

Journal of the Senate

SATURDAY, MAY 5, 2012

The Senate was called to order by the President.

Devotional Exercises

A moment of silence was observed in lieu of devotions.

Joint Senate Resolution Adopted on the Part of the Senate

Joint Senate resolution of the following title was offered, read and adopted on the part of the Senate, and is as follows:

By Senator Campbell,

J.R.S. 63. Joint resolution relating to final adjournment of the General Assembly in 2012.

Resolved by the Senate and House of Representatives

That when the President of the Senate and the Speaker of the House of Representatives adjourn their respective houses on the fifth day of May, 2012, they shall do so to reconvene on the twenty-second day of May, 2012, at ten o'clock in the forenoon if the Governor should fail to approve and sign any bill and should he return it to the house of origin with his objections in writing after such adjournment, but if the Governor should *not* so return any bill to either house, to be adjourned *sine die*.

Joint Senate Resolution Adopted on the Part of the Senate

Joint Senate resolution of the following title was offered, read and adopted on the part of the Senate, and is as follows:

By Senator Campbell,

J.R.S. 64. Joint resolution honoring the competitive accomplishments and international educational outreach of the University of Vermont's Lawrence Debate Union.

Whereas, debate is a defining characteristic of Vermont at the dinner table, in the classroom, during a traditional town meeting, and in the legislative chambers of the state house in Montpelier, and

Whereas, for over a century, University of Vermont (UVM) students have mastered the fine art of debate through participation in the Lawrence Debate Union (LDU), which ardent student debater Edwin W. Lawrence founded in

1899 and then helped to establish an endowment to perpetuate this most civilized form of verbal fisticuffs for future generations of UVM Catamounts to enjoy, and

Whereas, the LDU has distinguished itself among collegiate debate programs by earning an astounding International Debate Education Association global ranking of seven, immediately behind Oxford and Cambridge Universities in Great Britain and surpassing Harvard and Stanford, and

Whereas, this highly commendable evaluation resulted from LDU members winning debates across the globe against top competitors, and

Whereas, at the 2012 U.S. Universities Debating championship held in Oregon, three UVM debaters—Paul Gross (sixth), Jessica Bullock (seventh), and Drew Adamczyk (ninth)—were ranked among the top ten debaters in the United States, and no other competing school matched this feat, and

Whereas, at this same event, the UVM debating duo of John Sadek and Jessica Bullock reached the semifinal round of the national championship, and

Whereas, the members of the LDU are goodwill ambassadors for both UVM and our nation as they have conducted debating workshops since 1999 throughout the United States, in rural areas and inner cities, and abroad in Bangladesh, Chile, China, Estonia, Finland, Japan, Greece, Iraq, Latvia, Malaysia, Montenegro, Qatar, Serbia, Singapore, Slovenia, South Korea, Thailand, the United Kingdom, and Venezuela, proving that debaters are skilled diplomats, and

Whereas, the LDU is fortunate to have Professor Alfred Snider, affectionately known as Tuna, as its director, and outstanding faculty coaches David Register and Mary Nugent lend their expertise to the training of these truly talented and dedicated debaters, *now therefore be it*

Resolved by the Senate and House of Representatives:

That the General Assembly honors the competitive accomplishments and international educational outreach of the University of Vermont's Lawrence Debate Union, *and be it further*

Resolved: That the Secretary of State be directed to send a copy of this resolution to Professor Alfred Snider at the University of Vermont.

Rules Suspended; Joint Senate Resolutions Messaged

On motion of Senator Campbell, the rules were suspended, and the following joint Senate resolutions were severally ordered messaged to the House forthwith:

J.R.S. 63, J.R.S. 64.

Report of Committee of Conference Accepted and Adopted on the Part of the Senate

H. 778.

Senator Nitka, for the Committee of Conference, submitted the following report:

To the Senate and House of Representatives:

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

An act relating to structured settlements.

Respectfully reports that it has met and considered the same and recommends that the House and Senate recede from their respective proposals of amendment and that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 9 V.S.A. chapter 63, subchapter 5 is added to read:

Subchapter 5. Transfers of Structured Settlements

§ 2480aa. LEGISLATIVE INTENT; PUBLIC POLICY

Structured settlement agreements, which provide for payments to a person over a period of time, are often used in the settlement of actions such as personal injury or medical claims and serve a number of valid purposes, including protection of persons from economic victimization and assuring a person's ability to provide for his or her future needs and obligations. It is the policy of this state that such agreements, which have often been approved by a court, should not be set aside lightly or without good reason.

§ 2480bb. DEFINITIONS

In this subchapter:

(1) "Annuity issuer" means an insurer that has issued a contract to fund periodic payments under a structured settlement.

(2) "Dependents" includes a payee's spouse and minor children and all other persons for whom the payee is legally obligated to provide support, including alimony.

(3) “Discounted present value” means the present value of future payments determined by discounting such payments to the present using the most recently published Applicable Federal Rate for determining the present value of an annuity, as issued by the United States Internal Revenue Service.

(4) “Gross advance amount” means the sum payable to the payee or for the payee’s account as consideration for a transfer of structured settlement payment rights before any reductions for transfer expenses or other deductions to be made from such consideration.

(5) “Independent professional advice” means advice of an attorney, certified public accountant, actuary, or other licensed professional adviser meeting all of the following requirements:

(A) The advisor is engaged by the payee to render advice concerning the legal, tax, or financial implications of a structured settlement or a transfer of structured settlement payment rights;

(B) The adviser’s compensation for rendering independent professional advice is not affected by occurrence or lack of occurrence of a settlement transfer; and

(C) A particular adviser is not referred to the payee by the transferee or its agent, except that the transferee may refer the payee to a lawyer referral service or agency operated by a state or local bar association.

(6) “Interested parties” means, with respect to any structured settlement, the payee, any beneficiary irrevocably designated under the annuity contract to receive payments following the payee’s death, the annuity issuer, the structured settlement obligor, and any other party that has continuing rights or obligations relating to the structured settlement payment rights which are the subject of the proposed transfer.

(7) “Net advance amount” means the gross advance amount less the aggregate amount of the actual and estimated transfer expenses required to be disclosed under subdivision 2480cc(5) of this title.

(8) “Payee” means an individual who is receiving tax-free payments under a structured settlement and proposes to make a transfer of payment rights thereunder.

(9) “Periodic payments” includes both recurring payments and scheduled future lump sum payments.

(10) “Qualified assignment agreement” means an agreement providing for a qualified assignment within the meaning of section 130 of the United States Internal Revenue Code, United States Code Title 26, as amended from time to time.

(11) “Settled claim” means the original tort claim resolved by a structured settlement.

(12) “Structured settlement” means an arrangement for periodic payment of damages for personal injuries or sickness established by settlement or judgment in resolution of a tort claim but does not refer to periodic payments in settlement of a workers’ compensation claim.

(13) “Structured settlement agreement” means the agreement, judgment, stipulation, or release embodying the terms of a structured settlement.

(14) “Structured settlement obligor” means, with respect to any structured settlement, the party that has the continuing obligation to make periodic payments to the payee under a structured settlement agreement or a qualified assignment agreement.

(15) “Structured settlement payment rights” means rights to receive periodic payments under a structured settlement, whether from the structured settlement obligor or the annuity issuer, where:

(A) the payee is domiciled in this state; or

(B) the structured settlement agreement was approved by a court in this state.

(16) “Terms of the structured settlement” include, with respect to any structured settlement, the terms of the structured settlement agreement, the annuity contract, any qualified assignment agreement, and any order or other approval of any court or other government authority that authorized or approved such structured settlement.

(17) “Transfer” means any sale, assignment, pledge, hypothecation, or other alienation or encumbrance of structured settlement payment rights made by a payee for consideration.

(18) “Transfer agreement” means the agreement providing for a transfer of structured settlement payment rights.

(19) “Transfer expenses” means all expenses of a transfer that are required under the transfer agreement to be paid by the payee or deducted from the gross advance amount, including, without limitation, court filing fees, attorney’s fees, escrow fees, lien recordation fees, judgment and lien search fees, finders’ fees, commissions, and other payments to a broker or other intermediary.

(20) “Transferee” means a party acquiring or proposing to acquire structured settlement payment rights through a transfer.

§ 2480cc. REQUIRED DISCLOSURES TO PAYEE

Not less than ten days prior to the date on which a payee signs a transfer agreement, the transferee shall provide to the payee a separate disclosure statement in bold type in a size no smaller than 14 points setting forth:

(1) the amounts and due dates of the structured settlement payments to be transferred;

(2) the aggregate amount of such payments;

(3) the discounted present value of the payments to be transferred, which shall be identified as the “calculation of current value of the transferred structured settlement payments under federal standards for valuing annuities,” and the amount of the applicable federal rate used in calculating such discounted present value;

(4) the gross advance amount and the annual discount rate, compounded monthly, used to determine such figure;

(5) an itemized listing of all applicable transfer expenses, other than attorneys’ fees and related disbursements payable by the payee in connection with the transferee’s application for approval of the transfer, and the transferee’s best estimate of the amount of any such fees and disbursements;

(6) the net advance amount;

(7) the amount of any penalties or liquidated damages payable by the payee in the event of any breach of the transfer agreement by the payee, as well as a description of any other financial penalties the payee might incur with the transferee as a result of such a breach; and

(8) a statement that the payee has the right to cancel the transfer agreement, without penalty or further obligation, at any time before the date on which a court enters a final order approving the transfer agreement.

§ 2480dd. APPROVAL OF TRANSFERS OF STRUCTURED SETTLEMENT PAYMENT RIGHTS

(a) No direct or indirect transfer of structured settlement payment rights shall be effective and no structured settlement obligor or annuity issuer shall be required to make any payment directly or indirectly to any transferee of structured settlement payment rights unless the transfer has been approved in advance in a final court order based on express findings by such court that:

(1) the transfer is in the best interest of the payee taking into account the welfare and support of the payee’s dependents, considering all relevant factors, including:

(A) the payee's ability to understand the financial terms and consequences of the transfer;

(B) the payee's capacity to meet his or her financial obligations, including the potential need for future medical treatment;

(C) the need, purpose, or reason for the transfer; and

(D) whether the transfer is fair and reasonable, considering the discount rate used to calculate the gross advance amount, the fees and expenses imposed on the payee, and whether the payee obtained more than one quote for the same or a substantially similar transfer.

(2)(A) the payee has been advised in writing by the transferee to seek independent professional advice regarding the financial advisability of the transfer and the other financial options available to the payee, if any, and:

(B)(i) that the payee has in fact received such advice; or

(ii) that such advice is unnecessary for good cause shown.

(3) the transfer does not contravene any applicable statute or the order of any court or other government authority.

(b) Any agreement to transfer future payments arising under a workers' compensation claim is prohibited.

(c) At the hearing on the transfer the court may, in its sole discretion, continue the hearing and require the payee to seek independent professional advice if the court determines that obtaining such advice should be required based on the circumstances of the payee or the terms of the transaction. If the court determines that independent professional advice should be required, the court may order that the costs incurred by a payee for independent professional advice be paid by the transferee, the payee, or another party, provided that the amount to be paid by the transferee shall not exceed one thousand five hundred dollars (\$1,500.00).

§ 2480ee. EFFECTS OF TRANSFER OF STRUCTURED SETTLEMENT PAYMENT RIGHTS

Following a transfer of structured settlement payment rights under this subchapter:

(1) The structured settlement obligor and the annuity issuer shall, as to all parties except the transferee, be discharged and released from any and all liability for the transferred payments;

(2) The transferee shall be liable to the structured settlement obligor and the annuity issuer:

(A) if the transfer contravenes the terms of the structured settlement for any taxes incurred by such parties as a consequence of the transfer; and

(B) for any other liabilities or costs, including reasonable costs and attorney's fees, arising from compliance by such parties with the order of the court or arising as a consequence of the transferee's failure to comply with this subchapter;

(3) Neither the annuity issuer nor the structured settlement obligor may be required to divide any periodic payment between the payee and any transferee or assignee or between two or more transferees or assignees; and

(4) Any further transfer of structured settlement payment rights by the payee may be made only after compliance with all of the requirements of this subchapter.

§ 2480ff. PROCEDURE FOR APPROVAL OF TRANSFERS

(a) An application under this subchapter for approval of a transfer of structured settlement payment rights shall be made by the transferee and may be brought in the superior court, civil division, of the county in which the payee resides or in which the structured settlement obligor or the annuity issuer maintains its principal place of business or in any court that approved the structured settlement agreement.

