House Calendar

Tuesday, May 07, 2013

119th DAY OF THE BIENNIAL SESSION

House Convenes at 10:00 A.M.

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Amendment to be offered by Rep. Scheuermann of Stowe to H. 441

In Sec. 3, 27A V.S.A. § 3-116(j), by striking "§ 4941, 4945, or 4961" and inserting in lieu thereof "chapter 172"

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An act relating to expanding eligibility for driving and identification privileges in Vermont

Amendment to be offered by Rep. Browning of Arlington to S. 38

First: In Sec. 1, 23 V.S.A. § 603, by striking subdivision (e)(1) in its entirety and inserting in lieu thereof:

(e)(1) Upon application, a citizen of a foreign country unable to establish legal presence in the United States shall be eligible to obtain and renew an operator's privilege card, a junior operator's privilege card, or a learner's privilege card if he or she:

(A) furnishes reliable proof of Vermont residence and of name, date of birth, and place of birth;

(B) consents to fingerprint-supported state and national criminal history record checks in accordance with 20 V.S.A. § 2056i and pays the Department the applicable record check fees, and if the Commissioner determines from the results of the check that the applicant has neither been convicted of a felony nor has pending criminal felony charges; and

(C) satisfies all other requirements of this chapter for obtaining a license or permit.

Second: In Sec. 2, 23 V.S.A. § 115, in subdivision (l)(2), by striking

"subsection 603(e)" and inserting in lieu thereof "subdivisions (e)(1)(A), (e)(2), and (e)(3)"

Third: By inserting new two new sections to be Secs. 3–4 prior to the existing Sec. 3 to read:

Sec. 3. 20 V.S.A. § 2056i is added to read:

§ 2056i. DISSEMINATION OF CRIMINAL HISTORY RECORDS TO THE DEPARTMENT OF MOTOR VEHICLES

(a) The Vermont Criminal Information Center (Center) shall provide the Department of Motor Vehicles (DMV) a criminal history record as defined in section 2056a of this chapter, an out-of-state criminal record, and a national criminal history record check from the Federal Bureau of Investigation (FBI) of an applicant for a privilege card under 23 V.S.A. § 603(e) who has signed a release on a form provided by the Center and submitted a set of his or her fingerprints, provided that DMV has entered into a user's agreement with the Center. The user's agreement shall require DMV to comply with all federal and state statutes, rules, regulations, and policies regulating the release of criminal history records and the protection of individual privacy. The user's agreement shall be signed and kept current by the Commissioner of DMV. Release of FBI criminal history records is subject to the rules and regulations of the FBI's National Crime Information Center.

(b) DMV shall forward to the Center fees under section 2063 of this chapter for the Vermont criminal history record, as well as fees established by the Center for the cost of the national criminal history record check.

(c) The Center shall send DMV any record received pursuant to this section or inform DMV that no record exists.

(d) DMV shall promptly provide a copy of any record of convictions and pending criminal charges to the privilege card applicant and shall inform the applicant of the right to appeal the accuracy and completeness to the Center.

(e) No person shall confirm the existence or nonexistence of criminal record information to any person who would not be eligible to receive the information pursuant to this chapter.

Sec. 4. 20 V.S.A. § 2059 is amended to read:

§ 2059. RELATIONSHIP TO DEPARTMENTS OF CORRECTIONS AND MOTOR VEHICLES

~~This~~ Except as provided in section 2056i of this chapter or otherwise as provided by law, this chapter shall not apply to traffic offenses or any provisions of Title 23, 3 V.S.A. § 3116a, or those sections of Title 32 which

are administered by the ~~commissioner of motor vehicles~~ Commissioner of Motor Vehicles. Notwithstanding any other provisions of this chapter, the ~~department of corrections~~ Department of Corrections shall be only required to furnish statistical, identification, and status data, and the provisions shall not extend to material related to case supervision or material of a confidential nature such as presentence investigation, medical reports, or psychiatric reports.

and by renumbering the remaining section to be numerically correct

Amendment to be offered by Rep. Hubert of Milton to S. 38

By adding a new section to be Sec. 1a to read:

Sec. 1a. 23 V.S.A. § 604 is amended to read:

§ 604. ~~Repealed.~~ REPORTING OF PRIVILEGE CARD AND NON-REAL ID COMPLIANT IDENTIFICATION CARD HOLDER NAMES

On the last business day of every month, the Commissioner shall report to the appropriate regional office of the U.S. Department of Homeland Security ("DHS") the names of all holders of privilege cards issued under section 603 of this title and of non-REAL ID compliant identification cards issued under subdivisions 115(l)(2) and 115(l)(3) of this title, in order to enable DHS to check the list of names against the Terrorist Watchlist maintained by the Terrorist Screening Center of the Federal Bureau of Investigation.

Amendment to be offered by Rep. Higley of Lowell to S. 38

By adding a new section to be Sec. 1a to read:

Sec. 1a. 23 V.S.A. § 604 is amended to read:

§ 604. ~~Repealed.~~ REPORTING OF PRIVILEGE CARD AND NON-REAL ID COMPLIANT IDENTIFICATION CARD HOLDER NAMES

On the last business day of every month, the Commissioner shall report to the appropriate regional office of the U.S. Department of Homeland Security ("DHS") the names of all holders of privilege cards issued under section 603 of this title and of non-REAL ID compliant identification cards issued under subdivisions 115(l)(2) and 115(l)(3) of this title, in order to enable DHS to check the list of names against the Terrorist Watchlist maintained by the Terrorist Screening Center of the Federal Bureau of Investigation.

Amendment to be offered by Rep. Bouchard of Colchester to S. 38

In Sec. 1, 23 V.S.A. § 603, by striking subdivision (e)(2) in its entirety and inserting in lieu thereof:

(2) The Commissioner shall require applicants under this subsection to furnish:

(A) the same proof of name, date of birth, and place of birth as is required of residents lawfully present in the United States, except that the Commissioner shall accept as proof of name, date of birth, and place of birth a foreign passport with or without an entry form or stamp, and may require that any foreign documents include a translation by an approved translator; and

(B)(i) documentation from the Social Security Administration stating that he or is she is ineligible for a Social Security number; or

(ii) an individual tax identification number (ITIN). The applicant's ITIN card or the applicant's letter from the Internal Revenue Service issuing the ITIN is sufficient proof of the ITIN.

Amendment to be offered by Rep. Hubert of Milton to S. 38

By adding a new section to be Sec. 2a to read:

Sec. 2a. ACCEPTANCE OF PRIVILEGE CARDS AND NON-REAL ID COMPLIANT IDENTIFICATION CARDS

Privilege cards issued under 23 V.S.A. § 603(e) or (f), and non-REAL ID compliant identification cards issued under 23 V.S.A. § 115(l)(2) or (l)(3), shall not be accepted in Vermont by licensees of the Department of Liquor Control ("Department") as identification or proof of age for the purchase of alcohol or tobacco products until the Department has provided notification and education to each licensee sufficient to apprise the licensee of the appearance and security features of the cards so as to enable licensees to detect fraudulent cards. The Department shall notify its licensees of the date upon which they may accept privilege cards or non-REAL ID compliant identification cards as identification or proof of age for the purchase of alcohol or tobacco products consistent with this section.

Amendment to be offered by Rep. Fagan of Rutland City to S. 38

By adding a new section to be Sec. 2a to read:

Sec. 2a. 7 V.S.A. § 236 is amended to read:

§ 236. SUSPENSION OR REVOCATION OF LICENSE OR PERMIT; ADMINISTRATIVE PENALTY

* * *

(e) Until an employee of a permittee or licensee under this chapter has completed a training program approved by the Department of Liquor Control under section 239 of this chapter, a permit or license issued under this title

shall not be suspended or revoked, and a person permitted or licensed under this chapter shall not be subject to an administrative penalty, if the permittee's or licensee's employee accepts as a valid authorized form of identification a privilege card that the employee reasonably believes to be issued validly under 23 V.S.A. § 603(e) or (f), or a non-REAL ID compliant identification card that the employee reasonably believes to be issued validly under 23 V.S.A. § 115(l)(2) or (3). This subsection shall not apply, however, if the permittee or licensee failed to ensure that the employee received training every two years as required under section 239 of this chapter.

Favorable with Amendment

H. 534

An act relating to approval of amendments to the charter of the City of Winooski

Rep. Townsend of South Burlington, for the Committee on **Government Operations,** recommends the bill be amended as follows:

First: In Sec. 3, in 24 App. V.S.A. chapter 19, in § 304 (general powers and duties), in subsection (b), by striking out subdivision (4) in its entirety and inserting in lieu thereof the following:

(4) To adopt, amend, repeal, and enforce in accordance with the general laws of the State ordinances relating to the regulation or prohibition of the possession and use of dangerous objects and substances; the discharge of firearms and air rifles; and the possession and use of other weapons and devices having a capacity to inflict personal injury.

Second: In Sec. 3, in 24 App. V.S.A. chapter 19, by striking out § 719 (local options tax) in its entirety and inserting in lieu thereof the following:

§ 719. LOCAL OPTION TAX

(a) If the City Council by a majority vote recommends, the voters of the City may, at an annual or special meeting warned for the purpose, by a majority vote of those present and voting, assess any or all of the following:

(1) a one-percent meals and alcoholic beverages tax;

(2) a one-percent rooms tax;

(3) a one-percent sales tax.

(b) Any local option tax assessed under subsection (a) of this section shall be collected and administered and may be rescinded as provided by the general laws of this State.

(Committee Vote: 11-0-0)

Rep. Ram of Burlington, for the Committee on **Ways and Means,** recommends the bill ought to pass when amended as recommended by the Committee on **Government Operations.**

(Committee Vote: 6-5-0)

S. 81

An act relating to the regulation of octaBDE, pentaBDE, decaBDE, and the flame retardant known as Tris in consumer products

Rep. Krowinski of Burlington, for the Committee on **Human Services,** 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. 9 V.S.A. chapter 80 is amended to read:

CHAPTER 80. FLAME RETARDANTS

§ 2971. ~~BROMINATED FLAME RETARDANTS~~

~~(a) As used in this section:~~

~~(1) "Brominated flame retardant" means any chemical containing the element bromine that is added to plastic, foam, or textile to inhibit flame formation.~~

~~(2) "Congener" means a specific PBDE molecule.~~

~~(3) "DecaBDE" means decabromodiphenyl ether or any technical mixture in which decabromodiphenyl ether is a congener.~~

~~(4) "Flame retardant" means any chemical that is added to a plastic, foam, or textile to inhibit flame formation.~~

~~(5) "Manufacturer" means any person who manufactures a final product containing a regulated brominated flame retardant or any person whose brand-name is affixed to a product containing a regulated brominated flame retardant.~~

~~(6) "Motor vehicle" means every vehicle intended primarily for use and operation on the public highways, and shall include farm tractors and other machinery used in the production, harvesting, and care of farm products.~~

~~(7) "OctaBDE" means octabromodiphenyl ether or any technical mixture in which octabromodiphenyl ether is a congener.~~

~~(8) "PentaBDE" means pentabromodiphenyl ether or any technical mixture in which a pentabromodiphenyl ether is a congener.~~

~~(9) "PBDE" means polybrominated diphenyl ether.~~

~~(10) "Technical mixture" means a PBDE mixture that is sold to a~~

~~manufacturer. A technical mixture is named for the predominant congener in the mixture, but is not exclusively made up of that congener.~~

~~(b) As of July 1, 2010, no person may offer for sale, distribute for sale, distribute for promotional purposes, or knowingly sell at retail a product containing octaBDE or pentaBDE in a concentration greater than 0.1 percent by weight.~~

~~(c) Except for inventory purchased prior to July 1, 2009, a person may not, as of July 1, 2010, manufacture, offer for sale, distribute for sale, or knowingly sell at retail the following products containing decaBDE in a concentration greater than 0.1 percent by weight:~~

~~(1) A mattress or mattress pad; or~~

~~(2) Upholstered furniture.~~

~~(d) Except for inventory purchased prior to July 1, 2009, a person may not, as of July 1, 2012, manufacture, offer for sale, distribute for sale, or knowingly sell at retail a television or computer with a plastic housing containing decaBDE in a concentration greater than 0.1 percent by weight.~~

~~(e) This section shall not apply to:~~

~~(1) the sale or resale of used products; or~~

~~(2) motor vehicles or parts for use on motor vehicles.~~

~~(f) As of July 1, 2010, a manufacturer of a product that contains decaBDE and that is prohibited under subsection (c) or (d) of this section shall notify persons that sell the manufacturer's product of the requirements of this section.~~

~~(g) A manufacturer shall not replace decaBDE, pursuant to this section, with a chemical that is:~~

~~(1) Classified as "known to be a human carcinogen" or "reasonably anticipated to be a human carcinogen" in the most recent report on carcinogens by the National Toxicology Program in the U.S. Department of Health and Human Services;~~

~~(2) Classified as "carcinogenic to humans" or "likely to be carcinogenic to humans" in the U.S. Environmental Protection Agency's most recent list of chemicals evaluated for carcinogenic potential; or~~

~~(3) Identified by the U.S. Environmental Protection Agency as causing birth defects, hormone disruption, or harm to reproduction or development.~~

~~(h) A violation of this section shall be deemed a violation of the Consumer Protection Act, chapter 63 of this title. The attorney general has the same authority to make rules, conduct civil investigations, enter into assurances of~~

~~discontinuance, and bring civil actions, and private parties have the same rights and remedies as provided under subchapter 1 of chapter 63 of this title.~~

~~(i) In addition to any other remedies and procedures authorized by this section, the attorney general may request a manufacturer of upholstered furniture, mattresses, mattress pads, computers, or televisions offered for sale or distributed for sale in this state to provide the attorney general with a certificate of compliance with this section with respect to such products. Within 30 days of receipt of the request for a certificate of compliance, the manufacturer shall:~~

~~(1) Provide the attorney general with a certificate declaring that its product complies with the requirements of this section; or~~

~~(2) Notify persons who sell in this state a product of the manufacturer's which does not comply with this section that sale of the product is prohibited, and submit to the attorney general a list of the names and addresses of those notified.~~

~~(j) The attorney general shall consult with retailers and retailer associations in order to assist retailers in complying with the requirements of this section.~~ [Repealed.]

§ 2972. DEFINITIONS

(a) As used in this chapter:

(1) "Article" means an object that during production is given a special shape, surface, or design which determines its function to a greater degree than its chemical composition.

(2) "Brominated flame retardant" means any chemical containing the element bromine that is added to plastic, foam, or textile to inhibit flame formation.

(3) "Children's product" means a consumer product:

(A) marketed for use by children under 12 years of age; or

(B) the substantial use of which by a child under 12 years of age is reasonably foreseeable.

(4) "Commissioner" means the Commissioner of Health of the Vermont Department of Health.

(5) "Congener" means a specific PBDE molecule.

(6) "DecaBDE" means decabromodiphenyl ether or any technical mixture in which decabromodiphenyl ether is a congener.

(7) "Flame retardant" means any chemical that is added to a plastic, foam, or textile to inhibit flame formation.

(8) "Manufacturer" means any person:

(A) who manufactures a final product containing a flame retardant regulated under this chapter; or

(B) whose brand name is affixed to a final product containing a flame retardant regulated under this chapter.

(9) "Motor vehicle" means every vehicle intended primarily for use and operation on the public highways and shall include farm tractors and other machinery used in the production, harvesting, and care of farm products.

(10) "OctaBDE" means octabromodiphenyl ether or any technical mixture in which octabromodiphenyl ether is a congener.

(11) "PBDE" means polybrominated diphenyl ether.

(12) "PentaBDE" means pentabromodiphenyl ether or any technical mixture in which pentabromodiphenyl ether is a congener.

(13) "Residential upholstered furniture" means furniture intended for personal use that includes cushioning material covered by fabric or similar material.

(14) "TCEP" means tris(2-chloroethyl) phosphate, chemical abstracts service number 115-96-8 (as of the effective date of this section).

(15) "TCPP" means tris (2-chloro-1-methylethyl) phosphate, chemical abstracts service number 13674-84-5 (as of the effective date of this section).

(16) "TDCPP" means tris(1,3-dichloro-2-propyl) phosphate, chemical abstracts service number 13674-87-8 (as of the effective date of this section).

(17) "Technical mixture" means a PBDE mixture that is sold to a manufacturer. A technical mixture is named for the predominant congener in the mixture but is not exclusively made up of that congener.

§ 2973. BROMINATED FLAME RETARDANTS; PROHIBITION

(a) As of July 1, 2010, no person may offer for sale, distribute for sale, distribute for promotional purposes, or knowingly sell at retail a product containing octaBDE or pentaBDE in a concentration greater than 0.1 percent by weight.

(b) Except for inventory purchased prior to July 1, 2009, a person may not, as of July 1, 2010, manufacture, offer for sale, distribute for sale, or knowingly sell at retail the following products containing decaBDE in a concentration

greater than 0.1 percent by weight:

(1) a mattress or mattress pad; or

(2) upholstered furniture.

(c) Except for inventory purchased prior to July 1, 2009, a person may not, as of July 1, 2012, manufacture, offer for sale, distribute for sale, or knowingly sell at retail a television or computer with a plastic housing containing decaBDE in a concentration greater than 0.1 percent by weight.

(d)(1) Except as provided in subdivision (2) of this subsection, beginning July 1, 2013, no person may manufacture, sell or offer for sale, or distribute for sale or use in the State plastic shipping pallets that contain decaBDE in a concentration greater than 0.1 percent by weight.

(2) Subdivision (1) of this subsection shall not apply to the sale, lease, distribution, or use in the State of:

(A) plastic shipping pallets manufactured prior to January 1, 2011; or

(B) plastic shipping pallets manufactured from recycled shipping pallets that contain decaBDE in a concentration that is no greater than the concentration of decaBDE in the recycled pallets from which the plastic pallets were manufactured.

§ 2974. CHLORINATED FLAME RETARDANTS

(a) Except for inventory manufactured prior to January 1, 2014, no person, other than a retailer, shall, as of January 1, 2014, manufacture, offer for sale, distribute for sale, or knowingly sell in or into this State any children's product or residential upholstered furniture that contains a concentration of TCEP or TDCPP that is greater than 0.1 percent by weight in any product component.

(b) A retailer shall not, as of July 1, 2014, knowingly sell or offer for sale in or into this State any children's product or residential upholstered furniture that contains a concentration of TCEP or TDCPP that is greater than 0.1 percent by weight in any product component.

(c)(1) Notwithstanding the requirements of subsections (a) and (b) of this section, the 0.1 percent-by-weight thresholds under this section for TCEP and TDCPP shall be applied to an individual article and not to individual product components for the following:

(A) personal computers, audio and video equipment, calculators, wireless telephones, game consoles, handheld devices incorporating a screen that are used to access interactive software and their associated peripherals, and cable and other similar connecting devices; and

(B) interactive software intended for leisure and entertainment, such as computer games, and their storage media, such as compact discs.

(2) In applying the requirements of the 0.1 percent-by-weight thresholds under this section for TCEP and TDCPP to an individual article under this subsection, the Attorney General shall interpret what constitutes an "article" in a manner that is consistent with industry practices and guidance, including the European Union's Registration, Evaluation, and Restriction on Chemical Substances regulation, known as "REACH," Regulation (EC) Number 1907/2006, Art. 3(3).

§ 2975. NOTICE TO RETAILERS; DISCLOSURE OF PRODUCT CONTENT; CONSULTATION

(a) As of July 1, 2010, a manufacturer of a product that contains decaBDE and that is prohibited under subsection 2973(c) or (d) of this chapter shall notify persons that sell the manufacturer's product of the requirements of this chapter.

(b) As of July 1, 2013, a manufacturer of a product that contains TCEP or TDCPP and that is prohibited under subsection 2974(a) or (b) of this chapter shall notify persons that sell the manufacturer's product of the requirements of this chapter.

(c) As of March 31, 2014, a person other than a retailer who, since July 1, 2013, has manufactured, distributed, or sold in or into this State any product containing TCEP or TDCPP that is prohibited under subsection 2974(a) or (b) of this chapter shall notify persons who sell the manufacturer's product of the fact that the product sold to the person selling the manufacturer's product contains TCEP or TDCPP. The notification shall be sent by mail and shall notify the person selling the manufacturer's product of the concentration of TCEP or TDCPP in the product sold in percent by weight of each product component.

(d) The Attorney General shall consult with retailers and retailer associations to assist retailers in complying with the requirements of this chapter.

§ 2976. REPLACEMENT OF REGULATED FLAME RETARDANTS

A manufacturer shall not replace decaBDE, TCEP or TDCPP with a chemical that is:

(1) classified as "known to be a human carcinogen" or "reasonably anticipated to be a human carcinogen" in the most recent report on carcinogens by the National Toxicology Program in the U.S. Department of Health and Human Services;

(2) classified as "carcinogenic to humans" or "likely to be carcinogenic to humans" in the U.S. Environmental Protection Agency's most recent list of chemicals evaluated for carcinogenic potential; or

(3) identified by the U.S. Environmental Protection Agency or National Institutes of Health as causing birth defects, hormone disruption, neurotoxicity, or harm to reproduction or development.

