House Calendar

Friday, April 26, 2013

108th DAY OF THE BIENNIAL SESSION

House Convenes at 9:30 A.M.

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ORDERS OF THE DAY

ACTION CALENDAR

Action Postponed Until April 26, 2013

Favorable with Amendment

H. 270

An act relating to providing access to publicly funded prekindergarten education

Rep. Buxton of Tunbridge, for the Committee on **Education,** recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 16 V.S.A. § 829 is amended to read:

§ 829. PREKINDERGARTEN EDUCATION~~; RULES~~

(a) Definitions. As used in this section:

(1) "Prekindergarten child" means a child who, as of the date established by the district of residence for kindergarten eligibility, is three or four years of age or is five years of age but is not yet enrolled in kindergarten.

(2) "Prekindergarten education" means services designed to provide to prekindergarten children developmentally appropriate early development and learning experiences based on Vermont's early learning standards.

(3) "Prequalified private provider" means a private provider of prekindergarten education that is qualified pursuant to subsection (c) of this section.

(b) Access to publicly funded prekindergarten education.

(1) No fewer than ten hours per week of publicly funded prekindergarten education shall be available for 35 weeks annually to each prekindergarten child whom a parent or guardian wishes to enroll in an available, prequalified program operated by a public school or a private provider.

(2) If a parent or guardian chooses to enroll a prekindergarten child in an available, prequalified program, then, pursuant to the parent or guardian's choice, the school district of residence shall:

(A) pay tuition pursuant to subsection (d) of this section upon the request of the parent or guardian to:

(i) a prequalified private provider; or

(ii) a public school located outside the district that operates a prekindergarten program that has been prequalified pursuant to subsection (c) of this section; or

(B) enroll the child in the prekindergarten education program that it operates.

(3) If requested by the parent or guardian of a prekindergarten child, the school district of residence shall pay tuition to a prequalified program operated by a private provider or a public school in another district even if the district of residence operates a prekindergarten education program.

(4) If the supply of prequalified private and public providers is insufficient to meet the demand for publicly funded prekindergarten education in any region of the State, nothing in this section shall be construed to require a district to begin or expand a program to satisfy that demand; but rather, in collaboration with the Agencies of Education and of Human Services, the local Building Bright Futures Council shall meet with school districts and private providers in the region to develop a regional plan to expand capacity.

(c) Prequalification. Pursuant to rules jointly developed and overseen by the Secretaries of Education and of Human Services and adopted by the State Board pursuant to 3 V.S.A. chapter 25, the Agencies jointly may determine that a private or public provider of prekindergarten education is qualified for purposes of this section and include the provider in a publicly accessible database of prequalified providers. At a minimum, the rules shall define the process by which a provider applies for and maintains prequalification status, shall identify the minimum quality standards for prequalification, and shall include the following requirements:

(1) A program of prekindergarten education, whether provided by a school district or a private provider, shall have received:

(A) National Association for the Education of Young Children (NAEYC) accreditation; or

(B) at least four stars in the Department for Children and Families STARS system with at least two points in each of the five arenas; or

(C) three stars in the STARS system if the provider has developed a plan, approved by the Commissioner for Children and Families and the Secretary of Education, to achieve four or more stars in no more than two years with at least two points in each of the five arenas, and the provider has met intermediate milestones.

(2) A licensed provider shall employ or contract for the services of at

least one teacher who is licensed and endorsed in early childhood education or in early childhood special education under chapter 51 of this title.

(3) A registered home provider that is not licensed and endorsed in early childhood education or early childhood special education shall receive regular, active supervision and training from a teacher who is licensed and endorsed in early childhood education or in early childhood special education under chapter 51 of this title.

(d) Tuition, budgets, and average daily membership.

(1) On behalf of a resident prekindergarten child, a district shall pay tuition for prekindergarten education for ten hours per week for 35 weeks annually to a prequalified private provider or to a public school outside the district that is prequalified pursuant to subsection (c) of this section; provided, however, that the district shall pay tuition for weeks that are within the district's academic year. Tuition paid under this section shall be at a statewide rate, which may be adjusted regionally, that is established annually through a process jointly developed and implemented by the Agencies of Education and of Human Services. A district shall pay tuition upon:

(A) receiving notice from the child's parent or guardian that the child is or will be admitted to the prekindergarten education program operated by the prequalified private provider or the other district; and

(B) concurrent enrollment of the prekindergarten child in the district of residence for purposes of budgeting and determining average daily membership.

(2) In addition to any direct costs of operating a prekindergarten education program, a district of residence shall include anticipated tuition payments and any administrative, quality assurance, quality improvement, transition planning, or other prekindergarten-related costs in its annual budget presented to the voters.

(3) The district of residence may include within its average daily membership any prekindergarten child for whom it has provided prekindergarten education or on whose behalf it has paid tuition pursuant to this section.

(4) A prequalified private provider may receive additional payment directly from the parent or guardian only for prekindergarten education in excess of the hours paid for by the district pursuant to this section or for child care services, or both. The provider is not bound by the statewide rate established in this subsection when determining the rates it will charge the parent or guardian.

(e) Rules. The ~~commissioner of education and the commissioner for children and families~~ Secretary of Education and the Commissioner for Children and Families shall jointly develop and agree to rules and present them to the ~~state board of education~~ State Board for adoption under 3 V.S.A. chapter 25 as follows:

(1) ~~To ensure that, before a school district begins or expands a prekindergarten education program that intends to enroll students who are included in its average daily membership, the district engage the community in a collaborative process that includes an assessment of the need for the program in the community and an inventory of the existing service providers; provided, however, if a district needs to expand a prekindergarten education program in order to satisfy federal law relating to the ratio of special needs children to children without special needs and if the law cannot be satisfied by any one or more qualified service providers with which the district may already contract, then the district may expand an existing school-based program without engaging in a community needs assessment.~~ To permit private providers that are not prequalified pursuant to subsection (c) of this section to create new or continue existing partnerships with school districts through which the school district provides supports that enable the provider to fulfill the requirements of subsection (c), and through which the district may or may not make in-kind payments as a component of the statewide tuition established under this section.

(2) ~~To ensure that, if a school district begins or expands a prekindergarten education program that intends to include any of the students in its average daily membership, the district shall use existing qualified service providers to the extent that existing qualified service providers have the capacity to meet the district's needs effectively and efficiently.~~ To authorize a district to begin or expand a school-based prekindergarten education program only upon prior approval obtained through a process jointly overseen by the Secretaries of Education and of Human Services, which shall be based upon analysis of the number of prekindergarten children residing in the district and the availability of enrollment opportunities with prequalified private providers in the region. Where the data are not clear or there are other complex considerations, the Secretaries may choose to conduct a community needs assessment.

(3) To require that the school district provides opportunities for effective parental participation in the prekindergarten education program.

(4) To establish a process by which:

(A) a parent or guardian ~~residing in the district or a provider, or both, may request a school district to enter into a contract with a provider located in~~

~~or outside the district~~ notifies the district that the prekindergarten child is or will be admitted to a prekindergarten education program not operated by the district and concurrently enrolls the child in the district pursuant to subdivision (d)(1) of this section;

(B) a district:

(i) pays tuition pursuant to a schedule that does not inhibit the ability of a parent or guardian to enroll a prekindergarten child in a prekindergarten education program or the ability of a prequalified private provider to maintain financial stability; and

(ii) enters into an agreement with any provider to which it will pay tuition regarding quality assurance, transition, and any other matters; and

(C) a provider that has received tuition payments under this section on behalf of a prekindergarten child notifies a district that the child is no longer enrolled.

(5) ~~To identify the services and other items for which state funds may be expended when prekindergarten children are counted for purposes of average daily membership, such as tuition reduction, quality improvements, or professional development for school staff or private providers.~~ To establish a process to calculate an annual statewide tuition rate that is based upon the actual cost of delivering ten hours per week of prekindergarten education that meets all established quality standards and to allow for regional adjustments to the rate.

(6) ~~To ensure transparency and accountability by requiring private providers under contract with a school districts to report costs for prekindergarten programs to the school district and by requiring school districts to report these costs to the commissioner of education.~~ [Repealed.]

(7) To require ~~school districts~~ a district to include identifiable costs for prekindergarten programs and essential early education services in ~~their~~ its annual budgets and reports to the community.

(8) To require ~~school districts~~ a district to report to the ~~departments their~~ Agency of Education annual expenditures made in support of prekindergarten ~~care and~~ education, with distinct figures provided for expenditures made from the ~~general fund~~ General Fund, from the ~~education fund~~ Education Fund, and from all other sources, which shall be specified.

(9) To provide an ~~appeal~~ administrative process for:

(A) a parent, guardian, or provider to challenge an action of ~~the~~ a school district or the State when the ~~appellant~~ complainant believes that the district or State is in violation of state statute or rules regarding

prekindergarten education; and

(B) a school district to challenge an action of a provider or the State when the district believes that the provider or the State is in violation of state statute or rules regarding prekindergarten education.

(10) ~~To establish the minimum quality standards necessary for a district to include prekindergarten children within its average daily membership. At a minimum, the standards shall include the following requirements:~~

~~(A) The prekindergarten education program, whether offered by or through the district, shall have received:~~

~~(i) National Association for the Education of Young Children (NAEYC) accreditation; or~~

~~(ii) At least four stars in the department for children and families STARS system with at least two points in each of the five arenas; or~~

~~(iii) Three stars in the STARS system if the provider has developed a plan, approved by the commissioner for children and families and the commissioner of education, to achieve four or more stars within three years with at least two points in each of the five arenas, and the provider has met intermediate milestones; and~~

~~(B) A licensed center shall employ or contract for the services of at least one teacher who is licensed and endorsed in early childhood education or in early childhood special education under chapter 51 of this title; and~~

~~(C) A registered home shall receive regular, active supervision and training from a teacher who is licensed and endorsed in early childhood education or in early childhood special education under chapter 51 of this title.~~ To establish a system by which the Agency of Education and Department for Children and Families shall jointly monitor prekindergarten education programs to promote optimal outcomes for children and to collect data that will inform future decisions. At a minimum, the system shall monitor and assess:

(A) programmatic details, including the number of children served, the number of private and public programs operated, and the public financial investment made to ensure access to quality prekindergarten education;

(B) the quality of public and private prekindergarten education programs and efforts to ensure continuous quality improvements through mentoring, training, technical assistance, and otherwise; and

(C) the outcomes for children, including school readiness and proficiency in numeracy and literacy.

(11) To establish a process for documenting the progress of children enrolled in prekindergarten education programs and to require public and private providers to use the process to:

(A) help individualize instruction and improve program practice; and

(B) collect and report child progress data to the ~~commissioner of education~~ Secretary of Education on an annual basis.

(12) If the Secretaries find it advisable, to establish guidelines designed to help coordinate prekindergarten education programs under this section with essential early education as defined in section 2942 of this title and with Head Start programs.

(f) Other provisions of law. Section 836 of this title shall not apply to this section.

(g) Limitations. Nothing in this section shall be construed to permit or require payment of public funds to a private provider of prekindergarten education in violation of Chapter I, Article 3 of the Vermont Constitution.

Sec. 2. 16 V.S.A. § 4010(c) is amended to read:

(c) The ~~commissioner~~ Secretary shall determine the weighted long-term membership for each school district using the long-term membership from subsection (b) of this section and the following weights for each class:

Prekindergarten ~~0.46~~ 0.5

Elementary or kindergarten 1.0

Secondary 1.13

Sec. 3. PREKINDERGARTEN EDUCATION; CALCULATION OF EQUALIZED PUPILS; EXCLUSION FROM EDUCATION SPENDING

(a) If a school district did not provide or pay for prekindergarten education pursuant to 16 V.S.A. § 829 in fiscal year 2015, then:

(1) for purposes of determining the equalized pupil count for the fiscal year 2016 budget, the long-term membership of prekindergarten children shall be the number of prekindergarten children for whom the district anticipates it will provide prekindergarten education or pay tuition, or both, in fiscal year 2016; and

(2) for purposes of determining the equalized pupil count for the fiscal year 2017 budget, the long-term membership of prekindergarten children shall be the total number of prekindergarten children for whom the district provided prekindergarten education or paid tuition, or both, in fiscal year 2016, adjusted

to reflect the difference between the estimated and actual count for that fiscal year.

(b) For purposes of calculating excess spending pursuant to 32 V.S.A. § 5401(12) in fiscal years, 2016, 2017, and 2018 "education spending" shall not include the portion of a district's proposed budget directly attributable to providing a prekindergarten education program or paying tuition on behalf of a resident prekindergarten child pursuant to 16 V.S.A. § 829 as amended by this act.

Sec. 4. QUALITY STANDARDS

(a) The Agencies of Education and of Human Services shall review existing quality standards for prekindergarten education programs and may initiate rulemaking under 3 V.S.A. chapter 25 to require higher standards of quality; provided, however, that no new standards shall take effect earlier than July 1, 2015. Changes to the quality standards shall be designed to ensure that programs are based on intentional, evidence-based practices that create a developmentally appropriate environment and support the delivery of an engaging program that supports the social, emotional, intellectual, language, literacy, and physical development of prekindergarten children.

(b) In January of the 2015, 2016, and 2017 legislative sessions, the Agencies shall report to the House and Senate Committees on Education, the House Committee on Human Services, and the Senate Committee on Health and Welfare regarding the quality of prekindergarten education in the State.

Sec. 5. CONSTITUTIONALITY

On or before July 1, 2014, the Secretary of Education shall identify the private prekindergarten education programs to which school districts are paying tuition on behalf of resident prekindergarten children, determine the extent to which any program provides religious prekindergarten education, and establish the steps the Agency will take to ensure that public funds are not expended in violation of Chapter I, Article 3 of the Vermont Constitution and the Vermont Supreme Court's decision in *Chittenden Town School District v. Vermont Department of Education*, 169 Vt. 310 (1999).