(b) Not less than 20 days prior to the scheduled hearing on any application for approval of a transfer of structured settlement payment rights under section 2480dd of this title, the transferee shall file with the court and serve on all interested parties a notice of the proposed transfer and the application for its authorization, including with such notice:

(1) a copy of any court order approving the settlement;

(2) a written description of the underlying basis for the settlement;

(3) a copy of the transferee's application;

(4) a copy of the transfer agreement;

(5) a copy of the disclosure statement required under section 2481n of this title;

(6) a listing of each of the payee's dependents, together with each dependent's age;

(7) a statement setting forth whether, to the best of the transferee's knowledge after making a reasonable inquiry to the payee, the structured settlement obligor, and the annuity issuer, there have been any previous transfers or applications for transfer of any structured settlement payment

rights of the payee and giving details of all such transfers or applications for transfer;

(8) if available to the transferee after making a good faith request of the payee, the structured settlement obligor and the annuity issuer, the following documents, which shall be filed under seal:

(A) a copy of the annuity contract;

(B) a copy of any qualified assignment agreement;

(C) a copy of the underlying structured settlement agreement;

(9) either a certification from an independent professional advisor establishing that the advisor has given advice to the payee on the financial advisability of the transfer and the other financial options available to the payee or a written request that the court determine that such advice is unnecessary pursuant to subdivision 2480dd(a)(2) of this title; and

(10) notification of the time and place of the hearing and notification of the manner in which and the time by which written responses to the application must be filed, which shall be not less than 15 days after service of the transferee's notice, in order to be considered by the court.

(c) The transferee shall file a copy of the application with the attorney general's office and a copy of the application and the payee's social security number with the office of child support, the department of taxes, and the department of financial regulation. The offices and departments receiving copies pursuant to this section shall permit the copies to be filed electronically.

(d) The payee shall attend the hearing unless attendance is excused for good cause.

§ 2480gg. GENERAL PROVISIONS; CONSTRUCTION

(a) The provisions of this subchapter may not be waived by any payee.

(b) Any transfer agreement entered into on or after the effective date of this subchapter by a payee who resides in this state shall provide that disputes under such transfer agreement, including any claim that the payee has breached the agreement, shall be determined in and under the laws of this state. No such transfer agreement shall authorize the transferee or any other party to confess judgment or consent to entry of judgment against the payee.

(c) No transfer of structured settlement payment rights shall extend to any payments that are life-contingent unless, prior to the date on which the payee signs the transfer agreement, the transferee has established and has agreed to maintain procedures reasonably satisfactory to the annuity issuer and the structured settlement obligor for:

(1) periodically confirming the payee's survival; and

(2) giving the annuity issuer and the structured settlement obligor prompt written notice in the event of the payee's death.

(d) No payee who proposes to make a transfer of structured settlement payment rights shall incur any penalty, forfeit any application fee or other payment, or otherwise incur any liability to the proposed transferee or any assignee based on any failure of such transfer to satisfy the conditions of this subchapter.

(e) Nothing contained in this subchapter shall be construed to authorize any transfer of structured settlement payment rights in contravention of any law or to imply that any transfer under a transfer agreement entered into prior to the effective date of this subchapter is valid or invalid.

(f) Compliance with the requirements set forth in section 2480cc of this title and fulfillment of the conditions set forth in section 2480dd of this title shall be solely the responsibility of the transferee in any transfer of structured settlement payment rights, and neither the structured settlement obligor nor the annuity issuer shall bear any responsibility for or any liability arising from noncompliance with such requirements or failure to fulfill such conditions.

Sec. 2. 9 V.S.A. § 2451 is amended to read:

§ 2451. PURPOSE

The purpose of this chapter is to complement the enforcement of federal statutes and decisions governing unfair methods of competition, ~~and~~ unfair or deceptive acts or practices, and anti-competitive practices in order to protect the public; and to encourage fair and honest competition.

Sec. 3. 9 V.S.A. § 2451a is amended to read:

§ 2451a. DEFINITIONS

For the purposes of this chapter:

(a) "Consumer" means any person who purchases, leases, contracts for, or otherwise agrees to pay consideration for goods or services not for resale in the ordinary course of his or her trade or business but for his or her use or benefit or the use or benefit of a member of his or her household, or in connection with the operation of his or her household or a farm whether or not the farm is conducted as a trade or business, or a person who purchases, leases, contracts for, or otherwise agrees to pay consideration for goods or services not for resale in the ordinary course of his or her trade or business but for the use or benefit of his or her business or in connection with the operation of his or her business.

(b) “Goods” or “services” shall include any objects, wares, goods, commodities, work, labor, intangibles, courses of instruction or training, securities, bonds, debentures, stocks, real estate, or other property or services of any kind. The term also includes bottled liquified petroleum (LP or propane) gas.

* * *

(h) “Collusion” means an agreement, contract, combination in the form of trusts or otherwise, or conspiracy to engage in price fixing, bid rigging, or market division or allocation of goods or services between or among persons.

Sec. 4. 9 V.S.A. § 2453a is added to read:

§ 2453a. PRACTICES PROHIBITED; CRIMINAL ANTITRUST VIOLATIONS

(a) Collusion is hereby declared to be a crime.

(b) Subsection (a) of this section shall not be construed to apply to activities of or arrangements between or among persons which are permitted, authorized, approved, or required by federal or state statutes or regulations.

(c) It is the intent of the general assembly that in construing this section and subsection 2451a(h) of this title, the courts of this state shall be guided by the construction of federal antitrust law and the Sherman Act, as amended, as interpreted by the courts of the United States.

(d) Nothing in this section limits the power of the attorney general or a state’s attorney to bring civil actions for antitrust violations under section 2453 of this title.

(e) A violation of this section shall be punished by a fine of not more than \$100,000.00 for an individual or \$1,000,000.00 for any other person or by imprisonment not to exceed five years or both.

Sec. 5. 9 V.S.A. § 2453b is added to read:

§ 2453b. RETALIATION PROHIBITED

No person shall retaliate against, coerce, intimidate, threaten, or interfere with any other person who:

(1) has opposed any act or practice of the person which is collusive or in restraint of trade;

(2) has lodged a complaint or has testified, assisted, or participated in any manner with the attorney general or a state’s attorney in an investigation of acts or practices which are collusive or in restraint of trade;

(3) is known by the person to be about to lodge a complaint or testify, assist, or participate in any manner in an investigation of acts or practices which are collusive or in restraint of trade; or

(4) is believed by the person to have acted as described in subdivision (1), (2), or (3) of this subsection.

Sec. 6. EFFECTIVE DATES

(a) Sec. 1 of this act shall take effect on July 1, 2012.

(b) Secs. 2, 3, 4, and 5 of this act and this section shall take effect on passage.

and that after passage the title of the bill be amended to read: “An act relating to structured settlements and to prohibiting collusion as an antitrust violation”

*ALICE W. NITKA
DIANE B. SNELLING
JEANETTE K. WHITE*

Committee on the part of the Senate

*THOMAS F. KOCH
LINDA J. WAITE-SIMPSON
ELDRED M. FRENCH*

Committee on the part of the House

Thereupon, the question, Shall the Senate accept and adopt the report of the Committee of Conference?, was decided in the affirmative.

Message from the House No. 85

A message was received from the House of Representatives by Ms. H. Gwynn Zakov, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

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

S. 106. An act relating to miscellaneous changes to municipal government law.

And has severally concurred therein with a further proposal of amendment thereto, in the adoption of which the concurrence of the Senate is requested.

Recess

On motion of Senator Mazza the Senate recessed until twelve o'clock and forty-six minutes in the afternoon.

Called to Order

The Senate was called to order by the President.

Appointments Confirmed

Under suspension of the rules (and particularly, Senate Rule 93), as moved by Senator Campbell, the following Gubernatorial appointments were confirmed together as a group by the Senate, without reports given by the Committees to which they were referred and without debate:

Kimel, David of St. Albans - Member, Vermont Municipal Bond Bank - February 1, 2012, to January 31, 2014.

Marsh, Donald of Montpelier - Member, Natural Gas and Oil Conservation Board - March 13, 2012, to February 28, 2014.

Joint Resolution Adopted on the Part of the Senate**J.R.S. 62.**

Joint Senate resolution entitled:

Joint resolution relating to federal agriculture policy.

Having been placed on the Calendar for action, was taken up and adopted on the part of the Senate.

Thereupon, on motion of Senator Mazza, the rules were suspended and the joint resolution was ordered messaged to the House forthwith.

Rules Suspended; Report of Committee of Conference Accepted and Adopted on the Part of the Senate; Bill Messaged**J.R.S. 54.**

Appearing on the Calendar for notice, on motion of Senator Campbell, the rules were suspended and the report of the Committee of Conference on Senate joint resolution entitled:

Joint resolution approving a land exchange in Alburgh and a lease with Camp Downer, Inc.

Was taken up for immediate consideration.

Senator Hartwell, for the Committee of Conference, submitted the following report:

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:

J.R.S. 54. Joint resolution approving a land exchange in Alburgh and a lease with Camp Downer, Inc.

Respectfully reports that it has met and considered the same and recommends that the resolution be amended by striking all after the title and by inserting in lieu thereof the following:

Whereas, pursuant to 10 V.S.A. § 2606(b), the general assembly may adopt a resolution authorizing the commissioner of forests, parks and recreation to exchange or lease certain lands that are under the jurisdiction of the commissioner, and

Whereas, the general assembly has reviewed the proposed transactions and considers them to be in the best interest of the state, *now therefore be it*

Resolved by the Senate and House of Representatives:

That the General Assembly authorizes the commissioner of forests, parks and recreation to:

First: Enter into an exchange of a portion of Alburgh Dunes State Park in the Town of Alburgh with the South Alburgh Cemetery Association, Inc. for up to 44 +/- acres to be added to Alburgh Dunes State Park in the town of Alburgh that is of equivalent or greater value to the state. Any exchange of state park land with the South Alburgh Cemetery Association, Inc. shall be contingent on the following: (1) an archeological assessment shall be conducted on the state park land parcel to be exchanged and shall include an investigation to determine if there are any human remains or other archeological artifacts on the parcel; (2) the commissioner of forests, parks and recreation shall consult with the commissioner of economic, housing and community development to determine if the archeological assessment meets the legal criteria to be funded by the unmarked burial sites special fund established in 18 V.S.A. § 5212b and, if it does meet the legal criteria, to also determine if sufficient money is available in the fund for this purpose; (3) the land exchange shall have the support of the selectboard of the town of Alburgh; (4) an independent appraiser shall determine the value of the parcels for exchange; (5) The Nature Conservancy and the Vermont Housing and Conservation Board as coholders shall approve the land exchange; (6) the South Alburgh Cemetery Association, Inc. shall be responsible for any and all costs associated with the exchange, including appraisal, survey, permitting, and legal costs except for any costs that may be paid for from the unmarked burial sites special fund; (7) the parcel conveyed to the state in exchange for the state parcel conveyed to the South Alburgh Cemetery Association, Inc. shall be placed under the control and jurisdiction of the department of forests, parks and recreation; and (8) the conservation easement shall be amended to reflect this land exchange.

Second: Amend the lease with Camp Downer, Inc. at Downer State Forest in Sharon to provide for two additional ten-year renewal periods.

*ROBERT M. HARTWELL
RICHARD T. MAZZA
JOSEPH C. BENNING*

Committee on the part of the Senate

*TERENCE D. MACAIG
ALICE M. EMMONS
LINDA J. MARTIN*

Committee on the part of the House

Thereupon, the question, Shall the Senate accept and adopt the report of the Committee of Conference?, was decided in the affirmative.

Thereupon, on motion of Senator Campbell, the rules were suspended and the joint resolution was ordered messaged to the House forthwith.

Action Reconsidered; House Proposal of Amendment to Senate Proposal of Amendment Concurred in with Proposal of Amendment; Rules Suspended; Bill Messaged

H. 78.

Assuring the Chair that he voted with the majority whereby the House Proposal of Amendment to the Senate Proposal of Amendment was not concurred in, Senator Galbraith moved that the Senate reconsider its action on House bill entitled:

An act relating to wages for laid-off employees.

Which was agreed to.

House proposal of amendment to Senate proposal of amendment to House bill entitled:

An act relating to wages for laid-off employees.

Was taken up.

The House concurs in the Senate proposal of amendment with further amendment thereto as follows:

First: By striking out Sec. 2 in its entirety and inserting in lieu thereof a new Sec. 2 to read as follows:

Sec. 2. 11A V.S.A. § 14.03 is amended to read:

§ 14.03. ARTICLES OF DISSOLUTION

(a) At any time after dissolution is authorized, the corporation may dissolve by delivering to the secretary of state for filing articles of dissolution setting forth:

- (1) the name of the corporation;
- (2) the date dissolution was authorized;
- (3) if dissolution was approved by the shareholders:

(A) the number of votes entitled to be cast on the proposal to dissolve; and

(B) either the total number of votes cast for and against dissolution or the total number of undisputed votes cast for dissolution and a statement that the number cast for dissolution was sufficient for approval;

(4) if voting by voting groups was required, the information required by subdivision (3) of this subsection ~~must be~~, separately provided for each voting group entitled to vote separately on the plan to dissolve;

(5) a statement as to the settlement of debts, wages, the distribution of property, and the status of pending litigation.