§ 2977. EXEMPTIONS

The requirements and prohibitions of this chapter shall not apply to:

(1) the sale or resale of used products;

(2) motor vehicles or parts for use on motor vehicles; and

(3) building insulation materials.

§ 2978. VIOLATIONS; ENFORCEMENT

A violation of this chapter shall be considered a violation of the Consumer Protection Act, chapter 63 of this title. The Attorney General has the same authority to make rules, conduct civil investigations, enter into assurances of discontinuance, and bring civil actions and private parties have the same rights and remedies as provided under subchapter 1 of chapter 63 of this title.

§ 2979. PRODUCTION OF INFORMATION

In addition to any other remedies and procedures authorized by this chapter, the Attorney General may request a manufacturer of upholstered furniture, mattresses, mattress pads, computers, televisions, children's products, or residential upholstered furniture offered for sale or distributed for sale in this State to provide the Attorney General with a certificate of compliance with this chapter with respect to such products. Within 30 days of receipt of the request for a certificate of compliance, the manufacturer shall:

(1) provide the Attorney General with a certificate declaring that its product complies with the requirements of this chapter; or

(2) notify persons who sell in this State a product of the manufacturer's which does not comply with this chapter that sale of the product is prohibited and submit to the Attorney General a list of the names and addresses of those notified.

§ 2980. DEPARTMENT OF HEALTH RULEMAKING; TCPP

(a) The Commissioner may adopt by rule a prohibition on the manufacture, offer for sale, distribution for sale, or knowing sale at retail in or into the State

of the flame retardant TCPP in children's products and residential upholstered furniture if the Commissioner determines, based on the weight of available, scientific studies, that the toxicity of TCPP and its potential exposure pathways in those products pose a significant public health risk as that term is defined in 18 V.S.A. § 2(12).

(b) The rule shall not regulate TCPP in a manner that is materially different from the requirements of sections 2972 (definitions), 2974 (chlorinated flame retardants), 2975 (notice to retailers; disclosure of product content; consultation), 2976 (replacement of regulated flame retardants), 2977 (exemptions), 2978 (violations; enforcement), and 2979 (production of information) of this title regarding the regulation of TCEP and TDCPP. The Commissioner shall adopt reasonable time frames for manufacturers, distributors, and retailers to comply with such provisions that are comparable to the time frames for the regulation of TCEP and TDCPP.

(c) A violation of a prohibition or requirement adopted by rule under this section shall be enforceable by the Attorney General under section 2978 of this title as a violation of this chapter.

(d) In addition to the public participation requirements of 3 V.S.A. chapter 25 and prior to submitting a rule authorized under this section to the Secretary of State under 3 V.S.A. § 838, the Commissioner shall make reasonable efforts to consult with interested parties within the State regarding a proposed prohibition on the manufacture, offer for sale, distribution for sale, or knowing sale at retail in the State of the flame retardant TCPP. The Commissioner may satisfy the consultation requirement of this section through the use of one or more workshops, focused work groups, dockets, meetings, or other forms of communication.

(e) A rule adopted by the Commissioner under this section shall become effective according to the following:

(1) A proposed rule filed with the Secretary of State under 3 V.S.A. § 838 on or before July 1, 2014 shall not go into effect earlier than one calendar year after the Commissioner files the adopted rule under 3 V.S.A. chapter 25.

(2) A proposed rule filed with the Secretary of State under 3 V.S.A. § 838 after July 1, 2014 shall not go into effect earlier than one calendar year after the Commissioner files the adopted rule under 3 V.S.A. chapter 25, unless the Commissioner determines that an earlier effective date is required to protect human health, the Commissioner notifies interested parties of the determination, and the new effective date is established by rule.

Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2013.

(Committee vote: 10-0-1)

(For text see Senate Journal 3/22/2013)

S. 82

An act relating to campaign finance law

Rep. Evans of Essex, for the Committee on **Government Operations,** 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. FINDINGS

The General Assembly finds that:

(1) Article 7 of Chapter 1 of the Vermont Constitution affirms the central principle "That government is, or ought to be, instituted for the common benefit, protection, and security of the people, nation, or community, and not for the particular emolument or advantage of any single person, family, or set of persons, who are a part only of that community . . ."

(2) To carry out this central principle that the government is for the common benefit of the whole people of Vermont, candidates need to be responsive to the community as a whole and not to a small portion which may be funding the candidate's electoral campaign.

(3) Because of the small size of Vermont communities and the personal nature of campaigning in Vermont, a key feature of Vermont electoral campaigns is the personal connection between candidates and voters. Limiting contributions to candidates encourages this connection by giving candidates an incentive to conduct grassroots campaigns that reach many constituents and many donors, rather than relying on just a few people to fund their campaigns.

(4) Unduly large campaign contributions reduce public confidence in the electoral process and increase the risk and the appearance that candidates and elected officials may be beholden to contributors and not act in the best interests of all Vermont citizens.

(5) In Vermont, contributions greater than the amounts specified in this act are considered by the General Assembly, candidates, and elected officials to be unduly large contributions that have the ability to corrupt and create the appearance of corrupting candidates and the democratic system.

(6) When a person is able to make unduly large contributions to a candidate, there is a risk of voters losing confidence in our system of

representative government because voters may believe that a candidate will be more likely to represent the views of persons who make those contributions and less likely to represent views of their constituents and Vermont citizens in general. This loss of confidence may lead to increased voter cynicism and a lack of participation in the electoral process among both candidates and voters.

(7) Lower limits encourage candidates to interact and communicate with a greater number of voters in order to receive contributions to help fund a campaign, rather than to rely on a small number of large contributions. This interaction between candidates and the electorate helps build a greater confidence in our representative government and is likely to make candidates more responsive to voters.

(8) Different limits on contributions to candidates based on the office they seek are necessary in order for these candidates to run effective campaigns. Moreover, since it generally costs less to run an effective campaign for nonstatewide offices, a uniform limit on contributions for all offices could enable contributors to exert undue influence over those nonstatewide offices.

(9) In Vermont, candidates can raise sufficient monies to fund effective, competitive campaigns from contributions no larger than the amounts specified in this act.

(10) Exempting certain activities of political parties from the definition of what constitutes a contribution is important so as to not overly burden collective political activity. These activities, such as using the assistance of volunteers, preparing party candidate listings, and hosting certain campaign events, are part of a party's traditional role in assisting candidates to run for office. Moreover, these exemptions help protect the right to associate in a political party.

(11) Political parties play an important role in electoral campaigns and must be given the opportunity to support their candidates. Their historic role in American elections makes them different from political committees. For that reason, it is appropriate to limit contributions from political committees without imposing the same limits on political parties.

(12) If independent expenditure-only political committees are allowed to receive unlimited contributions, they may eclipse political parties. This would be detrimental to the electoral system because such committees can be controlled by a small number of individuals who finance them. In contrast, political parties are created by a representative process of delegates throughout the State.

(13) Large independent expenditures by independent expenditure-only

political committees can unduly influence the decision-making, legislative voting, and official conduct of officeholders and candidates through the committees' positive or negative advertising regarding their election for office. It also causes officeholders and candidates to act in a manner that either encourages independent expenditure-only committees to support them or discourages those committees from attacking them. Thus, candidates can become beholden to the donors who make contributions to these independent expenditure-only committees. Therefore, it is appropriate to limit contributions to all political committees, regardless of whether they make only independent expenditures.

(14) Limiting contributions to all political committees, including independent expenditure-only political committees, prevents persons from hiding behind these committees when making election-related expenditures. It encourages persons wishing to fund communications to do so directly in their own names. In this way, limiting contributions to all political committees fosters greater transparency. When a person makes an expenditure on electioneering communications in the person's own name, that name, rather than that of a political committee to which the person contributed, appears on the face of the communication. This provides the public with immediate information as to the identity of the communication's funder.

(15) In order to provide the electorate with information regarding who seeks to influence their votes through campaign advertising; to make campaign financing more transparent; to aid voters in evaluating those seeking office; to deter actual corruption and avoid its appearance by exposing contributions and expenditures to the light of publicity; and to gather data necessary to detect violations of contributions limits, it is imperative that Vermont increase the frequency of campaign finance reports and include more information in electioneering communications.

(16) Increasing identification information in electioneering communications will enable the electorate to immediately evaluate the speaker's message and will bolster the sufficiently important interest in permitting Vermonters to learn the sources of significant influence in our State's elections.

(17) The General Assembly is aware of reports of potential corruption in other states and in federal politics. It is important to enact legislation that will prevent corruption here and maintain the electorate's confidence in the integrity of Vermont's government.

(18) This act is necessary in order to implement more fully the provisions of Article 8 of Chapter I of the Constitution of the State of Vermont, which declares "That all elections ought to be free and without corruption, and

that all voters, having a sufficient, evident, common interest with, and attachment to the community, have a right to elect officers, and be elected into office, agreeably to the regulations made in this constitution."

Sec. 2. REPEAL

17 V.S.A. chapter 59 (campaign finance) is repealed.

Sec. 3. 17 V.S.A. chapter 61 is added to read:

CHAPTER 61. CAMPAIGN FINANCE

Subchapter 1. General Provisions

§ 2901. DEFINITIONS

As used in this chapter:

(1) "Candidate" means an individual who has taken affirmative action to become a candidate for state, county, local, or legislative office in a primary, special, general, or local election. An affirmative action shall include one or more of the following:

(A) accepting contributions or making expenditures totaling $500.00 or more;

(B) filing the requisite petition for nomination under this title or being nominated by primary or caucus; or

(C) announcing that the individual seeks an elected position as a state, county, or local officer or a position as representative or senator in the General Assembly.

(2) "Candidate's committee" means the candidate's campaign staff, whether paid or unpaid.

(3) "Clearly identified," with respect to a candidate, means:

(A) the name of the candidate appears;

(B) a photograph or drawing of the candidate appears; or

(C) the identity of the candidate is apparent by unambiguous reference.

(4) "Contribution" means a payment, distribution, advance, deposit, loan, or gift of money or anything of value, paid or promised to be paid for the purpose of influencing an election, advocating a position on a public question, or supporting or opposing one or more candidates in any election. For purposes of this chapter, "contribution" shall not include any of the following:

(A) a personal loan of money to a candidate from a lending

institution made in the ordinary course of business;

(B) services provided without compensation by individuals volunteering their time on behalf of a candidate, political committee, or political party;

(C) unreimbursed travel expenses paid for by an individual for himself or herself who volunteers personal services to a candidate;

(D) unreimbursed campaign-related travel expenses paid for by the candidate or the candidate's spouse;

(E) the use by a candidate or volunteer of his or her own personal property, including offices, telephones, computers, and similar equipment;

(F) the use of a political party's offices, telephones, computers, and similar equipment;

(G) the payment by a political party of the costs of preparation, display, or mailing or other distribution of a party candidate listing;

(H) documents, in printed or electronic form, including party platforms, single copies of issue papers, information pertaining to the requirements of this title, lists of registered voters, and voter identification information created, obtained, or maintained by a political party for the general purpose of party building and provided to a candidate who is a member of that party or to another political party;

(I) compensation paid by a political party to its employees whose job responsibilities are not for the specific and exclusive benefit of a single candidate in any election;

(J) compensation paid by a political party to its employees or consultants for the purpose of providing assistance to another political party;

(K) campaign training sessions provided to three or more candidates;

(L) costs paid for by a political party in connection with a campaign event at which three or more candidates are present; or

(M) activity or communication designed to encourage individuals to register to vote or to vote if that activity or communication does not mention or depict a clearly identified candidate.

(5) "Election" means the procedure whereby the voters of this State or any of its political subdivisions select a person to be a candidate for public office or to fill a public office or to act on public questions including voting on constitutional amendments. Each primary, general, special, or local election shall constitute a separate election.

(6) "Electioneering communication" means any communication that refers to a clearly identified candidate for office and that promotes or supports a candidate for that office or attacks or opposes a candidate for that office, regardless of whether the communication expressly advocates a vote for or against a candidate, including communications published in any newspaper or periodical or broadcast on radio or television or over the Internet or any public address system; placed on any billboards, outdoor facilities, buttons, or printed material attached to motor vehicles, window displays, posters, cards, pamphlets, leaflets, flyers, or other circulars; or contained in any direct mailing, robotic phone calls, or mass e-mails.

(7) "Expenditure" means a payment, disbursement, distribution, advance, deposit, loan, or gift of money or anything of value, paid or promised to be paid, for the purpose of influencing an election, advocating a position on a public question, or supporting or opposing one or more candidates. For the purposes of this chapter, "expenditure" shall not include any of the following:

(A) a personal loan of money to a candidate from a lending institution made in the ordinary course of business;

(B) services provided without compensation by individuals volunteering their time on behalf of a candidate, political committee, or political party;

(C) unreimbursed travel expenses paid for by an individual for himself or herself who volunteers personal services to a candidate; or

(D) unreimbursed campaign-related travel expenses paid for by the candidate or the candidate's spouse.

(8) "Full name" means an individual's full first name, middle name or initial, if any, and full legal last name, making the identity of the person who made the contribution apparent by unambiguous reference.

(9) "Independent expenditure-only political committee" means a political committee that conducts its activities entirely independent of candidates; does not give contributions to candidates, political committees, or political parties; does not make related expenditures; and is not closely related to a political party or to a political committee that makes contributions to candidates or makes related expenditures.

(10) "Mass media activity" means a television commercial, radio commercial, mass mailing, mass electronic or digital communication, literature drop, newspaper or periodical advertisement, robotic phone call, or telephone bank, which includes the name or likeness of a clearly identified candidate for office.

(11) "Party candidate listing" means any communication by a political party that:

(A) lists the names of at least three candidates for election to public office;

(B) is distributed through public advertising such as broadcast stations, cable television, newspapers, and similar media or through direct mail, telephone, electronic mail, a publicly accessible site on the Internet, or personal delivery;

(C) treats all candidates in the communication in a substantially similar manner; and

(D) is limited to:

(i) the identification of each candidate, with which pictures may be used;

(ii) the offices sought;

(iii) the offices currently held by the candidates;

(iv) the party affiliation of the candidates and a brief statement about the party or the candidates' positions, philosophy, goals, accomplishments, or biographies;

(v) encouragement to vote for the candidates identified; and

(vi) information about voting, such as voting hours and locations.

(12) "Political committee" or "political action committee" means any formal or informal committee of two or more individuals or a corporation, labor organization, public interest group, or other entity, not including a political party, which accepts contributions of $1,000.00 or more and makes expenditures of $1,000.00 or more in any two-year general election cycle for the purpose of supporting or opposing one or more candidates, influencing an election, or advocating a position on a public question in any election, and includes an independent expenditure-only political committee.

(13) "Political party" means a political party organized under chapter 45 of this title and any committee established, financed, maintained, or controlled by the party, including any subsidiary, branch, or local unit thereof, and shall be considered a single, unified political party. The national affiliate of the political party shall be considered a separate political party.

(14) "Public question" means an issue that is before the voters for a binding decision.

(15) "Single source" means an individual, partnership, corporation,

association, labor organization, or any other organization or group of persons which is not a political committee or political party.

(16) "Telephone bank" means more than 500 telephone calls of an identical or substantially similar nature that are made to the general public within any 30-day period.

(17) "Two-year general election cycle" means the 24-month period that begins 38 days after a general election.

§ 2902. EXCEPTIONS

The definitions of "contribution," "expenditure," and "electioneering communication" shall not apply to:

(1) any news story, commentary, or editorial distributed through the facilities of any broadcasting station, newspaper, magazine, or other periodical publication that has not been paid for or such facilities are not owned or controlled by any political party, committee, or candidate; or

(2) any communication distributed through a public access television station if the communication complies with the laws and rules governing the station and if all candidates in the race have an equal opportunity to promote their candidacies through the station.

§ 2903. PENALTIES

(a) A person who knowingly and intentionally violates a provision of subchapter 2, 3, or 4 of this chapter shall be fined not more than $1,000.00 or imprisoned not more than six months or both.

(b) A person who violates any provision of this chapter shall be subject to a civil penalty of up to $10,000.00 for each violation and shall refund the unspent balance of Vermont campaign finance grants received under subchapter 5 of this chapter, if any, calculated as of the date of the violation.

(c) In addition to the other penalties provided in this section, a state's attorney or the Attorney General may institute any appropriate action, injunction, or other proceeding to prevent, restrain, correct, or abate any violation of this chapter.

§ 2904. CIVIL INVESTIGATION

(a)(1) The Attorney General or a state's attorney, whenever he or she has reason to believe any person to be or to have been in violation of this chapter or of any rule or regulation made pursuant to this chapter, may examine or cause to be examined by any agent or representative designated by him or her for that purpose any books, records, papers, memoranda, or physical objects of any nature bearing upon each alleged violation and may demand written

responses under oath to questions bearing upon each alleged violation.

(2) The Attorney General or a state's attorney may require the attendance of such person or of any other person having knowledge in the premises in the county where such person resides or has a place of business or in Washington County if such person is a nonresident or has no place of business within the State and may take testimony and require proof material for his or her information and may administer oaths or take acknowledgment in respect of any book, record, paper, or memorandum.

(3) The Attorney General or a state's attorney shall serve notice of the time, place, and cause of such examination or attendance or notice of the cause of the demand for written responses personally or by certified mail upon such person at his or her principal place of business or, if such place is not known, to his or her last known address. Such notice shall include a statement that a knowing and intentional violation of subchapters 2 through 4 of this chapter is subject to criminal prosecution.

(4) Any book, record, paper, memorandum, or other information produced by any person pursuant to this section shall not, unless otherwise ordered by a court of this State for good cause shown, be disclosed to any person other than the authorized agent or representative of the Attorney General or a state's attorney or another law enforcement officer engaged in legitimate law enforcement activities unless with the consent of the person producing the same, except that any transcript of oral testimony, written responses, documents, or other information produced pursuant to this section may be used in the enforcement of this chapter, including in connection with any civil action brought under section 2903 of this subchapter or subsection (c) of this section.

(5) Nothing in this subsection is intended to prevent the Attorney General or a state's attorney from disclosing the results of an investigation conducted under this section, including the grounds for his or her decision as to whether to bring an enforcement action alleging a violation of this chapter or of any rule or regulation made pursuant to this chapter.

(6) This subsection shall not be applicable to any criminal investigation or prosecution brought under the laws of this or any state.

(b)(1) A person upon whom a notice is served pursuant to the provisions of this section shall comply with its terms unless otherwise provided by the order of a court of this State.

(2) Any person who, with intent to avoid, evade, or prevent compliance, in whole or in part, with any civil investigation under this section, removes from any place; conceals, withholds, or destroys; or mutilates, alters, or by any

other means falsifies any documentary material in the possession, custody, or control of any person subject to such notice or mistakes or conceals any information shall be fined not more than $5,000.00.

(c)(1) Whenever any person fails to comply with any notice served upon him or her under this section or whenever satisfactory copying or reproduction of any such material cannot be done and the person refuses to surrender the material, the Attorney General or a state's attorney may file, in the superior court in the county in which the person resides or has his or her principal place of business or in Washington County if the person is a nonresident or has no principal place of business in this State, and serve upon the person a petition for an order of the court for the enforcement of this section.

(2) Whenever any petition is filed under this section, the court shall have jurisdiction to hear and determine the matter so presented and to enter any order or orders as may be required to carry into effect the provisions of this section. Any disobedience of any order entered under this section by any court shall be punished as a contempt of the court.

(d) Any person aggrieved by a civil investigation conducted under this section may seek relief from Washington Superior Court or the superior court in the county in which the aggrieved person resides. Except for cases the court considers to be of greater importance, proceedings before superior court as authorized by this section shall take precedence on the docket over all other cases.

§ 2905. ADJUSTMENTS FOR INFLATION

(a) Whenever it is required by this chapter, the Secretary of State shall make adjustments to monetary amounts provided in this chapter based on the Consumer Price Index. Increases shall be rounded to the nearest $10.00 and shall apply for the term of two two-year general election cycles. Increases shall be effective for the first two-year general election cycle beginning after the general election held in 2016.

(b) On or before the first two-year general election cycle beginning after the general election held in 2016, the Secretary of State shall calculate and publish on the online database set forth in section 2906 of this chapter each adjusted monetary amount that will apply to those two two-year general election cycles. On or before the beginning of each second subsequent two-year general election cycle, the Secretary shall publish the amount of each adjusted monetary amount that shall apply for that two-year general election cycle and the next two-year general election cycle.