Sec. 6. EFFECTIVE DATE

This act shall take effect on July 1, 2013 and shall apply to enrollments on July 1, 2015 and after.

(Committee Vote: 9-0-2)

Rep. Greshin of Warren, for the Committee on **Ways and Means,** recommends the bill ought to pass when amended as recommended by the Committee on **Education** and when further amended as follows:

First: In Sec. 1, 16 V.S.A. § 829, subsection (d), subdivision (3), by striking the word "The" and inserting in lieu thereof the following: "Pursuant to subdivision 4001(1)(C) of this title, the"

Second: By striking out Sec. 2 (weighted membership) in its entirety

Third: In Sec. 3, by striking out subsection (b) (excess spending) in its entirety and by striking out the subsection designation for subsection (a)

Fourth: In Sec. 1, 16 V.S.A. § 829(g), and Sec. 5, before the period, by inserting the following: "or in violation of the Establishment Clause of the U.S. Constitution"

(Committee Vote: 7-4-0)

Rep. Johnson of South Hero, for the Committee on **Appropriations,** recommends the bill ought to pass when amended as recommended by the Committee on **Education and Ways and Means** and when further amended as follows:

First: In Sec. 1, 16 V.S.A. § 829, subsection (e), in subdivision (10), after the first period, by inserting a new sentence to read: "The Agency and Department shall be required to report annually to the General Assembly in January."

Second: In Sec. 4, subsection (b), after the words: "on Education" by inserting the words: "and on Appropriations"

(Committee Vote: 8-3-0)

Amendment to be offered by Rep. Buxton of Tunbridge to the recommendation of amendment of the Committee on Education to H. 270

First: In Sec. 1, 16 V.S.A. § 829, by adding a new subsection to be subsection (h) to read:

(h) Geographic limitations.

(1) Notwithstanding the requirement that a district pay tuition to any prequalified public or private provider in the State, a school board may choose to limit the geographic boundaries within which the district shall pay tuition by paying tuition solely to those prequalified providers in which parents and guardians choose to enroll resident prekindergarten children that are located within the district's "prekindergarten region" as determined in subdivision (2) of this subsection.

(2) For purposes of this subsection, upon application from the school board, a district's prekindergarten region shall be determined jointly by the Agencies of Education and of Human Services in consultation with the school board, private providers of prekindergarten education, parents and guardians of prekindergarten children, and other interested parties pursuant to a process adopted by rule under subsection (e) of this section. A prekindergarten region:

(A) shall not be smaller than the geographic boundaries of the school district;

(B) shall be based in part upon the estimated number of prekindergarten children residing in the district and in surrounding districts, the availability of prequalified private and public providers of prekindergarten education, commuting patterns, and other region-specific criteria; and

(C) shall be designed to support existing partnerships between the school district and private providers of prekindergarten education.

(3) If a school board chooses to pay tuition to providers solely within its prekindergarten region, and if a resident prekindergarten child is unable to access publicly funded prekindergarten education within that region, then the child's parent or guardian may request and in its discretion the district may pay tuition at the statewide rate for a prekindergarten education program operated by a prequalified provider located outside the prekindergarten region.

(4) Except for the narrow exception permitting a school board to limit geographic boundaries under subdivision (1) of this subsection, all other provisions of this section and related rules shall continue to apply.

Second: By adding a new section to be Sec. 4a to read:

Sec. 4a. REPORT ON ENROLLMENT AND ACCESS

The Agencies of Education and of Human Services and the Building Bright Futures Council shall monitor and evaluate access to and enrollment in prekindergarten education programs under Sec. 1 of this act. On or before January 1, 2018, they shall report to the House and Senate Committees on Education and on Appropriations, the House Committee on Ways on Means, and the Senate Committee on Finance regarding their evaluation, conclusions, and any recommendations for amendments to statute or related rule.

Third: In Sec. 1, 16 V.S.A. § 829, subsection (e), in subdivision (1), by striking out the reference: "subsection (c)" and inserting in lieu thereof the reference: "subdivision (c)(2) or (3)"

Amendment to be offered by Rep. Browning of Arlington to the recommendation of amendment of the Committee on Education to H. 270

First: After Sec. 2, by adding a new section to be Sec. 2a to read:

Sec. 2a. 16 V.S.A. § 4025(a) is amended to read:

(a) An education fund is established to be comprised of the following:

* * *

(2) For each fiscal year, the amount of the general funds appropriated or transferred to the education fund shall be:

(A) $276,240,000.00 increased by the most recent New England economic project cumulative price index, as of November 15, for state and local government purchases of goods and services from fiscal year 2012 through the fiscal year for which the payment is being determined, plus an additional one-tenth of one percent; plus

(B) if there were an increase in the amount of education spending statewide for prekindergarten education between the two most recent fiscal years for which data is available, an amount equal to that increase.

* * *

Second: By striking out Sec. 6 in its entirety and inserting a new Sec. 6 to read:

Sec. 6. EFFECTIVE DATES

(a) This act shall take effect on July 1, 2013.

(b) Secs. 1 and 2 of this act shall apply to enrollments on July 1, 2015 and after.

(c) Sec. 2a of this act shall apply to appropriations and transfers for fiscal year 2016 and after.

S. 30

An act relating to siting of electric generation plants

Rep. Klein of East Montpelier, for the Committee on **Natural Resources and Energy,** recommends that the House propose to the Senate that the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. LEGISLATIVE REVIEW; SITING POLICY COMMISSION REPORT

During adjournment between the 2013 and 2014 sessions of the General Assembly:

(1) The House and Senate Committees on Natural Resources and Energy (the Committees) jointly shall review the report and recommendations of the Governor's Energy Siting Policy Commission created by Executive Order No. 10-12 dated October 2, 2012; may consider any issue related to electric generation plants, including their development, siting, and operation; and may recommend legislation to the General Assembly concerning electric generation plants.

(2) The Committees shall meet jointly for the purposes of this section no more than six times at the call of the chairs. For attendance at these meetings, members of the Committees shall be entitled to compensation and reimbursement for expenses as provided in 2 V.S.A. § 406.

Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.

(Committee vote: 11-0-0)

(For text see Senate Journal 2/28/2013 and 3/26/2013)

NEW BUSINESS

Third Reading

S. 14

An act relating to payment of fair-share fees

Amendment to be offered by Rep. Goodwin of Weston to S. 14

By adding Sec. 12a to read:

Sec. 12a. STATEWIDE CONTRACT FOR PUBLIC SCHOOL TEACHERS

(a) The Secretary of Administration shall develop a detailed process by which all public school teachers shall enter into a statewide employment contract with the following provisions:

(1) The Secretary or the Secretary's designee shall negotiate and enter into the contract on behalf of the State.

(2) Nothing in this section or in the process developed by the Secretary shall prohibit the teachers of the State from selecting an organization as their exclusive representative in collective negotiations with the State.

(3) Teachers shall enter into the statewide contract on a rolling basis as current collective bargaining agreements expire.

(4) A teacher who is new to a district shall not enter into the statewide contract until the year in which all teachers in the district enter into it.

(5) A teacher who is employed by a Vermont school district in the academic year immediately prior to entering into the statewide contract shall begin his or her first year under the statewide contract at his or her then-current salary.

(6) A teacher who is not employed by a Vermont school district in the academic year immediately prior to entering into the statewide contract shall begin his or her first year under the statewide contract year at a salary negotiated with the State that is commensurate with his or her education and experience.

(7) Until all teachers in the State have entered into the statewide contract, salary increases for teachers subject to that contract shall be negotiated at a statewide level with a cap placed on the highest salary level of 115 percent of the then-current statewide average salary for all public school teachers in the State; provided that the salary for any teacher at the highest salary level shall not decrease as a result of the cap and also provided that all salaries shall be commensurate with a teacher's education and experience and shall be adjusted by market factors when appropriate.

(8) All duties and job-related benefits shall be negotiated on a statewide basis.

(b) On or before November 15, 2013, the Secretary shall present the detailed process developed pursuant to subsection (a) of this section to the General Assembly together with proposals for any statutory amendments necessary to effect the purposes of this section.

(c) The statewide contract shall be in effect beginning in the 2015–2016 academic year and, subject to existing contracts, shall be fully implemented for all teachers in the State by the 2019–2020 academic year.

Amendment to be offered by Rep. Wright of Burlington to S. 14

First: By inserting three new sections to be Secs. 20 through 22 to read:

Sec. 20. 16 V.S.A. § 2011 is added to read:

§ 2011. MANDATORY DETERMINATION BY THE VERMONT LABOR RELATIONS BOARD

(a) If the parties' dispute remains unresolved as to any issue on the 15th day after delivery of the fact-finding commission's report under section 2007 of this title or if the parties otherwise agree that they have reached an impasse, each party shall submit to the Vermont Labor Relations Board its last best offer on all undisputed issues, which shall be reviewed and decided upon as a single package. The Labor Relations Board may hold hearings and may consider the recommendations of the fact-finding committee, if one has been activated.

(b) In reaching a decision, the Labor Relations Board shall give weight to all relevant evidence presented by the parties, including:

(1) the lawful authority of the school board;

(2) stipulations of the parties;

(3) the interest and welfare of the public and the financial ability of the school board to pay for increased costs of public services, including the cost of labor;

(4) comparisons of the wages, hours, and conditions of employment of the employees involved in the dispute with the wages, hours, and conditions of employment of other employees performing similar services in public schools in comparable communities or in private employment in comparable communities;

(5) the average consumer prices for goods and services commonly known as the cost of living;

(6) the overall compensation currently received by the employees, including direct wages, benefits, continuity conditions and stability of employment, and all other benefits received; and

(7) the prior negotiations and existing conditions of other school and municipal employees.

(c) Within 30 days of receiving the last best offers of the parties, the Labor Relations Board shall select between the offers, considered in their entirety without amendment, and shall determine the cost of its selection. The Labor Relations Board shall not issue an order under this subsection that is in conflict with any law or rule or that relates to an issue that is not bargainable. The Labor Relations Board shall file one copy of the decision with the relevant municipal clerk or clerks and the negotiations councils. Except as provided in subsection (d) of this section, the decision of the Labor Relations Board shall be final and binding on the parties.

(d) The parties shall share equally all mutually incurred costs incidental to this section.

(e) Upon application of a party, a superior court shall vacate an award on the same grounds as set forth in 21 V.S.A. § 1733(d) and according to the same procedures as set forth in 21 V.S.A. § 1733(e).

(f) Upon application by either party, a superior court may issue a temporary restraining order or other injunctive relief and may award costs including reasonable attorney's fees in connection with any action taken by a representative organization, its officials, or its members or by a school board or

its representative in violation of this section, including engaging in a strike, which shall have the same meaning as in 21 V.S.A. § 1722, and the imposition of contractual terms.

Sec. 21. 3 V.S.A. § 924(e) is amended to read:

(e) In addition to its responsibilities under this chapter, the ~~board~~ Board shall carry out the responsibilities given to it under 16 V.S.A. chapter 57, 21 V.S.A. chapters 19 and 22, and chapter 28 of this title and when so doing shall exercise the powers and follow the procedures set out in that chapter.

Sec. 22. REPEAL

The following sections of Title 16 are repealed:

(1) § 2008 (finality of school board decisions);

(2) § 2010 (injunctions granted only if action poses clear and present danger);

(3) § 2021 (negotiated binding interest arbitration);

(4) § 2022 (selection and decision of arbitrator);

(5) § 2023 (jurisdiction of arbitrator);

(6) § 2024 (judicial appeal);

(7) § 2025 (factors to be considered by the arbitrator);

(8) § 2026 (notice of award); and

(9) § 2027 (fees and expenses of arbitration).

Second: By renumbering the original Sec. 20 to be Sec. 23 and in Sec. 23, after the final period, by inserting a new sentence to read: "Secs. 20-22 of this act (mandatory binding arbitration; strikes) shall take effect on July 1, 2013 and apply to negotiations beginning on or after that date for collective bargaining agreements for fiscal year 2015 and after."

Favorable with Amendment

S. 31

An act relating to prohibiting a court from consideration of interests in revocable trusts or wills when making a property settlement in a divorce proceeding

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

Sec. 1. 15 V.S.A. § 751 is amended to read:

§ 751. PROPERTY SETTLEMENT

(a) Upon motion of either party to a proceeding under this chapter, the court shall settle the rights of the parties to their property, by including in its judgment provisions which equitably divide and assign the property. All property owned by either or both of the parties, however and whenever acquired, shall be subject to the jurisdiction of the court. Title to the property, whether in the names of the husband, the wife, both parties, or a nominee, shall be immaterial, except where equitable distribution can be made without disturbing separate property.

(b) In making a property settlement the court may consider all relevant factors, including ~~but not limited to~~:

(1) the length of the civil marriage;

(2) the age and health of the parties;

(3) the occupation, source, and amount of income of each of the parties;

(4) vocational skills and employability;

(5) the contribution by one spouse to the education, training, or increased earning power of the other;

(6) the value of all property interests, liabilities, and needs of each party;

(7) whether the property settlement is in lieu of or in addition to maintenance;

(8) the opportunity of each for future acquisition of capital assets and income~~;~~. For purposes of this subdivision:

(A) The court may consider the parties' lifestyle and decisions made during the marriage and any other competent evidence as related to their expectations of gifts or an inheritance. The court shall not speculate as to the value of an inheritance or make a finding as to its value unless there is competent evidence of such value.