(b) Subject to the provisions of section 14.09 of this title, a corporation is dissolved upon the effective date of its articles of dissolution.

(c) A corporation shall stipulate to the department of labor whether and in what amount it owes unpaid wages to its employees. The secretary of state shall certify the articles of dissolution only after receiving confirmation from the department of labor that the corporation has paid the stipulated wages.

Second: By adding a new section to be numbered Sec. 3 to read as follows:

Sec. 3. EFFECTIVE DATE

Sec. 2 of this act shall take effect on October 1, 2012.

Thereupon, pending the question, Shall the Senate concur in the House proposal of amendment?, Senator Galbraith moved that the Senate concur in the House proposal of amendment with an amendment as follows:

The Senate concurs in the House proposal of amendment to the Senate proposal of amendment with a further proposal of amendment, as follows:

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

Sec. 1. 9 V.S.A. § 1971 is amended to read:

§ 1971. ~~EXTENT OF LIEN~~ UNPAID WAGES; STATUTORY LIEN; PRIORITY OVER SUBSEQUENT MORTGAGE OR LIEN

(a) A statutory lien is created on the real and personal property of a corporation for up to 30 days of unpaid wages.

(b) The liability of a corporation to ~~wage-earners~~ an employee for unpaid wages which were earned ~~in the three months next~~ for a 30-day period prior to the filing of a new mortgage or other lien upon the property and franchise of such corporation of the corporation, in all cases, shall be a first lien thereon, notwithstanding any mortgage or other lien thereon recorded after such wages were earned. ~~An individual who works for wages, salary or hire at a rate of compensation not exceeding \$3,000.00 a year shall be deemed to be a wage earner within the meaning of this section.~~ Notice of the lien if on personal property shall be filed with the secretary of state's office and, if on real property, in the land records, by the employee or the department of labor acting on behalf of one or more employees. An employee who is owed wages or the department of labor acting on behalf of one or more employees may file an action to execute on the lien in the civil division of the superior court in the county in which the corporation has its principal place of business in the state, or in the civil division of the Washington County superior court.

Sec. 2. 11A V.S.A. § 14.03 is amended to read:

§ 14.03. ARTICLES OF DISSOLUTION; CONTENT OF NOTICE; NOTICE TO DEPARTMENT OF LABOR REGARDING UNPAID WAGES

(a) At any time after dissolution is authorized, the corporation may dissolve by delivering to the secretary of state for filing articles of dissolution setting forth:

- (1) the name of the corporation;
- (2) the date dissolution was authorized;
- (3) if dissolution was approved by the shareholders:

(A) the number of votes entitled to be cast on the proposal to dissolve; and

(B) either the total number of votes cast for and against dissolution or the total number of undisputed votes cast for dissolution and a statement that the number cast for dissolution was sufficient for approval;

(4) if voting by voting groups was required, the information required by subdivision (3) of this subsection ~~must be~~, separately provided for each voting group entitled to vote separately on the plan to dissolve;

(5) a statement as to the settlement of debts, the distribution of property, and the status of pending litigation;

(6) a statement whether the corporation owes any unpaid wages to its employees.

(b) Subject to the provisions of section 14.09 of this title, a corporation is dissolved upon the effective date of its articles of dissolution.

(c) If a corporation owes unpaid wages to its employees, it shall also file a statement to that effect with the department of labor.

Which was agreed to.

Thereupon, on motion of Senator Mazza, the rules were suspended, and the bill was ordered messaged to the House forthwith.

Rules Suspended; House Proposal of Amendment to Senate Proposal of Amendment Concurred In; Bill Delivered

S. 106.

Appearing on the Calendar for notice, on motion of Senator Campbell, the rules were suspended and House proposal of amendment to Senate proposal of amendment to House bill entitled:

An act relating to miscellaneous changes to municipal government law.

Was taken up for immediate consideration.

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

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”

Thereupon, the question, Shall the Senate concur in the House proposal of amendment to the Senate proposal of amendment?, was decided in the affirmative on a roll call, Yeas 27, Nays 0.

Senator Lyons having demanded the yeas and nays, they were taken and are as follows:

Roll Call

Those Senators who voted in the affirmative were: Ashe, Ayer, Baruth, Benning, Brock, Campbell, Carris, Cummings, Doyle, Flory, Fox, Galbraith, Hartwell, Illuzzi, Kitchel, Lyons, MacDonald, Mazza, McCormack, Miller, Mullin, Nitka, Pollina, Sears, Starr, Westman, White.

Those Senators who voted in the negative were: None.

Those Senators absent and not voting were: Giard, Kittell, Snelling.

Thereupon, on motion of Senator Mazza, the rules were suspended and the bill was ordered delivered to the Governor forthwith.

Report of Addendum to the Committee of Conference Accepted and Adopted on the Part of the Senate; Bill Delivered

S. 199.

The report of the Committee of Conference on Senate bill entitled:

An act relating to immunization exemptions and the immunization pilot program.

Was taken up for immediate consideration.

Senator Mullin, for the Committee of Conference, submitted the following report:

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. 199. An act relating to immunization exemptions and the immunization pilot program.

Recommends that the Report of the Committee of Conference be rescinded and the bill be amended by striking all after the enacting clause and inserting in lieu thereof:

Sec. 1. 18 V.S.A. § 1121 is amended to read:

§ 1121. IMMUNIZATIONS REQUIRED PRIOR TO ATTENDING SCHOOL AND CHILD CARE FACILITIES

* * *

(c) To the extent permitted under the federal Health Insurance Portability and Accountability Act, Pub. L. 104-191, all schools and child care facilities shall make publicly available the aggregated immunization rates of the student body for each required vaccine using a standardized form that shall be created by the department of health. Each school and child care facility shall annually, on or before January 1, submit its standardized form containing the student body's aggregated immunization rates to the department of health. Notwithstanding section 1120 of this title, for the purposes of this subsection only, the term "child care facility" shall exclude a family day care home licensed or registered under 33 V.S.A. chapter 35.

Sec. 2. 18 V.S.A. § 1122 is amended to read:

§ 1122. EXEMPTIONS

(a) A Notwithstanding subsections 1121(a) and (b) of this title, a person may remain in school or in the child care facility without a required immunization:

(1) If the person, or, in the case of a minor, the person's parent or guardian presents a ~~written statement, from~~ form created by the department and signed by a licensed health care practitioner authorized to prescribe vaccines or a health clinic, or nurse stating that the person is in the process of being immunized. The person may continue to attend school or the child care facility as long as for up to six months while the immunization process is being accomplished;

(2) If a health care practitioner, licensed to practice in Vermont and authorized to prescribe vaccines, certifies in writing that a specific immunization is or may be detrimental to the person's health or is not

appropriate; provided that when a particular vaccine is no longer contraindicated, the person shall be required to receive the vaccine; or

(3) If the person, or, in the case of a minor, the person's parent or guardian states in writing annually provides a signed statement to the school or child care facility on a form created by the Vermont department of health that the person, parent, or guardian:

(A) ~~has~~ holds religious beliefs or philosophical convictions opposed to immunization;

(B) has reviewed and understands evidence-based educational material provided by the department of health regarding immunizations, including information about the risks of adverse reactions to immunization;

(C) understands that failure to complete the required vaccination schedule increases risk to the person and others of contracting or carrying a vaccine-preventable infectious disease; and

(D) understands that there are persons with special health needs attending schools and child care facilities who are unable to be vaccinated or who are at heightened risk of contracting a vaccine-preventable communicable disease and for whom such a disease could be life-threatening.

(b) The health department may provide by rule for further exemptions to immunization based upon sound medical practice.

(c) A form signed pursuant to subdivision (a)(3) of this section and the fact that such a form was signed shall not be:

(1) construed to create or deny civil liability for any person; or

(2) admissible as evidence in any civil proceeding.

Sec. 3. 18 V.S.A. § 1124 is amended as follows:

§ 1124. ACCESS TO AND REPORTING OF IMMUNIZATION RECORDS

(a) In addition to any data collected in accordance with the requirements of the Centers for Disease Control and Prevention, the Vermont department of health shall annually collect from schools the immunization rates for at least those students in the first and eighth grades for each required vaccine. The data collected by the department shall include the number of medical, philosophical, and religious exemptions filed for each required vaccine and the number of students with a provisional admittance.

(b) Appropriate health personnel, including school nurses, shall have access to immunization records of anyone enrolled in Vermont schools or child care facilities, when access is required in the performance of official duties related to the immunizations required by this subchapter. Access to student

immunization records shall only be provided with the prior written consent of parents and students as required by the Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g, and any regulations adopted thereunder.

Sec. 4. 18 V.S.A. § 1130(b)(1) is amended to read:

(b)(1) The department of health shall establish an immunization pilot program with the ultimate goal of ensuring universal access to vaccines for all Vermonters at no charge to the individual and to reduce the cost at which the state may purchase vaccines. The pilot program shall be in effect from January 1, 2010, through December 31, ~~2012~~ 2014. During the term of the pilot program, the department shall purchase, provide for the distribution of, and monitor the use of vaccines as provided for in this subsection and subsection (c) of this section. The cost of the vaccines and an administrative surcharge shall be reimbursed by health insurers as provided for in subsections (e) and (f) of this section.

Sec. 5. REPORT

The Vermont department of health shall submit a report to the general assembly on or before January 15, 2014 containing data collected pursuant to 18 V.S.A. § 1124(a) for the purpose of informing future policy discussions regarding immunization exemptions.

Sec. 6. INTERIM WORKING GROUP ON PROTECTING IMMUNOCOMPROMISED STUDENTS AND STUDENTS WITH SPECIAL HEALTH NEEDS

(a) The departments of education and of health shall convene a working group on how to protect immunocompromised students and students with special health needs, which shall study the feasibility of allowing these students to enroll in a public school maintained by an adjoining school district, where the adjoining school district has a higher immunization rate than the school maintained by the student's school district of residence. For the purpose of protecting immunocompromised students and students with special health needs, the working group shall also assess the necessity and practicability of requiring adults employed at schools to be fully immunized. The working group shall submit a report of its findings and recommendations to the senate committee on health and welfare and the house committee on health care on or before January 1, 2013.

(b) The working group shall be composed of the following members:

(1) the commissioner of education or designee, who shall serve as co-chair;

(2) the commissioner of health or designee, who shall serve as co-chair;

(3) one medical professional with training or experience treating immunocompromised patients, appointed by the commissioner of health;

(4) one medical professional specializing in pediatric care, appointed by the commissioner of health;

(5) the executive director of the Vermont Superintendents Association; and

(6) a member of the Vermont-National Education Association.

(c) For the purposes of its study, the working group shall have joint administrative support from the departments of education and of health.

(d) The working group on protecting immunocompromised students shall cease to exist on January 31, 2013.

Sec. 7. EFFECTIVE DATE

This act shall take effect on July 1, 2012.

KEVIN J. MULLIN

CLAIRE D. AYER

Committee on the part of the Senate

MICHAEL FISHER

KRISTY K. SPENGLER

GEORGE W. TILL

Committee on the part of the House

Thereupon, the question, Shall the Senate accept and adopt the report of the Committee of Conference?, was decided in the affirmative on a roll call, Yeas 20, Nays 5.

Senator Baruth having demanded the yeas and nays, they were taken and are as follows:

Roll Call

Those Senators who voted in the affirmative were: Ayer, Brock, Carris, Cummings, Flory, Fox, Galbraith, Illuzzi, Kitchel, Lyons, MacDonald, Mazza, McCormack, Miller, Mullin, Nitka, Sears, Starr, Westman, White.

Those Senators who voted in the negative were: Ashe, Baruth, Benning, Doyle, Pollina.

Those Senators absent and not voting were: Campbell, Giard, Hartwell, Kittell, Snelling.

Thereupon, on motion of Senator Mazza, the rules were suspended and the bill was ordered delivered to the Governor forthwith.

Recess

On motion of Senator Mazza the Senate recessed until two o'clock and forty-five minutes in the afternoon.

Called to Order

The Senate was called to order by the President.

Message from the House No. 86

A message was received from the House of Representatives by Ms. H. Gwynn Zakov, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has considered the report of the Committee of Conference and the Addendum to the Report of the Committee of Conference upon the disagreeing votes of the two Houses on Senate bill of the following title:

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

And has adopted the same on its part.

Rules Suspended; Report of Committee of Conference; Report of Addendum to Committee of Conference Accepted and Adopted on the Part of the Senate; Bill Delivered

S. 113.

Pending entry on the Calendar for notice, on motion of Senator Campbell, the rules were suspended and the report of the Committee of Conference on Senate bill entitled:

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

Was taken up for immediate consideration.

Senator Mullin, for the Committee of Conference, submitted the following report:

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 reports that it has met and considered the same and recommends 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 to read as follows:

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 as follows:

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.

