leader

H.C.R. 407

House concurrent resolution in memory of Anne O. Burke

H.C.R. 408

House concurrent resolution honoring Thomas Cheney for his stellar service as aide to the speaker of the house of representatives

H.C.R. 409

House concurrent resolution in memory of Edith Hunter of Weathersfield

H.C.R. 410

House concurrent resolution congratulating the Vermont Business Roundtable on its 25th anniversary

H.C.R. 411

House concurrent resolution honoring Evelyn T. Howard on the conclusion of her tenure as superintendent of the Addison Northeast Supervisory Union

H.C.R. 412

House concurrent resolution congratulating Craftsbury Academy boys' basketball coach Terrence Kelleher on being named the Vermont Basketball Coaches Association 2011–2012 Division IV coach of the year

H.C.R. 3000

House concurrent resolution honoring Marlene Velandar for her dedicated public service in the house clerk's office