§ 2906. CAMPAIGN DATABASE; CANDIDATE INFORMATION

WEB PAGE

(a) Campaign database. For each two-year general election cycle, the Secretary of State shall develop and continually update a publicly accessible campaign database which shall be made available to the public through the Secretary of State's home page online service or through printed reports from the Secretary in response to a public request within 14 days of the date of the request. The database shall contain:

(1) at least the following information for all candidates for statewide, county, and local office and for the General Assembly:

(A) for candidates receiving public financing grants, the amount of each grant awarded; and

(B) the information contained in any reports submitted pursuant to subchapter 4 of this chapter;

(2) an Internet link to campaign finance reports filed by Vermont's candidates for federal office;

(3) the adjustments for inflation made to monetary amounts as required by this chapter; and

(4) any photographs, biographical sketches, and position statements submitted to the Secretary pursuant to subsection (b) of this section.

(b) Candidate information web page.

(1) Any candidate for statewide office and any candidate for federal office qualified to be on the ballot in this State may submit to the Secretary of State a photograph, biographical sketch, and position statement of a length and format specified by the Secretary for the purposes of preparing a candidate information web page within the website of the Secretary of State.

(2) Without making any substantive changes in the material presented, the Secretary shall prepare a candidate information web page on the Secretary's website, which includes the candidates' photographs, biographies, and position statements; a brief explanation of the process used to obtain candidate submissions; and, with respect to offices for which public financing is available, an indication of which candidates are receiving Vermont campaign finance grants and which candidates are not receiving Vermont campaign finance grants.

(3) The Secretary shall populate the candidate information web page by posting each candidate's submission no fewer than three business days after receiving the candidate's submission.

§ 2907. ADMINISTRATION

The Secretary of State shall administer this chapter and shall perform all duties required under this chapter. The Secretary may employ or contract for the services of persons necessary for performance of these duties.

Subchapter 2. Registration and Maintenance Requirements

§ 2921. CANDIDATES; REGISTRATION; CHECKING ACCOUNT; TREASURER

(a) Each candidate who has made expenditures or accepted contributions of $500.00 or more in a two-year general election cycle shall register with the Secretary of State stating his or her full name and address; the office the candidate is seeking; the name and address of the bank in which the candidate maintains his or her campaign checking account; and the name and address of the treasurer responsible for maintaining the checking account. A candidate's treasurer may be the candidate or his or her spouse.

(b) All expenditures by a candidate shall be paid by either a credit card or a debit card, check, or other electronic transfer from the single campaign checking account in the bank designated by the candidate under subsection (a) of this section, or, if under $250.00, the candidate may make the expenditure from cash from that campaign checking account if accompanied by a receipt, a copy of which shall be maintained by the candidate for at least two years from the end of the two-year general election cycle in which the expenditure was made.

§ 2922. POLITICAL COMMITTEES; REGISTRATION; CHECKING ACCOUNT; TREASURER

(a) Each political committee shall register with the Secretary of State within 10 days of making expenditures of $1,000.00 or more and accepting contributions of $1,000.00 or more stating its full name and address; the name and address of the bank in which it maintains its campaign checking account; and the name and address of the treasurer responsible for maintaining the checking account.

(b) All expenditures by a political committee shall be paid by either a credit card or a debit card, check, or other electronic transfer from the single campaign checking account in the bank designated by the political committee under subsection (a) of this section, or, if under $250.00, the political committee may make the expenditure from cash from that campaign checking account if accompanied by a receipt, a copy of which shall be maintained by the political committee for at least two years from the end of the two-year general election cycle in which the expenditure was made.

(c) A political committee whose principal place of business or whose

treasurer is not located in this State shall file a statement with the Secretary of State designating a person who resides in this State upon whom may be served any process, notice, or demand required or permitted by law to be served upon the political committee. This statement shall be filed at the same time as the registration required in subsection (a) of this section.

§ 2923. POLITICAL PARTIES; REGISTRATION; CHECKING ACCOUNTS; TREASURER

(a)(1) Each political party which has accepted contributions or made expenditures of $1,000.00 or more in any two-year general election cycle shall register with the Secretary of State within 10 days of reaching the $1,000.00 threshold. In its registration, the party shall state its full name and address, the name and address of the bank in which it maintains its campaign checking account, and the name and address of the treasurer responsible for maintaining the checking account.

(2) A political party may permit any subsidiary, branch, or local unit of the political party to maintain its own checking account. If a subsidiary, branch, or local unit of a political party is so permitted, it shall file with the Secretary of State within five days of establishing the checking account its full name and address, the name of the political party, the name and address of the bank in which it maintains its campaign checking account, and the name and address of the treasurer responsible for maintaining the checking account.

(b) All expenditures by a political party or its subsidiary, branch, or local unit shall be paid by either a credit card or a debit card, check, or other electronic transfer from the single campaign checking account in the bank designated by the political party under subsection (a) of this section, or if under $250.00, the political party may make the expenditure from cash from that campaign checking account if accompanied by a receipt, a copy of which shall be maintained by the political party for at least two years from the end of the two-year general election cycle in which the expenditure was made.

(c) A political party or its subsidiary, branch, or local unit whose principal place of business or whose treasurer is not located in this State shall file a statement with the Secretary of State designating a person who resides in this State upon whom may be served any process, notice, or demand required or permitted by law to be served upon the political party, subsidiary, branch, or local unit. This statement shall be filed at the same time as the registration required in subsection (a) of this section.

§ 2924. CANDIDATES; SURPLUS CAMPAIGN FUNDS; NEW CAMPAIGN ACCOUNTS

(a) A candidate who has surplus funds after all campaign debts have been paid shall not convert the surplus to personal use, other than to reduce personal campaign debts or as otherwise provided in this chapter.

(b) Surplus funds in a candidate's account shall be:

(1) contributed to other candidates, political parties, or political committees subject to the contribution limits set forth in this chapter;

(2) contributed to a charity;

(3) contributed to the Secretary of State Services Fund;

(4) rolled over into a new campaign account as provided in subsection (d) of this section; or

(5) liquidated using a combination of the provisions set forth in subdivisions (1)–(4) of this subsection.

(c) The "final report" of a candidate shall indicate the amount of the surplus and how it has been liquidated.

(d)(1) A candidate who chooses to roll over any surplus contributions into a new campaign account for public office shall close out his or her former campaign by filing a final report with the Secretary of State converting all debts and assets to the new campaign.

(2) A candidate who rolls over surplus contributions into a new campaign account shall be required to file a new bank designation form only if there has been a change in the treasurer or the location of the campaign account.

§ 2925. POLITICAL COMMITTEES; SURPLUS CAMPAIGN FUNDS

(a) A member of a political committee which has surplus funds after all campaign debts have been paid shall not convert the surplus to personal use.

(b) Surplus funds in a political committee's account shall be:

(1) contributed to other candidates, political parties, or political committees subject to the contribution limits set forth in this chapter;

(2) contributed to a charity;

(3) contributed to the Secretary of State Services Fund; or

(4) liquidated using a combination of the provisions set forth in subdivisions (1)–(3) of this subsection.

(c) The "final report" of a political committee shall indicate the amount of the surplus and how it has been liquidated.

Subchapter 3. Contribution Limitations

§ 2941. LIMITATIONS OF CONTRIBUTIONS

In any two-year general election cycle:

(1)(A) A candidate for state representative or for local office shall not accept contributions totaling more than:

(i) $1,000.00 from a single source; or

(ii) $1,000.00 from a political committee.

(B) Such a candidate may accept unlimited contributions from a political party.

(2)(A) A candidate for state senator or county office shall not accept contributions totaling more than:

(i) $1,500.00 from a single source; or

(ii) $1,500.00 from a political committee.

(B) Such a candidate may accept unlimited contributions from a political party.

(3)(A) A candidate for the office of Governor, Lieutenant Governor, Secretary of State, State Treasurer, Auditor of Accounts, or Attorney General shall not accept contributions totaling more than:

(i) $4,000.00 from a single source; or

(ii) $4,000.00 from a political committee.

(B) Such a candidate may accept unlimited contributions from a political party.

(4) A political committee shall not accept contributions totaling more than:

(A) $5,000.00 from a single source;

(B) $5,000.00 from a political committee; or

(C) $5,000.00 from a political party.

(5) A political party shall not accept contributions totaling more than:

(A) $5,000.00 from a single source;

(B) $5,000.00 from a political committee; or

(C) $30,000.00 from a political party.

(6) A single source, political committee, or political party shall not

contribute more to a candidate, political committee, or political party than the candidate, political committee, or political party is permitted to accept under subdivisions (1) through (5) of this section.

§ 2942. EXCEPTIONS

The contribution limitations established by this subchapter shall not apply to contributions to a political committee made for the purpose of advocating a position on a public question, including a constitutional amendment.

§ 2943. LIMITATIONS ADJUSTED FOR INFLATION

The contribution limitations contained in this subchapter shall be adjusted for inflation pursuant to the Consumer Price Index as provided in section 2905 of this chapter.

§ 2944. ACCOUNTABILITY FOR RELATED EXPENDITURES

(a) A related campaign expenditure made on a candidate's behalf shall be considered a contribution to the candidate on whose behalf it was made.

(b) For the purposes of this section, a "related campaign expenditure made on the candidate's behalf" means any expenditure intended to promote the election of a specific candidate or group of candidates or the defeat of an opposing candidate or group of candidates if intentionally facilitated by, solicited by, or approved by the candidate or the candidate's committee.

(c)(1) An expenditure made by a political party or by a political committee that recruits or endorses candidates that primarily benefits six or fewer candidates who are associated with the political party or political committee making the expenditure is presumed to be a related expenditure made on behalf of those candidates, except that the acquisition, use, or dissemination of the images of those candidates by the political party or political committee shall not be presumed to be a related expenditure made on behalf of those candidates.

(2) An expenditure made by a political party or by a political committee that recruits or endorses candidates that substantially benefits more than six candidates and facilitates party or political committee functions, voter turnout, platform promotion, or organizational capacity shall not be presumed to be a related expenditure made on a candidate's behalf.

(d)(1) For the purposes of this section, an expenditure by a person shall not be considered a "related expenditure made on the candidate's behalf" if all of the following apply:

(A) the expenditure was made in connection with a campaign event whose purpose was to provide a group of voters with the opportunity to meet a

candidate;

(B) the expenditure was made for:

(i) invitations and any postage for those invitations to invite voters to the event; or

(ii) any food or beverages consumed at the event and any related supplies thereof; and

(C) the cumulative value of any expenditure by the person made under this subsection does not exceed $500.00 per event.

(2) For the purposes of this subsection:

(A) if the cumulative value of any expenditure by a person made under this subsection exceeds $500.00 per event, the amount equal to the difference between the two shall be considered a "related expenditure made on the candidate's behalf"; and

(B) any reimbursement to the person by the candidate for the costs of the expenditure shall be subtracted from the cumulative value of the expenditures.

(e)(1) A candidate may seek a determination that an expenditure is a related expenditure made on behalf of an opposing candidate by filing a petition with the superior court of the county in which either candidate resides.

(2) Within 24 hours of the filing of a petition, the court shall schedule the petition for hearing. Except as to cases the court considers of greater importance, proceedings before the superior court, as authorized by this section, and appeals therefrom take precedence on the docket over all other cases and shall be assigned for hearing and trial or for argument at the earliest practicable date and expedited in every way.

(3) The findings and determination of the court shall be prima facie evidence in any proceedings brought for violation of this chapter.

(f) The Secretary of State may adopt rules necessary to administer the provisions of this section.

§ 2945. ACCEPTING CONTRIBUTIONS

(a) A candidate, political committee, or political party accepts a contribution when the contribution is deposited in the candidate's, committee's, or party's campaign account or five business days after the candidate, committee, or party receives it, whichever comes first.

(b) A candidate, political committee, or political party shall not accept a monetary contribution in excess of $100.00 unless made by check, credit or

debit card, or other electronic transfer.

§ 2946. CANDIDATE'S ATTRIBUTION TO PREVIOUS CYCLE

A candidate's expenditures related to a previous campaign and contributions used to retire a debt of a previous campaign shall be attributed to the earlier campaign.

§ 2947. CONTRIBUTIONS FROM A CANDIDATE OR IMMEDIATE FAMILY

This subchapter shall not be interpreted to limit the amount a candidate or his or her immediate family may contribute to his or her own campaign. For purposes of this subsection, "immediate family" means a candidate's spouse, parent, grandparent, child, grandchild, sister, brother, stepparent, stepgrandparent, stepchild, stepgrandchild, stepsister, stepbrother, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, legal guardian, or former legal guardian.

§ 2948. PROHIBITION ON TRANSFERRING CONTRIBUTIONS

A candidate, political committee, or political party shall not accept a contribution which the candidate, political committee, or political party knows is not directly from the contributor but was transferred to the contributor by another person for the purpose of transferring the same to the candidate, political committee, or political party or otherwise circumventing the provisions of this chapter. It shall be a violation of this chapter for a person to make a contribution with the explicit or implicit understanding that the contribution will be transferred in violation of this section.

§ 2949. USE OF TERM "CANDIDATE"

For purposes of this subchapter, the term "candidate" includes the candidate's committee, except in regard to the provisions of section 2947 of this subchapter.

Subchapter 4. Reporting Requirements; Disclosures

§ 2961. SUBMISSION OF REPORTS TO THE SECRETARY OF STATE

(a)(1) The Secretary of State shall provide on the online database set forth in section 2906 of this chapter digital access to the form that he or she provides for any report required by this chapter. Digital access shall enable any person required to file a report under this chapter to file the report by completing and submitting the report to the Secretary of State online.

(2) The Secretary shall maintain on the online database reports that have been filed for each two-year general election cycle so that any person may have direct machine-readable electronic access to the individual data elements

in each report and the ability to search those data elements as soon as a report is filed.

(b) Any person required to file a report with the Secretary of State under this chapter shall file the report digitally on the online database.

§ 2962. REPORTS; GENERAL PROVISIONS

(a) Any report required to be submitted to the Secretary of State under this chapter shall contain the statement "I hereby certify that the information provided on all pages of this campaign finance disclosure report is true to the best of my knowledge, information, and belief" and places for the signature of the candidate or the treasurer of the candidate, political committee, or political party.

(b) Any person required to file a report under this chapter shall provide the information required in the Secretary of State's reporting form. Disclosure shall be limited to the information required to administer this chapter.

(c) All reports filed under this chapter shall be retained in an indexed file by the Secretary of State and shall be subject to the examination of any person.

§ 2963. CAMPAIGN REPORTS; SECRETARY OF STATE; FORMS; FILING

(a) The Secretary of State shall prescribe and provide a uniform reporting form for all campaign finance reports. The reporting form shall be designed to show the following information:

(1) the full name, town of residence, and mailing address of each contributor who contributes an amount in excess of $100.00, the date of the contribution, and the amount contributed, as well as a space on the form for the occupation of each contributor, which the candidate, political committee, or political party shall make a reasonable effort to obtain;

(2) the total amount of all contributions of $100.00 or less and the total number of all such contributions;

(3) each expenditure listed by amount, date, to whom paid, and for what purpose;

(4) the amount contributed or loaned by the candidate to his or her own campaign during the reporting period; and

(5) each debt or other obligation, listed by amount, date incurred, to whom owed, and for what purpose, incurred during the reporting period.

(b)(1) The form shall require the reporting of all contributions and expenditures accepted or spent during the reporting period and during the

campaign to date and shall require full disclosure of the manner in which any indebtedness is discharged or forgiven.

(2) Contributions and expenditures for the reporting period and for the campaign to date also shall be totaled in an appropriate place on the form. The total of contributions shall include a subtotal of nonmonetary contributions and a subtotal of all monetary contributions.

(3) The form shall contain a list of the required filing times so that the person filing may designate for which time period the filing is made.

(4) Contributions accepted and expenditures spent after 5:00 p.m. on the third day prior to the filing deadline shall be reported on the next report.

§ 2964. CAMPAIGN REPORTS; CANDIDATES FOR STATE OFFICE, THE GENERAL ASSEMBLY, AND COUNTY OFFICE; POLITICAL COMMITTEES; POLITICAL PARTIES

(a)(1) Each candidate for state office, the General Assembly, and a two-year-term county office who has made expenditures or accepted contributions of $500.00 or more during a two-year general election cycle and, except as provided in subsection (b) of this section, each political committee that has made expenditures or accepted contributions of $500.00 or more in the current two-year general election cycle and each political party required to register under section 2923 of this chapter shall file with the Secretary of State campaign finance reports as follows:

(A) in the first year of the two-year general election cycle, on July 15 and November 1 of the odd-numbered year; and

(B) in the second year of the two-year general election cycle:

(i) on March 15;

(ii) on July 15, August 1, and August 15;

(iii) on September 1;

(iv) on October 1, October 15, and November 1; and

(v) two weeks after the general election.

(2)(A) Each candidate for a four-year-term county office who has made expenditures or accepted contributions of $500.00 or more during a four-year general election cycle shall file with the Secretary of State campaign finance reports as follows:

(i) in the first three years of the four-year general election cycle, on July 15 and November 1; and

(ii) in the fourth year of the four-year general election cycle:

(I) on March 15;

(II) on July 15, August 1, and August 15;

(III) on September 1;

(IV) on October 1, October 15, and November 1; and

(V) two weeks after the general election.

(B) As used in this subdivision (2), "four-year general election cycle" means the 48-month period that begins 38 days after a general election.

(3) The failure of a candidate, political committee, or political party to file a report under this subsection shall be deemed an affirmative statement that a report is not required of the candidate, political committee, or political party under subdivision (1) or (2) of this subsection.

(b) A political committee or a political party which has accepted contributions or made expenditures of $1,000.00 or more in any two-year general election cycle for the purpose of influencing a local election or supporting or opposing one or more candidates in a local election shall file with the Secretary of State campaign finance reports regarding that election 30 days before, 10 days before, and two weeks after the local election.

§ 2965. FINAL REPORTS; CANDIDATES FOR STATE OFFICE, THE GENERAL ASSEMBLY, AND COUNTY OFFICE; POLITICAL COMMITTEES; POLITICAL PARTIES

(a) At any time, but not later than December 15th following the general election, each candidate for state office, the General Assembly, and a two-year-term county office who has made expenditures or accepted contributions of $500.00 or more during the two-year general election cycle and each candidate for a four-year-term county office who has made expenditures or accepted contributions of $500.00 or more during the four-year general election cycle shall file with the Secretary of State a "final report" which lists a complete accounting of all contributions and expenditures since the last report and liquidation of surplus and which shall constitute the termination of his or her campaign activities.

(b) At any time, a political committee or a political party may file a "final report" which lists a complete accounting of all contributions and expenditures since the last report and liquidation of surplus and which shall constitute the termination of its campaign activities.

§ 2966. REPORTS BY CANDIDATES NOT REACHING MONETARY

REPORTING THRESHOLD

(a) Each candidate for state office, the General Assembly, and a two-year-term county office who has made expenditures or accepted contributions of less than $500.00 during a two-year general election cycle shall file with the Secretary of State 10 days following the general election a statement that the candidate has not made expenditures or accepted contributions of $500.00 or more during the two-year general election cycle.

(b) Each candidate for a four-year-term county office who has made expenditures or accepted contributions of less than $500.00 during a four-year general election cycle shall file with the Secretary of State 10 days following the general election a statement that the candidate has not made expenditures or accepted contributions of $500.00 or more during the four-year general election cycle.

§ 2967. ADDITIONAL CAMPAIGN REPORTS; CANDIDATES FOR STATE OFFICE AND THE GENERAL ASSEMBLY

(a) In addition to any other reports required to be filed under this chapter, a candidate for state office or for the General Assembly who accepts a monetary contribution in an amount over $2,000.00 within 10 days of a primary or general election shall report the contribution to the Secretary of State within 24 hours of receiving the contribution.

(b) A report required by this section shall include the following information:

(1) the full name, town of residence, and mailing address of the contributor; the date of the contribution; and the amount contributed; and

(2) the amount contributed or loaned by the candidate to his or her own campaign.

§ 2968. CAMPAIGN REPORTS; LOCAL CANDIDATES

(a) Each candidate for local office who has made expenditures or accepted contributions of $500.00 or more since the last local election for that office shall file with the Secretary of State campaign finance reports 30 days before, 10 days before, and two weeks after the local election.

(b) Within 40 days after the local election, each candidate for local office who has made expenditures or accepted contributions of $500.00 or more shall file with the Secretary of State a "final report" which lists a complete accounting of all contributions and expenditures since the last report and a liquidation of surplus and which shall constitute the termination of his or her campaign activities.

(c) The failure of a local candidate to file a campaign finance report shall be deemed an affirmative statement that the candidate has not accepted contributions or made expenditures of $500.00 or more since the last local election for that office.

§ 2969. REPORTING OF SURPLUS

A former candidate who has rolled over surplus into a new campaign account as provided in subsection 2924(d) of this chapter but who is not a candidate for office in a subsequent campaign shall file a report of the amount of his or her surplus and any liquidation of it two weeks after each general election until liquidation of all surplus has been reported.