(B) A party's interest in an inheritance that has not yet vested and is capable of modification or divestment shall not be included in the marital estate.

(C) Notwithstanding any other provision of this subdivision (8), a person who is not a party to the divorce shall not be subject to any subpoena to provide documentation or to give testimony about:

(i) his or her assets, income, or net worth, unless it relates to a party's interest in an instrument that is vested and not capable of modification or divestment; or

(ii) his or her revocable estate planning instruments, including interests that pass at death by operation of law or by contract, unless a party's interest in an instrument is vested and not capable of modification or divestment.

(D) This subdivision (8) shall not be construed to limit the testimony given by the parties themselves or what can be obtained through discovery of the parties;

(9) the desirability of awarding the family home or the right to live there for reasonable periods to the spouse having custody of the children;

(10) the party through whom the property was acquired;

(11) the contribution of each spouse in the acquisition, preservation, and depreciation or appreciation in value of the respective estates, including the nonmonetary contribution of a spouse as a homemaker; and

(12) the respective merits of the parties.

Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2013.

and that after passage the title of the bill be amended to read: "An act relating to consideration of interests in revocable estate planning instruments when making a property settlement in a divorce proceeding"

(Committee vote: 11-0-0)

(For text see Senate Journal 2/22/2013 and 2/26/2013)

Senate Proposal of Amendment

H. 280

An act relating to payment of wages

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

First: In Sec. 1, 21 V.S.A. § 341, in subdivision (5), by striking out the word "bonuses" and inserting in lieu thereof incentive pay

Second: By striking Sec. 2 in its entirety and inserting in lieu thereof a new Sec. 2 to read:

Sec. 2. 21 V.S.A. § 342 is amended to read:

§ 342. WEEKLY PAYMENT OF WAGES

(a)(1) Any ~~person~~ employer having one or more employees doing and transacting business within the ~~state~~ 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 employee or employees, any ~~person~~ employer having an employee or employees doing and transacting business within the ~~state~~ State may, notwithstanding subdivision (1) of this subsection, pay biweekly or 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.

* * *

Third: In Sec. 3, 21 V.S.A. § 342a, in subsection (f), by inserting a sentence at the end of the subsection to read: The costs of transcription shall be paid by the requesting party.

(For text see House Journal 3/21/2013)

H. 401

An act relating to municipal and regional planning and flood resilience

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

First: In Sec. 1, 24 V.S.A. § 4302, in subdivision (c)(14)(A), in the second sentence, by striking out the words "should be constructed to withstand flooding and fluvial erosion and", and by inserting after the words "exacerbate flooding" the words and fluvial erosion

Second: In Sec. 3, 24 V.S.A. § 4348a, in subdivision (a)(11)(A)(i), by striking out the words "that should" and inserting in lieu thereof the word to

Third: In Sec. 4, 24 V.S.A. § 4382, in subdivision (a)(12)(A)(i), by striking out the words "that should" and inserting in lieu thereof the word to

Fourth: By striking out Sec. 8 in its entirety and inserting in lieu thereof:

Sec. 8. EFFECTIVE DATES

(a) This section and Secs. 5 (required provisions and prohibited effects) and 6 (regulation of accessory dwelling units) of this act shall take effect on passage.

(b) Secs. 1 (purpose; goals), 2 (flood hazard area), 3 (elements of a regional plan), 4 (the plan for a municipality), and 7 (river corridors and buffers) of this act shall take effect on July 1, 2014.

(No House Amendments)

H. 406

An act relating to listers and assessors

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

First: By adding a new section to be Sec. 3a to read:

Sec. 3a. 17 V.S.A. § 2651b is amended to read:

§ 2651b. ELIMINATION OF OFFICE OF AUDITOR; APPOINTMENT OF PUBLIC ACCOUNTANT

* * *

(c) The authority to vote to eliminate the office of town auditor as provided in this section shall extend to all towns except those towns that have a charter that specifically provides for the election or appointment of the office of town auditor.

Second: By adding a new section to be Sec. 3b to read:

Sec. 3b. REPEAL

1998 Acts and Resolves No. 83, Sec. 9 (municipal charters) is repealed.

Third: In Sec. 4 (amending 17 V.S.A. § 2651c), by striking out subdivision (4) in its entirety and inserting in lieu thereof the following:

(4) The authority to vote to eliminate the office of lister as provided in this subsection shall extend to all towns except those towns that have a charter that specifically provides for the election or appointment of the office of lister.

and that after passage the title of the bill be amended to read: "An act relating to town listers, assessors, and auditors".

(No House Amendments)

Action Postponed Until April 30, 2013
Favorable with Amendment
H. 535

An act relating to the approval of the adoption and to the codification of the charter of the Town of Woodford

Rep. Mook of Bennington, for the Committee on **Government Operations,** recommends the bill be amended as follows:

amended in Sec. 2, in 24 V.S.A. chapter 162, in § 6 (open meetings), by striking out the last sentence in its entirety and inserting in lieu thereof the following: "No executive session shall be held except in accordance with the terms of the general law."

(Committee Vote: 10-0-1)

NOTICE CALENDAR

Favorable with Amendment

H. 483

An act relating to adopting revisions to Article 9 of the Uniform Commercial Code

Rep. Carr of Brandon, for the Committee on **Commerce and Economic Development,** recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

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

Article 9. Secured Transactions

Part 1. Applicability, Definitions, and General Concepts

* * *

§ 9-102. DEFINITIONS AND INDEX OF DEFINITIONS

(a) In this article:

(1) "Accession" means goods that are physically united with other goods in such a manner that the identity of the original goods is not lost.

(2) "Account," except as used in "account for," means a right to payment of a monetary obligation, whether or not earned by performance, (i) for property that has been or is to be sold, leased, licensed, assigned, or otherwise disposed of, (ii) for services rendered or to be rendered, (iii) for a policy of insurance issued or to be issued, (iv) for a secondary obligation incurred or to be incurred, (v) for energy provided or to be provided, (vi) for the use or hire of a vessel under a charter or other contract, (vii) arising out of the use of a credit or charge card or information contained on or for use with the card, or (viii) as winnings in a lottery or other game of chance operated or sponsored by a state, governmental unit of a state, or person licensed or authorized to operate the game by a state or governmental unit of a state. The term includes health-care-insurance receivables. The term does not include (i) rights to payment evidenced by chattel paper or an instrument, (ii) commercial tort claims, (iii) deposit accounts, (iv) investment property, (v) letter-of-credit rights or letters of credit, or (vi) rights to payment for money or funds advanced or sold, other than rights arising out of the use of a credit or charge card or information contained on or for use with the card.

(3) "Account debtor" means a person obligated on an account, chattel paper, or general intangible. The term does not include persons obligated to pay a negotiable instrument, even if the instrument constitutes part of chattel

paper.

(4) "Accounting," except as used in "accounting for," means a record:

(A) authenticated by a secured party;

(B) indicating the aggregate unpaid secured obligations as of a date not more than 35 days earlier or 35 days later than the date of the record; and

(C) identifying the components of the obligations in reasonable detail.

(5) "Agricultural lien" means an interest, other than a security interest, in farm products:

(A) which secures payment or performance of an obligation for:

(i) goods or services furnished in connection with a debtor's farming operation; or

(ii) rent on real property leased by a debtor in connection with its farming operation;

(B) which is created by statute in favor of a person that:

(i) in the ordinary course of its business furnished goods or services to a debtor in connection with a debtor's farming operation; or

(ii) leased real property to a debtor in connection with the debtor's farming operation; and

(C) whose effectiveness does not depend on the person's possession of the personal property.

(6) "As-extracted collateral" means:

(A) oil, gas, or other minerals that are subject to a security interest that:

(i) is created by a debtor having an interest in the minerals before extraction; and

(ii) attaches to the minerals as extracted; or

(B) accounts arising out of the sale at the wellhead or minehead of oil, gas, or other minerals in which the debtor had an interest before extraction.

(7) "Authenticate" means:

(A) to sign; or

(B) ~~to execute or otherwise adopt a symbol, or encrypt or similarly process a record in whole or in part, with the present intent of the~~

~~authenticating person to identify the person and adopt or accept a record~~ with present intent to adopt or accept a record, to attach to or logically associate with the record an electronic sound, symbol, or process.

(8) "Bank" means an organization that is engaged in the business of banking. The term includes savings banks, savings and loan associations, credit unions, and trust companies.

(9) "Cash proceeds" means proceeds that are money, checks, deposit accounts, or the like.

(10) "Certificate of title" means a certificate of title with respect to which a statute provides for the security interest in question to be indicated on the certificate as a condition or result of the security interest's obtaining priority over the rights of a lien creditor with respect to the collateral. The term includes another record maintained as an alternative to a certificate of title by the governmental unit that issues certificates of title if a statute permits the security interest in question to be indicated on the record as a condition or result of the security interest's obtaining priority over the rights of a lien creditor with respect to the collateral.

* * *

(71) "Public organic record" means a record that is available to the public for inspection and is:

(A) a record consisting of the record initially filed with or issued by a state or the United States to form or organize an organization and any record filed with or issued by the state or the United States which amends or restates the initial record;

(B) an organic record of a business trust consisting of the record initially filed with a state and any record filed with the state which amends or restates the initial record, if a statute of the state governing business trusts requires that the record be filed with the state; or

(C) a record consisting of legislation enacted by the legislature of a state or the Congress of the United States which forms or organizes an organization, any record amending the legislation, and any record filed with or issued by the state or the United States which amends or restates the name of the organization.

(72) "Pursuant to commitment," with respect to an advance made or other value given by a secured party, means pursuant to the secured party's obligation, whether or not a subsequent event of default or other event not within the secured party's control has relieved or may relieve the secured party from its obligation.

~~(72)~~(73) "Record," except as used in "for record," "of record," "record or legal title," and "record owner," means information that is inscribed on a tangible medium or which is stored in an electronic or other medium and is retrievable in perceivable form.

~~(73)~~(74) "Registered organization" means an organization formed or organized solely under the law of a single state or the United States ~~and as to which the state or the United States must maintain a public record showing the organization to have been organized~~ by the filing of a public organic record with, the issuance of a public organic record by, or the enactment of legislation by the state or the United States. The term includes a business trust that is formed or organized under the law of a single state if a statute of the state governing business trusts requires that the business trust's organic record be filed with the state.

~~(74)~~(75) "Secondary obligor" means an obligor to the extent that:

(A) the obligor's obligation is secondary; or

(B) the obligor has a right of recourse with respect to an obligation secured by collateral against the debtor, another obligor, or property of either.

~~(75)~~(76) "Secured party" means:

(A) a person in whose favor a security interest is created or provided for under a security agreement, whether or not any obligation to be secured is outstanding;

(B) a person that holds an agricultural lien;

(C) a consignor;

(D) a person to which accounts, chattel paper, payment intangibles, or promissory notes have been sold;

(E) a trustee, indenture trustee, agent, collateral agent, or other representative in whose favor a security interest or agricultural lien is created or provided for; or

(F) a person that holds a security interest arising under section 2-401, 2-505, 2-711(3), 2A-508(5), 4-210, or 5-118.

~~(76)~~(77) "Security agreement" means an agreement that creates or provides for a security interest.

~~(77)~~(78) "Send," in connection with a record or notification, means:

(A) to deposit in the mail, deliver for transmission, or transmit by any other usual means of communication, with postage or cost of transmission provided for, addressed to any address reasonable under the circumstances; or

(B) to cause the record or notification to be received within the time that it would have been received if properly sent under subdivision (A) of this subdivision ~~(77)~~(78).

~~(78)~~(79) "Software" means a computer program and any supporting information provided in connection with a transaction relating to the program. The term does not include a computer program that is included in the definition of goods.

~~(79)~~(80) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

~~(80)~~(81) "Supporting obligation" means a letter-of-credit right or secondary obligation that supports the payment or performance of an account, chattel paper, a document, a general intangible, an instrument, or investment property.

~~(81)~~(82) "Tangible chattel paper" means chattel paper evidenced by a record or records consisting of information that is inscribed on a tangible medium.

~~(82)~~(83) "Termination statement" means an amendment of a financing statement which:

(A) identifies, by its file number, the initial financing statement to which it relates; and

(B) indicates either that it is a termination statement or that the identified financing statement is no longer effective.

~~(83)~~(84) "Transmitting utility" means a person primarily engaged in the business of:

(A) operating a railroad, subway, street railway, or trolley bus;

(B) transmitting communications electrically, electromagnetically, or by light;

(C) transmitting goods by pipeline or sewer; or

(D) transmitting or producing and transmitting electricity, steam, gas, or water.

* * *

§ 9-105. CONTROL OF ELECTRONIC CHATTEL PAPER

(a) A secured party has control of electronic chattel paper if a system employed for evidencing the transfer of interests in the chattel paper reliably

establishes the secured party as the person to which the chattel paper was assigned.

(b) A system satisfies subsection (a) of this section if the record or records comprising the chattel paper are created, stored, and assigned in such a manner that:

(1) a single authoritative copy of the record or records exists which is unique, identifiable and, except as otherwise provided in paragraphs (4), (5), and (6), unalterable;

(2) the authoritative copy identifies the secured party as the assignee of the record or records;

(3) the authoritative copy is communicated to and maintained by the secured party or its designated custodian;

(4) copies or ~~revisions~~ amendments that add or change an identified assignee of the authoritative copy can be made only with the ~~participation~~ consent of the secured party;

(5) each copy of the authoritative copy and any copy of a copy is readily identifiable as a copy that is not the authoritative copy; and

(6) any ~~revision~~ amendment of the authoritative copy is readily identifiable as ~~an~~ authorized or unauthorized ~~revision~~.