KEVIN J. MULLIN
 PHILIP E. BARUTH
 SARA BRANON KITTELL

Committee on the part of the Senate

JOHANNAH L. DONOVAN
 GARY L. GILBERT
 SARAH E. BUXTON

Committee on the part of the House

Pending the question, Shall the Senate accept and adopt the report of the Committee of Conference?, Senator Mullin moved that the Senate accept and adopt the Addendum to the Committee of Conference report as follows:

That the report of the Committee of Conference be rescinded and the bill be amended by striking all after the enacting clause and inserting in lieu thereof:

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 modified union school 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.

* * * 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~~ 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.

* * * Abuse Reporting * * *

Sec. 27. 16 V.S.A. § 563a is amended to read:

§ 563a. ~~SCHOOL BOARDS~~; PREVENTION, IDENTIFICATION, AND REPORTING OF CHILD SEXUAL ABUSE AND SEXUAL VIOLENCE

~~The~~ Each school board of a school district and governing body of an approved or recognized independent school shall ensure that adults employed in the schools ~~maintained by the district within its jurisdiction~~ receive orientation, information, or instruction on the prevention, identification, and reporting of child sexual abuse, as defined in 33 V.S.A. § 4912(8), and sexual violence. This shall include information regarding the signs and symptoms of sexual abuse, sexual violence, grooming processes, recognizing the dangers of child sexual abuse in and close to the home, and other predatory behaviors of sex offenders. The school board or governing body shall also provide opportunities for parents, guardians, and other interested persons to receive the same information. The department of education and the agency of human services shall provide materials and technical support to any school board or governing body that requests assistance in implementing this section.

Sec. 28. 33 V.S.A. § 4913(a) is amended to read:

(a) Any physician, surgeon, osteopath, chiropractor, or physician's assistant licensed, certified, or registered under the provisions of Title 26, any resident physician, intern, or any hospital administrator in any hospital in this state, whether or not so registered, and any registered nurse, licensed practical nurse, medical examiner, emergency medical personnel as defined in 24 V.S.A. § 2651(6), dentist, psychologist, pharmacist, any other health care provider, child care worker, school superintendent, headmaster of an approved or recognized independent school as defined in 16 V.S.A. § 11, school teacher, school librarian, school principal, school guidance counselor, and any other individual who is ~~regularly~~ employed by a school district or an approved or recognized independent school, or who is contracted and paid by a school district or an approved or recognized independent school to provide student services ~~for five or more hours per week during the school year~~, mental health professional, social worker, probation officer, any employee, contractor, and grantee of the agency of human services who have contact with clients, police officer, camp owner, camp administrator, camp counselor, or member of the clergy who has reasonable cause to believe that any child has been abused or neglected shall report or cause a report to be made in accordance with the provisions of section 4914 of this title within 24 hours. As used in this subsection, "camp" includes any residential or nonresidential recreational program.

Sec. 29. 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. 30. 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).

* * * Working Group * * *

Sec. 31. 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.

* * * Harassment, Hazing, and Bullying Advisory Council * * *

Sec. 32. 16 V.S.A. § 570(d)(2)(G) is amended 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.

* * * Designated Schools; Tuition * * *

Sec. 33. 16 V.S.A. § 827(e) is amended to read:

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

(1) the school districts of Pawlet, Rupert, and Wells may designate a public high school located in New York as the public high school of the district pursuant to the provisions of this section; ~~and~~

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

(3) unless otherwise directed by an affirmative vote of the school district, when the Strafford board approves a parental request to pay tuition to a nondesignated approved independent or public school, the board shall pay tuition to the nondesignated school pursuant to section 824 of this title for the year in which the pupil is enrolled; provided, however, that it shall not pay tuition in an amount that exceeds the tuition paid to the designated school for the same academic year.

* * * Effective Dates * * *

Sec. 34. EFFECTIVE DATES; IMPLEMENTATION

(a) This section and Secs. 7, 8, 12, 24–31, and 33 of this act shall take effect on passage; provided that Sec. 33 shall apply to enrollment in the 2012–2013 academic year and after.

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

*KEVIN J. MULLIN
PHILIP E. BARUTH
SARA BRANON KITTELL*

Committee on the part of the Senate

*JOHANNAH L. DONOVAN
GARY L. GILBERT
SARAH E. BUXTON*

Committee on the part of the House

Thereupon, the question, Shall the Senate accept and adopt the Addendum to the Committee of Conference Report?, was decided in the affirmative.

Thereupon, on motion of Senator Mazza, the rules were suspended and the bill was ordered delivered to the Governor forthwith.

Rules Suspended; House Proposal of Amendment Concurred in With an Amendment

S. 93.

Appearing on the Calendar for notice, on motion of Senator Campbell, the rules were suspended and House proposal of amendment to Senate bill entitled:

An act relating to labeling maple products.

Was taken up for immediate consideration.

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

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

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

* * * Violations; Penalties * * *

Sec. 1. 10 V.S.A. § 2675 is amended to read:

§ 2675. PENALTIES

A person who commits a violation under subsection 2645(a) or 2648(a) of this title shall be subject to a fine of not more than ~~\$25.00~~ \$75.00 per violation. In the case of a violation which continues after the issuance of a fire prevention complaint, each day's continuance may be deemed a separate violation.

Sec. 2. 24 V.S.A. § 1974a is amended to read:

§ 1974a. ENFORCEMENT OF CIVIL ORDINANCE VIOLATIONS

(a) A civil penalty of not more than ~~\$500.00~~ \$800.00 may be imposed for a violation of a civil ordinance. Each day the violation continues shall constitute a separate violation.

(b) All civil ordinance violations, except municipal parking violations, and all continuing civil ordinance violations, where the penalty is ~~\$500.00~~ \$800.00 or less, shall be brought before the judicial bureau pursuant to Title 4 and this chapter. If the penalty for all continuing civil ordinance violations is greater than ~~\$500.00~~ \$800.00, or injunctive relief, other than as provided in subsection (c) of this section, is sought, the action shall be brought in the criminal division of the superior court, unless the matter relates to enforcement under chapter 117 of this title, in which instance the action shall be brought in the environmental division of the superior court.

* * *

Sec. 3. 24 V.S.A. § 4451 is amended to read:

§ 4451. ENFORCEMENT; PENALTIES

(a) Any person who violates any bylaw after it has been adopted under this chapter or who violates a comparable ordinance or regulation adopted under prior enabling laws shall be fined not more than ~~\$100.00~~ \$200.00 for each offense. No action may be brought under this section unless the alleged offender has had at least seven days' warning notice by certified mail. An action may be brought without the seven-day notice and opportunity to cure if the alleged offender repeats the violation of the bylaw or ordinance after the seven-day notice period and within the next succeeding 12 months. The seven-day warning notice shall state that a violation exists, that the alleged offender has an opportunity to cure the violation within the seven days, and that the alleged offender will not be entitled to an additional warning notice for a violation occurring after the seven days. In default of payment of the fine, the person, the members of any partnership, or the principal officers of the corporation shall each pay double the amount of the fine. Each day that a violation is continued shall constitute a separate offense. All fines collected for the violation of bylaws shall be paid over to the municipality whose bylaw has been violated.

(b) Any person who, being the owner or agent of the owner of any lot, tract, or parcel of land, lays out, constructs, opens, or dedicates any street, sanitary sewer, storm sewer, water main, or other improvements for public use, travel, or other purposes or for the common use of occupants of buildings abutting thereon, or sells, transfers, or agrees or enters into an agreement to sell any land in a subdivision or land development whether by reference to or by other use of a plat of that subdivision or land development or otherwise, or erects any structure on that land, unless a final plat has been prepared in full compliance with this chapter and the bylaws adopted under this chapter and has been recorded as provided in this chapter, shall be fined not more than ~~\$100.00~~ \$200.00, and each lot or parcel so transferred or sold or agreed or included in a contract to be sold shall be deemed a separate violation. All fines collected for these violations shall be paid over to the municipality whose bylaw has been violated. The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the seller or transferor from these penalties or from the remedies provided in this chapter.

* * * Damages by Dogs * * *

Sec. 4. REPEAL

20 V.S.A. §§ 3741 (election of remedy), 3742 (notice of damage; appraisal), 3743 (examination of certificate), 3744 (fees and travel expenses),

3745 (identification and killing of dogs), 3746 (action against town), and 3747 (action by town against owner of dogs) are repealed.

Sec. 5. 20 V.S.A. § 3622 is amended to read:

§ 3622. FORM OF WARRANT

Such warrant shall be in the following form:

State of Vermont:)
)
 _____ County, ss.)

To _____, constable or police officer of the town or city of _____:

By the authority of the state of Vermont, you are hereby commanded forthwith to impound ~~and destroy in a humane way or cause to be destroyed in a humane way~~ all dogs and wolf-hybrids not duly licensed according to law, except as exempted by ~~section 20 V.S.A. § 3587 of 20 V.S.A.;~~ and you are further required to make and return complaint against the owner or keeper of any such dog or wolf-hybrid. A dog or wolf-hybrid that is impounded may be transferred to an animal shelter or rescue organization for the purpose of finding an adoptive home for the dog or wolf-hybrid. If the dog or wolf-hybrid cannot be placed in an adoptive home or transferred to a humane society or rescue organization within ten days, or a greater number of days established by the municipality, the dog or wolf-hybrid may be destroyed in a humane way.

Hereof fail not, and due return make of this warrant, with your doings thereon, within 90 days from the date hereof, stating the number of dogs or wolf-hybrids destroyed and the names of the owners or keepers thereof, and whether all unlicensed dogs or wolf-hybrids in such town (or city) have been destroyed, and the names of persons against whom complaints have been made under the provisions of 20 V.S.A. chapter 193, subchapters 1, 2, and 4 ~~of chapter 193 of 20 V.S.A.,~~ and whether complaints have been made and returned against all persons who have failed to comply with the provisions of such subchapter.

Given under our (my) hands at _____ aforesaid, this _____ day of _____, 19 20 _____.

Legislative Body

* * * Taxes * * *

Sec. 6. 24 V.S.A. § 1535 is amended to read:

§ 1535. ABATEMENT

(a) The board may abate in whole or part taxes, interest, ~~and~~ or collection fees, other than those arising out of a corrected classification of homestead or nonresidential property, accruing to the town in the following cases:

* * *

* * * General Municipal Powers and Duties * * *

Sec. 7. 24 V.S.A. § 1972 is amended to read:

§ 1972. PROCEDURE

(a)(1) The legislative body of a municipality desiring to adopt an ordinance or rule may adopt it subject to the petition set forth in section 1973 of this title and shall cause it to be entered in the minutes of the municipality and posted in at least five conspicuous places within the municipality. ~~The full text of the ordinance or rule, or a concise summary of it including a statement of purpose, principal provisions, and table of contents or list of section headings, shall be published~~ legislative body shall arrange for one formal publication of the ordinance or rule or a concise summary thereof in a newspaper circulating in the municipality on a day not more than 14 days following the date when the proposed provision is so adopted. Along with the concise summary shall be published a reference to a place within the municipality where the full text may be examined. When the text or concise summary of an ordinance is published, the information included in the publication shall be the name of the municipality; the name of the municipality's website, if the municipality actively updates its website on a regular basis; the title or subject of the ordinance or rule; the name, telephone number, and mailing address of a municipal official designated to answer questions and receive comments on the proposal; and where the full text may be examined. The same notice shall explain citizens' rights to petition for a vote on the ordinance or rule at an annual or special meeting as provided in section 1973 of this title, and shall also contain the name, address and telephone number of a person with knowledge of the ordinance or rule who is available to answer questions about it.

(2) Unless a petition is filed in accordance with section 1973 of this title, the ordinance or rule shall become effective 60 days after the date of its adoption, or at such time following the expiration of 60 days from the date of its adoption as is determined by the legislative body. If a petition is filed in accordance with section 1973 of this title, the taking effect of the ordinance or rule shall be governed by ~~section~~ subsection 1973(e) of this title.

* * *

(c) The procedure herein provided shall apply to the adoption of any ordinance or rule by a municipality unless another procedure is provided by charter, special law, or particular statute.

Sec. 8. 24 V.S.A. § 2291 is amended to read:

§ 2291. ENUMERATION OF POWERS

For the purpose of promoting the public health, safety, welfare, and convenience, a town, city, or incorporated village shall have the following powers:

* * *

(4) To regulate the operation and use of vehicles of every kind including the power: to erect traffic signs and signals; to regulate the speed of vehicles subject to 23 V.S.A. §§ ~~1141-1147~~ chapter 13, subchapter 12; to regulate or exclude the parking of all vehicles; and to provide for waiver of the right of appearance and arraignment in court by persons charged with parking violations by payment of specified fines within a stated period of time.

* * *

(6) To regulate the location, installation, maintenance, repair, and removal of utility poles, wires and conduits, water pipes or mains, or gas mains and sewers, upon, under, or above public highways or public property of the municipality.

(7) To regulate or prohibit the erection, size, structure, contents, and location of signs, posters, or displays on or above any public highway, sidewalk, lane, or alleyway of the municipality and to regulate the use, size, structure, contents, and location of signs on private buildings or structures.