§ 2970. CAMPAIGN REPORTS; OTHER ENTITIES; PUBLIC QUESTIONS

Any formal or informal committee of two or more individuals or a corporation, labor organization, public interest group, or other entity, not including a political party, which makes expenditures of $1,000.00 or more in any two-year general election cycle for the purpose of advocating a position on a public question in any election shall file a report of its expenditures 30 days before, 10 days before, and two weeks after the election with the Secretary of State.

§ 2971. REPORT OF MASS MEDIA ACTIVITIES

(a)(1) In addition to any other reports required to be filed under this chapter, a person who makes expenditures for any one mass media activity totaling $500.00 or more, adjusted for inflation pursuant to the Consumer Price Index as provided in section 2905 of this chapter, within 45 days before a primary, general, county, or local election shall, for each activity, file a mass media report with the Secretary of State and send a copy of the report to each candidate whose name or likeness is included in the activity without that candidate's knowledge.

(2) The copy of the mass media report shall be sent by e-mail to each such candidate who has provided the Secretary of State with an e-mail address on his or her consent form and to any other such candidate by mail.

(3) The mass media report shall be filed and the copy of the report shall be sent within 24 hours of the expenditure or activity, whichever occurs first. For the purposes of this section, a person shall be treated as having made an expenditure if the person has executed a contract to make the expenditure.

(b) The report shall identify the person who made the expenditure; the name of each candidate whose name or likeness was included in the activity; the amount and date of the expenditure; to whom it was paid; and the purpose

of the expenditure.

(c) If the activity occurs within 30 days before the election and the expenditure was previously reported, an additional report shall be required under this section.

§ 2972. IDENTIFICATION IN ELECTIONEERING COMMUNICATIONS

(a) An electioneering communication shall contain the name and mailing address of the person, candidate, political committee, or political party that paid for the communication. The name and address shall appear prominently and in a manner such that a reasonable person would clearly understand by whom the expenditure has been made, except that:

(1) An electioneering communication transmitted through radio and paid for by a candidate does not need to contain the candidate's address.

(2) An electioneering communication paid for by a person acting as an agent or consultant on behalf of another person, candidate, political committee, or political party shall clearly designate the name and mailing address of the person, candidate, political committee, or political party on whose behalf the communication is published or broadcast.

(b) If an electioneering communication is a related campaign expenditure made on a candidate's behalf as provided in section 2944 of this chapter, then in addition to other requirements of this section, the communication shall also clearly designate the candidate on whose behalf it was made by including language such as "on behalf of" such candidate.

(c) The identification requirements of this section shall not apply to lapel stickers or buttons, nor shall they apply to electioneering communications made by a single individual acting alone who spends, in a single two-year general election cycle, a cumulative amount of no more than $150.00 on those electioneering communications, adjusted for inflation pursuant to the Consumer Price Index as provided in section 2905 of this chapter.

§ 2973. SPECIFIC IDENTIFICATION REQUIREMENTS FOR RADIO OR TELEVISION COMMUNICATIONS

(a) In addition to the identification requirements set forth in section 2972 of this subchapter, a person, candidate, political committee, or political party that makes an expenditure for an electioneering communication shall include in any communication which is transmitted through radio or television, in a clearly spoken manner, an audio statement of the name and title of the person who paid for the communication, that the person paid for the communication, and that the person approves of the content of the communication.

(b) If the person who paid for the communication is not a natural person, the audio statement required by this section shall include the name of that person, the name and title of the principal officer of the person, and a statement that the officer approves of the content of the communication.

Subchapter 5. Public Financing Option

§ 2981. DEFINITIONS

As used in this subchapter:

(1) "Affidavit" means the Vermont campaign finance affidavit required under section 2982 of this chapter.

(2) "General election period" means the period beginning the day after the primary election and ending the day of the general election.

(3) "Primary election period" means the period beginning the day after primary petitions must be filed under section 2356 of this title and ending the day of the primary election.

(4) "Vermont campaign finance qualification period" means the period beginning February 15 of each even-numbered year and ending on the date on which primary petitions must be filed under section 2356 of this title.

§ 2982. FILING OF VERMONT CAMPAIGN FINANCE AFFIDAVIT

(a) A candidate for the office of Governor or Lieutenant Governor who intends to seek Vermont campaign finance grants from the Secretary of State Services Fund shall file a Vermont campaign finance affidavit on the date on or before which primary petitions must be filed, whether the candidate seeks to enter a party primary or is an independent candidate.

(b) The Secretary of State shall prepare a Vermont campaign finance affidavit form, informational materials on procedures and financial requirements, and notification of the penalties for violation of this subchapter.

(c)(1) The Vermont campaign finance affidavit shall set forth the conditions of receiving grants under this subchapter and provide space for the candidate to agree that he or she will abide by such conditions and all expenditure and contribution limitations, reporting requirements, and other provisions of this chapter.

(2) The affidavit shall also state the candidate's name, legal residence, business or occupation, address of business or occupation, party affiliation, if any, the office sought, and whether the candidate intends to enter a party primary.

(3) The affidavit shall also contain a list of all the candidate's qualifying

contributions together with the name and town of residence of the contributor and the date each contribution was made.

(4) The affidavit may further require affirmation of such other information as deemed necessary by the Secretary of State for the administration of this subchapter.

(5) The affidavit shall be sworn and subscribed to by the candidate.

§ 2983. VERMONT CAMPAIGN FINANCE GRANTS; CONDITIONS

(a) A person shall not be eligible for Vermont campaign finance grants if, prior to February 15 of the general election year during any two-year general election cycle, he or she becomes a candidate by announcing that he or she seeks an elected position as Governor or Lieutenant Governor or by accepting contributions totaling $2,000.00 or more or by making expenditures totaling $2,000.00 or more.

(b) A candidate who accepts Vermont campaign finance grants shall:

(1) not solicit, accept, or expend any contributions except qualifying contributions, Vermont campaign finance grants, and contributions authorized under section 2985 of this chapter, which contributions may be solicited, accepted, or expended only in accordance with the provisions of this subchapter;

(2) deposit all qualifying contributions, Vermont campaign finance grants, and any contributions accepted in accordance with the provisions of section 2985 of this chapter in a federally insured noninterest-bearing checking account; and

(3) not later than 40 days after the general election, deposit in the Secretary of State Services Fund, after all permissible expenditures have been paid, the balance of any amounts remaining in the account established under subdivision (2) of this subsection.

§ 2984. QUALIFYING CONTRIBUTIONS

(a) In order to qualify for Vermont campaign finance grants, a candidate for the office of Governor or Lieutenant Governor shall obtain during the Vermont campaign finance qualification period the following amount and number of qualifying contributions for the office being sought:

(1) for Governor, a total amount of no less than $35,000.00 collected from no fewer than 1,500 qualified individual contributors making a contribution of no more than $50.00 each; or

(2) for Lieutenant Governor, a total amount of no less than $17,500.00 collected from no fewer than 750 qualified individual contributors making a

contribution of no more than $50.00 each.

(b) A candidate shall not accept more than one qualifying contribution from the same contributor and a contributor shall not make more than one qualifying contribution to the same candidate in any Vermont campaign finance qualification period. For the purpose of this section, a qualified individual contributor means an individual who is registered to vote in Vermont. No more than 25 percent of the total number of qualified individual contributors may be residents of the same county.

(c) Each qualifying contribution shall indicate the name and town of residence of the contributor and the date accepted and be acknowledged by the signature of the contributor.

(d) A candidate may retain and expend qualifying contributions obtained under this section. A candidate may expend the qualifying contributions for the purpose of obtaining additional qualifying contributions and may expend the remaining qualifying contributions during the primary and general election periods. Amounts expended under this subsection shall be considered expenditures for purposes of this chapter.

§ 2985. VERMONT CAMPAIGN FINANCE GRANTS; AMOUNTS; TIMING

(a) To the extent funds are available, the Secretary of State shall make grants from the Secretary of State Services Fund in separate grants for the primary and general election periods to candidates who have qualified for Vermont campaign finance grants under this subchapter.

(b) Whether a candidate has entered a primary or is an independent candidate, Vermont campaign finance grants shall be in the following amounts:

(1) For Governor, $150,000.00 in a primary election period and $450,000.00 in a general election period, provided that the grant for a primary election period shall be reduced by an amount equal to the candidate's qualifying contributions.

(2) For Lieutenant Governor, $50,000.00 in a primary election period and $150,000.00 in a general election period, provided that the grant for a primary election period shall be reduced by an amount equal to the candidate's qualifying contributions;

(3) A candidate who is an incumbent of the office being sought shall be entitled to receive a grant in an amount equal to 85 percent of the amount listed in subdivision (1) or (2) of this subsection.

(c) In an uncontested general election and in the case of a candidate who

enters a primary election and is unsuccessful in that election, an otherwise eligible candidate shall not be eligible for a general election period grant. However, such candidate may solicit and accept contributions and make expenditures as follows: contributions shall be subject to the limitations set forth in subchapter 3 of this chapter, and expenditures shall be limited to an amount equal to the amount of the grant set forth in subsection (b) of this section for the general election for that office.

(d) Grants awarded in a primary election period but not expended by the candidate in the primary election period may be expended by the candidate in the general election period.

(e) Vermont campaign finance grants for a primary election period shall be paid to qualifying candidates within the first 10 business days of the primary election period. Vermont campaign finance grants for a general election period shall be paid to qualifying candidates during the first 10 business days of the general election period.

(f) If the Secretary of State Services Fund contains insufficient revenues to provide Vermont campaign finance grants to all candidates under this section, the available funds shall be distributed proportionately among all qualifying candidates. If grants are reduced under this subsection, a candidate may solicit and accept additional contributions equal to the amount of the difference between the amount of the Vermont campaign finance grants authorized and the amount received under this section. Additional contributions authorized under this subsection shall be governed by the provisions of sections 2941 and 2983 of this chapter.

§ 2986. MONETARY AMOUNTS ADJUSTED FOR INFLATION

The monetary amounts contained in sections 2983–2985 of this subchapter shall be adjusted for inflation pursuant to the Consumer Price Index as provided in section 2905 of this chapter.

Sec. 4. EVALUATION OF 2014 PRIMARY AND GENERAL ELECTIONS

The House and Senate Committees on Government Operations shall evaluate the 2014 primary and general elections to determine the effect of the implementation of this act.

Sec. 5. SECRETARY OF STATE; REPORT; CORPORATIONS AND LABOR UNIONS; SEPARATE SEGREGATED FUNDS

(a) By December 15, 2013, the Secretary of State shall report to the Senate and House Committees on Government Operations regarding any impact on his or her office and on corporations and labor unions if corporations and labor unions were required to establish separate segregated funds in order to make

contributions to candidates, political committees, and political parties as provided in 2 U.S.C. § 441b and related federal law.

(b) The report shall include an analysis of what entities would be subject to the requirement described in subsection (a) of this section and how those entities would otherwise be able to use their general treasury funds in relation to political activity.

Sec. 6. INTERIM REPORTING; METHOD OF REPORTING

(a) Prior to and until the effective date of 17 V.S.A. § 2961 (submission of reports to the Secretary of State) in Sec. 3 of this act, as the effective date is provided in subdivision Sec. 7 of this act, a candidate, political committee, or political party shall file reports required under Sec. 3 of this act by any of the following methods:

(1) by filing an original paper copy of a required report with the Secretary of State; or

(2) by sending to the Secretary of State a copy of the report by facsimile; or

(3) by attaching a PDF copy of the form to an e-mail and by sending the e-mail to campaignfinance@sec.state.vt.us.

(b) Any reports filed under subsection (a) of this section shall contain the signature of the candidate or his or her treasurer or the treasurer of the political committee or political party. The treasurer shall be the same treasurer as provided by the candidate, political committee, or political party under 17 V.S.A. §§ 2921–2923 in Sec. 3 of this act.

Sec. 7. EFFECTIVE DATES; TRANSITIONAL PROVISIONS

This act shall take effect on passage, except that in Sec. 3 of this act, 17 V.S.A. § 2961 (submission of reports to the Secretary of State) shall take effect on January 15, 2015.

(Committee vote: 9-2-0)

(For text see Senate Journal 3/28/2013, 4/12/2013, 4/17/2013 and 4/18/2013)

Rep. Keenan of St. Albans City, for the Committee on **Appropriations,** recommends the bill ought to pass when amended as recommended by the Committee on **Government Operations.**

(Committee Vote: 9-1-1)

S. 99

An act relating to the standard measure of recidivism

Rep. Myers of Essex, for the Committee on **Corrections and Institutions,** recommends that the House propose to the Senate that the bill be amended as follows:

First: By adding Sec. 1a to read as follows:

Sec. 1a. Sec. 22(a) of No. 179 of the Acts of the 2007 Adj. Sess. (2008), as amended by Sec. 14 of No. 158 of the Acts of the 2009 Adj. Sess. (2010), as further amended by Sec. 38 of No. 104 of the Acts of the 2011 Adj. Sess. (2012), is amended to read:

(a) Secs. 11 and 12 of this act shall take effect on July 1, ~~2013~~ 2014.

Second: By striking Sec. 2 in its entirety and inserting in lieu thereof the following:

Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.

(Committee vote: 10-0-1)

(No Senate Amendments)

S. 132

An act relating to sheriffs, deputy sheriffs, and the service of process

Rep. Devereux of Mount Holly, for the Committee on **Government Operations,** recommends that the House propose to the Senate that the bill be amended as follows:

By striking out Sec. 6 (amending 24 V.S.A. § 367) in its entirety and inserting in lieu thereof the following:

Sec. 6. 24 V.S.A. § 367 is amended to read:

§ 367. DEPARTMENT OF STATE'S ATTORNEYS AND SHERIFFS

(a) There is established a ~~department of state's attorneys~~ Department of State's Attorneys and Sheriffs which shall consist of the 14 state's attorneys and 14 sheriffs. The state's attorneys shall elect an ~~executive committee~~ Executive Committee of five state's attorneys from among their members. The members of the ~~executive committee~~ Executive Committee shall serve for terms of two years. There shall be one general appropriation for the ~~department of state's attorneys~~ Department of State's Attorneys and Sheriffs.

(b) The ~~executive committee~~ Executive Committee and the Executive

Committee of the Vermont Sheriff's Association shall appoint an ~~executive director~~ Executive Director who shall serve at the pleasure of the ~~committee~~ Committees. The ~~executive director~~ Executive Director shall be an exempt employee.

(c) The ~~executive director~~ Executive Director shall prepare and submit all budgetary and financial materials and forms which are required of the head of a department of state government with respect to all state funds appropriated for all of the Vermont state's attorneys and sheriffs. At the beginning of each fiscal year, the ~~executive director~~ Executive Director, with the approval of the ~~executive committee~~ Executive Committee, shall establish allocations for each of the state's attorneys' offices from the state's attorneys' appropriation. Thereafter, the ~~executive director~~ Executive Director shall exercise budgetary control over these allocations and the general appropriation for state's attorneys. The Executive Director shall monitor the sheriff's transport budget and report to the sheriffs on a monthly basis the status of the budget. He or she shall provide centralized support services for the state's attorneys and sheriffs with respect to budgetary planning, training, and office management, and perform such other duties as the ~~executive committee~~ Executive Committee directs. The ~~executive director~~ Executive Director may employ clerical staff as needed to carry out the functions of the ~~department~~ Department. ~~The executive director shall provide similar services to the sheriffs.~~

(d)(1) If an individual state's attorney is aggrieved by a decision of the ~~executive director~~ Executive Director pertaining to an expenditure or proposed expenditure by the state's attorney, the question shall be decided by the ~~executive committee~~ Executive Committee. The decision of the ~~committee~~ Committee shall be final.

(2) If an individual sheriff is aggrieved by a decision of the Executive Director pertaining to an expenditure or proposed expenditure by the sheriff, the question shall be decided by the Executive Committee of the Vermont Sheriff's Association. The decision of the Executive Committee of the Vermont Sheriff's Association shall be final.

(e) [Repealed.]

(Committee vote: 10-0-1)

(For text see Senate Journal 3/27/2013)

S. 148

An act relating to criminal investigation records and the Vermont Public Records Act

Rep. Grad of Moretown, 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. 1 V.S.A. § 317 is amended to read:

§ 317. DEFINITIONS; PUBLIC AGENCY; PUBLIC RECORDS AND DOCUMENTS

* * *

(c) The following public records are exempt from public inspection and copying:

* * *

(5)(A) records dealing with the detection and investigation of crime, ~~including those maintained on any individual or compiled in the course of a criminal or disciplinary investigation by any police or professional licensing agency;~~ but only to the extent that the production of such records:

(i) could reasonably be expected to interfere with enforcement proceedings;

(ii) would deprive a person of a right to a fair trial or an impartial adjudication;

(iii) could reasonably be expected to constitute an unwarranted invasion of personal privacy;

(iv) could reasonably be expected to disclose the identity of a confidential source, including a state, local, or foreign agency or authority or any private institution which furnished information on a confidential basis, and, in the case of a record or information compiled by criminal law enforcement authority in the course of a criminal investigation or by an agency conducting a lawful national security intelligence investigation, information furnished by a confidential source;

(v) would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecution if such disclosure could reasonably be expected to risk circumvention of the law;

(vi) could reasonably be expected to endanger the life or physical safety of any individual;

(B) ~~provided, however, that~~ Notwithstanding subdivision (A) of this subdivision (5), records relating to management and direction of a law enforcement agency; records reflecting the initial arrest of a person, including any ticket, citation, or complaint issued for a traffic violation, as that term is defined in 23 V.S.A. § 2302; and records reflecting the charge of a person shall be public;

(C) It is the intent of the General Assembly that in construing subdivision (A) of this subdivision (5), the courts of this State will be guided by the construction of similar terms contained in 5 U.S.C. § 552(b)(7) (Freedom of Information Act) by the courts of the United States;

(D) It is the intent of the General Assembly that, consistent with the manner in which courts have interpreted subdivision (A) of this subdivision (5), a public agency shall not reveal information that could be used to facilitate the commission of a crime or the identity of a private individual who is a witness to or victim of a crime, unless withholding the identity or information would conceal government wrongdoing. A record shall not be withheld in its entirety because it contains identities or information that have been redacted pursuant to this subdivision;

* * *

Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2013.

(Committee vote: 11-0-0)

(For text see Senate Journal 3/15/2013)

Senate Proposal of Amendment

H. 50

An act relating to the sale, transfer, or importation of pets

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

First: In Sec. 5, 20 V.S.A. § 3682, in subsection (c), by striking out "chapter 9" where it appears in the first and second sentences, and inserting in lieu thereof chapter 8

Second: In Sec. 6, 20 V.S.A. chapter 194, in § 3901, by striking out subdivision (11) in its entirety and inserting in lieu thereof the following:

(11) "Pet shop" means a place ~~where animals are bought, sold, exchanged, or offered for~~ of retail or wholesale business, including a flea market, that is not part of a private dwelling, where cats, dogs, wolf-hybrids, rabbits, rodents, birds, fish, reptiles, or other vertebrates are maintained or

displayed for the purpose of sale or exchange to the general public.

(For text see House Journal 4/4/2013)

H. 101

An act relating to hunting, fishing, and trapping

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

First: In Sec. 6, 10 V.S.A. § 4252, by striking subdivisions (a)(9) and (10) in their entirety

and in the first sentence of subdivision (a)(12), after "archery, muzzle loader," and before the period, by striking "turkey, second archery, and second muzzle loader" and inserting in lieu thereof: and turkey

and in the first sentence of subsection (b), by striking ", second archery license, or" where it appears and inserting in lieu thereof: or a

Second: in Sec. 8, 10 V.S.A. § 4254b, by striking subdivision (a)(4) in its entirety and inserting in lieu thereof the following:

(4) "Long-term care facility" means any facility required to be licensed under 33 V.S.A. chapter 71 or a mental hospital required to be licensed under 18 V.S.A. chapter 43.

Third: By striking Sec. 9 in its entirety and inserting in lieu thereof the following:

Sec. 9. 10 V.S.A. § 4255 is amended to read:

§ 4255. LICENSE FEES

(a) Vermont residents may apply for licenses on forms provided by the ~~commissioner~~ Commissioner. Fees for each license shall be:

(1) Fishing license	$25.00
(2) Hunting license	$22.00
(3) Combination hunting and fishing license	$38.00
(4) Big game licenses (all require a hunting license)	
(A) archery license	$20.00
(B) muzzle loader license	$20.00
(C) turkey license	$23.00
(D) ~~second muzzle loader license~~ [Deleted.]	~~$17.00~~
(E) ~~second archery license~~ [Deleted.]	~~$17.00~~

(F) moose license $100.00

(G) ~~additional~~ early season bear tag $5.00

(5) Trapping license $20.00

(6) Hunting license for persons aged 17 or under $8.00

(7) Trapping license for persons aged 17 or under $10.00

(8) Fishing license for persons aged 15 through 17 $8.00

(9) Super sport license $150.00

(10) Three-day fishing license $10.00

(11) Combination hunting and fishing license for persons aged 17 or under $12.00

(12) Mentored hunting license $10.00

(b) Nonresidents may apply for licenses on forms provided by the ~~commissioner~~ Commissioner. Fees for each license shall be:

(1) Fishing license $50.00

(2) One-day fishing license $20.00

(3) [Deleted.]