* * *

Part 3. Perfection and Priority

§ 9-307. LOCATION OF DEBTOR

* * *

(f) Except as otherwise provided in subsection (i), a registered organization that is organized under the law of the United States and a branch or agency of a bank that is not organized under the law of the United States or a state are located:

(1) in the state that the law of the United States designates, if the law designates a state of location;

(2) in the state that the registered organization, branch, or agency designates, if the law of the United States authorizes the registered organization, branch, or agency to designate its state of location, including by designating its main office, home office, or other comparable office; or

(3) in the District of Columbia, if neither paragraph (1) nor paragraph (2) applies.

* * *

§ 9-311. PERFECTION OF SECURITY INTERESTS IN PROPERTY SUBJECT TO CERTAIN STATUTES, REGULATIONS, AND TREATIES

(a) Except as otherwise provided in subsection (d) of this section, the filing of a financing statement is not necessary or effective to perfect a security interest in property subject to:

(1) a statute, regulation, or treaty of the United States whose requirements for a security interest's obtaining priority over the rights of a lien creditor with respect to the property preempt subsection 9-310(a) of this title;

(2) the following statutes of this state: 23 V.S.A. chapters 21 and 36; or

(3) a ~~certificate-of-title~~ statute of another jurisdiction which provides for a security interest to be indicated on ~~the~~ a certificate as a condition or result of the security interest's obtaining priority over the rights of a lien creditor with respect to the property.

* * *

§ 9-316. ~~CONTINUED PERFECTION OF SECURITY INTEREST FOLLOWING~~ EFFECT OF CHANGE IN GOVERNING LAW

* * *

(h) The following rules apply to collateral to which a security interest attaches within four months after the debtor changes its location to another jurisdiction:

(1) A financing statement filed before the change pursuant to the law of the jurisdiction designated in subsection 9-301(1) or 9-305(c) of this title is effective to perfect a security interest in the collateral if the financing statement would have been effective to perfect a security interest in the collateral had the debtor not changed its location.

(2) If a security interest perfected by a financing statement that is effective under subdivision (1) of this subsection becomes perfected under the law of the other jurisdiction before the earlier of the time the financing statement would have become ineffective under the law of the jurisdiction designated in subsection 9-301(1) or 9-305(c) of this title or the expiration of the four-month period, it remains perfected thereafter. If the security interest does not become perfected under the law of the other jurisdiction before the earlier time or event, it becomes unperfected and is deemed never to have been perfected as against a purchaser of the collateral for value.

(i) If a financing statement naming an original debtor is filed pursuant to the law of the jurisdiction designated in subsection 9-301(1) or 9-305(c) of this title and the new debtor is located in another jurisdiction, the following rules apply:

(1) The financing statement is effective to perfect a security interest in collateral acquired by the new debtor before, and within four months after, the new debtor becomes bound under subsection 9-203(d) of this title if the financing statement would have been effective to perfect a security interest in the collateral had the collateral been acquired by the original debtor.

(2) A security interest perfected by the financing statement, which becomes perfected under the law of the other jurisdiction before the earlier of the time the financing statement would have become ineffective under the law of the jurisdiction designated in subsection 9-301(1) or 9-305(c) of this title or the expiration of the four-month period, remains perfected thereafter. A security interest perfected by the financing statement, which does not become perfected under the law of the other jurisdiction before the earlier time or event, becomes unperfected and is deemed never to have been perfected as against a purchaser of the collateral for value.

§ 9-317. INTERESTS THAT TAKE PRIORITY OVER OR TAKE FREE OF SECURITY INTEREST OR AGRICULTURAL LIEN

* * *

(b) Except as otherwise provided in subsection (e) of this section, a buyer, other than a secured party, of tangible chattel paper, documents, goods, instruments, or a ~~security certificate~~ certificated security takes free of a security interest or agricultural lien if the buyer gives value and receives delivery of the collateral without knowledge of the security interest or agricultural lien and before it is perfected.

* * *

(d) A licensee of a general intangible or a buyer, other than a secured party, of ~~accounts, electronic chattel paper, general intangibles, or investment property~~ collateral other than tangible chattel paper, tangible documents, goods, instruments, or a certificated security takes free of a security interest if the licensee or buyer gives value without knowledge of the security interest and before it is perfected.

* * *

§ 9-326. PRIORITY OF SECURITY INTERESTS CREATED BY NEW DEBTOR

(a) Subject to subsection (b), a security interest that is created by a new debtor ~~which is~~ in collateral in which the new debtor has or acquires rights and is perfected solely by a filed financing statement that ~~is effective solely under section 9-508 in collateral in which a new debtor has or acquires rights~~ would be ineffective to prefect the security interest but for the application of subdivision 9-316(i)(1) or section 9-508 of this title is subordinate to a security interest in the same collateral which is perfected by another method.

* * *

§ 9-406. DISCHARGE OF ACCOUNT DEBTOR; NOTIFICATION OF ASSIGNMENT; IDENTIFICATION AND PROOF OF ASSIGNMENT; RESTRICTIONS ON ASSIGNMENT OF ACCOUNTS, CHATTEL PAPER, PAYMENT INTANGIBLES, AND PROMISSORY NOTES INEFFECTIVE

* * *

(e) Subsection (d) of this section does not apply to the sale of a payment intangible or promissory note, other than a sale pursuant to a disposition under section 9-610 of this title or an acceptance of collateral under section 9-620 of this title.

* * *

§ 9-408. RESTRICTIONS ON ASSIGNMENT OF PROMISSORY NOTES, HEALTH CARE INSURANCE RECEIVABLES, AND CERTAIN GENERAL INTANGIBLES INEFFECTIVE

* * *

(b) Subsection (a) of this section applies to a security interest in a payment intangible or promissory note only if the security interest arises out of a sale of the payment intangible or promissory note, other than a sale pursuant to a disposition under section 9-610 of this section or an acceptance of collateral under section 9-620 of this section.

* * *

§ 9-502. CONTENTS OF FINANCING STATEMENT; RECORD OF MORTGAGE AS FINANCING STATEMENT; TIME OF FILING FINANCING STATEMENT

* * *

(c) A record of a mortgage is effective, from the date of recording, as a financing statement filed as a fixture filing or as a financing statement covering as-extracted collateral or timber to be cut only if:

(1) the record indicates the goods or accounts that it covers;

(2) the goods are or are to become fixtures related to the real property described in the record or the collateral is related to the real property described in the record and is as-extracted collateral or timber to be cut;

(3) the record complies with the requirements for a financing statement in this section ~~other than an indication~~, but:

(A) the record need not indicate that it is to be filed in the real property records; and

(B) the record sufficiently provides the name of a debtor who is an individual if it provides the individual name of the debtor or the surname and first personal name of the debtor, even if the debtor is an individual to whom subdivision 9-503(a)(4) of this title applies; and

(4) the record is recorded.

(d) A financing statement may be filed before a security agreement is made or a security interest otherwise attaches.

§ 9-503. NAME OF DEBTOR AND SECURED PARTY

(a) A financing statement sufficiently provides the name of the debtor:

(1) except as otherwise provided in subdivision (3) of this subsection, if the debtor is a registered organization or the collateral is held in a trust that is a registered organization, only if the financing statement provides the name ~~of the debtor indicated~~ that is stated to be the registered organization's name on the public organic record ~~of~~ most recently filed with or issued or enacted by the ~~debtor's~~ registered organization's jurisdiction of organization which ~~shows the debtor to have been organized~~ purports to state, amend, or restate the registered organization's name;

(2) subject to subsection (f) of this section, if the ~~debtor is a decedent's estate~~ collateral is being administered by the personal representative of a decedent, only if the financing statement provides, as the name of the debtor, the name of the decedent and, in a separate part of the financing statement, indicates that the ~~debtor is an estate~~ collateral is being administered by a personal representative;

(3) ~~if the debtor is a trust or a trustee acting with respect to property held in trust, only if the financing statement:~~

~~(A) provides the name specified for the trust in its organic documents or, if no name is specified, provides the name of the settlor and additional information sufficient to distinguish the debtor from other trusts having one or more of the same settlors; and~~

~~(B) indicates, in the debtor's name or otherwise, that the debtor is a trust or is a trustee acting with respect to property held in trust; and~~

if collateral is held in a trust that is not a registered organization, only if the financing statement:

(A) provides, as the name of the debtor:

(i) if the organic record of the trust specifies a name for the trust, the name specified; or

(ii) if the organic record of the trust does not specify a name for the trust, the name of the settlor or testator; and

(B) in a separate part of the financing statement:

(i) if the name is provided in accordance with subdivision (3)(A)(i) of this subsection, indicates that the collateral is held in a trust; or

(ii) if the name is provided in accordance with subdivision (3)(A)(ii) of this subsection, provides additional information sufficient to distinguish the trust from other trusts having one or more of the same settlors or the same testator and indicates that the collateral is held in a trust, unless the additional information so indicates;

(4) subject to subsection (g) of this section, if the debtor is an individual to whom this state has issued a driver's license that has not expired, only if the financing statement provides the name of the individual which is indicated on the driver's license;

(5) if the debtor is an individual to whom subdivision (4) of this subsection does not apply, only if the financing statement provides the individual name of the debtor or the surname and first personal name of the debtor; and

~~(4)~~(6) in other cases:

(A) if the debtor has a name, only if ~~it~~ the financing statement provides the ~~individual or~~ organizational name of the debtor; and

(B) if the debtor does not have a name, only if it provides the names of the partners, members, associates, or other persons comprising the debtor, in a manner that each name provided would be sufficient if the person named were the debtor.

(b) A financing statement that provides the name of the debtor in accordance with subsection (a) of this section is not rendered ineffective by the absence of:

(1) a trade name or other name of the debtor; or

(2) unless required under ~~subsection (a)(4)(B)~~ subdivision (a)(6)(B) of this section, names of partners, members, associates, or other persons comprising the debtor.

* * *

(f) The name of the decedent indicated on the order appointing the personal representative of the decedent issued by the court having jurisdiction over the collateral is sufficient as the "name of the decedent" under subdivision (a)(2) of this section.

(g) If this state has issued to an individual more than one driver's license of a kind described in subdivision (a)(4) of this section, the one that was issued most recently is the one to which subdivision (a)(4) refers.

(h) In this section, the "name of the settlor or testator" means:

(1) if the settlor is a registered organization, the name that is stated to be the settlor's name on the public organic record most recently filed with or issued or enacted by the settlor's jurisdiction of organization which purports to state, amend, or restate the settlor's name; or

(2) in other cases, the name of the settlor or testator indicated in the trust's organic record.

* * *

§ 9-507. EFFECT OF CERTAIN EVENTS ON EFFECTIVENESS OF FINANCING STATEMENT

* * *

(b) Except as otherwise provided in subsection (c) of this section and section 9-508 of this title, a financing statement is not rendered ineffective if, after the financing statement is filed, the information provided in the financing statement becomes seriously misleading under section 9-506 of this title.

(c) If ~~a debtor so changes its~~ the name that a filed financing statement provides for a debtor becomes insufficient as the name of the debtor under subsection 9-503(a) of this title so that the financing statement becomes seriously misleading under section 9-506 of this title:

(1) the financing statement is effective to perfect a security interest in

collateral acquired by the debtor before, or within four months after, the ~~change~~ financing statement becomes seriously misleading; and

(2) the financing statement is not effective to perfect a security interest in collateral acquired by the debtor more than four months after the ~~change~~ filed financing statement becomes seriously misleading, unless an amendment to the financing statement which renders the financing statement not seriously misleading is filed within four months after the ~~change~~ financing statement became seriously misleading.

* * *

§ 9-515. DURATION AND EFFECTIVENESS OF FINANCING STATEMENT; EFFECT OF LAPSED FINANCING STATEMENT

* * *

(f) If a debtor is a transmitting utility and a filed initial financing statement so indicates, the financing statement is effective until a termination statement is filed.

* * *

§ 9-516. WHAT CONSTITUTES FILING; EFFECTIVENESS OF FILING

(a) Except as otherwise provided in subsection (b) of this section, communication of a record to a filing office and tender of the filing fee or acceptance of the record by the filing office constitutes filing.

(b) Filing does not occur with respect to a record that a filing office refuses to accept because:

(1) the record is not communicated by a method or medium of communication authorized by the filing office;

(2) an amount equal to or greater than the applicable filing fee is not tendered;

(3) the filing office is unable to index the record because:

(A) in the case of an initial financing statement, the record does not provide a name for the debtor;

(B) in the case of an amendment or ~~correction~~ information statement, the record:

(i) does not identify the initial financing statement as required by section 9-512 or 9-518 of this title, as applicable; or

(ii) identifies an initial financing statement whose effectiveness

has lapsed under section 9-515 of this title;

(C) in the case of an initial financing statement that provides the name of a debtor identified as an individual or an amendment that provides a name of a debtor identified as an individual which was not previously provided in the financing statement to which the record relates, the record does not identify the debtor's ~~last name~~ surname; or

(D) in the case of a record recorded in the filing office described in ~~section~~ subdivision 9-501(a)(1) of this title, the record does not provide a sufficient description of the real property to which it relates;

(4) in the case of an initial financing statement or an amendment that adds a secured party of record, the record does not provide a name and mailing address for the secured party of record;

(5) in the case of an initial financing statement or an amendment that provides a name of a debtor which was not previously provided in the financing statement to which the amendment relates, the record does not:

(A) provide a mailing address for the debtor; or

(B) indicate whether the name provided as the name of the debtor is the name of an individual or an organization; ~~or~~

~~(C) if the financing statement indicates that the debtor is an organization, provide:~~

~~(i) a type of organization for the debtor;~~

~~(ii) a jurisdiction of organization for the debtor; or~~

~~(iii) an organizational identification number for the debtor or indicate that the debtor has none;~~

(6) in the case of an assignment reflected in an initial financing statement under ~~section~~ subsection 9-514(a) of this title or an amendment filed under ~~section~~ subsection 9-514(b) of this title, the record does not provide a name and mailing address for the assignee; or

(7) in the case of a continuation statement, the record is not filed within the six-month period prescribed by ~~section~~ subsection 9-515(d) of this title.