(8) To regulate or prohibit the use or discharge, but not possession of, firearms within the municipality or specified portions thereof, provided that an ordinance adopted under this subdivision shall be consistent with section 2295 of this title and shall not prohibit, reduce, or limit discharge at any existing sport shooting range, as that term is defined in 10 V.S.A. § 5227-.

(9) To license or regulate itinerant vendors, peddlers, door-to-door salesmen, and those selling goods, wares, merchandise, or services who engage in a transient or temporary business, or who sell from an automobile, truck, wagon, or other conveyance, excepting persons selling fruits, vegetables, or other farm produce.

* * *

(11) To regulate, license, tax, or prohibit circuses, carnivals and menageries, and all plays, concerts, entertainments, or exhibitions of any kind for which money is received.

* * *

(14) To define what constitutes a public nuisance, and to provide procedures and take action for its abatement or removal as the public health, safety, or welfare may require.

* * *

(16) To name and rename streets and to number and renumber lots pursuant to section ~~4424~~ 4463 of this title.

* * *

* * * Poor Relief * * *

Sec. 9. 24 V.S.A. § 1236 is amended to read:

§ 1236. POWERS AND DUTIES IN PARTICULAR

The manager shall have authority and it shall be his or her duty:

* * *

(2) To perform all duties now conferred by law upon the ~~selectmen~~ selectboard, except that he or she shall not prepare tax bills, sign orders on the general fund of the town, ~~other than orders for poor relief~~, call special or annual town meetings, lay out highways, establish and lay out public parks, make assessments, award damages, act as member of the board of civil authority, nor make appointments to fill vacancies which the ~~selectmen are~~ selectboard is now authorized by law to fill; but he or she shall, in all matters herein excepted, render the ~~selectmen~~ selectboard such assistance as ~~they~~ it shall require;

* * *

(4) To have charge and supervision of all public town buildings, repairs thereon, and repairs of buildings of the town school district upon requisition of the school directors; and all building done by the town or town school district, unless otherwise specially voted, shall be done under his or her charge and supervision;

(5) To perform all the duties now conferred by law upon the road commissioner of the town, including the signing of orders; provided, however, that when an incorporated village lies within the territorial limits of a town which is operating under a town manager, and such village fails to pay to such town for expenditure on the roads of the town outside the village, at least

~~fifteen~~ 15 percent of the last highway tax levied in such village, the legal voters residing in such town, outside such village, may elect one or two road commissioners who shall have and exercise all powers of road commissioner within that part of such town as lies outside such village;

* * *

Sec. 10. 24 V.S.A. § 1762 is amended to read:

§ 1762. LIMITS

(a) A municipal corporation shall not incur an indebtedness for public improvements which, with its previously contracted indebtedness, shall, in the aggregate, exceed ten times the amount of the last grand list of such municipal corporation. Bonds or obligations given or created in excess of the limit authorized by this subchapter and contrary to its provisions shall be void.

(b) However, the provisions of this subchapter as to the debt limit shall not apply to bonds issued under sections 1752, or 1754 ~~and 1769~~ of this title, relating to the ordinary expenses of a municipality, ~~nor to bonds issued for poor relief.~~

Sec. 11. REPEAL

24 V.S.A. §§ 1769 (notes and bonds for poor relief) and 1770 (application) are repealed.

* * * Glebe Lands * * *

Sec. 12. REPEAL

24 V.S.A. §§ 2404 (rents of other lands, how divided and applied) and 2405 (contract under previous law not affected) are repealed.

* * * Municipal Planning and Development * * *

Sec. 13. 24 V.S.A. § 4303 is amended to read:

§ 4303. DEFINITIONS

The following definitions shall apply throughout this chapter unless the context otherwise requires:

* * *

(33) "Public road" means a state highway as defined in 19 V.S.A. § 1 or a class 1, 2, or 3 town highway as defined in 19 V.S.A. § 302(a). A municipality may, at its discretion, define a public road to also include a class 4 town highway as defined in 19 V.S.A. § 302(a).

Sec. 14. 24 V.S.A. § 4412 is amended to read:

§ 4412. REQUIRED PROVISIONS AND PROHIBITED EFFECTS

Notwithstanding any existing bylaw, the following land development provisions shall apply in every municipality:

* * *

(3) **Required frontage on, or access to, public roads, class 4 town highways, or public waters.** Land development may be permitted on lots that do not have frontage either on a public road, class 4 town highway, or public waters, provided that access through a permanent easement or right-of-way has been approved in accordance with standards and process specified in the bylaws. This approval shall be pursuant to subdivision bylaws adopted in accordance with section 4418 of this title, or where subdivision bylaws have not been adopted or do not apply, through a process and pursuant to standards defined in bylaws adopted for the purpose of assuring safe and adequate access. Any permanent easement or right-of-way providing access to such a road or waters shall be at least 20 feet in width.

* * *

Sec. 15. 24 V.S.A. § 4442 is amended to read:

§ 4442. ADOPTION OF BYLAWS AND RELATED REGULATORY TOOLS; AMENDMENT OR REPEAL

* * *

(c) Routine adoption.

(1) A bylaw, bylaw amendment, or bylaw repeal shall be adopted by a majority of the members of the legislative body at a meeting that is held after the final public hearing, and shall be effective 21 days after adoption unless, by action of the legislative body, the bylaw, bylaw amendment, or bylaw repeal is warned for adoption by the municipality by Australian ballot at a special or regular meeting of the municipality.

(2) However, a rural town ~~with a population of fewer than 2,500 persons~~ as defined in section 4303 of this chapter, by vote of that town at a special or regular meeting duly warned on the issue, may elect to require that bylaws, bylaw amendments, or bylaw repeals shall be adopted by vote of the town by Australian ballot at a special or regular meeting duly warned on the issue. That procedure shall then apply until rescinded by the voters at a regular or special meeting of the town.

* * *

* * * Property; Filing of Land Plats * * *

Sec. 16. 27 V.S.A. § 1404(b) is amended to read:

(b) Survey plats prepared and filed in accordance with ~~section 4416 of Title 24 V.S.A. § 4463~~ shall be exempt from subdivision ~~1403(b)(6)~~ 1403(b)(5) of this title. Survey plats or plans filed under this exemption shall contain a title area, the location of the land and scale expressed in engineering units. In addition, they shall include inscriptions and data required by zoning and planning boards.

Sec. 17. 27 V.S.A. § 1403(b) is amended to read:

(b) Plats filed in accordance with this chapter shall also conform with the following further requirements:

* * *

(8) The recordable plat materials shall be composed in one of the following processes:

(A) fixed-line photographic process on stable base polyester film; or

(B) pigment ink on stable base polyester film or linen tracing cloth.

Sec. 18. REPEAL

27 V.S.A. § 1403(b)(8) (process for recordable plat materials) is repealed on July 1, 2013.

* * * Unorganized Towns and Gores * * *

Sec. 19. 24 V.S.A. § 1408 is amended to read:

§ 1408. SUPERVISOR; GENERAL DUTIES

~~Such~~ The supervisor shall act as selectman a selectperson in matters of road encroachment, planning, and related bylaws, as school director and truant officer, as constable, as collector of taxes ~~and~~, as town clerk in the matter of licensing dogs, and as town clerk and board of civil authority in the matter of tax appeals from the decisions of the board of appraisers.

Sec. 20. 32 V.S.A. § 4408 is amended to read:

§ 4408. HEARING BY BOARD

(a) On the date so fixed by the town clerk and from day to day thereafter, the board of civil authority shall hear such appellants as appear in person or by agents or attorneys, until all such objections have been heard and considered. All objections filed in writing with the board of civil authority at or prior to the time fixed for hearing appeals shall be determined by the board

notwithstanding that the person filing the objections fails to appear in person, or by agent or attorney.

~~(b) Ad hoc board for unorganized towns and gores. For purposes of hearing appeals under this subchapter only, the supervisor shall create an ad hoc board composed of:~~

~~(1) the supervisor; and~~

~~(2) one member from each adjoining municipality's board of civil authority, to be appointed by each respective board of civil authority, representing no fewer than three and no more than five of the adjoining municipalities, at the discretion of the supervisor. [Repealed.]~~

~~(c) The ad hoc board provided for in subsection (b) of this section shall, for purposes of hearing appeals under this subchapter only, act as a board of civil authority, and an aggrieved party shall have further appeal rights as though the party had appealed to a board of civil authority. [Repealed.]~~

* * * Unified Towns and Gores in Essex County * * *

Sec. 21. REIMBURSEMENT FOR GRIEVANCE HEARING EXPENDITURES

(a) A unified town or gore shall be entitled to claim reimbursement for expenditures incurred in conducting grievance hearings when:

(1) the hearing was held between July 1, 2009 and February 23, 2011;

(2) the expenditures related to hiring a person or persons to participate in the grievance hearing; and

(3) the expenditures were necessary to comply with 32 V.S.A. § 4408.

(b) Claims shall be filed with the department of taxes within 60 days of the effective date of this act, with receipts or other documentation as the department may require.

* * * Public Service; Renewable Pilot Program * * *

Sec. 22. 30 V.S.A. § 8102 is amended to read:

§ 8102. INCENTIVES; ~~CUSTOMER CONNECTIONS~~

~~(a) Notwithstanding any other provision of law, the~~ The clean energy development fund created under 10 V.S.A. § 6523 section 8015 of this title shall provide at least \$100,000.00 in incentives to customers who will connect to a certified Vermont village green renewable project. Any such incentive shall be applied by the customer to the cost of constructing the customer's connection to the project.

(b) Notwithstanding the provisions of subsection (a) of this section or any other law, on and after April 1, 2012, the clean energy development fund shall make up to \$100,000.00 of funds that would otherwise have been available to customers connecting to Vermont village green renewable projects under this section available to other district heating on a competitive basis. The use of such funds shall not be limited to customer connections. For the purpose of this subsection, it shall not be necessary that the district heating be proposed by a municipality, serve a downtown development district or growth center under 24 V.S.A. § 2793 or 2793c, or obtain certification under this chapter.

* * * Auditor of Accounts; Internal Financial Controls * * *

Sec. 23. 32 V.S.A. § 163 is amended to read:

§ 163. DUTIES OF THE AUDITOR OF ACCOUNTS

In addition to any other duties prescribed by law, the auditor of accounts shall:

* * *

~~(6) Report on or before February 15 of each year to the house and senate committees on appropriations in which he or she shall summarize significant findings, and make such comments and recommendations as he or she finds necessary. [Repealed.]~~

* * *

(11) Make available to all counties, municipalities, and supervisory unions as defined in 16 V.S.A. § 11(23) and supervisory districts as defined in 16 V.S.A. § 11(24) a document designed to determine the internal financial controls in place to assure proper use of all public funds. The auditor shall consult with the Vermont School Boards Association, the Vermont Association of School Business Officials, and the Vermont League of Cities and Towns in the development of the document. The auditor shall strive to limit the document to one letter-size page. The auditor shall also make available to public officials charged with completing the document instructions to assist in its completion.

(12) Make available to all county, municipality, and school district officials with fiduciary responsibilities an education program. The program shall provide instruction in fiduciary responsibility, faithful performance of duties, the importance and components of a sound system of internal financial controls, and other topics designed to assist the officials in performing the statutory and fiduciary duties of their offices. The auditor shall consult with the Vermont School Boards Association, the Vermont Association of School

Business Officials, and the Vermont League of Cities and Towns in the development of the education program.

Sec. 24. AUDITOR WEBSITE; AUDIT FINDINGS

(a) By July 1, 2012, the auditor of accounts shall prominently post on his or her official state website the following information:

(1) a summary of all embezzlements and other financial fraud against any agency or department of the state committed within the last five years, whether committed by a state employee, contractor, or other person. The summary shall include the names of all persons or entities convicted of those offenses; and

(2)(A) all reports with findings that result from audits conducted under 32 V.S.A. § 163(1); and

(B) a summary of significant recommendations arising out of the audits that are contained in audit reports conducted under 32 V.S.A. § 163(1) and issued since January 1, 2012, and the dates on which corrective actions were taken related to those recommendations. Recommendation follow-up shall be conducted at least biennially and for at least four years from the date of the audit report.

(b) The auditor of accounts shall notify the general assembly of the initial posting made on his or her website pursuant to subsection (a) of this section by electronic or other means.