(4) Hunting license $100.00

(5) Combination hunting and fishing license $135.00

(6) Big game licenses (all require a hunting license)

(A) archery license $38.00

(B) muzzle loader license $40.00

(C) turkey license $38.00

(D) ~~second muzzle loader license~~ [Deleted] ~~$25.00~~

(E) ~~second archery license~~ [Deleted.] ~~$25.00~~

(F) moose license $350.00

(G) ~~additional~~ early season bear tag $15.00

* * *

(j) If the ~~board~~ Board determines that a moose season will be held in accordance with the rules adopted under sections 4082 and 4084 of this title, the ~~commissioner~~ Commissioner annually may issue three no-cost moose licenses to a ~~child or young adult age 21 years or under~~ person who has a ~~life~~

~~threatening~~ life-threatening disease or illness and who is sponsored by a qualified charitable organization, provided that at least one of the no-cost annual moose licenses awarded each year shall be awarded to a child or young adult age 21 years of age or under who has a life-threatening illness. The child or ~~young~~ adult ~~must~~ shall comply with all other requirements of this chapter and the rules of the ~~board~~ Board. Under this subsection, a person may receive only one no-cost moose license in his or her lifetime. The ~~commissioner~~ Commissioner shall adopt rules in accordance with 3 V.S.A. chapter 25 ~~of Title 3~~ to implement this subsection. The rules shall define the child or ~~young~~ adult qualified to receive the no-cost license, shall define a qualified sponsoring charitable organization, and shall provide the application process and criteria for issuing the no-cost moose license.

* * *

(m) The fee for a therapeutic group fishing license issued under section 4254b of this title shall be $50.00 per year, provided that the Commissioner may waive the fee under this section if the applicant for a therapeutic group fishing license completes instructor certification under the Department's Let's Go Fishing Program. The Commissioner may, at his or her discretion, issue a free therapeutic fishing license to an applicant.

Fourth: In Sec. 20, 10 V.S.A. § 5201, in subdivision (a)(2), after "owner's name and a" and before "method by which to" by striking "legitimate" where it appears

Fifth: In Sec. 21 (Effective Dates), in subsection (b), by striking "Fish and Wildlife Board" where it appears and inserting in lieu thereof: Commissioner of Fish and Wildlife

(For text see House Journal 4/4/2013 and 4/5/2013)

Amendment to be offered by Rep. McCullough of Williston to H. 101

Rep. McCullough of Williston moves that the House concur in the Senate proposal of amendment with a further amendment thereto as follows:

First: In Sec. 9, by adding subdivision (H) to 10 V.S.A. § 4255(a)(4) to read:

(H) additional deer archery tag	$23.00

Second: In Sec. 9, by adding subdivision (H) to 10 V.S.A. § 4255(b)(6) to read:

(H) additional deer archery tag	$38.00

H. 136

An act relating to cost-sharing for preventive services

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

Sec. 1. 8 V.S.A. § 4100a is amended to read:

§ 4100a. MAMMOGRAMS; COVERAGE REQUIRED

(a) Insurers shall provide coverage for screening by ~~low-dose~~ mammography for the presence of occult breast cancer, as provided by this subchapter. Benefits provided shall cover the full cost of the mammography service, subject to a co-payment no greater than the co-payment applicable to care or services provided by a primary care physician under the insured's policy, provided that no co-payment shall exceed $25.00. Mammography services shall not be subject to deductible or coinsurance requirements.

(b) For females 40 years or older, coverage shall be provided for an annual screening. For females less than 40 years of age, coverage for screening shall be provided upon recommendation of a health care provider.

(c) After January 1, 1994, this section shall apply only to screening procedures conducted by test facilities accredited by the American College of Radiologists.

(d) For purposes of this subchapter:

(1) "Insurer" means any insurance company which provides health insurance as defined in subdivision 3301(a)(2) of this title, nonprofit hospital and medical service corporations, and health maintenance organizations. The term does not apply to coverage for specified disease or other limited benefit coverage.

(2) ~~"Low-dose mammography"~~ "Mammography" means the x-ray examination of the breast using equipment dedicated specifically for mammography, including the x-ray tube, filter, compression device, screens, films and cassettes. ~~The average radiation dose to the breast shall be the lowest dose generally recognized by competent medical authority to be practicable for yielding acceptable radiographic images.~~

(3) "Screening" includes the ~~low-dose~~ mammography test procedure and a qualified physician's interpretation of the results of the procedure, including additional views and interpretation as needed.

Sec. 2. 8 V.S.A. § 4100g is amended to read:

§ 4100g. COLORECTAL CANCER SCREENING, COVERAGE

REQUIRED

(a) For purposes of this section:

(1) "Colonoscopy" means a procedure that enables a physician to examine visually the inside of a patient's entire colon and includes the concurrent removal of polyps, biopsy, or both.

(2) "Insurer" means insurance companies that provide health insurance as defined in subdivision 3301(a)(2) of this title, nonprofit hospital and medical services corporations, and health maintenance organizations. The term does not apply to coverage for specified disease or other limited benefit coverage.

(b) Insurers shall provide coverage for colorectal cancer screening, including:

(1) Providing an insured 50 years of age or older with the option of:

(A) Annual fecal occult blood testing plus one flexible sigmoidoscopy every five years; or

(B) One colonoscopy every 10 years.

(2) For an insured who is at high risk for colorectal cancer, colorectal cancer screening examinations and laboratory tests as recommended by the treating physician.

(c) For the purposes of subdivision (b)(2) of this section, an individual is at high risk for colorectal cancer if the individual has:

(1) A family medical history of colorectal cancer or a genetic syndrome predisposing the individual to colorectal cancer;

(2) A prior occurrence of colorectal cancer or precursor polyps;

(3) A prior occurrence of a chronic digestive disease condition such as inflammatory bowel disease, Crohn's disease, or ulcerative colitis; or

(4) Other predisposing factors as determined by the individual's treating physician.

(d) Benefits provided shall cover the colorectal cancer screening subject to a co-payment no greater than the co-payment applicable to care or services provided by a primary care physician under the insured's policy, provided that no co-payment shall exceed $100.00 for services performed under contract with the insurer. Colorectal cancer screening services performed under contract with the insurer also shall not be subject to deductible or coinsurance requirements. In addition, an insured shall not be subject to any additional charge for any service associated with a procedure or test for colorectal cancer

screening, which may include one or more of the following:

(1) removal of tissue or other matter;

(2) laboratory services;

(3) physician services;

(4) facility use; and

(5) anesthesia.

(e) ~~If determined to be permitted by Centers for Medicare and Medicaid Services, for a patient covered under the Medicare program, the patient's out-of-pocket expenditure for a colorectal cancer screening shall not exceed $100.00, with the hospital or other health care facility where the screening is performed absorbing the difference between the Medicare payment and the Medicare negotiated rate for the screening.~~ [Deleted.]

Sec. 3. STATUTORY CONSTRUCTION; LEGISLATIVE INTENT

The express enumeration of the services associated with a procedure or test for colorectal cancer in 8 V.S.A. § 4100g(d) shall not be construed as indicating legislative intent with respect to the scope of covered services associated with any other procedure or test referenced in the Vermont Statutes Annotated.

Sec. 4. 8 V.S.A. § 4100a(a) is amended to read:

(a) Insurers shall provide coverage for screening by mammography for the presence of occult breast cancer, as provided by this subchapter. Benefits provided shall cover the full cost of the mammography service~~, subject to a co-payment no greater than the co-payment applicable to care or services provided by a primary care physician under the insured's policy, provided that no co-payment shall exceed $25.00. Mammography services~~ and shall not be subject to any co-payment, deductible, ~~or~~ coinsurance ~~requirements~~, or other cost-sharing requirement or additional charge.

Sec. 5. 8 V.S.A. § 4100g(d) is amended to read:

(d) ~~Benefits provided shall cover the colorectal cancer screening subject to a co-payment no greater than the co-payment applicable to care or services provided by a primary care physician under the insured's policy, provided that no co-payment shall exceed $100.00 for services performed under contract with the insurer.~~ Colorectal cancer screening services performed under contract with the insurer ~~also~~ shall not be subject to any co-payment, deductible, ~~or~~ coinsurance ~~requirements~~, or other cost-sharing requirement. In addition, an insured shall not be subject to any additional charge for any service associated with a procedure or test for colorectal cancer screening, which may include one

or more of the following:

(1) removal of tissue or other matter;

(2) laboratory services;

(3) physician services;

(4) facility use; and

(5) anesthesia.

Sec. 6. EFFECTIVE DATE

(a) Secs. 4 and 5 of this act shall take effect on October 1, 2013 and shall apply to all health benefit plans on and after October 1, 2013 on such date as a health insurer offers, issues, or renews the health benefit plan, but in no event later than October 1, 2014.

(b) The remaining sections of this act shall take effect upon passage.

(For text see House Journal 3/19/2013)

H. 182

An act relating to search and rescue

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

First: In Sec. 1, in § 1820 (definitions), by striking out subdivision (1) and inserting in lieu thereof the following:

(1) "Missing person" means an individual:

(A) whose whereabouts is unknown; and

(B)(i) ~~who is~~ with either ~~physically disabled, mentally disabled~~ a physical disability, a mental disability, or a developmental disability; or

(ii) who is an unemancipated minor.

Second: In Sec. 1, in 20 V.S.A. § 1845 (search and rescue report; response), in subdivision (b)(1), by adding a second sentence to read: The Department shall also ensure that notification is made to any municipal police and fire departments of the town in which the person is missing, any volunteer fire departments of that town, and any emergency medical service providers of that town which are in the search and rescue database.

Third: In Sec. 1, in § 1847 (Search and Rescue Council), by striking out subdivision (b)(1) (membership) in its entirety and inserting in lieu thereof the following:

(b)(1) Membership. The Council shall be composed of eight members who

shall serve two-year terms commencing on July 1 of each odd-numbered year. Members of the Council shall be as follows:

(A) the Search and Rescue Coordinator;

(B) the Vermont State Police Search and Rescue Team Leader;

(C) one member of the Department of Fish and Wildlife, appointed by the Commissioner of the Department;

(D) one member of the public with experience in search and rescue operations, appointed by the Governor;

(E) one member of the National Ski Patrol or the Green Mountain Club with extensive experience in search and rescue operations, appointed by the Governor;

(F) one member of a professional or volunteer search and rescue organization, appointed by the Governor; and

(G) one volunteer firefighter and one career firefighter, each of whom has obtained National Association of Search and Rescue "SARTECH 3" or equivalent training and either Incident Command System (ICS) 200 or National Incident Management System (NIMS) 300 training, appointed by the Governor.

Fourth: In Sec. 1, in § 1847 (Search and Rescue Council), in subsection (f) (reimbursement), by striking out the last sentence

Fifth: By striking out Sec. 4 (effective dates) in its entirety and inserting in lieu thereof the following three new sections to be Sec. 4, Sec. 4a and Sec. 5 to read as follows:

Sec. 4. PUBLICATION AND DISTRIBUTION OF SEARCH AND RESCUE PROTOCOL

(a) The Search and Rescue Coordinator set forth in Sec. 1 of this act shall publish a search and rescue protocol that describes the procedure set forth in Sec. 1, in 20 V.S.A. § 1845, that is required to be followed by any public safety agency or any nonpublic entity that specializes in protecting the safety of the public and which is included in the search and rescue database. The protocol shall be published as a resource for those agencies and entities to understand their responsibilities under Sec. 1, 20 V.S.A. § 1845, of this act.

(b) The Search and Rescue Coordinator shall ensure that the protocol is distributed to those public safety agencies and nonpublic entities within five business days of its publication.

Sec. 4a. REPEAL

20 V.S.A. § 1847 (Search and Rescue Council) is repealed.

Sec. 5. EFFECTIVE DATES

This act shall take effect on passage, except that:

(1) In Sec. 1 of this act, 20 V.S.A. § 1846 (search and rescue database) shall take effect no later than 15 days after passage of this act. The search and rescue database shall be established, populated, and used as set forth in 20 V.S.A. § 1846 upon its effective date;

(2) Sec. 4 (publication and distribution of search and rescue protocol) of this act shall take effect 15 days after the passage of this act; and

(3) Sec. 4a (repeal of 20 V.S.A. § 1847 (Search and Rescue Council) of this act shall take effect on June 30, 2017.

(For text see House Journal 3/13/2013)

H. 377

An act relating to neighborhood planning and development for municipalities with designated centers

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

First: In Sec. 2, 24 V.S.A. § 2791, in subdivision (3), by striking out the words "a regional" and inserting in lieu thereof the word the

Second: In Sec. 8, 24 V.S.A. § 2793e, in subsection (c), by striking out subdivision (5) in its entirety and inserting in lieu thereof the following:

(5) The proposed neighborhood development area consists of those portions of the neighborhood planning area that are appropriate for new and infill housing, excluding identified flood hazard and fluvial erosion areas. In determining what areas are most suitable for new and infill housing, the municipality shall balance local goals for future land use, the availability of land for housing within the neighborhood planning area, and the smart growth principles. Based on those considerations, the municipality shall select an area for neighborhood development area designation that:

(A) Avoids or that minimizes to the extent feasible the inclusion of "important natural resources" as defined in subdivision 2791(14) of this title. If an "important natural resource" is included within a proposed neighborhood development area, the applicant shall identify the resource, explain why the resource was included, describe any anticipated disturbance to such resource, and describe why the disturbance cannot be avoided or minimized.

(B) Is served by planned or existing transportation infrastructure that conforms with "complete streets" principles as described under 19 V.S.A.

§ 309d and establishes pedestrian access directly to the downtown, village center, or new town center.

(C) Is compatible with and will reinforce the character of adjacent National Register Historic Districts, national or state register historic sites, and other significant cultural and natural resources identified by local or state government.

Third: In Sec. 8, 24 V.S.A. § 2793e, in subsection (d), by striking out subdivision (1) in its entirety and inserting in lieu thereof the following:

(1) When approving a neighborhood development area, the State Board shall consult with the applicant about any changes the Board considers making to the boundaries of the proposed area. After consultation with the applicant, the Board may change the boundaries of the proposed area.

Fourth: In Sec. 8, 24 V.S.A. § 2793e, in subsection (d), in subdivision (2), before the words "the members", by inserting the words at least 80 percent but no fewer than seven of, and by striking out the word "unanimously" and inserting in lieu thereof the word present

Fifth: In Sec. 8, 24 V.S.A. § 2793e, in subsection (h), after the last sentence, by adding Before reviewing such an application, the State Board shall request comment from the municipality.

Sixth: By adding a new section to be Sec. 14a to read:

Sec. 14a. 32 V.S.A. § 3850 is added to read:

§ 3850. BLIGHTED PROPERTY IMPROVEMENT PROGRAM

(a) At an annual or special meeting, a municipality may vote to authorize the legislative body of the municipality to exempt from municipal taxes for a period not to exceed five years the value of improvements made to dwelling units certified as blighted. As used in this section, "dwelling unit" means a building or the part of a building that is used as a primary home, residence, or sleeping place by one or more persons who maintain a household.

(b) If a municipality votes to approve the exemption described in subsection (a) of this section, the legislative body of the municipality shall appoint an independent review committee that is authorized to certify dwelling units in the municipality as blighted and exempt the value of improvements made to these dwelling units.

(c) As used in this section, a dwelling unit may be certified as blighted when it exhibits objectively determinable signs of deterioration sufficient to constitute a threat to human health, safety, and public welfare.

(d) If a dwelling unit is certified as blighted under subsection (b) of this

section, the exemption shall take effect on the April 1 following the certification of the dwelling unit.

(For text see House Journal 3/20/2013)

Rep. Dickinson of St. Albans Town, for the Committee on **Commerce and Economic Development,** recommends the House concur in the Senate Proposal of amendment with a further amendment thereto as follows:

First: In Sec. 8, 24 V.S.A. § 2793e, by striking out subsection (h) in its entirety and inserting in lieu thereof a new subsection (h) as follows:

(h) Alternative designation. If a municipality has completed all of the planning and assessment steps of this section but has not requested designation of a neighborhood development area, an owner of land within a neighborhood planning area may apply to the State Board for neighborhood development area designation status for a portion of land within the neighborhood planning area. The applicant shall have the responsibility to demonstrate that all of the requirements for a neighborhood development area designation have been satisfied and to notify the municipality that the applicant is seeking the designation. The State Board shall provide the municipality with at least 14 days' prior notice of the Board's meeting to consider the application, and the municipality shall submit to the State Board the municipality's response, if any, to the application before or during that meeting. On approval of a neighborhood development area designation under this subsection, the applicant may proceed to obtain a jurisdictional opinion from the district coordinator under subsection (f) of this section in order to obtain the benefits granted to neighborhood development areas.

Second: By striking Sec. 14a (blighted property improvement program) in its entirety

(Committee Vote: 11-0-0)

NOTICE CALENDAR

Committee Bill for Second Reading

H. 543

An act relating to records and reports of the Auditor of Accounts.

(Rep. Cole of Burlington will speak for the Committee on **Government Operations.)**

Favorable with Amendment

S. 7

An act relating to social networking privacy protection

Rep. Weed of Enosburgh, for the Committee on **General, Housing and Military Affairs,** 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. SOCIAL NETWORKING PRIVACY PROTECTION STUDY COMMITTEE

(a) A Committee is established to study the issue of prohibiting employers from requiring employees or applicants for employment to disclose a means of accessing the employee's or applicant's social network account.

(b) The Committee shall examine:

(1) existing social networking privacy laws and proposed legislation in other states;

(2) the interplay between state law and existing or proposed federal law on the subject of social networking privacy and employment; and

(3) any other issues relevant to social networking privacy or employment.

(c) The Committee shall make recommendations, including proposed legislation.

(d) The Committee shall consist of the following members:

(1) two representatives of employers, one appointed by the Speaker of the House and one by the Committee on Committees;

(2) two representatives from labor organizations, one appointed by the Speaker and one by the Committee on Committees;

(3) the Attorney General or designee;

(4) the Commissioner of Labor or designee;

(5) the Commissioner of Financial Regulation or designee;

(6) the Commissioner of Human Resources or designee;

(7) the Commissioner of Public Safety or designee;

(8) the Executive Director of the Human Rights Commission or designee; and

(9) a representative of the American Civil Liberties Union of Vermont.

(e) The Committee shall convene its first meeting on or before September 1, 2013. The Commissioner of Labor or designee shall be designated Chair of the Committee and shall convene the first and subsequent meetings.

(f) The Committee shall report its findings and recommendations on or before January 15, 2014 to the House Committee on General, Housing and Military Affairs and the Senate Committee on Economic Development, Housing and General Affairs.

(g) The Committee shall cease to function upon transmitting its report.

Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.

(Committee vote: 8-0-0)

(For text see Senate Journal 3/20/2013 and 3/21/2013)

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

* * * Social Networking Privacy Protection Study * * *

Sec. 1. SOCIAL NETWORKING PRIVACY PROTECTION STUDY COMMITTEE

(a) A Committee is established to study the issue of prohibiting employers from requiring employees or applicants for employment to disclose a means of accessing the employee's or applicant's social network account.

(b) The Committee shall examine:

(1) existing social networking privacy laws and proposed legislation in other states;

(2) the interplay between state law and existing or proposed federal law on the subject of social networking privacy and employment; and

(3) any other issues relevant to social networking privacy or employment.

(c) The Committee shall make recommendations, including proposed legislation.

(d) The Committee shall consist of the following members:

(1) two representatives of employers, one appointed by the Speaker of

the House and one by the Committee on Committees;

(2) two representatives from labor organizations, one appointed by the Speaker and one by the Committee on Committees;

(3) the Attorney General or designee;

(4) the Commissioner of Labor or designee;

(5) the Commissioner of Financial Regulation or designee;

(6) the Commissioner of Human Resources or designee;

(7) the Commissioner of Public Safety or designee;

(8) the Executive Director of the Human Rights Commission or designee; and

(9) a representative of the American Civil Liberties Union of Vermont.

(e) The Committee shall convene its first meeting on or before September 1, 2013. The Commissioner of Labor or designee shall be designated Chair of the Committee and shall convene the first and subsequent meetings.

(f) The Committee shall report its findings and recommendations on or before January 15, 2014 to the House Committee on General, Housing and Military Affairs and the Senate Committee on Economic Development, Housing and General Affairs.