(c) For purposes of subsection (b) of this section:

(1) a record does not provide information if the filing office is unable to read or decipher the information; and

(2) a record that does not indicate that it is an amendment or identify an initial financing statement to which it relates, as required by section 9-512,

9-514, or 9-518 of this title, is an initial financing statement.

(d) A record that is communicated to the filing office with tender of the filing fee, but which the filing office refuses to accept for a reason other than one set forth in subsection (b) of this section, is effective as a filed record except as against a purchaser of the collateral which gives value in reasonable reliance upon the absence of the record from the files.

* * *

§ 9-518. CLAIM CONCERNING INACCURATE OR WRONGFULLY FILED RECORD

(a) A person may file in the filing office ~~a correction~~ an information statement with respect to a record indexed there under the person's name if the person believes that the record is inaccurate or was wrongfully filed.

(b) ~~A correction~~ An information statement ~~must~~ shall:

(1) identify the record to which it relates by:

(A) the file number assigned to the initial financing statement to which the record relates; and

(B) if the correction statement relates to a record filed recorded in a filing office described in ~~section~~ subdivision 9-501(a)(1) of this title, the date that the initial financing statement was filed or recorded, and the information specified in ~~section~~ subsection 9-502(b) of this title;

(2) indicate that it is ~~a correction~~ an information statement; and

(3) provide the basis for the person's belief that the record is inaccurate and indicate the manner in which the person believes the record should be amended to cure any inaccuracy or provide the basis for the person's belief that the record was wrongfully filed.

(c) A person may file in the filing office an information statement with respect to a record filed there if the person is a secured party of record with respect to the financing statement to which the record relates and believes that the person that filed the record was not entitled to do so under subsection 9-509(d) of this title.

(d) An information statement under subsection (c) of this section shall:

(1) identify the record to which it relates by the file number assigned to the initial financing statement to which the record relates;

(2) indicate that it is an information statement; and

(3) provide the basis for the person's belief that the person that filed the

record was not entitle to do so under subsection 9-509(d) of this title.

(e) The filing of ~~a correction~~ an information statement does not affect the effectiveness of an initial financing statement or other filed record.

* * *

§ 9-521. UNIFORM FORM OF WRITTEN FINANCING STATEMENT AND AMENDMENT

(a) A filing office that accepts written records may not refuse to accept a written initial financing statement in the following form and format except for a reason set forth in ~~section~~ subsection 9-516(b) of this title:

UCC FINANCING STATEMENT

FOLLOW INSTRUCTIONS

A. NAME & PHONE OF CONTACT AT FILER (optional)	
B. E-MAIL CONTACT AT FILER (optional)	
C. SEND ACKNOWLEDGMENT TO: (Name and Address)	**THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY**

1. DEBTOR'S NAME: Provide only one Debtor name (1a or 1b) (use exact, full name; do not omit, modify, or abbreviate any part of the Debtor's name); if any part of the Individual Debtor's name will not fit in line 1b, leave all of item 1 blank, check here ☐ and provide the Individual Debtor information in item 10 of the Financing Statement Addendum (Form UCC1Ad)

	1a. ORGANIZATION'S NAME			
OR	1b. INDIVIDUAL'S SURNAME	FIRST PERSONAL	ADDITIONAL NAME(S)/INITIAL(S)	SUFFIX

	NAME	THAT ARE PART OF THE NAME OF THIS DEBTOR		
1c. MAILING ADDRESS	CITY	STATE	POSTAL CODE	COUNTRY

2. DEBTOR'S NAME: Provide only one Debtor name (2a or 2b) (use exact, full name; do not omit, modify, or abbreviate any part of the Debtor's name); if any part of the Individual Debtor's name will not fit in line 2b, leave all of item 2 blank, check here ☐ and provide the Individual Debtor information in item 10 of the Financing Statement Addendum (Form UCC1Ad)

	2a. ORGANIZATION'S NAME			
OR	2b. INDIVIDUAL'S SURNAME	FIRST PERSONAL NAME	ADDITIONAL NAME(S)/INITIAL(S)THAT ARE PART OF THE NAME OF THIS DEBTOR	SUFFIX
2c. MAILING ADDRESS	CITY	STATE	POSTAL CODE	COUNTRY

3. SECURED PARTY'S NAME (or NAME of ASSIGNEE of ASSIGNOR SECURED PARTY): Provide only one Secured Party name (3a or 3b)

3a. ORGANIZATION'S NAME

OR	3b. INDIVIDUAL'S SURNAME	FIRST PERSONAL NAME	ADDITIONAL NAME(S)/INITIAL(S)		SUFFIX
3c. MAILING ADDRESS	CITY	STATE	POSTAL CODE		COUNTRY

4. COLLATERAL: This financing statement covers the following collateral:

5. Check only if applicable and check only one box:

Collateral is ☐ held in a Trust (see UCC1Ad, Item 17 and Instructions)

☐ being administered by a Decedent's Personal Representative

6a. Check only if applicable and check only one box:

☐ Public-Finance Transaction ☐ Manufactured-Home Transaction

☐ A Debtor is a Transmitting Utility

6b. Check only if applicable and check only one box:

☐ Agricultural Lien ☐ Non-UCC Filing

7. ALTERNATIVE DESIGNATION (if applicable): ☐ Lessee/Lessor ☐ Consignee/Consignor ☐ Seller/Buyer

☐ Bailee/Bailor ☐ Licensee/Licensor

8. OPTIONAL FILER REFERENCE DATA:

[UCC FINANCING STATEMENT (Form UCC1)]

UCC FINANCING STATEMENT ADDENDUM

FOLLOW INSTRUCTIONS

9. NAME OF FIRST DEBTOR: Same as item 1a or 1b on Financing Statement; if line 1b was left blank because Individual Debtor name did not fit, check here ☐

9a. ORGANIZATION'S NAME

OR

9b. INDIVIDUAL'S SURNAME

FIRST PERSONAL NAME

ADDITIONAL NAME(S)/INITIAL(S) | SUFFIX

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

10. DEBTOR'S NAME: Provide (10a or 10b) only <u>one</u> additional Debtor name or Debtor name that did not fit in line 1b or 2b of the Financing Statement (Form UCC1)(use exact, full name; do not omit, modify, or abbreviate any part of the Debtor's name) and enter the mailing address in line 10c

10a. ORGANIZATION'S NAME

OR

10b. INDIVIDUAL'S SURNAME

FIRST PERSONAL NAME

ADDITIONAL NAME(S)/INITIAL(S) THAT ARE PART OF THE NAME OF THIS DEBTOR | SUFFIX

10c. MAILING ADDRESS	CITY	STATE	POSTAL CODE	COUNTRY

11. ☐ ADDITIONAL SECURED PARTY'S NAME or ☐ ASSIGNOR SECURED PARTY'S NAME: Provide only one name (11a or 11b)

	11a. ORGANIZATION'S NAME			
OR	11b. INDIVIDUAL'S SURNAME	FIRST PERSONAL NAME	ADDITIONAL NAME(S)/INITIAL(S)	SUFFIX
11c. MAILING ADDRESS	CITY	STATE	POSTAL CODE	COUNTRY

12. ADDITIONAL SPACE FOR ITEM 4 (Collateral)

13. ☐ This FINANCING STATEMENT is to be filed [for record] (or recorded) in the REAL ESTATE RECORDS (if applicable)	14. This FINANCING STATEMENT: ☐ covers timber to be cut ☐ covers as-extracted collateral ☐ is filed as a fixture filing
15. Name and address of a RECORD OWNER of real estate described in item 16 (if Debtor does not have a record interest):	16. Description of real estate:

17. MISCELLANEOUS:

[UCC FINANCING STATEMENT ADDENDUM (Form UCC1Ad)]

(b) A filing office that accepts written records may not refuse to accept a written record in the following form and format except for a reason set forth in ~~section~~ subsection 9-516(b) of this title:

UCC FINANCING STATEMENT AMENDMENT

FOLLOW INSTRUCTIONS

A. NAME & PHONE OF CONTACT AT FILER (optional)	
B. E-MAIL CONTACT AT FILER (optional)	
C. SEND ACKNOWLEDGMENT TO: (Name and Address)	**THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY**
1a. INITIAL FINANCING STATEMENT FILE NUMBER	1b. ☐ This FINANCING STATEMENT AMENDMENT is to be filed [for record] (or recorded) in the REAL ESTATE RECORDS Filer: attach

	Amendment Addendum (Form UCC3Ad) and provide Debtor's name in item 13.

2. ☐ TERMINATION: Effectiveness of the Financing Statement identified above is terminated with respect to the security interest(s) of Secured Party authorizing this Termination Statement

3. ☐ ASSIGNMENT (full or partial): Provide name of Assignee in item 7a or 7b, and address of Assignee in item 7c and name of Assignor in item 9. For partial assignment, complete items 7 and 9 and also indicate affected collateral in item 8

4. ☐ CONTINUATION: Effectiveness of the Financing Statement identified above with respect to the security interest(s) of Secured Party authorizing this Continuation Statement is continued for the additional period provided by applicable law

5. ☐ PARTY INFORMATION CHANGE:

Check one of these two boxes:

This Change affects ☐ Debtor or ☐ Secured Party of record.

AND

Check one of these three boxes to:

☐ CHANGE name and/or address: Complete item 6a or 6b; and item 7a or 7b and item 7c

☐ ADD name: Complete item 7a or 7b, and item 7c

☐ DELETE name: Give record name to be deleted in item 6a or 6b

6. CURRENT RECORD INFORMATION: Complete for Party Information Change - provide only one name (6a or 6b)

	6a. ORGANIZATION'S NAME			
OR	6b. INDIVIDUAL'S SURNAME	FIRST PERSONAL NAME	ADDITIONAL NAME(S)/INITIAL(S)	SUFFIX

7. CHANGED OR ADDED INFORMATION: Complete for Assignment or Party Information Change - provide only one name (7a or 7b) (use exact full name; do not omit, modify, or abbreviate any part of the Debtor's

name)

	7a. ORGANIZATION'S NAME			
OR	7b. INDIVIDUAL'S SURNAME			
	FIRST PERSONAL NAME			
	ADDITIONAL NAME(S)/INITIAL(S)			SUFFIX

7c. MAILING ADDRESS	CITY	STATE	POSTAL CODE	COUNTRY

8. ☐ COLLATERAL CHANGE: Also check one of these four boxes:

☐ ADD collateral ☐ DELETE collateral ☐ RESTATE covered collateral ☐ ASSIGN collateral

Indicate collateral:

9. NAME OF SECURED PARTY OF RECORD AUTHORIZING THIS AMENDMENT: Provide only one name (9a or 9b) (name of Assignor, if this is an Assignment)

If this is an Amendment authorized by a DEBTOR, check here ☐ and provide name of authorizing Debtor

	9a. ORGANIZATION'S NAME			
OR	9b. INDIVIDUAL'S SURNAME	FIRST PERSONAL NAME	ADDITIONAL NAME(S)/INITIAL(S)	SUFFIX

10. OPTIONAL FILER REFERENCE DATA:

UCC FINANCING STATEMENT AMENDMENT ADDENDUM

FOLLOW INSTRUCTIONS

11. INITIAL FINANCING STATEMENT FILE NUMBER: Same as item 1a on Amendment form			
12. NAME OF PARTY AUTHORIZING THIS AMENDMENT: Same as item 9 on Amendment form			
	12a. ORGANIZATION'S NAME		
OR	12b. INDIVIDUAL'S SURNAME		
	FIRST PERSONAL NAME		
	ADDITIONAL NAME(S)/INITIAL(S)	SUFFIX	**THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY**

13. Name of DEBTOR on related financing statement (Name of a current Debtor of record required for indexing purposes only in some filing offices - see Instruction item 13): Provide only <u>one</u> Debtor name (13a or 13b) (use exact, full name; do not omit, modify, or abbreviate any part of the Debtor's name); see Instructions if name does not fit

	13a. ORGANIZATION'S NAME			
O	13b. INDIVIDUAL'S	FIRST	ADDITIONAL	SUFFI

R	SURNAME	PERSONAL NAME	NAME(S)/INITIAL(S)	X

14. ADDITIONAL SPACE FOR ITEM 8 (Collateral)

15. This FINANCING STATEMENT AMENDMENT: ☐ covers timber to be cut ☐ covers as-extracted collateral ☐ is filed as a fixture filing	17. Description of real estate:
16. Name and address of a RECORD OWNER of real estate described in item 17 (if Debtor does not have a record interest):	

18. MISCELLANEOUS:

[UCC FINANCING STATEMENT AMENDMENT ADDENDUM (Form UCC3Ad)]

* * *

§ 9-607. COLLECTION AND ENFORCEMENT BY SECURED PARTY

* * *

(b) If necessary to enable a secured party to exercise ~~under subsection~~

subdivision (a)(3) of this section the right of a debtor to enforce a mortgage nonjudicially, the secured party may record in the office in which a record of the mortgage is recorded:

(1) a copy of the security agreement that creates or provides for a security interest in the obligation secured by the mortgage; and

(2) the secured party's sworn affidavit in recordable form stating that:

(A) a default has occurred with respect to the obligation secured by the mortgage; and

(B) the secured party is entitled to enforce the mortgage nonjudicially.