* * * Municipalities; Internal Financial Controls * * *

Sec. 25. 24 V.S.A. § 832 is amended to read:

§ 832. BONDS; REQUIREMENTS

Before the school directors, constable, road commissioner, collector of taxes, treasurer, assistant treasurer when appointed by the ~~selectmen~~ selectboard, ~~and~~ clerk, and any other officer or employee of the town who has authority to receive or disburse town funds enter upon the duties of their offices, the ~~selectmen~~ selectboard shall require each to give a bond conditioned for the faithful performance of his or her duties; the school directors, to the town school district; the other named officers, to the town. The treasurer, assistant treasurer when appointed by the ~~selectmen~~ selectboard, and collector shall also be required to give a bond to the town school district for like purpose. All such bonds shall be in sufficient sums and with sufficient sureties as prescribed and approved by the ~~selectmen~~ selectboard. If the ~~selectmen~~ selectboard at any time ~~consider~~ considers a bond of any such officer or employee to be insufficient, ~~they~~ it may require, by written order, ~~such~~ the officer or employee to give an additional bond in such sum as ~~they deem~~ it

deems necessary. If an officer or employee, so required, neglects for ten days after such request to give such original or additional bond, his or her office shall be vacant. A bond furnished pursuant to the provisions of this section shall not be valid if signed by any other officer of the same municipality as surety thereon.

Sec. 26. 24 V.S.A. § 872 is amended to read:

§ 872. ~~SELECTMEN~~ SELECTBOARD; GENERAL POWERS AND DUTIES

(a) The ~~selectmen~~ selectboard shall have the general supervision of the affairs of the town and shall cause to be performed all duties required of towns and town school districts not committed by law to the care of any particular officer.

(b) The selectboard shall annually, on or before July 31, acknowledge receipt of and review the document made available by the auditor of accounts pursuant to 32 V.S.A. § 163(11) regarding internal financial controls and which has been completed and provided to the selectboard by the treasurer pursuant to section 1571 of this title.

(c) The selectboard may require any other officer or employee of the town who has the authority to receive or disburse town funds to complete and provide to the selectboard a copy of the document made available by the auditor of accounts pursuant to 32 V.S.A. § 163(11). The officer or employee shall complete and provide the document to the selectboard within 30 days of the selectboard's requirement. The selectboard shall acknowledge receipt of and review the completed document within 30 days of receiving it from the officer or employee.

Sec. 27. 24 V.S.A. § 1571 is amended to read:

§ 1571. ACCOUNTS; REPORTS

(a) The town treasurer shall keep an account of moneys, bonds, notes, and evidences of debt paid or delivered to him or her, and of moneys paid out by him or her for the town and the town school district, which accounts shall at all times be open to the inspection of persons interested.

(b) Moneys received by the town treasurer on behalf of the town may be invested and reinvested by the treasurer with the approval of the legislative body.

(c) The town treasurer shall file quarterly reports with the legislative body regarding his or her actions set forth in subsections (a) and (b) of this section.

(d) The town treasurer shall annually, on or before June 30, complete and provide to the selectboard a copy of the document made available by the auditor of accounts pursuant to 32 V.S.A. § 163(11) regarding internal financial controls.

Sec. 28. 24 V.S.A. § 1686 is amended to read:

§ 1686. PENALTY

(a) At any time in their discretion, town auditors may, and if requested by the selectboard, shall, examine and adjust the accounts of any town officer authorized by law to receive or disburse money belonging to the town.

* * *

* * * Supervisory Unions and Supervisory Districts;

Internal Financial Controls * * *

Sec. 29. 16 V.S.A. § 242a is added to read:

§ 242a. INTERNAL FINANCIAL CONTROLS

(a) The superintendent or his or her designee shall annually, on or before December 31, complete and provide to the supervisory union board and to all member district boards a copy of the document regarding internal financial controls made available by the auditor of accounts pursuant to 32 V.S.A. § 163(11).

(b) The supervisory union board shall review the document provided by the superintendent within two months of receiving it.

Sec. 30. EFFECTIVE DATE

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

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

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

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

An act relating to miscellaneous changes to municipal government law and to internal financial controls.

Thereupon, pending the question, Shall the Senate concur in the House proposal of amendment? Senator Starr moved that the Senate concur in the House proposal of amendment with further proposal of amendment by striking Secs. 3 through 8 (provisions relating to Vermont's working landscape), and inserting in lieu thereof the following:

* * * Meat Inspection * * *

Sec. 3. 6 V.S.A. § 3302 is amended to read:

§ 3302. DEFINITIONS

As used in this chapter, except as otherwise specified, the following terms shall have the meanings stated below:

* * *

(43) “Itinerant livestock slaughterer” means a person who for compensation or gain slaughters livestock:

(A) at a person’s own home or farm where the livestock was raised for the person’s exclusive use by him or her and members of his or her household and his or her nonpaying guests and employees; or

(B) owned by an individual who has entered into a contract with a person to raise the livestock on the farm where it is intended to be slaughtered only if the activity is performed in accordance with federal requirements for custom slaughter found in 9 C.F.R. § 303.1(a)(2).

(44) “Itinerant poultry slaughterer” means a person who for compensation or gain slaughters poultry:

(A) at a person’s own home or farm in accordance with subsection 3312(b) of this title (1,000-bird exemption from inspection); or

(B) at a facility approved by the secretary for such use.

Sec. 4. 6 V.S.A. § 3305 is amended to read:

§ 3305. ADDITIONAL POWERS OF THE SECRETARY

In order to accomplish the objectives stated in section 3303 of this title, the secretary may:

* * *

(18) sell or lease a mobile slaughtering unit and may retain any proceeds therefrom in a ~~revolving~~ fund designated for the purpose of purchasing additional mobile slaughtering units by the agency or providing matching grants for capital investments to increase poultry slaughter or poultry processing capacity.

Sec. 5. 6 V.S.A. § 3306 is amended to read:

§ 3306. LICENSING

(a) No person ~~may~~ shall engage in intrastate commerce in the business of buying, selling, preparing, processing, packing, storing, transporting, or

otherwise handling meat, meat food products, or poultry products, unless that person holds a valid license issued under this chapter. Categories of licensure shall include: commercial slaughterers, custom slaughterers, commercial processors, custom processors, wholesale distributors, retail vendors, meat and poultry product brokers, renderers, public ~~warehousemen~~ warehouse operators, animal food manufacturers, handlers of dead, dying, disabled, or diseased animals, and any other category which the secretary may by rule establish.

(b) The owner or operator of each plant or establishment of the kind specified in subsection (a) of this section shall apply in writing to the secretary on a form prescribed by him or her for a license to operate the plant or establishment. In case of change of ownership or change of location, a new application shall be made. Any person engaged in more than one licensed activity shall obtain separate licenses for each activity.

(c) The head of service shall investigate all circumstances in connection with the application for license to determine whether the applicable requirements of this chapter and rules made under it have been complied with. The secretary shall grant, condition, or refuse the license upon the basis of all information available to him or her including all facts disclosed by investigation. Each license shall bear an identifying number.

* * *

(f) ~~Itinerant custom livestock slaughterers, who slaughter solely at a person's home or farm and who do not own, operate or work at a slaughtering plant and itinerant poultry slaughterers shall be exempt from the licensing provisions of this section when engaged in itinerant slaughtering. An itinerant custom slaughterer may slaughter livestock owned by an individual who has entered into a contract with a person to raise the livestock on the farm where it is intended to be slaughtered.~~

* * *

Sec. 6. 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.

* * * Commerce and Trade; Weights and Measures * * *

Sec. 7. 9 V.S.A. § 2697 is amended to read:

§ 2697. LIQUID FUELS

(a) Liquid fuels, including motor fuels, furnace oils, stove oils, ~~liquified~~ liquefied petroleum gas, and other liquid fuels used for similar purposes, shall be sold by liquid measure or by net weight in accordance with the provisions of section 2671 of this title. In the case of each delivery of liquid fuel not in package form, and in an amount greater than 10 gallons in the case of sale by liquid measure or 99 pounds in the case of sale by weight, there shall be rendered to the purchaser, either

(1) at the time of delivery; or

(2) within a period mutually agreed upon in writing or otherwise between the vendor and the purchaser, a delivery ticket or a written statement on which, in ink, or other indelible substance, there shall be clearly and legibly stated:

(A) the name and address of the vendor;

(B) the name and address of the purchaser;

(C) the identity of the type of fuel comprising the delivery;

(D) the unit price (that is, the price per gallon or per pound, as the case may be) of the fuel delivered;

(E) in the case of sale by liquid measure, the liquid volume of the delivery shall be determined by a meter with a register printing the meter readings on a ticket, a copy of which shall be given to the purchaser, from which such liquid volume shall be computed, expressed in terms of the gallon and its binary or decimal subdivisions (the ticket shall not be inserted into the register until immediately before delivery is begun, and in no case shall a ticket be in the register when the vehicle is in motion); or the liquid volume may be determined by a vehicle tank used as a measure when in full compliance with Handbook H-44 and calibrated by a weights and measures official. Sale by a

liquid measuring device as defined in Handbook H-44, and sale by a vapor meter are excluded from this section. The volume of liquid fuels delivered on consignment shall be computed and charged for only from the totalizers on the devices dispensing the product;

(F) in the case of sale by weight, the net weight of the delivery, together with any weighing scale readings from which that net weight has been computed, expressed in terms of tons or pounds avoirdupois.

(b) The use of temperature compensation during delivery of all liquid fuels, sold at retail, as defined by 32 V.S.A. § 9701(5), with the exception of liquefied petroleum gas, is prohibited. The secretary shall enforce this prohibition in the same manner as other violations of this chapter.

* * * Dairy Operations * * *

Sec. 8. 6 V.S.A. § 2672 is amended to read:

§ 2672. DEFINITIONS

As used in this part, the following terms have the following meanings:

* * *

(7) ~~“Milk”~~, “Milk,” unless preceded or succeeded by an explanatory term, means the pure lacteal secretion of dairy ~~a type of~~ cattle. Milk from other dairy livestock listed in this subdivision must be preceded by the common name for the type of livestock that produced the milk. Such milk may be standardized by the addition of pure, fresh skim milk or cream as defined by regulation.

* * *

(10) “Fluid dairy products” are milk and fluid dairy products derived from milk, including cultured products, as defined by regulations made under this part established by federal entities and published in the Code of Federal Regulations.

* * *

Sec. 9. 6 V.S.A. § 2723a is added to read:

§ 2723a. DISTRIBUTOR’S LICENSES

(a) It shall be unlawful for any person to distribute fluid dairy products without a license issued by the secretary. The secretary shall license all distributors at least annually and for a term of up to three years and issue and renew such licenses on any calendar cycle. Application for the license and renewal shall be made in the manner and form prescribed by the secretary and shall be accompanied by a license fee of \$15.00 per annum or any part thereof.

(b) No person shall be granted a license under this section unless the distributor first agrees to withhold the state tax on producers whose milk has been received by the distributor imposed under chapter 161 of this title.

(c) For purposes of this section, the term "distributor" has the same meanings as set forth in section 2672 of this chapter, which include the retail distribution or sale of milk, except the sale of milk to be consumed on the premises.

(d) Any distributor who carries on a business without license shall be subject to penalty under sections 2678 and 2679 of this title.

* * * Formaldehyde Use in Animal Husbandry * * *

Sec. 10. FINDINGS

The general assembly finds and declares that:

(1) Vermont's dairy industry continues to drive a large segment of Vermont's agricultural economy and is an integral component of the state's working landscape;

(2) Dairy farms throughout the country are routinely faced with challenges related to herd health, including the management of papillomatous digital dermatitis (PDD), also known as hairy foot wart.

(3) PDD is a condition that is contagious among cattle and is reported to have major implications for the dairy industry, including a reduction in milk production, and can lead to lameness and premature culling.

(4) Some Vermont dairy farms treat PDD and other livestock foot diseases through an animal foot bath of copper sulfate or formaldehyde.

(5) Formaldehyde is naturally found in the environment and is also commercially produced and widely available for use in other industries and manufacturing processes when handled according to its labeling requirements.

(6) The U.S. Environmental Protection Agency has classified formaldehyde as a probable human carcinogen, and formaldehyde can cause irritation of the eyes, skin, and mucous membranes as well as upper respiratory problems.

(7) The agency of agriculture, food and markets, the department of labor, and the department of health each have an interest in ensuring the safe and appropriate use and disposal of any chemical, equipment, or animal health treatment on a farm as a matter of public health, safety, and welfare.

(8) The agency of agriculture, food and markets is collaborating with the departments of health and labor regarding the use of formaldehyde on farms for the purpose of ensuring worker safety.

(9) The agency of agriculture, food and markets and the department of health are currently working with federal authorities to arrange for air monitoring on and near farms where formaldehyde foot baths are used in order to collect data and make recommendations related to environmental and human health.

(10) To preserve the health, safety, and welfare of the public, there should be clear legal authority to manage and, if appropriate, regulate the use and disposal of chemicals found in animal foot baths on farms while additional data are collected, study is conducted, and recommendations are formulated.

Sec. 11. RECODIFICATION OF LIVESTOCK CARE STANDARDS ADVISORY COUNCIL; NEW SUBCHAPTER

6 V.S.A. §§ 791–793 are designated within 6 V.S.A. chapter 64, subchapter 1, which is added to read:

Subchapter 1. Livestock Care Standards Advisory Council

Sec. 12. 6 V.S.A. chapter 64, subchapter 2 is added to read:

Subchapter 2. Use of Animal Foot Baths

§ 796. ANIMAL FOOT BATHS; REGULATION

(a) The secretary of agriculture, food and markets shall regulate the use of animal foot baths for livestock in Vermont.