(g) The Committee shall cease to function upon transmitting its report.

* * * Bad Faith Assertions of Patent Infringement * * *

Sec. 2. 9 V.S.A. chapter 120 is added to read:

CHAPTER 120. BAD FAITH ASSERTIONS

OF PATENT INFRINGEMENT

§ 4195. LEGISLATIVE FINDINGS AND STATEMENT OF PURPOSE

(a) The General Assembly finds that:

(1) Vermont is striving to build an entrepreneurial and knowledge based economy. Attracting and nurturing small and medium sized internet technology ("IT") and other knowledge based companies is an important part of this effort and will be beneficial to Vermont's future.

(2) Patents are essential to encouraging innovation, especially in the IT and knowledge based fields. The protections afforded by the federal patent system create an incentive to invest in research and innovation, which spurs economic growth. Patent holders have every right to enforce their patents

when they are infringed, and patent enforcement litigation is necessary to protect intellectual property.

(3) The General Assembly does not wish to interfere with the good faith enforcement of patents or good faith patent litigation. The General Assembly also recognizes that Vermont is preempted from passing any law that conflicts with federal patent law.

(4) Patent litigation can be technical, complex, and expensive. The expense of patent litigation, which may cost hundreds of thousands of dollars or more, can be a significant burden on small and medium sized companies. Vermont wishes to help its businesses avoid these costs by encouraging the most efficient resolution of patent infringement claims without conflicting with federal law.

(5) In order for Vermont companies to be able to respond promptly and efficiently to patent infringement assertions against them, it is necessary that they receive specific information regarding how their product, service, or technology may have infringed the patent at issue. Receiving such information at an early stage will facilitate the resolution of claims and lessen the burden of potential litigation on Vermont companies.

(6) Abusive patent litigation, and especially the assertion of bad faith infringement claims, can harm Vermont companies. A business that receives a letter asserting such claims faces the threat of expensive and protracted litigation and may feel that it has no choice but to settle and to pay a licensing fee, even if the claim is meritless. This is especially so for small and medium sized companies and nonprofits that lack the resources to investigate and defend themselves against infringement claims.

(7) Not only do bad faith patent infringement claims impose a significant burden on individual Vermont businesses, they also undermine Vermont's efforts to attract and nurture small and medium sized IT and other knowledge based companies. Funds used to avoid the threat of bad faith litigation are no longer available to invest, produce new products, expand, or hire new workers, thereby harming Vermont's economy.

(b) Through this narrowly focused act, the General Assembly seeks to facilitate the efficient and prompt resolution of patent infringement claims, protect Vermont businesses from abusive and bad faith assertions of patent infringement, and build Vermont's economy, while at the same time respecting federal law and being careful to not interfere with legitimate patent enforcement actions.

§ 4196. DEFINITIONS

In this chapter:

(1) "Demand letter" means a letter, e-mail, or other communication asserting or claiming that the target has engaged in patent infringement.

(2) "Target" means a Vermont person:

(A) who has received a demand letter or against whom an assertion or allegation of patent infringement has been made;

(B) who has been threatened with litigation or against whom a lawsuit has been filed alleging patent infringement; or

(C) whose customers have received a demand letter asserting that the person's product, service, or technology has infringed a patent.

§ 4197. BAD FAITH ASSERTIONS OF PATENT INFRINGEMENT

(a) A person shall not make a bad faith assertion of patent infringement.

(b) A court may consider the following factors as evidence that a person has made a bad faith assertion of patent infringement:

(1) The demand letter does not contain the following information:

(A) the patent number;

(B) the name and address of the patent owner or owners and assignee or assignees, if any; and

(C) factual allegations concerning the specific areas in which the target's products, services, and technology infringe the patent or are covered by the claims in the patent.

(2) Prior to sending the demand letter, the person fails to conduct an analysis comparing the claims in the patent to the target's products, services, and technology, or such an analysis was done but does not identify specific areas in which the products, services, and technology are covered by the claims in the patent.

(3) The demand letter lacks the information described in subdivision (1) of this subsection, the target requests the information, and the person fails to provide the information within a reasonable period of time.

(4) The demand letter demands payment of a license fee or response within an unreasonably short period of time.

(5) The person offers to license the patent for an amount that is not based on a reasonable estimate of the value of the license.

(6) The claim or assertion of patent infringement is meritless, and the

person knew, or should have known, that the claim or assertion is meritless.

(7) The claim or assertion of patent infringement is deceptive.

(8) The person or its subsidiaries or affiliates have previously filed or threatened to file one or more lawsuits based on the same or similar claim of patent infringement and:

(A) those threats or lawsuits lacked the information described in subdivision (1) of this subsection; or

(B) the person attempted to enforce the claim of patent infringement in litigation and a court found the claim to be meritless.

(9) Any other factor the court finds relevant.

(c) A court may consider the following factors as evidence that a person has not made a bad faith assertion of patent infringement:

(1) The demand letter contains the information described in subdivision (b)(1) of this section.

(2) Where the demand letter lacks the information described in subdivision (b)(1) of this section and the target requests the information, the person provides the information within a reasonable period of time.

(3) The person engages in a good faith effort to establish that the target has infringed the patent and to negotiate an appropriate remedy.

(4) The person makes a substantial investment in the use of the patent or in the production or sale of a product or item covered by the patent.

(5) The person is:

(A) the inventor or joint inventor of the patent or, in the case of a patent filed by and awarded to an assignee of the original inventor or joint inventor, is the original assignee; or

(B) an institution of higher education or a technology transfer organization owned or affiliated with an institution of higher education.

(6) The person has:

(A) demonstrated good faith business practices in previous efforts to enforce the patent, or a substantially similar patent; or

(B) successfully enforced the patent, or a substantially similar patent, through litigation.

(7) Any other factor the court finds relevant.

§ 4198. BOND

If a court determines that a target has established a reasonable likelihood that a person has made a bad faith assertion of patent infringement in violation of this chapter, the court may require the person to post a bond in an amount equal to a good faith estimate of the target's costs to litigate the claim. A bond ordered pursuant to this section shall not exceed $250,000.00.

§ 4199. ENFORCEMENT; REMEDIES; DAMAGES

(a) The Attorney General shall have the same authority under this chapter to make rules, conduct civil investigations, bring civil actions, and enter into assurances of discontinuance as provided under chapter 63 of this title. In an action brought by the Attorney General under this chapter the court may award or impose any relief available under chapter 63 of this title.

(b) A target of conduct involving assertions of patent infringement, or a person aggrieved by a violation of this chapter or by a violation of rules adopted under this chapter, may bring an action in superior court. A court may award the following remedies to a plaintiff who prevails in an action brought pursuant to this subsection:

(1) equitable relief;

(2) damages;

(3) costs and fees, including reasonable attorney's fees; and

(4) exemplary damages in an amount equal to $50,000.00 or three times the total of damages, costs, and fees, whichever is greater.

(c) This chapter shall not be construed to limit rights and remedies available to the State of Vermont or to any person under any other law and shall not alter or restrict the Attorney General's authority under chapter 63 of this title with regard to conduct involving assertions of patent infringement.

* * * Effective Date * * *

Sec. 3. EFFECTIVE DATE

This act shall take effect on passage.

(Committee Vote: 11-0-0)

Rep. Koch of Barre Town, for the Committee on **Judiciary,** recommends the bill ought to pass when amended as recommended by the Committee on **Commerce and Economic Development** and when further amended as follows:

In Sec. 2, by striking out section 4198 in its entirety and by inserting in lieu thereof a new section 4198 to read:

§ 4198. BOND

Upon motion by a target and a finding by the court that a target has established a reasonable likelihood that a person has made a bad faith assertion of patent infringement in violation of this chapter, the court shall require the person to post a bond in an amount equal to a good faith estimate of the target's costs to litigate the claim and amounts reasonably likely to be recovered under § 4199(b) of this chapter, conditioned upon payment of any amounts finally determined to be due to the target. A hearing shall be held if either party so requests. A bond ordered pursuant to this section shall not exceed $250,000.00. The court may waive the bond requirement if it finds the person has available assets equal to the amount of the proposed bond or for other good cause shown.

(Committee Vote: 11-0-0)

S. 130

An act relating to encouraging flexible pathways to secondary school completion

Rep. Peltz of Woodbury, for the Committee on **Education,** 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:

* * * Flexible Pathways Initiative; Dual Enrollment * * *

Sec. 1. 16 V.S.A. chapter 23, subchapter 2 is added to read:

Subchapter 2. Flexible Pathways to Secondary School Completion

§ 941. FLEXIBLE PATHWAYS INITIATIVE

(a) There is created within the Agency a Flexible Pathways Initiative:

(1) to encourage and support the creativity of school districts as they develop and expand high-quality educational experiences that are an integral part of secondary education in the evolving 21st Century classroom;

(2) to promote opportunities for Vermont students to achieve postsecondary readiness through high-quality educational experiences that acknowledge individual goals, learning styles, and abilities; and

(3) to increase the rates of secondary school completion and postsecondary continuation in Vermont.

(b) The Secretary shall develop, publish, and regularly update guidance, in the form of technical assistance, sharing of best practices and model documents, legal interpretations, and other support designed to assist school

districts:

(1) to identify and support secondary students who require additional assistance to succeed in school and to identify ways in which individual students would benefit from flexible pathways to graduation;

(2) to work with every student in grade seven through grade 12 in an ongoing personalized learning planning process that:

(A) identifies the student's emerging abilities, aptitude, and disposition;

(B) includes participation by families and other engaged adults;

(C) guides decisions regarding course offerings and other high-quality educational experiences; and

(D) is documented by a personalized learning plan;

(3) to create opportunities for secondary students to pursue flexible pathways to graduation that:

(A) increase aspiration and encourage postsecondary continuation of training and education;

(B) are an integral component of a student's personalized learning plan; and

(C) include:

(i) applied or work-based learning opportunities, including career and technical education and internships;

(ii) virtual learning and blended learning;

(iii) dual enrollment opportunities as set forth in section 944 of this title:

(iv) early college programs as set forth in subsection 4011(e) of this title;

(v) the High School Completion Program as set forth in section 943 of this title; and

(vi) the Adult Diploma Program and General Educational Development Program as set forth in section 946 of this title; and

(4) to provide students, beginning no later than in the seventh grade, with career development and postsecondary planning resources to ensure that they are able to take full advantage of the opportunities available within the flexible pathways to graduation and to achieve their career and postsecondary

education and training goals.

(c) Nothing in this subchapter shall be construed as discouraging or limiting the authority of any school district to develop or continue to provide educational opportunities for its students that are otherwise permitted, including the provision of Advanced Placement courses.

(d) An individual entitlement or private right of action shall not arise from creation of a personalized learning plan.

§ 942. DEFINITIONS

As used in this title:

(1) "Accredited postsecondary institution" means a postsecondary institution that has been accredited by the New England Association of Schools and Colleges or another regional accrediting agency recognized by the U.S. Department of Education.

(2) "Approved provider" means an entity approved by the Secretary to provide educational services that may be awarded credits or used to determine proficiency necessary for a high school diploma.

(3) "Blended learning" means a formal education program in which content and instruction are delivered both in a traditional classroom setting and through virtual learning.

(4) "Career development" means the identification of student interests and aptitudes and the ability to link these to potential career paths and the training and education necessary to succeed on these paths.

(5) "Carnegie unit" means 125 hours of class or contact time with a teacher over the course of one year at the secondary level.

(6) "Contracting agency" means an entity that enters into a contract with the Agency to provide "flexible pathways to graduation" services itself or in conjunction with one or more approved providers in Vermont.

(7) "Dual enrollment" means enrollment by a secondary student in a course offered by an accredited postsecondary institution and for which, upon successful completion of the course, the student will receive:

(A) secondary credit toward graduation from the secondary school in which the student is enrolled; and

(B) postsecondary credit from the institution that offered the course if the course is a credit-bearing course at that institution.

(8) "Early college" means full-time enrollment, pursuant to subsection 4011(e) of this title, by a 12th grade Vermont student for one academic year in

a program offered by a postsecondary institution in which the credits earned apply to secondary school graduation requirements.

(9) "Flexible pathways to graduation" means any combination of high-quality academic and experiential components leading to secondary school completion and postsecondary readiness, which may include assessments that allow the student to apply his or her knowledge and skills to tasks that are of interest to that student.

(10) "Personalized learning plan" and "PLP" mean documentation of an evolving plan developed on behalf of a student in an ongoing process involving a secondary student, a representative of the school, and, if the student is a minor, the student's parents or legal guardian and updated at least annually by November 30; provided, however, that a home study student and the student's parent or guardian shall be solely responsible for developing a plan. The plan shall be developmentally appropriate and shall reflect the student's emerging abilities, aptitude, and disposition. The plan shall define the scope and rigor of academic and experiential opportunities necessary for a secondary student to complete secondary school successfully, attain postsecondary readiness, and be prepared to engage actively in civic life. While often less formalized, personalized learning and personalized instructional approaches are critical to students in kindergarten through grade 6 as well.

(11) "Postsecondary planning" means the identification of education and training programs after high school that meet a student's academic, vocational, financial, and social needs and the identification of financial assistance available for those programs.

(12) "Postsecondary readiness" means the ability to enter the workforce or to pursue postsecondary education or training without the need for remediation.

(13) "Virtual learning" means learning in which the teacher and student communicate concurrently through real-time telecommunication. "Virtual learning" also means online learning in which communication between the teacher and student does not occur concurrently and the student works according to his or her own schedule.

§ 943. [RESERVED.]

§ 944. DUAL ENROLLMENT PROGRAM

(a) Program creation. There is created a statewide Dual Enrollment Program to be a potential component of a student's flexible pathway. The Program shall include college courses offered on the campus of an accredited

postsecondary institution and college courses offered by an accredited postsecondary institution on the campus of a secondary school. The Program may include online college courses or components.

(b) Students.

(1) A Vermont resident who has completed grade 10 but has not received a high school diploma is eligible to participate in the Program if:

(A) the student:

(i) is enrolled in:

(I) a Vermont public school, including a Vermont career technical center;

(II) a public school in another state or an approved independent school that is designated as the public secondary school for the student's district of residence; or

(III) an approved independent school in Vermont to which the student's district of residence pays publicly funded tuition on behalf of the student;

(ii) is assigned to a public school through the High School Completion Program; or

(iii) is a home study student;

(B) dual enrollment is an element included within the student's personalized learning plan; and

(C) the secondary school and the postsecondary institution have determined that the student is sufficiently prepared to succeed in a dual enrollment course, which can be determined in part by the assessment tool or tools identified by the participating postsecondary institution.

(2) An eligible student may enroll in up to two dual enrollment courses prior to completion of secondary school for which neither the student nor the student's parent or guardian shall be required to pay tuition. A student may enroll in courses offered while secondary school is in session and during the summer.

(c) Public postsecondary institutions. The Vermont State Colleges and the University of Vermont shall work together to provide dual enrollment opportunities throughout the State.

(1) When a dual enrollment course is offered on a secondary school campus, the public postsecondary institution shall:

(A) retain authority to determine course content; and

(B) work with the secondary school to select, monitor, support, and evaluate instructors.

(2) The public postsecondary institution shall maintain the postsecondary academic record of each participating student and provide transcripts on request.

(3) To the extent permitted under the Family Educational Rights and Privacy Act, the public postsecondary institution shall collect and send data related to student participation and success to the student's secondary school and the Secretary and shall send data to the Vermont Student Assistance Corporation necessary for the Corporation's federal reporting requirements.

(4) The public postsecondary institution shall accept as full payment the tuition set forth in subsection (f) of this section.

(d) Secondary schools. Each school identified in subdivision (b)(1) of this section that is located in Vermont shall:

(1) provide access for eligible students to participate in any dual enrollment courses that may be offered on the campus of the secondary school;

(2) accept postsecondary credit awarded for dual enrollment courses offered by a Vermont public postsecondary institution under this section as meeting secondary school graduation requirements;

(3) collect enrollment data as prescribed by the Secretary for longitudinal review and evaluation;

(4) identify and provide necessary support for participating students and continue to provide services for students with disabilities; and

(5) provide support for a seamless transition to postsecondary enrollment upon graduation.

(e) Program management. The Agency shall manage or may contract for the management of the Dual Enrollment Program in Vermont by:

(1) marketing the Dual Enrollment Program to Vermont students and their families;

(2) assisting secondary and postsecondary partners to develop memoranda of understanding, when requested;

(3) coordinating with secondary and postsecondary partners to understand and define student academic readiness;

(4) convening regular meetings of interested parties to explore and develop improved student support services;

(5) coordinating the use of technology to ensure access and coordination of the Program;

(6) reviewing program costs;

(7) evaluating all aspects of the Dual Enrollment Program and ensuring overall quality and accountability; and

(8) performing other necessary or related duties.

(f) Tuition and funding.

(1) Tuition shall be paid to public postsecondary institutions in Vermont

as follows:

(A) For any course for which the postsecondary institution pays the instructor, the student's school district of residence shall pay tuition to the postsecondary institution in an amount equal to the tuition rate charged by the Community College of Vermont (CCV) at the time the dual enrollment course is offered; provided however, that tuition paid to CCV under this subdivision (A) shall be in an amount equal to 90 percent of the CCV rate.

(B) For any course that is taught by an instructor who is paid as part of employment by a secondary school, the student's school district of residence shall pay tuition to the postsecondary institution in an amount equal to 20 percent of the tuition rate charged by the Community College of Vermont at the time the dual enrollment course is offered.

(2) Notwithstanding subdivision (1) of this subsection requiring the district of residence to pay tuition, the State shall pay 50 percent of the tuition owed to public postsecondary institutions under subdivision (1)(A) of this subsection from the Next Generation Initiative Fund created in section 2887 of this title; provided, however, that the total amount paid by the State in any fiscal year shall not exceed the total amount of General Fund dollars the General Assembly appropriated from the Fund in that year for dual enrollment purposes plus any balance carried forward from the previous fiscal year.

(3) If it agrees to the terms of subsection (c) of this section, an accredited private postsecondary institution in Vermont approved pursuant to section 176 of this title shall receive tuition pursuant to subdivisions (1) and (2) of this subsection (f) for each eligible student it enrolls in a college-level course under this section.

(g) Private and out-of-state postsecondary institutions. Nothing in this section shall be construed to limit a school district's authority to enter into a contract for dual enrollment courses with an accredited private or public postsecondary institution not identified in subsection (c) of this section located in or outside Vermont. The school district may negotiate terms different from those set forth in this section, including the amount of tuition to be paid. The school district may determine whether enrollment by an eligible student in a course offered under this subsection shall constitute one of the two courses authorized by subdivision (b)(2) of this section.

(h) Number of courses. Nothing in this section shall be construed to limit a school district's authority to pay for more than the two courses per eligible student authorized by subdivision (b)(2) of this section; provided, however, that payment under subdivision (f)(2) of this section shall not be made for more than two courses per eligible student.

(i) Other postsecondary courses. Nothing in this section shall be construed to limit a school district's authority to award credit toward graduation

requirements to a student who receives prior approval from the school and successfully completes a course offered by an accredited postsecondary institution that was not paid for by the district pursuant to this section. The school district shall determine the number and nature of credits it will award to the student for successful completion of the course, including whether the course will satisfy one or more graduation requirements, and shall inform the student prior to enrollment. Credits awarded shall be based on performance and not solely on Carnegie units; provided, however, that unless the school district determines otherwise, a three-credit postsecondary course shall be presumed to equal one-half of a Carnegie unit. A school district shall not withhold approval or credit without reasonable justification. A student may request that the superintendent review the district's determination regarding course approval or credits. The superintendent's decision shall be final.

(j) Reports. Notwithstanding 2 V.S.A. § 20(d), the Secretary shall report to the House and Senate Committees on Education annually in January regarding the Dual Enrollment Program, including data relating to student demographics, levels of participation, marketing, and program success.

§ 945. [RESERVED.]

Sec. 2. DUAL ENROLLMENT; TRANSITION; FUNDING; NONOPERATING DISTRICTS

(a) Notwithstanding any provision of Sec. 1, 16 V.S.A. § 944(f), to the contrary, the State shall pay 100 percent of the tuition owed to postsecondary institutions under subdivision (f)(1) for courses offered in fiscal years 2014 and 2015; provided, however, that the total amount paid by the State in either fiscal year shall not exceed the total amount of General Fund dollars the General Assembly appropriated from the Fund in that year for dual enrollment purposes plus any balance carried forward from the previous fiscal year. Any balance carried forward from fiscal year 2015 shall be used to satisfy the financial obligations of school districts under subsection (f) in fiscal year 2016.