* * *

Part 8. TRANSITION PROVISIONS FOR 2010 AMENDMENTS

§ 9-801. EFFECTIVE DATE

Act [ ] of 2013, adopting the 2010 Uniform Commercial Code amendments promulgated by the National Conference of Commissioners on Uniform State Laws, referred to in this part as "the Act," takes effect on July 1, 2013.

§ 9-802. SAVINGS CLAUSE

(a) Except as otherwise provided in this part, the provisions of the Act apply to a transaction or lien within its scope, even if the transaction or lien was entered into or created before the Act takes effect.

(b) The provisions of the Act do not affect an action, case, or proceeding commenced before the Act takes effect.

§ 9-803. SECURITY INTEREST PERFECTED BEFORE EFFECTIVE DATE

(a) A security interest that is a perfected security interest immediately before the Act takes effect is a perfected security interest under Article 9 of this title, as amended by the Act if, when the Act takes effect, the applicable requirements for attachment and perfection under Article 9 of this title, as amended by the Act, are satisfied without further action.

(b) Except as otherwise provided in section 9-805 of this title, if, immediately before the Act takes effect, a security interest is a perfected security interest, but the applicable requirements for perfection under Article 9 of this title, as amended by the Act, are not satisfied when the Act takes effect, the security interest remains perfected thereafter only if the applicable requirements for perfection under Article 9 of this title, as amended by the Act,

are satisfied within one year after the Act takes effect.

§ 9-804. SECURITY INTEREST UNPERFECTED BEFORE EFFECTIVE DATE

A security interest that is an unperfected security interest immediately before the Act takes effect becomes a perfected security interest:

(1) without further action, when the Act takes effect if the applicable requirements for perfection under Article 9 of this title, as amended by the Act, are satisfied before or at that time; or

(2) when the applicable requirements for perfection are satisfied if the requirements are satisfied after that time.

§ 9-805. EFFECTIVENESS OF ACTION TAKEN BEFORE EFFECTIVE DATE

(a) The filing of a financing statement before the Act takes effect is effective to perfect a security interest to the extent the filing would satisfy the application requirements for perfection under Article 9 of this title, as amended by the Act.

(b) The Act does not render ineffective an effective financing statement that, before the Act takes effect, is filed and satisfies the applicable requirements for perfection under the law of the jurisdiction governing perfection as provided in Article 9 of this title as it existed before the amendment. However, except as otherwise provided in subsections (c) and (d) of this section and section 9-806 of this title, the financing statement ceases to be effective:

(1) if the financing statement is filed in this State, at the time the financing statement would have ceased to be effective had the Act not taken effect; or

(2) if the financing statement is filed in another jurisdiction, at the earlier of:

(A) the time the financing statement would have ceased to be effective under the law of that jurisdiction; or

(B) June 30, 2018.

(c) The filing of a continuation statement after the Act takes effect does not continue the effectiveness of a financing statement filed before the Act takes effect. However, upon the timely filing of a continuation statement after the Act takes effect and in accordance with the law of the jurisdiction governing perfection as provided under Article 9 of this title, as amended by the Act, the effectiveness of a financing statement filed in the same office in that

jurisdiction before the Act takes effect continues for the period provided by the law of that jurisdiction.

(d) Subdivision (b)(2)(B) of this section applies to a financing statement that, before the Act takes effect, is filed against a transmitting utility and satisfies the applicable requirements for perfection under the law of the jurisdiction governing perfection as provided in Article 9 of this title, as it existed before amendment, only to the extent that Article 9 of this title, as amended by the Act, provides that the law of a jurisdiction other than the jurisdiction in which the financing statement is filed governs perfection of a security interest in collateral covered by the financing statement.

(e) A financing statement that includes a financing statement filed before the Act takes effect and a continuation statement filed after the Act takes effect is effective only to the extent that it satisfies the requirements of Article 9, Part 5 of this title, as amended by the Act, for an initial financing statement. A financing statement that indicates that the debtor is a decedent's estate indicates that the collateral is being administered by a personal representative within the meaning of subdivision 9-503(a)(2) of this title, as amended by the Act. A financing statement that indicates that the debtor is a trust or is a trustee acting with respect to property held in trust indicates that the collateral is held in a trust within the meaning of subdivision 9-503(a)(3) of this title, as amended by the Act.

§ 9-806. WHEN AN INITIAL FINANCING STATEMENT SUFFICES TO CONTINUE EFFECTIVENESS OF A FINANCING STATEMENT

(a) The filing of an initial financing statement in the office specified in section 9-501 of this title continues the effectiveness of a financing statement filed before the Act takes effect if:

(1) the filing of an initial financing statement in that office would be effective to perfect a security interest under Article 9 of this title, as amended by the Act;

(2) the pre-effective-date financing statement was filed in an office in another state; and

(3) the initial financing statement satisfies subsection (c) of this section.

(b) The filing of an initial financing statement under subsection (a) of this section continues the effectiveness of the pre-effective-date financing statement:

(1) if the initial financing statement is filed before the Act takes effect, for the period provided in section 9-515 of this title, as it existed before the Act took effect, with respect to an initial financing statement; and

(2) if the initial financing statement is filed after the Act takes effect, for the period provided in section 9-515 of this title, as amended by the Act, with respect to an initial financing statement.

(c) To be effective for purposes of subsection (a) of this section, an initial financing statement shall:

(1) satisfy the requirements of Article 9, Part 5 of this title, as amended by the Act, for an initial financing statement;

(2) identify the pre-effective-date financing statement by indicating the office in which the financing statement was filed and provided the dates of filing and file numbers, if any, of the financing statement and of the most recent continuation statement filed with respect to the financing statement; and

(3) indicate that the pre-effective-date financing statement remains effective.

§ 9-807. AMENDMENT OF PRE-EFFECTIVE-DATE FINANCING STATEMENT

(a) In this section, "pre-effective-date financing statement" means a financing statement filed before the Act takes effect.

(b) After the Act takes effect, a person may add or delete collateral covered by, continue or terminate the effectiveness of, or otherwise amend the information provided in, a pre-effective-date financing statement only in accordance with the law of the jurisdiction governing perfection as provided in Article 9 of this title, as amended by the Act. However, the effectiveness of a pre-effective-date financing statement also may be terminated in accordance with the law of the jurisdiction in which the financing statement is filed.

(c) Except as otherwise provided in subsection (d) of this section, if the law of this State governs perfection of a security interest, the information in a pre-effective-date financing statement may be amended after the Act takes effect only if:

(1) the pre-effective-date financing statement and an amendment are filed in the office specified in section 9-501 of this title;

(2) an amendment is filed in the office specified in section 9-501 of this title concurrently with, or after the filing in that office of, an initial financing statement that satisfies subsection 9-806(c) of this title; or

(3) an initial financing statement that provides the information as amended and satisfies subsection 9-806(c) of this title is filed in the office specified in section 9-501 of this title.

(d) If the law of this State governs perfection of a security interest, the

effectiveness of a pre-effective-date financing statement may be continued only under subsections 9-805(c) and (e) or section 9-806 of this title.

(e) Whether or not the law of this state governs perfection of a security interest, the effectiveness of a pre-effective-date financing statement filed in this State may be terminated after the Act takes effect by filing a termination statement in the office in which the pre-effective-date financing statement is filed, unless an initial financing statement that satisfies subsection 9-806(c) of this title has been filed in the office specified by the law of the jurisdiction governing perfection as provided in Article 9 of this title, as amended by the Act, as the office in which to file a financing statement.

§ 9-808. PERSON ENTITLED TO FILE INITIAL FINANCING STATEMENT OF CONTINUATION STATEMENT

A person may file an initial financing statement or a continuation statement pursuant to the provisions of this section if:

(1) the secured party of record authorizes the filing; and

(2) the filing is necessary under this section:

(A) to continue the effectiveness of a financing statement filed before the Act takes effect; or

(B) to perfect or continue the perfection of a security interest.

§ 9-809. PRIORITY

The Act determines the priority of conflicting claims to collateral. However, if the relative priorities of the claims were established before the Act takes effect, Article 9 of this title, as it existed before amendment by the Act, determines priority.

Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2013.

(Committee Vote: 11-0-0)

J.R.S. 14

Joint resolution supporting the Agency of Agriculture, Food and Markets' proposal to adopt an administrative rule to implement international maple grading standards in Vermont.

Rep. Toleno of Brattleboro, for the Committee on **Agriculture and Forest Products,** recommends the House propose to the Senate to amend the resolution as follows:

First: By striking the final *Whereas* clause and inserting in lieu thereof the

following:

Whereas, the 1,000-member Vermont Maple Sugar Makers' Association, the Maple Industry Committee of the Vermont Maple Sugar Makers' Association, the Franklin County Sugar Makers' Association, the Vermont Agriculture and Forest Products Development Board, and the Vermont Farm Bureau are each supportive of the Agency's adoption of the international maple grading standard, *now therefore be it*

Second*:* By striking the second ***Resolved*** clause and inserting in lieu thereof the following:

Resolved: That the Secretary of State be directed to send a copy of this resolution to Chuck Ross, Secretary of Agriculture, Food and Markets, to the Vermont Maple Sugar Makers' Association, to the Maple Industry Committee of the Vermont Maple Sugar Makers' Association, to the Franklin County Maple Sugar Makers' Association, to the Vermont Agricultural and Forest Products Development Board, and to the Vermont Farm Bureau.

(Committee Vote: 11-0-0)

(For Text of Senate Resolution see House Journal 2/20/2013)

Senate Proposal of Amendment

H. 39

An act relating to the Public Service Board and the Department of Public Service

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

* * * Electronic Filings and Case Management * * *

Sec. 1. 30 V.S.A. § 11(a) is amended to read:

(a) The forms, pleadings, and rules of practice and procedure before the ~~board~~ Board shall be prescribed by it. The ~~board~~ Board shall promulgate and adopt rules which include, among other things, provisions that:

(1) A utility whose rates are suspended under the provisions of section 226 of this title shall, within 30 days from the date of the suspension order, file with the ~~board 10 copies of~~ Board all exhibits it intends to use in the hearing thereon together with the names of witnesses it intends to produce in its direct case and a short statement of the purposes of the testimony of each witness. Except in the discretion of the ~~board~~ Board, a utility shall not be permitted to introduce into evidence in its direct case exhibits which are not filed in accordance with this rule.

* * *

Sec. 2. 30 V.S.A. § 11a is added to read:

§ 11a. ELECTRONIC FILING AND ISSUANCE

(a) As used in this section:

(1) "Confidential document" means a document containing information for which confidentiality has been asserted and that has been filed with the Board and parties in a proceeding subject to a protective order duly issued by the Board.

(2) "Document" means information inscribed on a tangible medium or stored in an electronic or other medium and retrievable in perceivable form.

(3) "Electronic filing" means the transmission of documents to the Board by electronic means.

(4) "Electronic filing system" means a board-designated system that provides for the electronic filing of documents with the Board and for the electronic issuance of documents by the Board. If the system provides for the filing or issuance of confidential documents, it shall be capable of maintaining the confidentiality of confidential documents and of limiting access to confidential documents to individuals explicitly authorized to access such confidential documents.

(5) "Electronic issuance" means:

(A) the transmission by electronic means of a document that the Board has issued, including an order, proposal for decision, or notice; or

(B) the transmission of a message from the Board by electronic means informing the recipients that the Board has issued a document, including an order, proposal for decision, or notice, and that it is available for viewing and retrieval from an electronic filing system.

(6) "Electronic means" means any Board-authorized method of electronic transmission of a document.

(b) The Board by order, rule, procedure, or practice may:

(1) provide for electronic issuance of any notice, order, proposal for decision, or other process issued by the Board, notwithstanding any other service requirements set forth in this title or in 10 V.S.A. chapter 43;

(2) require electronic filing of documents with the Board;

(3) for any filing or submittal to the Board for which the filing or submitting entity is required to provide notice or a copy to another state agency

under this title or under 10 V.S.A. chapter 43, waive such requirement if the state agency will receive notice of and access to the filing or submittal through an electronic filing system; and

(4) for any filing, order, proposal for decision, notice, or other process required to be served or delivered by first-class mail or personal delivery under this title or under 10 V.S.A. chapter 43, waive such requirement to the extent the required recipients will receive the filing, order, proposal of decision, notice, or other process by electronic means or will receive notice of and access to the filing, order, proposal for decision, notice, or other process through an electronic filing system.

(c) Any order, rule, procedure, or practice issued under subsection (b) of this section shall include exceptions to accommodate parties and other participants who are unable to file or receive documents by electronic means.

(d) Subsection (b) of this section shall not apply to the requirements for service of citations and notices in writing as set forth in sections 111(b), 111a(i), and 2804 of this title.

Sec. 3. 30 V.S.A. § 20(a) is amended to read:

(a)(1) The ~~board or department~~ Board or Department may authorize or retain legal counsel, ~~official stenographers,~~ expert witnesses, advisors, temporary employees, and other research services:

* * *

(4) The Board or Department may authorize or retain official stenographers in any proceeding within their jurisdiction, including proceedings listed in subsection (b) of this section.

* * * Condemnation Hearing: Service of Citation * * *

Sec. 4. 30 V.S.A. § 111(b) is amended to read:

(b) The citation shall be served upon each person having any legal interest in the property, ~~including each municipality and each planning body where the property is situate like a summons,~~ or on absent persons in such manner as the ~~supreme court~~ Supreme Court may by rule provide for service of process in civil actions. The Board shall also give notice of the hearing to each municipality and each planning body where the property is located. The ~~board~~ Board, in its discretion, may schedule a joint hearing of some or all petitions relating to the same project and concerning properties or rights located in the same town or abutting towns.