(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.

(c) A violation of the rules adopted under this section shall be subject to enforcement under chapter 1 of this title, including the assessment and collection of administrative penalties under sections 15, 16, and 17 of this title.

Sec. 13. REPEAL

6 V.S.A. chapter 64, subchapter 2 (use of animal foot baths) shall be repealed on July 1, 2014.

Sec. 14. STATEMENT OF PURPOSE; HUMANE TREATMENT; GESTATION

It shall be the purpose of Secs. 15 through 18 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. 15. 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. 16. 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. 17. 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. 18. 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.

(c) Penalty. A person who violates this section shall be in violation of subdivision 352(3) of this title.

Sec. 19. EFFECTIVE DATE

This act shall take effect on passage.

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

An act relating to miscellaneous agricultural subjects.

Which was agreed to.

Message from the Governor

A message was received from His Excellency, the Governor, by Alexandra McLean, Secretary of Civil and Military Affairs, as follows:

Mr. President:

I am directed by the Governor to inform the Senate that on the fourth day of May, 2012 he approved and signed bill originating in the Senate of the following title:

S. 181. An act relating to school resource officers.

Recess

On motion of Senator Mazza the Senate recessed until three o'clock and forty-five minutes in the afternoon.

Called to Order

The Senate was called to order by the President.

Recess

On motion of Senator Mazza the Senate recessed until four o'clock and thirty minutes.

Called to Order

The Senate was called to order by the President.

House Proposal of Amendment Concurred In**S. 95.**

House proposal of amendment to Senate bill entitled:

An act relating to exemptions for newspaper deliverers from the unemployment statutes; relieving an employer's experience rating record of charges; studying the receipt of unemployment compensation between academic terms; allowing school employees to be paid wages over the course of a year; and requiring employers to furnish required work apparel.

Was taken up.

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

Sec. 1. FINDINGS

The general assembly finds that:

(1) Studies on middle and low income households have found that most indebted families go into debt to pay for basic expenses, such as groceries, utilities, child care, and health care. A study has shown that families with medical debt had 43 percent more credit card debt than those without medical debt.

(2) Employer surveys conducted by the Society of Human Resources Management suggest that over the last 15 years, employers' use of credit reports in the hiring process has increased from a practice used by fewer than one in five employers in 1996 to six of every 10 employers in 2010.

(3) Social science research thus far has shown that information contained in a credit report has no correlation to job performance. The

Palmer-Koppes study conducted in 2004 found that those employees who were late on payments were more likely to be associated with a positive job performance.

(4) Further, there is no common standard among employers as to how to interpret credit reports, which reinforces the fact that credit reports do not provide meaningful insight into a candidate's character, responsibility, or prospective job performance.

(5) The Equal Employment Opportunity Commission has stated that: "Inquiry into an applicant's current or past assets, liabilities, or credit rating . . . generally should be avoided because they tend to impact more adversely on minorities and females."

Sec. 2. 21 V.S.A. § 495i is added to read:

§ 495i. EMPLOYMENT BASED ON CREDIT INFORMATION; PROHIBITIONS

(a) For purposes of this section:

(1) "Confidential financial information" means sensitive financial information of commercial value that a customer or client of the employer gives explicit authorization for the employer to obtain, process, and store and that the employer entrusts only to managers or employees as a necessary function of their job duties.

(2) "Credit history" means information obtained from a third party, whether or not contained in a credit report, that reflects or pertains to an individual's prior or current:

(A) borrowing or repaying behavior, including the accumulation, payment, or discharge of financial obligations; or

(B) financial condition or ability to meet financial obligations, including debts owed, payment history, savings or checking account balances, or savings or checking account numbers.

(3) "Credit report" has the same meaning as in 9 V.S.A. § 2480(a).

(b) An employer shall not:

(1) Fail or refuse to hire or recruit; discharge; or otherwise discriminate against an individual with respect to employment, compensation, or a term, condition, or privilege of employment because of the individual's credit report or credit history.

(2) Inquire about an applicant or employee's credit report or credit history.

(c)(1) An employer is exempt from the provisions of subsection (b) of this section if one or more of the following conditions are met:

(A) The information is required by state or federal law or regulation.

(B) The position of employment involves access to confidential financial information.

(C) The employer is a financial institution as defined in 8 V.S.A. § 11101(32) or a credit union as defined in 8 V.S.A. § 30101(5).

(D) The position of employment is that of a law enforcement officer as defined in 20 V.S.A. § 2358, emergency medical personnel as defined in 24 V.S.A. § 2651(6), or a firefighter as defined in 20 V.S.A. § 3151(3).

(E) The position of employment requires a financial fiduciary responsibility to the employer or a client of the employer, including the authority to issue payments, collect debts, transfer money, or enter into contracts.

(F) The employer can demonstrate that the information is a valid and reliable predictor of employee performance in the specific position of employment.

(G) The position of employment involves access to an employer's payroll information.

(2) An employer that is exempt from the provisions of subsection (b) of this section may not use an employee's or applicant's credit report or history as the sole factor in decisions regarding employment, compensation, or a term, condition, or privilege of employment.

(d) If an employer seeks to obtain or act upon an employee's or applicant's credit report or credit history pursuant to subsection (c) of this section that contains information about the employee's or applicant's credit score, credit account balances, payment history, savings or checking account balances, or savings or checking account numbers, the employer shall:

(1) Obtain the employee's or applicant's written consent each time the employer seeks to obtain the employee's or applicant's credit report.

(2) Disclose in writing to the employee or applicant the employer's reasons for accessing the credit report, and if an adverse employment action is taken based upon the credit report, disclose the reasons for the action in writing. The employee or applicant has the right to contest the accuracy of the credit report or credit history.

(3) Ensure that none of the costs associated with obtaining an employee's or an applicant's credit report or credit history are passed on to the employee or applicant.

(4) Ensure that the information in the employee's or applicant's credit report or credit history is kept confidential and, if the employment is terminated or the applicant is not hired by the employer, provide the employee or applicant with the credit report or have the credit report destroyed in a secure manner which ensures the confidentiality of the information in the report.

(e) An employer shall not discharge or in any other manner discriminate against an employee or applicant who has filed a complaint of unlawful employment practices in violation of this section or who has cooperated with the attorney general or a state's attorney in an investigation of such practices or who is about to lodge a complaint or cooperate in an investigation or because the employer believes that the employee or applicant may lodge a complaint or cooperate in an investigation.

(f) Notwithstanding subsection (c) of this section, an employer shall not seek or act upon credit reports or credit histories in a manner that results in adverse employment discrimination prohibited by federal or state law, including section 495 of this title and Title VII of the Civil Rights Act of 1964.

(g) This section shall apply only to employers, employees, and applicants for employment and only to employment-related decisions based on a person's credit history or credit report. It shall not affect the rights of any person, including financial lenders or investors, to obtain credit reports pursuant to other law.

Sec. 3. 21 V.S.A. § 342 is amended to read:

§ 342. WEEKLY PAYMENT OF WAGES

(a)(1) Any person having employees doing and transacting business within the state shall pay each week, in lawful money or checks, the wages earned by each employee to a day not more than six days prior to the date of such payment.

(2) After giving written notice to the employees, any person having employees doing and transacting business within the state may, notwithstanding subdivision (1) of this subsection, pay ~~bi-weekly~~ biweekly or ~~semi-monthly~~ semimonthly in lawful money or checks, each employee the wages earned by the employee to a day not more than six days prior to the date of the payment. If a collective bargaining agreement so provides, the payment may be made to a day not more than 13 days prior to the date of payment.

(3) A school district employee may elect in writing to have a set amount or set percentage of his or her after-tax wages withheld by the school district in a district-held bank account each pay period. The percentage or amount withheld shall be determined by the employee. At the option of the employee, the school district shall disburse the funds to the employee in either a single payment at the time the employee receives his or her final paycheck of the school year, or in equal weekly or biweekly sums beginning at the end of the school year. The school district shall disburse funds from the account in any sum as requested by the employee and, at the end of the school year or at the employee's option over the course of the period between the current and next school year, or upon separation from employment, shall remit to the employee any remaining funds, including interest earnings, held in the account. For employees within a bargaining unit organized pursuant to either chapter 22 of this title or 16 V.S.A. chapter 57, the school district shall implement this election in a manner consistent with the provisions of this subdivision and as determined through negotiations under those chapters. For employees not within a bargaining unit, the school district shall, in a manner consistent with this subdivision, determine the manner in which to implement this subdivision.

* * *

Sec. 4. 21 V.S.A. § 496a is added to read:

§ 496a. STATE FUNDS; UNION ORGANIZING

On an annual basis, an employer that is the recipient of a grant of state funds in a single grant of more than \$1,001.00 shall certify to the state that none of the funds will be used to interfere with or restrain the exercise of an employee's rights with respect to unionization and upon request shall provide records to the secretary of administration which attest to such certification.

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

An act relating to employment decisions based on credit information, allowing school employees to be paid wages over the course of a year, and union organizing.

Thereupon, the question, Shall the Senate concur in the House proposal of amendment?, was decided in the affirmative on a roll call, Yeas 17, Nays 9.

Senator Campbell having demanded the yeas and nays, they were taken and are as follows:

Roll Call

Those Senators who voted in the affirmative were: Ashe, Ayer, Baruth, Campbell, Carris, Fox, Galbraith, Illuzzi, Kitchel, Lyons, MacDonald, *McCormack, Mullin, Nitka, Sears, Starr, White.

Those Senators who voted in the negative were: Benning, Brock, Cummings, Doyle, Flory, Mazza, Miller, Pollina, Westman.

Those Senators absent and not voting were: Giard, Hartwell, Kittell, Snelling.

*Senator McCormack explained his vote as follows:

“Mr. President,

“I voted for this bill and I refrained from offering amendments, in the interest of a timely adjournment in the face of the rule suspension problems in the other body. I’ve taken this approach at the urging of those who have been working for collective bargaining rights for early childhood caregivers, and in that regard I think they’ve given more solidarity than they’ve gotten.

“But collective bargaining remains a human right and I’ll be back next year with the same issue.”

House Proposal of Amendment Concurred In

H. 535.

House proposal of amendment to Senate bill entitled:

An act relating to racial disparities in the Vermont criminal justice system.

Was taken up.

The House concurs in the Senate proposal of amendment with further amendment thereto as follows:

In Sec. 1, by striking out subsection (c) in its entirety and inserting in lieu thereof a new subsection (c) to read as follows:

(c) The general assembly appropriates \$20,000.00 to the Vermont Center for Justice Research to support this data collection, analysis, and report.

Thereupon, the question, Shall the Senate concur in the House proposal of amendment?, was decided in the affirmative.

Rules Suspended; Action Reconsidered

S. 95.

Assuring the Chair that he voted with the majority whereby the bill was passed in concurrence by the Senate, Senator Sears moved to suspend the rules and that the Senate reconsider its action on Senate bill entitled:

An act relating to exemptions for newspaper deliverers from the unemployment statutes; relieving an employer’s experience rating record of charges; studying the receipt of unemployment compensation between

academic terms; allowing school employees to be paid wages over the course of a year; and requiring employers to furnish required work apparel.

Which was agreed.

Thereupon, the question, Shall the Senate pass the bill in concurrence was agreed to on a roll call, Yeas 20, Nays 6.

Senator Campbell having demanded the yeas and nays, they were taken and are as follows:

Roll Call

Those Senators who voted in the affirmative were: Ashe, Ayer, Baruth, Campbell, Carris, Cummings, Doyle, Fox, Galbraith, Illuzzi, Kitchel, Lyons, MacDonald, McCormack, Mullin, Nitka, Pollina, Sears, Starr, White.

Those Senators who voted in the negative were: Benning, Brock, Flory, Mazza, Miller, Westman.

Those Senators absent and not voting were: Giard, Hartwell, Kittell, Snelling.

Rules Suspended; Report of Committee of Conference Accepted and Adopted on the Part of the Senate; Bill Messaged

H. 730.

Pending entry on the Calendar for notice, on motion of Senator Campbell, the rules were suspended and the report of the Committee of Conference on House bill entitled:

An act relating to miscellaneous consumer protection laws.

Was taken up for immediate consideration.

Senator Illuzzi, for the Committee of Conference, submitted the following report:

To the Senate and House of Representatives:

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

H. 730. An act relating to miscellaneous consumer protection laws.

Respectfully reports that it has met and considered the same and recommends that the House accede to the Senate's proposals of amendment, and that the bill be further amended by striking Sec. 13 in its entirety and inserting in lieu thereof a new Sec. 13 to read:

Sec. 13. 33 V.S.A. § 2607 is amended to read:

§ 2607. PAYMENTS TO FUEL SUPPLIERS

(a) The secretary of human services or designee shall certify fuel suppliers, excluding firewood and wood pellet suppliers, to be eligible to participate in the home heating fuel assistance program. Beneficiaries may use their seasonal fuel assistance benefit to obtain home heating fuel or energy only from a fuel supplier certified by the director, except that beneficiaries who heat with firewood or wood pellets may obtain their firewood or wood pellets from any supplier they choose.