(b)(1) The Secretary shall analyze issues relating to providing dual enrollment opportunities pursuant to Sec. 1 of this act to publicly funded students enrolled in Vermont approved independent schools. Specifically, the analysis shall include:

(A) the anticipated utilization of dual enrollment opportunities;

(B) the anticipated financial impact on sending school districts;

(C) the ways in which sending school districts will ensure student participation in a personalized learning planning process and inclusion of dual enrollment in the student's plan; and

(D) other financial and programmatic issues related to dual enrollment access by publicly funded students enrolled in approved independent schools.

(2) On or before February 1, 2014, the Secretary shall report the results

of the analysis to the House and Senate Committees on Education together with any recommendations for amendment to statutes or rules, including whether it would be advisable to amend or repeal Sec. 1, 16 V.S.A. § 944(b)(1)(A)(i)(III) (eligibility of publicly funded student enrolled in Vermont approved independent school).

Sec. 3. REPEAL

16 V.S.A. § 913 (secondary credit; postsecondary course) is repealed.

* * * Flexible Pathways: High School Completion Program * * *

Sec. 4. 16 V.S.A. § 1049a is redesignated to read:

§ ~~1049a~~ 943. HIGH SCHOOL COMPLETION PROGRAM

Sec. 5. 16 V.S.A. § 943 is amended to read:

§ 943. HIGH SCHOOL COMPLETION PROGRAM

(a) ~~In this section:~~

~~(1) "Graduation education plan" means a written plan leading to a high school diploma for a person who is 16 to 22 years of age and has not received a high school diploma, who may or may not be enrolled in a public or approved independent school. The plan shall define the scope and rigor of services necessary for the student to attain a high school diploma, and may describe educational services to be provided by a public high school, an approved independent high school, an approved provider, or a combination of these.~~

~~(2) "Approved provider" means an entity approved by the commissioner to provide educational services which may be counted for credit toward a high school diploma.~~

~~(3) "Contracting agency" means an agency that has entered into a contract with the department of education to provide adult education services in Vermont.~~

There is created a High School Completion Program to be a potential component of a flexible pathway for any Vermont student who is at least 16 years old, who has not received a high school diploma, and who may or may not be enrolled in a public or approved independent school.

(b) If a person who wishes to work on a ~~graduation education plan~~ personalized learning plan leading to graduation through the High School Completion Program is not enrolled in a public or approved independent school, then the ~~commissioner~~ Secretary shall assign the prospective student to a high school district, which shall be the district of residence whenever possible. The school district in which a student is enrolled or to which a non-enrolled student is assigned shall work with the contracting agency and the

student to develop a ~~graduation education~~ personalized learning plan. The school district shall award a high school diploma upon successful completion of the plan.

(c) The ~~commissioner~~ Secretary shall reimburse, and net cash payments where possible, a school district that has agreed to a ~~graduation education~~ personalized learning plan developed under this section in an amount:

(1) established by the ~~commissioner~~ Secretary for the development and ongoing evaluation and revision of the ~~graduation education~~ personalized learning plan and for other educational services typically provided by the assigned district or an approved independent school pursuant to the plan, such as counseling, health services, participation in cocurricular activities, and participation in academic or other courses~~,~~; provided, however, that this amount shall not be available to a school district that provides services under this section to an enrolled student; and

(2) negotiated by the ~~commissioner~~ Secretary and the contracting agency, with the approved provider, for services and outcomes purchased from the approved provider on behalf of the student pursuant to the ~~graduation education~~ personalized learning plan.

* * * Flexible Pathways: Adult Diploma Program; GED * * *

Sec. 6. 16 V.S.A. § 1049 is redesignated to read:

~~§ 1049. PROGRAMS~~ § 945. ADULT DIPLOMA PROGRAM; GENERAL EDUCATIONAL DEVELOPMENT PROGRAM

Sec. 7. 16 V.S.A. § 945 is amended to read:

§ 945. ADULT DIPLOMA PROGRAM; GENERAL EDUCATIONAL DEVELOPMENT PROGRAM

(a) ~~The commissioner of education may provide programs designed to fit the individual needs and circumstances of adult students. Programs authorized under this section shall give priority to those adult persons with the lowest levels of literacy skills.~~

~~(b)(1) Fees for general educational development shall be $3.00 for a transcript.~~

~~(2)~~ The Secretary shall maintain an adult diploma program (ADP) ~~means~~, which shall be an assessment process administered by the ~~Vermont department of education~~ Agency through which an ~~adul~~t individual who is at least 20 years old can receive a local high school diploma granted by one of the program's participating high schools.

~~(3) General~~ (b) The Secretary shall maintain a general educational

development (GED) ~~means a testing program administered jointly by the Vermont department of education,~~ program, which it shall administer jointly with the GED testing service~~,~~ and approved local testing centers and through which an ~~adult~~ individual who is at least 16 years old and who is not enrolled in secondary school can receive a secondary school equivalency certificate based on successful completion of the GED tests ~~of general educational development~~.

(c) ~~Fees collected under this section shall be credited to a special fund established and managed pursuant to chapter 7, subchapter 5 of Title 32, and shall be available to the department to offset the costs of providing those services~~ The Secretary may provide additional programs designed to address the individual needs and circumstances of adult students, particularly students with the lowest levels of literacy skills.

* * * Flexible Pathways: Early College * * *

Sec. 8. 16 V.S.A. § 4011(e) is amended to read:

(e) Early college.

(1) ~~The commissioner~~ For each 12th grade Vermont student enrolled, the Secretary shall pay an amount equal to 87 percent of the base education amount to:

(A) the Vermont Academy of Science and Technology ~~for each Vermont resident, 12th grade student enrolled~~ (VAST); and

(B) an early college program other than the VAST program that is developed and operated or overseen by one of the Vermont State Colleges, by the University of Vermont, or by an accredited private postsecondary school located in Vermont and that is approved for operation by the Secretary; provided, however, when making a payment under this subdivision (B), the Secretary shall not pay more than the tuition charged by the institution.

(2) The Secretary shall make the payment pursuant to subdivision (1) of this subsection directly to the postsecondary institution, which shall accept the amount as full payment of the student's tuition.

(3) A student on whose behalf the Secretary makes a payment pursuant to subdivision (1) of this subsection:

(A) shall be enrolled as a full-time student in the institution receiving the payment for the academic year for which payment is made;

(B) shall not be enrolled concurrently in a secondary school operated by the student's district of residence or to which the district pays tuition on the student's behalf; and

(C) shall not be included in the average daily membership of any school district for the academic year for which payment is made; provided, however, that if more than five percent of the 12th grade students residing in a district enroll in an early college program, then the district may include the number of students in excess of five percent in its average daily membership; but further provided that a 12th grade student enrolled in a college program shall be included in the percentage calculation only if, for the previous academic year, the student was enrolled in a school maintained by the district or was a student for whom the district paid tuition to a public or approved independent school.

(4) A postsecondary institution shall not accept a student into an early college program unless enrollment in an early college program was an element of the student's personalized learning plan.

Sec. 9. 16 V.S.A. § 1545(c) is amended to read:

(c) For any resident 12th grade student ~~attending the Vermont academy for science and technology~~ enrolled in the Vermont Academy of Science and Technology pursuant to subsection 4011(e) of this title or in another early college program pursuant to that subsection, the credits and grades earned shall, upon request of the student or the student's parent or guardian, be applied toward graduation requirements at the Vermont ~~high school which~~ secondary school that the student attended prior to enrolling in the ~~academy~~ early college program.

Sec. 10. 16 V.S.A. § 4011a is added to read:

§ 4011a. EARLY COLLEGE PROGRAM; REPORT

Notwithstanding 2 V.S.A. § 20(d), any postsecondary institution receiving funds pursuant to subsection 4011(e) of this title shall report annually in January to the Senate and House Committees on Education regarding the level of participation in the institution's early college program, the success in achieving the stated goals of the program to enhance secondary students' educational experiences and prepare them for success in college and beyond, and the specific outcomes for participating students relating to programmatic goals.

Sec. 11. EARLY COLLEGE; ENROLLMENT; CAPS; REPORTS; SUNSET

(a) A postsecondary institution receiving funds in connection with an early college program pursuant to Sec. 8, 16 V.S.A. § 4011(e), of this act shall not enroll more than 18 Vermont students in the program in one academic year; provided, however, that:

(1) the Vermont Academy of Science and Technology shall not enroll

more than 60 Vermont students in one academic year; and

(2) there shall be no limitations on enrollment in any early college programs offered by the Community College of Vermont.

(b) Annually in January of 2014 through 2017, the Vermont State Colleges and the University of Vermont shall report to the House and Senate Committees on Education regarding the expansion of the early college program in public and private postsecondary institutions as provided in Sec. 2 of this act, including data regarding actual enrollment, expected enrollment, unmet demand, if any, and marketing efforts for the purpose of considering whether it would be advisable to consider legislation repealing or amending the limit on the total number of students who may enroll.

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

* * * Implementation and Transitional Provisions; Effective Dates * * *

Sec. 12. FLEXIBLE PATHWAYS IMPLEMENTATION PROJECT ON POSTSECONDARY PLANNING

To assist implementation of the Flexible Pathways Initiative established in Sec. 1 of this act, the Secretary of Education is authorized to enter into an agreement with the Vermont Student Assistance Corporation and one or more elementary or secondary schools to design and implement demonstration projects related to career planning and planning for postsecondary education and training.

Sec. 13. PERSONALIZED LEARNING PLAN PROCESS; IMPLEMENTATION; WORKING GROUP

(a) The process of developing and updating a personalized learning plan reflects the discussions and collaboration of a student and involved adults. When students engage in the personalized learning plan process, they assume an active role in the planning, assessment, and reflection required to identify developmentally appropriate academic, social, and career goals.

(b) On or before July 15, 2013, the Secretary of Education shall convene a working group to consist of teachers and principals of elementary and secondary schools, superintendents, and other interested parties to support implementation of the personalized learning plan process, particularly in those schools that do not already have a process in place. The working group shall consider ways in which effective personalized learning plan processes enhance development of the evolving academic, career, social, transitional, and family engagement elements of a student's plan and shall identify best practices that can be replicated in other schools. The working group also shall consider ways

in which the personalized learning that should occur in kindergarten through grade six can be used to reinforce and enhance the personalized learning plan process in grade seven through grade 12.

(c) By January 20, 2014, the working group shall develop and the Secretary shall publish on the Agency website guiding principles and practical tools for the personalized learning plan process and for developing personalized learning plans. The Secretary shall provide clarity regarding the differences in form, purpose, and function of personalized learning plans, educational support teams, plans created pursuant to section 504 of the federal Rehabilitation Act of 1973, and individualized education programs (IEPs). The Agency shall provide further guidance and support to schools as requested.

Sec. 14. EFFECTIVE DATE; IMPLEMENTATION DATES

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

(b)(1) By November 30, 2015, a school district shall ensure development of a personalized learning plan for:

(A) each student then in grade seven or nine; and

(B) for each student then in grade 11 or 12 who wishes to enroll in a dual enrollment pursuant to Sec. 1 of this act.

(2) By November 30, 2016, a school district:

(A) shall ensure development of a personalized learning plan for:

(i) each student then in grade seven or nine; and

(ii) each student then in grade 11 or 12 who wishes to enroll in a dual enrollment course; and

(B) shall ensure that the personalized learning plan process continues for enrolled students for whom plans were developed in previous years.

(3) By November 30, 2017 and by that date in each subsequent year, a school district:

(A) shall ensure development of a personalized learning plan for:

(i) each student then in grade seven; and

(ii) each student then in grade 11 or 12 who wishes to enroll in a dual enrollment course for whom a plan was not previously developed; and

(B) shall ensure that the personalized learning plan process continues for enrolled students for whom plans were developed in previous years.

(4) During academic years 2013–14 and 2014–15, a student who has not

developed a personalized learning plan may enroll in a dual enrollment course pursuant to Sec. 1 of this act or an early college program pursuant to Sec. **8** of this act upon receiving prior approval of participation from the postsecondary institution and the principal or headmaster of the secondary school in which the student is enrolled. The principal or headmaster shall not withhold approval without reasonable justification. A student may request that the superintendent review a decision of the principal or headmaster to withhold approval. The superintendent's decision shall be final.

(5) Upon the recommendation of the working group created in Sec. 13 of this act, the Secretary of Education may extend by one year any of the implementation dates required under this subsection (b).

(c) Funds for new early college programs pursuant to Sec. 8, 16 V.S.A. § 4011(e)(1)(B), of this act shall be available to students beginning in the 2014–2015 academic year.

(Committee vote: 8-1-2)

(For text see Senate Journal 3/15/2013)

Rep. Ram of Burlington, 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, in 16 V.S.A. § 944, in subsection (f) (tuition and funding), in subdivision (2), before the period, by inserting the following: "; and further provided that, notwithstanding subdivision (b)(2) of this section, the cumulative amount to be paid by school districts under this subsection in any fiscal year shall not exceed the amount available to be paid by General Fund dollars in that year.

Second: In Sec. 10, 16 V.S.A. § 4011a, in the designation, after the word "REPORT" by adding the following "; APPROPRIATION" and also in § 4011a, by designating the existing language as subsection "(a)" and adding a new subsection to be subsection (b) to read:

(b) In the budget submitted annually to the General Assembly pursuant to 32 V.S.A. chapter 5, the Governor shall include the recommended appropriation for all early college programs to be funded pursuant to subsection 4011(e) of this title, including the VAST program, as a distinct amount.

(Committee Vote: 8-1-2)

S. 152

An act relating to the Green Mountain Care Board's rate review authority

Rep. Fisher of Lincoln, for the Committee on **Health Care,** 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:

* * * Health Insurance Rate Review * * *

Sec. 1. 8 V.S.A. § 4062 is amended to read:

§ 4062. FILING AND APPROVAL OF POLICY FORMS AND PREMIUMS

(a)(1) No policy of health insurance or certificate under a policy filed by an insurer offering health insurance as defined in subdivision 3301(a)(2) of this title, a nonprofit hospital or medical service corporation, health maintenance organization, or a managed care organization and not exempted by subdivision 3368(a)(4) of this title shall be delivered or issued for delivery in this ~~state~~ State, nor shall any endorsement, rider, or application which becomes a part of any such policy be used, until~~:~~

~~(A)~~ a copy of the form~~,~~ and of the rules for the classification of risks has been filed with the Department of Financial Regulation and a copy of the premium rates~~, and rules for the classification of risks pertaining thereto have~~ has been filed with the ~~commissioner of financial regulation~~ Green Mountain Care Board; and

~~(B) a decision by~~ the Green Mountain Care ~~board~~ Board has ~~been applied by the commissioner as provided in subdivision (2) of this subsection~~ issued a decision approving, modifying, or disapproving the proposed rate.

(2)(A) ~~Prior to approving a rate pursuant to this subsection, the commissioner shall seek approval for such rate from the Green Mountain Care board established in 18 V.S.A. chapter 220. The commissioner shall make a recommendation to the Green Mountain Care board about whether to approve, modify, or disapprove the rate within 30 days of receipt of a completed application from an insurer. In the event that the commissioner does not make a recommendation to the board within the 30-day period, the commissioner shall be deemed to have recommended approval of the rate, and the Green Mountain Care board shall review the rate request pursuant to subdivision (B) of this subdivision (2).~~

~~(B)~~ The Green Mountain Care ~~board~~ Board shall review rate requests ~~forwarded by the commissioner pursuant to subdivision (A) of this subdivision (2)~~ and shall approve, modify, or disapprove a rate request within ~~30~~ 90 calendar days ~~of receipt of the commissioner's recommendation or, in the absence of a recommendation from the commissioner, the expiration of the~~

~~30-day period following the department's receipt of the completed application. In the event that the board does not approve or disapprove a rate within 30 days, the board shall be deemed to have approved the rate request~~ after receipt of an initial rate filing from an insurer. If an insurer fails to provide necessary materials or other information to the Board in a timely manner, the Board may extend its review for a reasonable additional period of time, not to exceed 30 calendar days.

~~(C) The commissioner shall apply the decision of the Green Mountain Care board as to rates referred to the board within five business days of the board's decision.~~

(B) Prior to the Board's decision on a rate request, the Department of Financial Regulation shall provide the Board with an analysis and opinion on the impact of the proposed rate on the insurer's solvency and reserves.

(3) The ~~commissioner~~ Board shall ~~review policies and rates to~~ determine whether a ~~policy or~~ rate is affordable, promotes quality care, promotes access to health care, protects insurer solvency, and is not unjust, unfair, inequitable, misleading, or contrary to the laws of this ~~state~~ State. ~~The commissioner shall notify in writing the insurer which has filed any such form, premium rate, or rule if it contains any provision which does not meet the standards expressed in this section. In such notice, the commissioner shall state that a hearing will be granted within 20 days upon written request of the insurer.~~ In making this determination, the Board shall consider the analysis and opinion provided by the Department of Financial Regulation pursuant to subdivision (2)(B) of this subsection.

(b) ~~The commissioner may, after a hearing of which at least 20 days' written notice has been given to the insurer using such form, premium rate, or rule, withdraw approval on any of the grounds stated in this section. For premium rates, such withdrawal may occur at any time after applying the decision of the Green Mountain Care board pursuant to subdivision (a)(2)(C) of this section. Disapproval pursuant to this subsection shall be effected by written order of the commissioner which shall state the ground for disapproval and the date, not less than 30 days after such hearing when the withdrawal of approval shall become effective.~~

~~(c)~~ In conjunction with a rate filing required by subsection (a) of this section, an insurer shall file a plain language summary of ~~any requested rate increase of five percent or greater. If, during the plan year, the insurer files for rate increases that are cumulatively five percent or greater, the insurer shall file a summary applicable to the cumulative rate increase~~ the proposed rate. All summaries shall include a brief justification of any rate increase requested, the information that the Secretary of the U.S. Department of Health and Human

Services (HHS) requires for rate increases over 10 percent, and any other information required by the ~~commissioner~~ Board. The plain language summary shall be in the format required by the Secretary of HHS pursuant to the Patient Protection and Affordable Care Act of 2010, Public Law 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Public Law 111-152, and shall include notification of the public comment period established in subsection ~~(d)~~(c) of this section. In addition, the insurer shall post the summaries on its website.

~~(d)~~(c)(1) The ~~commissioner~~ Board shall provide information to the public on the ~~department's~~ Board's website about the public availability of the filings and summaries required under this section.

(2)(A) Beginning no later than January 1, ~~2012~~ 2014, the ~~commissioner~~ Board shall post the rate filings pursuant to subsection (a) of this section and summaries pursuant to subsection ~~(c)~~(b) of this section on the ~~department's~~ Board's website within five calendar days of filing. The Board shall also establish a mechanism by which members of the public may request to be notified automatically each time a proposed rate is filed with the Board.

(B) The ~~department~~ Board shall provide an electronic mechanism for the public to comment on ~~proposed rate increases over five percent~~ all rate filings. The ~~public shall have 21 days from the posting of the summaries and filings to provide~~ Board shall accept public comment on each rate filing from the date on which the Board posts the rate filing on its website pursuant to subdivision (A) of this subdivision (2) until 15 calendar days after the Board posts on its website the analyses and opinions of the Department of Financial Regulation and of the Board's consulting actuary, if any, as required by subsection (d) of this section. The ~~department~~ Board shall review and consider the public comments prior to ~~submitting the policy or rate for the Green Mountain Care board's approval pursuant to subsection (a) of this section. The department shall provide the Green Mountain Care board with the public comments for its consideration in approving any rates~~ issuing its decision.

(3)(A) In addition to the public comment provisions set forth in this subsection, the Office of the Health Care Advocate established in 18 V.S.A. chapter 229 may, within 30 calendar days after the Board receives an insurer's rate request pursuant to this section, submit questions regarding the filing to the insurer and to the Board's contracting actuary, if any.

(B) The Office of the Health Care Advocate may also submit to the Board written comments on an insurer's rate request. The Board shall post the comments on its website and shall consider the comments prior to issuing its decision.

~~(e)~~(d)(1) No later than 60 calendar days after receiving an insurer's rate request pursuant to this section, the Green Mountain Care Board shall make available to the public the insurer's rate filing, the Department's analysis and opinion of the effect of the proposed rate on the insurer's solvency, and the analysis and opinion of the rate filing by the Board's contracting actuary, if any.

(2) The Board shall post on its website, after redacting any confidential or proprietary information relating to the insurer or to the insurer's rate filing:

(A) all questions the Board poses to its contracting actuary, if any, and the actuary's responses to the Board's questions;

(B) all questions the Office of the Health Care Advocate poses to the Board's contracting actuary, if any, and the actuary's responses to the Office's questions; and

(C) all questions the Board, the Board's contracting actuary, if any, the Department, or the Office of the Health Care Advocate poses to the insurer and the insurer's responses to those questions.