* * * Filing Rate Schedules with the Board * * *

Sec. 5. 30 V.S.A. § 225 is amended to read:

§ 225. RATE SCHEDULES

(a) Within a time to be fixed by the board, each company subject to the provisions of this chapter shall file with the ~~department~~ Department and the Board, with separate filings to the ~~directors for regulated utility planning and public advocacy~~ Directors for Regulated Utility Planning and for Public Advocacy, schedules which shall be open to public inspection, showing all rates including joint rates for any service performed or any product furnished by it within the ~~state~~ State, and as a part thereof shall file the rules and regulations that in any manner affect the tolls or rates charged or to be charged for any such service or product. Those schedules, or summaries of the schedules approved by the ~~department~~ Department, shall be published by the company in two newspapers with general circulation in the ~~state~~ State within 15 days after such filing. A change shall not thereafter be made in any such schedules, including schedules of joint rates or in any such rules and regulations, except upon 45 days notice to the ~~board and to the department of public service~~ Board and the Department, and such notice to parties affected by such schedules as the ~~board~~ Board shall direct. The ~~board~~ Board shall consider the ~~department's~~ Department's recommendation and take action pursuant to sections 226 and 227 of this title before the date on which the changed rate is to become effective. All such changes shall be plainly indicated upon existing schedules, or by filing new schedules in lieu thereof 45 days prior to the time the same are to take effect. Subject only to temporary increases, rates may not thereafter be raised without strictly complying with the notice and filing requirements set forth in this section. In no event may a company amend, supplement, or alter an existing filing or substantially revise the proof in support of such filing in order to increase, decrease, or substantiate a pending rate request, unless, upon opportunity for hearing, the company demonstrates that such a change in filing or proof is necessary for the purpose of providing adequate and efficient service. However, upon application of any company subject to the provisions of this chapter, and with the consent of the ~~department of public service~~ Department, the ~~board~~ Board may for good cause shown prescribe a shorter time within which such change may be made; but a change which in effect decreases such tolls or rates may be made upon five days' notice to the ~~board and the department of public service~~ Board and the Department and such notice to parties affected as the ~~board~~ Board shall direct.

(b) Immediately upon receipt of notice of a change in a rate schedule filed by a company, the ~~department~~ Department shall investigate the justness and reasonableness of that change. At least 15 days prior to the date on which the change is to become effective, the ~~department~~ Department shall either report to the ~~board~~ Board the results of its investigations together with its recommendation for acceptance of the change, or it shall notify the ~~board~~

Board and other parties that it opposes the change. If the ~~department of public service~~ Department reports its acceptance of the change in rates, the ~~board~~ Board may accept the change, or it may on its own motion conduct an investigation into the justness and reasonableness of the change, or it may order the ~~department~~ Department to appear before it to justify its recommendation to accept the change. In no event shall a change go into effect without the approval of the ~~board~~ Board, except when a rate change is suspended and temporary or permanent rates are allowed to go into effect pursuant to subsection 226(a) or 227(a) of this title. The ~~board~~ Board shall consider the ~~department's~~ Department's recommendation and take action pursuant to sections 226 and 227 of this title before the date on which the changed rate is to become effective. In the event that the ~~department~~ Department opposes the change, the ~~board~~ Board shall hear evidence on the matter and make such orders as justice and law require. In any hearing on a change in rates, whether or not opposed by the ~~department~~ Department, the ~~board~~ Board may request the appearance of the ~~attorney general~~ Attorney General or appoint a member of the Vermont ~~bar~~ Bar to represent the public or the ~~state~~ State.

* * * CPG: Recommendations of Municipal and Regional Planning Commissions * * *

Sec. 6. 30 V.S.A. § 248 is amended to read:

§ 248. NEW GAS AND ELECTRIC PURCHASES, INVESTMENTS, AND FACILITIES; CERTIFICATE OF PUBLIC GOOD

(a)(1) No company, as defined in section 201 of this title, may:

* * *

(4)(A) With respect to a facility located in the ~~state~~ State, the ~~public service board~~ Public Service Board shall hold a nontechnical public hearing on each petition for such finding and certificate in at least one county in which any portion of the construction of the facility is proposed to be located.

(B) The ~~public service board~~ Public Service Board shall hold technical hearings at locations which it selects.

(C) At the time of filing its application with the ~~board~~ Board, copies shall be given by the petitioner to the ~~attorney general~~ Attorney General and the ~~department of public service~~ Department of Public Service, and, with respect to facilities within the ~~state~~ State, the ~~department of health, agency of natural resources, historic preservation division, agency of transportation, the agency of agriculture, food and markets~~ Department of Health, Agency of Natural Resources, Division for Historic Preservation, Agency of

Transportation, and Agency of Agriculture, Food and Markets and to the chairperson or director of the municipal and regional planning commissions and the municipal legislative body for each town and city in which the proposed facility will be located. At the time of filing its application with the ~~board~~ Board, the petitioner shall give the ~~byways advisory council~~ Byways Advisory Council notice of the filing.

(D) Notice of the public hearing shall be published and maintained on the board's website for at least 12 days before the day appointed for the hearing. Notice of the public hearing shall be published once in a newspaper of general circulation in the county or counties in which the proposed facility will be located, and the notice shall include an Internet address where more information regarding the proposed facility may be viewed.

(E) The ~~agency of natural resources~~ Agency of Natural Resources shall appear as a party in any proceedings held under this subsection, shall provide evidence and recommendations concerning any findings to be made under subdivision (b)(5) of this section, and may provide evidence and recommendations concerning any other matters to be determined by the ~~byways advisory council~~ Byways Advisory Council in such a proceeding.

(F) With respect to an in-state facility, the legislative body and municipal and regional planning commissions for each municipality in which the proposed facility will be located shall be parties to any proceedings held under this subsection (a) and may provide evidence and recommendations on any findings to be made under this section.

(i) If requested by letter submitted to the Board by such a body or commission on or before 15 days after filing of an application for a certificate of public good under this subsection (a), the Board shall stay any proceedings on the application for a period of 45 days from the date on which the application was filed. Such body or commission shall provide a copy of the letter to the petitioner and to those persons entitled to receive a copy of the application under subdivision (C) of this subdivision (4).

(ii) During the 45-day period under this subdivision (4)(F), the Board may schedule a prehearing conference to occur after the end of the period and may issue a notice of that prehearing conference.

(iii) The 45-day period under this subdivision (4)(F) shall not be required for a facility that the Board determines to be eligible for treatment under subsection (j) (facilities of limited size and scope) of this section.

(G) The Public Service Board shall provide written guidance on participation in proceedings under this section to the legislative body and municipal and regional planning commissions for each municipality in which

the proposed facility will be located and to all persons who seek to become a party to such a proceeding.

* * *

(f) However~~, the~~:

(1) The petitioner shall submit a notice of intent to construct such a facility within the State to the municipal and regional planning commissions at least six months prior to an application for a certificate of public good under this section. The Board shall specify by rule the content of such a notice of intent, which shall be designed to provide a reasonable description of the facility to be built, its size and location, and related infrastructure to be constructed. A notice of intent under this subdivision shall not be required for a facility that the Board determines to be eligible for treatment under subsection (j) (facilities of limited size and scope) of this section.

(2) The petitioner shall submit plans for the construction of such a facility within the ~~state must be submitted by the petitioner~~ State to the municipal and regional planning commissions no less than 45 days prior to application for a certificate of public good under this section, unless the municipal and regional planning commissions shall waive such requirement. Such municipal or regional planning commission may hold a public hearing on the proposed plans. Such commissions ~~shall~~ may make recommendations~~, if any,~~ to the ~~public service board~~ Public Service Board and to the petitioner ~~at least seven days prior to filing of the petition~~ within 21 days after the date the petition is filed with the ~~public service board~~ Board. However, if the 45-day period under subdivision (a)(4)(F) of this section is invoked, such recommendations may be made at the end of that period.

Sec. 6a. APPLICATION

(a) In Sec. 6, 30 V.S.A. § 248(f)(1) (notice of intent) shall apply to applications for a certificate of public good filed with the Public Service Board on or after January 1, 2014 and shall not apply to complete applications filed with the Board before that date.

(b) The Public Service Board shall commence rulemaking under 30 V.S.A. § 248(f)(1) (notice of intent) within 21 days after this act's effective date and shall make all reasonable efforts to adopt a final rule under that section before January 1, 2014.

* * *

* * * Participation in Federal Proceedings * * *

Sec. 7. 30 V.S.A. § 2(b) is amended to read:

(b) In cases requiring hearings by the ~~board~~ Board, the ~~department~~ Department, through the ~~director for public advocacy~~ Director for Public Advocacy, shall represent the interests of the people of the ~~state~~ State, unless otherwise specified by law. In any hearing, the ~~board~~ Board may, if it determines that the public interest would be served, request the ~~attorney general~~ Attorney General or a member of the Vermont ~~bar~~ Bar to represent the public or the ~~state~~ State. In addition, the Department may intervene, appear, and participate in Federal Energy Regulatory Commission proceedings, Federal Communications Commission proceedings, or other federal administrative proceedings on behalf of the Vermont public.

* * * Coordination of Energy Planning * * *

Sec. 8. 30 V.S.A. § 202 is amended to read:

§ 202. ELECTRICAL ENERGY PLANNING

(a) The ~~department of public service~~ Department of Public Service, through the ~~director for regulated utility planning~~ Director for Regulated Utility Planning, shall constitute the responsible utility planning agency of the ~~state~~ State for the purpose of obtaining for all consumers in the ~~state~~ State proper utility service at minimum cost under efficient and economical management consistent with other public policy of the ~~state~~ State. The ~~director~~ Director shall be responsible for the provision of plans for meeting emerging trends related to electrical energy demand, supply, safety, and conservation.

(b) The ~~department~~ Department, through the ~~director~~ Director, shall prepare an electrical energy plan for the ~~state~~ State. The plan shall be for a 20-year period and shall serve as a basis for state electrical energy policy. The electric energy plan shall be based on the principles of "least cost integrated planning" set out in and developed under section 218c of this title. The plan shall include at a minimum:

(1) an overview, looking 20 years ahead, of statewide growth and development as they relate to future requirements for electrical energy, including patterns of urban expansion, statewide and service area economic growth, shifts in transportation modes, modifications in housing types and design, conservation and other trends and factors which, as determined by the ~~director~~ Director, will significantly affect state electrical energy policy and programs;

(2) an assessment of all energy resources available to the ~~state~~ State for electrical generation or to supply electrical power, including, among others, fossil fuels, nuclear, hydro-electric, biomass, wind, fuel cells, and solar energy and strategies for minimizing the economic and environmental costs of energy supply, including the production of pollutants, by means of efficiency and

emission improvements, fuel shifting, and other appropriate means;

(3) estimates of the projected level of electrical energy demand;

(4) a detailed exposition, including capital requirements and the estimated cost to consumers, of how such demand shall be met based on the assumptions made in subdivision (1) of this subsection and the policies set out in subsection (c) of this section; and

(5) specific strategies for reducing electric rates to the greatest extent possible in Vermont over the most immediate ~~five-year~~ six-year period, for the next succeeding ~~five-year~~ six-year period, and long-term sustainable strategies for achieving and maintaining the lowest possible electric rates over the full 20-year planning horizon consistent with the goal of maintaining a financially stable electric utility industry in Vermont.

(c) In developing the plan, the ~~department~~ Department shall take into account the protection of public health and safety; preservation of environmental quality; the potential for reduction of rates paid by all retail electricity customers; the potential for reduction of electrical demand through conservation, including alternative utility rate structures; use of load management technologies; efficiency of electrical usage; utilization of waste heat from generation; and utility assistance to consumers in energy conservation.

(d) In establishing plans, the ~~director~~ Director shall:

(1) Consult with:

(A) the public;

(B) Vermont municipal utilities;

(C) Vermont cooperative utilities;

(D) Vermont investor-owned utilities;

(E) Vermont electric transmission companies;

(F) environmental and residential consumer advocacy groups active in electricity issues;

(G) industrial customer representatives;

(H) commercial customer representatives;

(I) the ~~public service board~~ Public Service Board;

(J) an entity designated to meet the public's need for energy efficiency services under subdivision 218c(a)(2) of this title;

(K) other interested state agencies; and

(L) other energy providers.

(2) To the extent necessary, include in the plan surveys to determine needed and desirable plant improvements and extensions and coordination between utility systems, joint construction of facilities by two or more utilities, methods of operations, and any change that will produce better service or reduce costs. To this end, the ~~director~~ Director may require the submission of data by each company subject to supervision, of its anticipated electrical demand, including load fluctuation, supplies, costs, and its plan to meet that demand and such other information as the ~~director~~ Director deems desirable.

(e) The ~~department~~ Department shall conduct public hearings on the final draft and shall consider the evidence presented at such hearings in preparing the final plan. The plan shall be adopted no later than January 1, ~~2004~~ 2016 and readopted in accordance with this section by every sixth January 1 thereafter, and shall be submitted to the ~~general assembly~~ General Assembly each time the plan is adopted or readopted. The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the submission to be made under this subsection.

(f) After adoption by the ~~department~~ Department of a final plan, any company seeking ~~board~~ Board authority to make investments, to finance, to site or construct a generation or transmission facility or to purchase electricity or rights to future electricity, shall notify the ~~department~~ Department of the proposed action and request a determination by the ~~department~~ Department whether the proposed action is consistent with the plan. In its determination whether to permit the proposed action, the ~~board~~ Board shall consider the ~~department's~~ Department's determination of its consistency with the plan along with all other factors required by law or relevant to the ~~board's~~ Board's decision on the proposed action. If the proposed action is inconsistent with the plan, the ~~board~~ Board may nevertheless authorize the proposed action if it finds that there is good cause to do so. The ~~department~~ Department shall be a party to any proceeding on the proposed action, except that this section shall not be construed to require a hearing if not otherwise required by law.