(b) Certified fuel suppliers shall agree to conduct reasonable efforts in order to inform and assist beneficiaries in their service areas, maintain records of amounts and costs of all fuel deliveries, send periodic statements to customers receiving home heating fuel assistance informing them of their account's credit or debit balance as of the last statement, deliveries or usage since that statement and the charges for such, payments made or applied, indicating their source, since that statement, and the ending credit or debit balance. Certified fuel suppliers shall also agree to provide the secretary of human services or designee such information deemed necessary for the efficient administration of the program, ~~including information required to pay the beneficiary's benefits to the certified supplier after fuel is delivered or, for metered fuel and regulated utilities, after the beneficiary's account has been billed.~~

(c) Certified fuel suppliers shall not disclose the beneficiary status of recipients of home heating fuel assistance benefits, the names of recipients, or other information pertaining to recipients to anyone, except for purposes directly connected with administration of the home heating fuel assistance program or when required by law.

(d) Certified fuel suppliers shall also agree to enter into budget agreements with beneficiaries for annualized monthly payments for fuel supplies provided the beneficiary meets accepted industry credit standards, and shall grant program beneficiaries such cash discounts, preseason delivery savings, automatic fuel delivery agreements, and any other discounts granted to any other heating fuel customer or as the secretary of human services or designee may negotiate with certified fuel suppliers.

(e) The secretary of human services or designee shall provide each certified fuel supplier with a list of the households who are its customers and have been found eligible for annual home heating fuel assistance for the current year, the total amount of annual home heating fuel assistance that has been authorized for each household, and how the total amount has been allocated over the heating season. Each authorized amount shall function as a line of credit for

each eligible household. The secretary or designee shall disburse authorized home heating fuel assistance benefits to certified fuel suppliers on behalf of eligible households ~~after fuel is delivered or, for metered fuel and regulated utilities, after the beneficiary's account has been billed.~~ Authorized benefits for oil, propane, kerosene, dyed diesel, and coal shall be paid after fuel is delivered and invoiced to the secretary or designee. Authorized benefits for electricity and natural gas shall be paid in full and credited to the eligible household's account at the same time benefit notices are issued to the eligible household.

(f) The secretary of human services or designee shall negotiate with one or more certified fuel suppliers to obtain the most advantageous pricing and payment terms, and delivery methods possible for eligible households.

(g)(1) The public service board shall require natural gas suppliers subject to regulation under 30 V.S.A § 203 to provide a discount program to customers with incomes no greater than 200 percent of the federal poverty level or who meet the department for children and families' means test of eligibility for LIHEAP crisis fuel assistance. Eligibility for the discount shall be verified by the department for children and families.

(2) In implementing the discount program, the board shall consider:

(A) Low income discount programs, rates, and cost structures of other Vermont regulated utilities.

(B) Low income discount programs, rates, and cost structures for gas customers in other states.

(C) Options for allocating the costs of the discount program that avoid or reduce the cost impact of the program on ineligible ratepayers, including consideration of each of the following:

(i) Use of any revenues collected from ratepayers that are in excess of the revenue requirement most recently determined by the board.

(ii) Use of revenues collected from ratepayers to fund system expansions that have not been placed in service.

(3) On or before January 15, 2013, the board shall:

(A) implement this subsection by order to each natural gas company subject to its jurisdiction; and

(B) report to the house committees on commerce and economic development and on human services, and to the senate committees on health and welfare and on economic development, housing and general affairs on its implementation of this subsection, including its consideration of the matters

described in subdivision (2) of this subsection and the results of that consideration.

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

An act relating to consumer protection and low income heating assistance.

*VINCENT ILLUZZI
TIMOTHY R. ASHE
JOHN F. CAMPBELL*

Committee on the part of the Senate

*MICHAEL J. MARCOTTE
WILLIAM G. F. BOTZOW
ERNEST W. SHAND*

Committee on the part of the House

Thereupon, the question, Shall the Senate accept and adopt the report of the Committee of Conference?, was decided in the affirmative.

Thereupon, on motion of Senator Campbell, the rules were suspended and the bill was ordered messaged to the House forthwith.

Message from the House No. 88

A message was received from the House of Representatives by Ms. H. Gwynn Zakov, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has considered a bill originating in the Senate of the following title:

S. 180. An act relating to the universal service fund and establishment of a high-cost program.

And has passed the same in concurrence with proposal of amendment in the adoption of which the concurrence of the Senate is requested.

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

H. 78. An act relating to wages for laid-off employees.

And has concurred therein.

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

H. 766. An act relating to the national guard.

And has severally concurred therein.

The House has considered the report of the Committee of Conference upon the disagreeing votes of the two Houses on House bill of the following title:

H. 778. An act relating to structured settlements.

And has adopted the same on its part.

The House has considered joint resolutions originating in the Senate of the following titles:

J.R.S. 62. Joint resolution relating to federal agriculture policy.

J.R.S. 64. Joint resolution honoring the competitive accomplishments and international educational outreach of the University of Vermont's Lawrence Debate Union.

And has adopted the same on its part.

The House has adopted House concurrent resolutions of the following titles:

H.C.R. 391. House concurrent resolution congratulating Milton Drama on winning its third consecutive invitation to the New England Drama Festival.

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 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.

In the adoption of which the concurrence of the Senate is requested.

The Governor has informed the House that on the May 5, 2012, he approved and signed bills originating in the House of the following titles:

H. 403. An act relating to foreclosure of mortgages.

H. 503. An act relating to the certification of capitol police and constables

and to legislative traffic control and parking.

Message from the House No. 89

A message was received from the House of Representatives by Ms. H. Gwynn Zakov, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has considered the report of the Committee of Conference upon the disagreeing votes of the two Houses on House bill of the following title:

H. 730. An act relating to miscellaneous consumer protection laws.

And has adopted the same on its part.

Message from the House No. 90

A message was received from the House of Representatives by Ms. H. Gwynn Zakov, its Second Assistant Clerk, as follows:

Mr President:

I am directed to inform the Senate that the House has on its part completed the business of the second half of the Biennial session and is ready to adjourn *sine die*, pursuant to the provisions of J.R.S. 63.

House Proposal of Amendment to Senate Proposal of Amendment Not Concurred In; Rules Suspended; Bill Messaged

H. 774.

House proposal of amendment to Senate bill entitled:

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

Was taken up.

The House concurs in the Senate proposal of amendment with further amendment thereto as follows:

By striking Secs. 10a through 10e and inserting in lieu thereof new Secs. 10a and 10b to read:

Sec. 10a. FINDINGS

The general assembly finds and declares that for the purposes of the maple products labeling part of this act:

(1) Maple syrup production capacity has increased significantly in recent years.

(2) There is increased interest in maple syrup that is certified for food safety.

(3) The Vermont sugaring industry has requested the creation of a voluntary certification program.

Sec. 10b. 6 V.S.A. § 488a is added to read:

§ 488a. VOLUNTARY CERTIFICATION

The secretary may establish by rule a voluntary program for maple syrup production certification which shall be made available upon the request of a person engaged in producing maple syrup or maple products, a dealer, or a processor. The secretary may obtain from the person engaged in producing maple syrup or maple products, the dealer, or the processor reimbursement for the cost of the inspection certification incurred by the agency. The reimbursement fee charged for certification shall be reasonably proportionate to the cost of performing the inspection.

Thereupon, the question, Shall the Senate concur in the House proposal of amendment?, was decided in the negative.

Thereupon, on motion of Senator Campbell, the rules were suspended, and the bill was ordered messaged to the House forthwith.

Senate Concurrent Resolution

The following joint concurrent resolution, having been placed on the consent calendar on the preceding legislative day, and no Senator having requested floor consideration as provided by the Joint Rules of the Senate and House of Representatives, was adopted on the part of the Senate:

By Senators Doyle, Cummings, Illuzzi and Pollina,

S.C.R. 46.

Senate concurrent resolution commemorating the centennial anniversary of the journey of the children from Lawrence, Massachusetts to Barre during the 1912 Bread and Roses Strike.

House Concurrent Resolutions

The following joint concurrent resolutions having been placed on the consent calendar on the preceding legislative day, and no Senator having requested floor consideration as provided by the Joint Rules of the Senate and House of Representatives, were severally adopted in concurrence:

By Representatives Turner and Hubert,

H.C.R. 391.

House concurrent resolution congratulating Milton Drama on winning its third consecutive invitation to the New England Drama Festival.

By Representative Ram and others,

H.C.R. 392.

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

By Representative Smith,

By Senators Ayer and Giard,

H.C.R. 393.

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

By Representative Smith,

By Senators Ayer and Giard,

H.C.R. 394.

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

By Representative Nuovo and others,

By Senators Ayer and Giard,

H.C.R. 395.

House concurrent resolution in memory of Addison County Sheriff James Coons.

By Representative Morrissey and others,

By Senators Hartwell and Sears,

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.

By Representative Acinapura,

H.C.R. 397.

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

By Representatives Kilmartin and Higley,

By Senators Starr and Illuzzi,

H.C.R. 398.

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

By Representative Martin and others,

By Senators Campbell, McCormack and Nitka,

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.

By Representative Russell and others,

By Senators Carris, Flory and Mullin,

H.C.R. 400.

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

By Representative Russell and others,

By Senators Carris, Flory and Mullin,

H.C.R. 401.

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

By Representative Pearson and others,

By Senators Ashe, Baruth, Fox, Lyons, Miller and Snelling,

H.C.R. 402.

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

By Representative Deen,

H.C.R. 403.

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

By Representative Olsen and others,

By Senators Galbraith, Westman and White,

H.C.R. 404.

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

By Representative Olsen,

By Senators Campbell, Doyle, Galbraith, McCormack, Nitka and White,

H.C.R. 405.

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

By Representatives Canfield and Helm,

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.

By All Members of the House,

H.C.R. 408.

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

By Representative Shand and others,

By Senators Campbell, McCormack and Nitka,

H.C.R. 409.

House concurrent resolution in memory of Edith Hunter of Weathersfield.

By Representative Pugh and others,

H.C.R. 410.

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

By Representative Clark and others,

By Senators Ayer and Giard,

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.

By Representatives Young and Strong,

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.

By All Members of the House,

H.C.R. 3000.

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

Message from the Governor

A message was received from His Excellency, the Governor, by Alexandra McLean, Secretary of Civil and Military Affairs, as follows:

Mr. President:

I am directed by the Governor to inform the Senate that on the seventh day of May, 2012 he approved and signed bills originating in the Senate of the following titles were severally:

S. 128. An act relating to recognition of the Missisquoi, St. Francis-Sokoki Band as a Native American Indian tribe.

S. 129. An act relating to recognition of the Koasek Abenaki of the Koas as a Native American Indian tribe.

Secretary Directed to Inform the House of Completion of Business

On motion of Senator Campbell, the Secretary was directed to inform the House that the Senate has completed the business of the session and is ready on its part to adjourn to a day certain, May 22, 2012, if necessary, or, if not necessary, then to be adjourned *sine die*, pursuant to the provisions of J.R.S. 63.

Committee Appointed to Inform Governor of Completion of Business

On motion of Senator Campbell, the President appointed the following Five Senators as members of a Committee to wait upon His Excellency, Peter E. Shumlin, the Governor, and inform him that the Senate has completed the business of the session and is ready on its part to adjourn to a day certain, May 22, 2012, if necessary, or, if not necessary, then to be adjourned *sine die*, pursuant to the provisions of J.R.S. 63:

Senator Baruth
Senator Benning
Senator Fox
Senator Galbraith
Senator Pollina

Report of Committee

The Committee appointed to wait upon His Excellency, the Governor, to inform him that the Senate had, on its part, completed the business of the session and was ready to adjourn to a day certain, May 22, 2012, if necessary, or, if not necessary, then to be adjourned *sine die*, pursuant to the provisions of J.R.S. 63, performed the duties assigned to it and escorted the Governor to the rostrum where he delivered his remarks in person.

Remarks of Governor

The Honorable Peter E. Shumlin, Governor of the State of Vermont, was escorted to the rostrum and briefly addressed the Senate.

Departure of Governor

The Governor, having completed the delivery of his message, was escorted from the Chamber by the Committee appointed by the Chair.

Final Adjournment

On motion of Senator Campbell, at six o'clock and twenty-eight minutes in the evening, the Senate adjourned to a day certain, May 22, 2012, at ten o'clock in the forenoon, if necessary to attend to any bills returned by the Governor to the House or to the Senate, or, if not so necessary, then to be adjourned *sine die*, pursuant to the provisions of J.R.S. 63.