(g) The ~~director~~ Director shall annually review that portion of a plan extending over the next ~~five~~ six years. The ~~department~~ Department, through the ~~director~~ Director, shall ~~annually~~ biennially extend the plan by ~~one~~ two additional ~~year~~ years; and from time to time, ~~but in no~~ and in any event ~~less than~~ every ~~five years~~ sixth year, institute proceedings to review a plan and make revisions, where necessary. The ~~five year~~ six-year review and any interim revisions shall be made according to the procedures established in this section for initial adoption of the plan. The six-year review and any revisions

made in connection with that review shall be performed contemporaneously with readoption of the comprehensive energy plan under section 202b of this title.

(h) The plans adopted under this section ~~shall be submitted to the energy committees of the general assembly and~~ shall become the electrical energy portion of the state energy plan.

(i) It shall be a goal of the electrical energy plan to assure, by 2028, that at least 60 MW of power are generated within the ~~state~~ State by combined heat and power (CHP) facilities powered by renewable fuels ~~or by nonqualifying SPEED resources,~~ as defined in section 8002 of this title. In order to meet this goal, the plan shall include incentives for development and strategies to identify locations in the ~~state~~ State that would be suitable for CHP. The plan shall include strategies to assure the consideration of CHP potential during any process related to the expansion of natural gas services in the ~~state~~ State.

Sec. 9. 30 V.S.A. § 202b is amended to read:

§ 202b. STATE COMPREHENSIVE ENERGY PLAN

(a) The ~~department of public service~~ Department of Public Service, in conjunction with other state agencies designated by the ~~governor~~ Governor, shall prepare a comprehensive state energy plan covering at least a 20-year period. The plan shall seek to implement the state energy policy set forth in section 202a of this title. The plan shall include:

(1) A comprehensive analysis and projections regarding the use, cost, supply, and environmental effects of all forms of energy resources used within Vermont.

(2) Recommendations for ~~state~~ State implementation actions, regulation, legislation, and other public and private action to carry out the comprehensive energy plan.

(b) In developing or updating the plan's recommendations, the ~~department of public service~~ Department of Public Service shall seek public comment by holding public hearings in at least five different geographic regions of the ~~state~~ State on at least three different dates, and by providing notice through publication once a week and at least seven days apart for two or more successive weeks in a newspaper or newspapers of general circulation in the regions where the hearings will be held, and by delivering notices to all licensed commercial radio and television stations with transmitting facilities within the ~~state~~ State, plus Vermont Public Radio and Vermont Educational Television.

(c) The ~~department~~ Department shall adopt a state energy plan by ~~no later~~

~~than~~ January 1, ~~1994~~ 2016 and shall readopt the plan by every sixth January 1 thereafter. On adoption or readoption, the plan shall be submitted to the General Assembly. The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to such submission.

(1) Upon adoption of the plan, analytical portions of the plan may be updated ~~annually~~ and published biennially.

(2) Every fourth year after the adoption or readoption of a plan under this section, the Department shall publish the manner in which the Department will engage the public in the process of readopting the plan under this section.

(3) The publication requirements of subdivisions (1) and (2) of this subsection may be met by inclusion of the subject matter in the Department's biennial report.

(4) The plan's implementation recommendations shall be updated by the ~~department~~ Department no less frequently than every ~~five~~ six years. These recommendations shall be updated prior to the expiration of ~~five~~ six years if the ~~general assembly~~ General Assembly passes a joint resolution making a request to that effect. If the ~~department~~ Department proposes or the ~~general assembly~~ General Assembly requests the revision of implementation recommendations, the ~~department~~ Department shall hold public hearings on the proposed revisions.

(d) ~~Any distribution~~ Distribution of the plan to members of the ~~general assembly~~ General Assembly shall be in accordance with the provisions of 2 V.S.A. § 20 (a)–(c).

Sec. 10. INTENT; RETROACTIVE APPLICATION

In enacting Secs. 8 (20-year electric plan) and 9 (comprehensive energy plan) of this act, the General Assembly intends to set the readoption of these plans by the Department of Public Service on a regular six-year cycle.

* * * Smart Meter Report * * *

Sec. 11. 30 V.S.A. § 2811(c) is amended to read:

(c) Reports.

(1) On January 1, 2014 and again on January 1, 2016, the ~~commissioner of public service~~ Commissioner of Public Service shall publish a report on:

(A) the savings realized through the use of smart meters~~, as well as on~~;

(B) the occurrence of any breaches to a company's cyber-security infrastructure;

(C) the number of customers who have chosen not to have a wireless smart meter installed on their premises or who have had one removed; and

(D) the number of complaints received by the Department related to smart meters beginning in calendar year 2012, including a brief description of each complaint, its status, and action taken by the Department in response, if any.

(2) The reports shall be based on electric company data requested by and provided to the ~~commissioner of public service~~ Commissioner of Public Service and shall be in a form and in a manner the ~~commissioner~~ Commissioner deems necessary to accomplish the purposes of this subsection. The reports shall be submitted to the ~~senate committees on finance~~ Senate Committees on Finance and on ~~natural resources and energy~~ Natural Resources and Energy and the ~~house committees on commerce and economic development~~ House Committees on Commerce and Economic Development and on ~~natural resources and energy~~ Natural Resources and Energy.

* * * Joint Energy and Utility Committee * * *

Sec. 12. 2 V.S.A. chapter 17 is amended to read:

CHAPTER 17. JOINT ENERGY AND UTILITY COMMITTEE

§ 601. CREATION OF COMMITTEE; MEETINGS

(a) There is created a ~~joint energy committee~~ Joint Energy and Utility Committee whose membership shall be appointed each biennial session of the ~~general assembly~~ General Assembly. The ~~committee~~ Committee shall consist of ~~four representatives, at least one from each major party, appointed by the speaker of the house, and four members of the senate, at least one from each major party, appointed by the committee on committees~~ five Representatives representing at least two major parties and five members of the Senate representing at least two major parties. The Representatives shall be appointed by the Speaker of the House and the members of the Senate by the Committee on Committees. Of the appointed Representatives from the House, two shall be members of the House Committee on Commerce and Economic Development and two shall be members of the House Committee on Natural Resources and Energy. Of the appointed members from the Senate, two shall be members of the Senate Committee on Finance and two shall be members of the Senate Committee on Natural Resources and Energy.

(b) The ~~committee~~ Committee shall elect a chair, ~~vice chair~~ vice chair, and clerk and shall adopt rules of procedure. The ~~chair~~ Chair shall rotate biennially between the ~~house~~ House and the ~~senate~~ Senate members. The ~~committee~~ Committee may meet during a session of the ~~general assembly~~ General

Assembly at the call of the ~~chair~~ Chair or a majority of the members of the ~~committee~~ Committee. The ~~committee~~ Committee may meet no more than four times during adjournment ~~subject to approval of the speaker of the house and the president pro tempore of the senate~~, except that the Speaker of the House and the President Pro Tempore of the Senate may approve one or more additional meetings of the Committee during adjournment.

(c) A majority of the membership shall constitute a quorum. Committee action shall be taken only if there is a quorum and the proposed action is approved by majority vote of those members physically present and voting.

§ 602. ~~EMPLOYEES; RULES~~ SUPPORT; PER DIEMS; MINUTES

(a) ~~The joint energy committee shall meet following the appointment of its membership to organize and begin the conduct of its business.~~

~~(b)~~ The ~~staff of the legislative council~~ Office of Legislative Council shall provide professional and clerical assistance to the ~~joint committee~~ Joint Energy and Utility Committee.

~~(c)~~(b) For attendance at a meeting when the ~~general assembly~~ General Assembly is not in session, members of the ~~joint energy committee~~ Committee shall be entitled to the same per diem compensation and reimbursement for necessary expenses as provided members of standing committees under section 406 of this title.

~~(d)~~(c) The ~~joint energy committee~~ Committee shall keep minutes of its meetings and maintain a file thereof.

§ 603. ~~FUNCTIONS~~ DUTIES

(a) The ~~joint energy committee~~ Joint Energy and Utility Committee shall:

(1) carry on a continuing review of all energy and utility matters in the ~~state~~ State and energy matters in the northeast region of the United States, including energy sources, energy distribution, energy costs, energy planning, energy conservation, and ~~pertinent~~ related subjects;

(2) work with, assist, and advise other committees of the ~~general assembly~~ General Assembly, the ~~executive~~ Executive Branch, and the public in ~~energy-related~~ energy- and utility-related matters within their respective responsibilities;

(3) provide a continuing review of State energy and utility policies.

(b) In conducting its tasks, the Committee may consult the following:

(1) the Public Service Board;

(2) the Commissioner of Public Service;

(3) ratepayers and advocacy groups;

(4) public service companies subject to regulation by the Public Service Board;

(5) the Vermont State Nuclear Advisory Panel created under chapter 34 of Title 18; and

(6) any other person or entity as determined by the Committee.

(c) On or before December 15 of each year, the Committee shall report its activities, together with its recommendations, if any, to the General Assembly. The Committee may submit more than one report in any given year.

* * *

* * * Department of Public Service Report on Siting of New Electric Transmission Facilities * * *

Sec. 13. REPORT; NEW ELECTRIC TRANSMISSION FACILITIES

(a) Report; proposed legislation. On or before November 15, 2013, the Department of Public Service shall submit a report to the Joint Energy and Utility Committee under 2 V.S.A. chapter 17, the House and Senate Committees on Natural Resources and Energy, the House Committee on Commerce and Economic Development, and the Senate Committee on Finance that contains each of the following:

(1) An assessment of:

(A) setback requirements on electric transmission facilities adopted by other jurisdictions in and outside the United States;

(B) methods to integrate state energy planning with local and regional land use planning as they apply to new electric transmission facilities; and

(C) the relative merits of "intervenor funding" and possible methods to fund intervenors in the siting review process for new electric transmission facilities.

(2) The Department's findings resulting from each assessment under this section.

(3) The Department's recommendations resulting from its findings under this section and proposed legislation, if necessary, to carry out those recommendations.

(b) The Department shall have the assistance of the Agencies of Commerce and Community Development and of Natural Resources in completing its tasks

under this section.

* * * Public Service Board Ratemaking * * *

Sec. 14. 30 V.S.A. § 218(h) is added to read:

(h) When the Public Service Board has authorized an increase in rates expressly to prevent the bankruptcy or financial instability of a utility, any excess rates incurred above what ordinarily would have been incurred under a traditional cost-of-service methodology shall be returned to ratepayers in the form of a credit or refund, in a manner to be determined by the Board, and shall not be recoverable in future rates charged to ratepayers.

Sec. 15. APPLICATION

Sec. 14 of this act shall not apply to or alter any Public Service Board order issued prior to the effective date of this act.

* * * Effective Date * * *

Sec. 16. EFFECTIVE DATE

This act shall take effect on passage.

(For text see House Journal 2/14/2013)

Consent Calendar

Concurrent Resolutions for Adoption Under Joint Rule 16a

The following concurrent resolutions have been introduced for approval by the Senate and House and will be adopted automatically unless a Senator or Representative requests floor consideration before today's adjournment. Requests for floor consideration in either chamber should be communicated to the Secretary's office and/or the House Clerk's office, respectively. For text of resolutions, see Addendum to House Calendar and Senate Calendar of 4/25/2013.

H.C.R. 116

House concurrent resolution commemorating the second annual Turkic Cultural Day in Vermont

H.C.R. 117

House concurrent resolution designating April 19, 2013 as Alzheimer's Awareness Day at the State House

H.C.R. 118

House concurrent resolution designating April 2013 as the month of the military child in Vermont

H.C.R. 119

House concurrent resolution in memory of Richard Swift of Barre Town

H.C.R. 120

House concurrent resolution commemorating the sestercentennial of the Town of Stowe

H.C.R. 121

House concurrent resolution celebrating Latchis Arts' 10th anniversary as the owner of the Latchis Hotel and Theatre

H.C.R. 122

House concurrent resolution commemorating the sestercentennial of the Town of Swanton

Information Notice

The Joint Fiscal Committee recently received the following items:

JFO #2621 – Request to establish one (1) limited service position in the Department of Health. This position will provide case management services to women who test positive during breast cancer screenings. This grant-funded service is currently provided via a personal services contract, but the Attorney General is recommending conversion to a limited service position.

[*JFO received 04/15/13*]

JFO #2622 – $45,009,480 grant from the U.S. Department of Health and Human Service to the Department of Vermont Health Access. These funds will be used to design and test new savings models that integrate payment and services across providers, and develop pay-for-performance models to improve quality and efficiency of services. Twenty-two (22) limited service positions are associated with this request. Expedited review has been requested. Joint Fiscal Committee members will be contacted by May 3th with a request to waive the balance of the review period and accept this grant.

[*JFO received 04/18/13*]

JFO #2623 – $15,000 grant from the Lintilhac Foundation to the Vermont Department of Environmental Conservation. These funds will be used to support the Flood Resilient Communities Program mandated by Act 138 of 2012. This program is intended to publicize incentives for communities to adopt local flood hazard bylaws and improve flood resilience.

[*JFO received 04/23/13*]

JFO #2624 – $10,000 grant from the Vermont Community Foundation to the Vermont Department of Environmental Conservation. These funds will be used to develop a "Focus on Floods" website to support community efforts to assess flood vulnerability and identify opportunities to increase flood resilience.

[*JFO received 04/23/13*]