(e) Within 30 calendar days after making the rate filing and analysis available to the public pursuant to subsection (d) of this section, the Board shall:

(1) conduct a public hearing, at which the Board shall:

(A) call as witnesses the Commissioner of Financial Regulation or designee and the Board's contracting actuary, if any, unless all parties agree to waive such testimony; and

(B) provide an opportunity for testimony from the insurer, the Office of the Health Care Advocate, and members of the public;

(2) at a public hearing, announce the Board's decision of whether to approve, modify, or disapprove the proposed rate; and

(3) issue its decision in writing.

(f)(1) The insurer shall notify its policyholders of the Board's decision in a timely manner, as defined by the Board by rule.

(2) Rates shall take effect on the date specified in the insurer's rate filing.

(3) If the Board has not issued its decision by the effective date specified in the insurer's rate filing, the insurer shall notify its policyholders of its pending rate request and of the effective date proposed by the insurer in its rate filing.

(g) An insurer, the Office of the Health Care Advocate, and any member of the public with party status, as defined by the Board by rule, may appeal a decision of the Board approving, modifying, or disapproving the insurer's proposed rate to the Vermont Supreme Court.

(h)~~(1) The following provisions of this~~ This section shall apply only to policies for major medical insurance coverage and shall not apply to policies for specific disease, accident, injury, hospital indemnity, dental care, vision care, disability income, long-term care, or other limited benefit coverage~~:~~; to Medicare supplemental insurance; or

~~(A) the requirement in subdivisions (a)(1) and (2) of this section for the Green Mountain Care board's approval on rate requests;~~

~~(B) the review standards in subdivision (a)(3) of this section as to whether a policy or rate is affordable, promotes quality care, and promotes access to health care; and~~

~~(C) subsections (c) and (d) of this section.~~

~~(2) The exemptions from the provisions described in subdivisions (1)(A) through (C) of this subsection shall also apply~~ to benefit plans that are paid directly to an individual insured or to his or her assigns and for which the amount of the benefit is not based on potential medical costs or actual costs incurred.

~~(3) Medicare supplemental insurance policies shall be exempt only from the requirement in subdivisions (a)(1) and (2) of this section for the Green Mountain Care board's approval on rate requests and shall be subject to the remaining provisions of this section.~~

(i) Notwithstanding the procedures and timelines set forth in subsections (a) through (e) of this section, the Board may establish, by rule, a streamlined rate review process for certain rate decisions, including proposed rates affecting fewer than a minimum number of covered lives and proposed rates for which a de minimis increase, as defined by the Board by rule, is sought.

Sec. 2. 8 V.S.A. § 4062a is amended to read:

§ 4062a. FILING FEES

Each filing of a policy, contract, or document form or premium rates or rules, submitted pursuant to section 4062 of this title, shall be accompanied by payment to the ~~commissioner~~ Commissioner or the Green Mountain Care Board, as appropriate, of a nonrefundable fee of ~~$50.00~~ $150.00.

Sec. 3. 8 V.S.A. § 4089b(d)(1)(A) is amended to read:

(d)(1)(A) A health insurance plan that does not otherwise provide for

management of care under the plan, or that does not provide for the same degree of management of care for all health conditions, may provide coverage for treatment of mental health conditions through a managed care organization provided that the managed care organization is in compliance with the rules adopted by the ~~commissioner~~ Commissioner that assure that the system for delivery of treatment for mental health conditions does not diminish or negate the purpose of this section. In reviewing rates and forms pursuant to section 4062 of this title, the ~~commissioner~~ Commissioner or the Green Mountain Care Board established in 18 V.S.A. chapter 220, as appropriate, shall consider the compliance of the policy with the provisions of this section.

Sec. 4. 8 V.S.A. § 4512(b) is amended to read:

(b) Subject to the approval of the ~~commissioner~~ Commissioner or the Green Mountain Care Board established in 18 V.S.A. chapter 220, as appropriate, a hospital service corporation may establish, maintain, and operate a medical service plan as defined in section 4583 of this title. The ~~commissioner~~ Commissioner or the Board may refuse approval if the ~~commissioner~~ Commissioner or the Board finds that the rates submitted are excessive, inadequate, or unfairly discriminatory, fail to protect the hospital service corporation's solvency, or fail to meet the standards of affordability, promotion of quality care, and promotion of access pursuant to section 4062 of this title. The contracts of a hospital service corporation which operates a medical service plan under this subsection shall be governed by chapter 125 of this title to the extent that they provide for medical service benefits, and by this chapter to the extent that the contracts provide for hospital service benefits.

Sec. 5. 8 V.S.A. § 4513(c) is amended to read:

(c) In connection with a rate decision, the ~~commissioner~~ Green Mountain Care Board may also make reasonable supplemental orders to the corporation and may attach reasonable conditions and limitations to such orders as ~~he~~ the Board finds, on the basis of competent and substantial evidence, necessary to ~~insure~~ ensure that benefits and services are provided at minimum cost under efficient and economical management of the corporation. The ~~commissioner~~ Commissioner and, except as otherwise provided by 18 V.S.A. §§ 9375 and 9376, the Green Mountain Care Board, shall not set the rate of payment or reimbursement made by the corporation to any physician, hospital, or other health care provider.

Sec. 6. 8 V.S.A. § 4515a is amended to read:

§ 4515a. FORM AND RATE FILING; FILING FEES

Every contract or certificate form, or amendment thereof, including the rates charged therefor by the corporation shall be filed with the ~~commissioner~~

Commissioner or the Green Mountain Care Board established in 18 V.S.A. chapter 220, as appropriate, for ~~his or her~~ the Commissioner's or the Board's approval prior to issuance or use. Prior to approval, there shall be a public comment period pursuant to section 4062 of this title. In addition, each such filing shall be accompanied by payment to the ~~commissioner~~ Commissioner or the Board, as appropriate, of a nonrefundable fee of ~~$50.00~~ $150.00 and the plain language summary of rate increases pursuant to section 4062 of this title.

Sec. 7. 8 V.S.A. § 4584(c) is amended to read:

(c) In connection with a rate decision, the ~~commissioner~~ Green Mountain Care Board may also make reasonable supplemental orders to the corporation and may attach reasonable conditions and limitations to such orders as ~~he or she~~ the Board finds, on the basis of competent and substantial evidence, necessary to ~~insure~~ ensure that benefits and services are provided at minimum cost under efficient and economical management of the corporation. The ~~commissioner~~ Commissioner and, except as otherwise provided by 18 V.S.A. §§ 9375 and 9376, the Green Mountain Care Board, shall not set the rate of payment or reimbursement made by the corporation to any physician, hospital, or other health care provider.

Sec. 8. 8 V.S.A. § 4587 is amended to read:

§ 4587. FILING AND APPROVAL OF CONTRACTS

A medical service corporation which has received a permit from the ~~commissioner of financial regulation~~ Commissioner of Financial Regulation under section 4584 of this title shall not thereafter issue a contract to a subscriber or charge a rate therefor which is different from copies of contracts and rates originally filed with such ~~commissioner~~ Commissioner and approved by him or her at the time of the issuance to such medical service corporation of its permit, until it has filed copies of such contracts which it proposes to issue and the rates it proposes to charge therefor and the same have been approved by ~~such commissioner~~ the Commissioner or the Green Mountain Care Board established in 18 V.S.A. chapter 220, as appropriate. Prior to approval, there shall be a public comment period pursuant to section 4062 of this title. Each such filing of a contract or the rate therefor shall be accompanied by payment to the ~~commissioner~~ Commissioner or the Board, as appropriate, of a nonrefundable fee of ~~$50.00~~ $150.00. A medical service corporation shall file a plain language summary of rate increases pursuant to section 4062 of this title.

Sec. 9. 8 V.S.A. § 5104 is amended to read:

§ 5104. FILING AND APPROVAL OF RATES AND FORMS;

SUPPLEMENTAL ORDERS

(a)(1) A health maintenance organization which has received a certificate of authority under section 5102 of this title shall file and obtain approval of all policy forms and rates as provided in sections 4062 and 4062a of this title. This requirement shall include the filing of administrative retentions for any business in which the organization acts as a third party administrator or in any other administrative processing capacity. The ~~commissioner~~ Commissioner or the Green Mountain Care Board, as appropriate, may request and shall receive any information that the ~~commissioner~~ Commissioner or the Board deems necessary to evaluate the filing. In addition to any other information requested, the ~~commissioner~~ Commissioner or the Board shall require the filing of information on costs for providing services to the organization's Vermont members affected by the policy form or rate, including Vermont claims experience, and administrative and overhead costs allocated to the service of Vermont members. Prior to approval, there shall be a public comment period pursuant to section 4062 of this title. A health maintenance organization shall file a summary of rate filings pursuant to section 4062 of this title.

(2) The ~~commissioner~~ Commissioner or the Board shall refuse to approve~~, or to seek the Green Mountain Care board's approval of,~~ the form of evidence of coverage, filing, or rate if it contains any provision which is unjust, unfair, inequitable, misleading, or contrary to the law of the ~~state~~ State or plan of operation, or if the rates are excessive, inadequate or unfairly discriminatory, fail to protect the organization's solvency, or fail to meet the standards of affordability, promotion of quality care, and promotion of access pursuant to section 4062 of this title. No evidence of coverage shall be offered to any potential member unless the person making the offer has first been licensed as an insurance agent in accordance with chapter 131 of this title.

(b) In connection with a rate decision, the ~~commissioner~~ Board may also~~, with the prior approval of the Green Mountain Care board established in 18 V.S.A. chapter 220,~~ make reasonable supplemental orders and may attach reasonable conditions and limitations to such orders as the ~~commissioner~~ Board finds, on the basis of competent and substantial evidence, necessary to ~~insure~~ ensure that benefits and services are provided at reasonable cost under efficient and economical management of the organization. The ~~commissioner~~ Commissioner and, except as otherwise provided by 18 V.S.A. §§ 9375 and 9376, the Green Mountain Care Board, shall not set the rate of payment or reimbursement made by the organization to any physician, hospital, or health care provider.

Sec. 10. 18 V.S.A. § 9375(b) is amended to read:

(b) The ~~board~~ Board shall have the following duties:

* * *

(6) Approve, modify, or disapprove requests for health insurance rates pursuant to 8 V.S.A. § 4062 ~~within 30 days of receipt of a request for approval from the commissioner of financial regulation~~, taking into consideration the requirements in the underlying statutes, changes in health care delivery, changes in payment methods and amounts, protecting insurer solvency, and other issues at the discretion of the ~~board~~ Board;

* * *

Sec. 11. 18 V.S.A. § 9381 is amended to read:

§ 9381. APPEALS

(a)~~(1)~~ The Green Mountain Care ~~board~~ Board shall adopt procedures for administrative appeals of its actions, orders, or other determinations. Such procedures shall provide for the issuance of a final order and the creation of a record sufficient to serve as the basis for judicial review pursuant to subsection (b) of this section.

~~(2) Only decisions by the board shall be appealable under this subsection. Recommendations to the board by the commissioner of financial regulation pursuant to 8 V.S.A. § 4062(a) shall not be subject to appeal.~~

(b) Any person aggrieved by a final action, order, or other determination of the Green Mountain Care ~~board~~ Board may, upon exhaustion of all administrative appeals available pursuant to subsection (a) of this section, appeal to the ~~supreme court~~ Supreme Court pursuant to the Vermont Rules of Appellate Procedure.

(c) If an appeal or other petition for judicial review of a final order is not filed in connection with an order of the Green Mountain Care ~~board~~ Board pursuant to subsection (b) of this section, the ~~chair~~ Chair may file a certified copy of the final order with the clerk of a court of competent jurisdiction. The order so filed has the same effect as a judgment of the court and may be recorded, enforced, or satisfied in the same manner as a judgment of the court.

(d) A decision of the Board approving, modifying, or disapproving a health insurer's proposed rate pursuant to 8 V.S.A. § 4062 shall be considered a final action of the Board and may be appealed to the Supreme Court pursuant to subsection (b) of this section.

Sec. 12. 33 V.S.A. § 1811(j) is amended to read:

(j) The ~~commissioner~~ Commissioner or the Green Mountain Care Board established in 18 V.S.A. chapter 220, as appropriate, shall disapprove any rates

filed by any registered carrier, whether initial or revised, for insurance policies unless the anticipated medical loss ratios for the entire period for which rates are computed are at least 80 percent, as required by the ~~Patient Protection and~~ Affordable Care Act ~~(Public Law 111-148)~~.

* * * Office of the Health Care Advocate * * *

Sec. 13. 18 V.S.A. chapter 229 is added to read:

CHAPTER 229. OFFICE OF THE HEALTH CARE ADVOCATE

§ 9601. DEFINITIONS

As used in this chapter:

(1) "Green Mountain Care Board" or "Board" means the Board established in chapter 220 of this title.

(2) "Health insurance plan" means a policy, service contract, or other health benefit plan offered or issued by a health insurer and includes beneficiaries covered by the Medicaid program unless they are otherwise provided with similar services.

(3) "Health insurer" shall have the same meaning as in section 9402 of this title.

§ 9602. OFFICE OF THE HEALTH CARE ADVOCATE; COMPOSITION

(a) The Agency of Administration shall establish the Office of the Health Care Advocate by contract with any nonprofit organization.

(b) The Office shall be administered by the Chief Health Care Advocate, who shall be an individual with expertise and experience in the fields of health care and advocacy. The Advocate may employ legal counsel, administrative staff, and other employees and contractors as needed to carry out the duties of the Office.

§ 9603. DUTIES AND AUTHORITY

(a) The Office of the Health Care Advocate shall:

(1) Assist health insurance consumers with health insurance plan selection by providing information, referrals, and assistance to individuals and employers with not more than 10 full-time equivalent employees about means of obtaining health insurance coverage and services. The Office shall accept referrals from the Vermont Health Benefit Exchange and Exchange navigators created pursuant to 33 V.S.A. chapter 18, subchapter 1, to assist consumers experiencing problems related to the Exchange.

(2) Assist health insurance consumers to understand their rights and

responsibilities under health insurance plans.

(3) Provide information to the public, agencies, members of the General Assembly, and others regarding problems and concerns of health insurance consumers as well as recommendations for resolving those problems and concerns.

(4) Identify, investigate, and resolve complaints on behalf of individual health insurance consumers and employers with not more than 10 full-time equivalent employees who purchase insurance for their employees, and assist those consumers with filing and pursuit of complaints and appeals.

(5) Provide information to individuals and employers regarding their obligations and responsibilities under the Patient Protection and Affordable Care Act (Public Law 111-148).

(6) Analyze and monitor the development and implementation of federal, state, and local laws, rules, and policies relating to patients and health insurance consumers.

(7) Facilitate public comment on laws, rules, and policies, including policies and actions of health insurers.

(8) Suggest policies, procedures, or rules to the Green Mountain Care Board in order to protect patients' and consumers' interests.

(9) Promote the development of citizen and consumer organizations.

(10) Ensure that patients and health insurance consumers have timely access to the services provided by the Office.

(11) Submit to the General Assembly and the Governor on or before January 1 of each year a report on the activities, performance, and fiscal accounts of the Office during the preceding calendar year.

(b) The Office of the Health Care Advocate may:

(1) Review the health insurance records of a consumer who has provided written consent. Based on the written consent of the consumer or his or her guardian or legal representative, a health insurer shall provide the Office with access to records relating to that consumer.

(2) Pursue administrative, judicial, and other remedies on behalf of any individual health insurance consumer or group of consumers.

(3) Represent the interests of the people of the State in cases requiring a hearing before the Green Mountain Care Board established in chapter 220 of this title.

(4) Adopt policies and procedures necessary to carry out the provisions

of this chapter.

(5) Take any other action necessary to fulfill the purposes of this chapter.

(c) The Office of the Health Care Advocate shall be able to speak on behalf of the interests of health care and health insurance consumers and to carry out all duties prescribed in this chapter without being subject to any disciplinary or retaliatory action; provided, however, that nothing in this subsection shall limit the authority of the Agency of Administration to enforce the terms of the contract.

§ 9604. DUTIES OF STATE AGENCIES

All state agencies shall comply with reasonable requests from the Office of the Health Care Advocate for information and assistance. The Agency of Administration may adopt rules necessary to ensure the cooperation of state agencies under this section.

§ 9605. CONFIDENTIALITY

In the absence of written consent by a complainant or an individual using the services of the Office or by his or her guardian or legal representative or the absence of a court order, the Office of the Health Care Advocate, its employees, and its contractors shall not disclose the identity of the complainant or individual.

§ 9606. CONFLICTS OF INTEREST

The Office of the Health Care Advocate, its employees, and its contractors shall not have any conflict of interest relating to the performance of their responsibilities under this chapter. For the purposes of this chapter, a conflict of interest exists whenever the Office of the Health Care Advocate, its employees, or its contractors or a person affiliated with the Office, its employees, or its contractors:

(1) have a direct involvement in the licensing, certification, or accreditation of a health care facility, health insurer, or health care provider;

(2) have a direct ownership interest or investment interest in a health care facility, health insurer, or health care provider;

(3) are employed by or participating in the management of a health care facility, health insurer, or health care provider; or

(4) receive or have the right to receive, directly or indirectly, remuneration under a compensation arrangement with a health care facility, health insurer, or health care provider.

§ 9607. CONSUMER ASSISTANCE ASSESSMENT

(a) The premium for each health insurance policy issued in this state shall include a monthly consumer assistance assessment of $0.22 per covered life to fund the activities of the Office of the Health Care Advocate. Each health insurer shall remit the assessments collected during the preceding calendar quarter to the Commissioner of Financial Regulation by January 15, April 15, July 15, and October 15 of each year.

(b) There is established pursuant to 32 V.S.A. chapter 7, subchapter 5 a special fund called the "Consumer Assistance Assessment Fund" into which shall be deposited the funds collected under this section. The fund shall be administered by the Secretary of Administration and disbursements are authorized to fund the activities of the Office of the Health Care Advocate as appropriated by the General Assembly.

(c) Health insurers and the Vermont Health Benefit Exchange shall clearly communicate to all applicants and enrollees on materials such as enrollment forms, member handbooks, and the Exchange website information regarding the consumer assistance assessment established by this section and contact information for the Office of the Health Care Advocate.

(d) As used in this section:

(1) "Health insurance" means any group or individual health care benefit policy, contract, or other health benefit plan offered, issued, renewed, or administered by any health insurer, including any health care benefit plan offered, issued, renewed, or administered by any health insurance company, any nonprofit hospital and medical service corporation, or any managed care organization as defined in section 9402 of this title. The term includes comprehensive major medical policies, contracts, or plans but does not include Medicaid or any other state health care assistance program financed in whole or in part through a federal program. The term does not include policies issued for specified disease, accident, injury, hospital indemnity, dental care, long-term care, disability income, or other limited benefit health insurance policies.

(2) "Health insurer" means any person who offers, issues, renews, or administers a health insurance policy, contract, or other health benefit plan in this State and includes third-party administrators or pharmacy benefit managers who provide administrative services only for a health benefit plan offering coverage in this State. The term does not include a third-party administrator or pharmacy benefit manager to the extent that a health insurer has collected and remitted the surcharges which would otherwise be imposed on the covered lives attributed to the third-party administrator or pharmacy benefit manager. The term also does not include a health insurer with a

monthly average of fewer than 200 Vermont insured lives.

Sec. 14. 18 V.S.A. § 9374(f) is amended to read:

(f) In carrying out its duties pursuant to this chapter, the ~~board~~ Board shall seek ~~the~~ advice ~~of the state health care ombudsman established in 8 V.S.A. § 4089w~~ from the Office of the Health Care Advocate. The ~~state health care ombudsman~~ Office shall advise the ~~board~~ Board regarding the policies, procedures, and rules established pursuant to this chapter. The ~~ombudsman~~ Office shall represent the interests of Vermont patients and Vermont consumers of health insurance and may suggest policies, procedures, or rules to the ~~board~~ Board in order to protect patients' and consumers' interests.

Sec. 15. 18 V.S.A. § 9377(e) is amended to read:

(e) The ~~board~~ Board or designee shall convene a broad-based group of stakeholders, including health care professionals who provide health services, health insurers, professional organizations, community and nonprofit groups, consumers, businesses, school districts, the ~~state health care ombudsman~~ Office of the Health Care Advocate, and state and local governments, to advise the ~~board~~ Board in developing and implementing the pilot projects and to advise the Green Mountain Care ~~board~~ Board in setting overall policy goals.

Sec. 16. 18 V.S.A. § 9410(a)(2) is amended to read:

(2)(A) The program authorized by this section shall include a consumer health care price and quality information system designed to make available to consumers transparent health care price information, quality information, and such other information as the ~~commissioner~~ Commissioner determines is necessary to empower individuals, including uninsured individuals, to make economically sound and medically appropriate decisions.

(B) The ~~commissioner~~ Commissioner shall convene a working group composed of the ~~commissioner of mental health, the commissioner of Vermont health access~~ Commissioner of Mental Health, the Commissioner of Vermont Health Access, health care consumers, the ~~office of the health care ombudsman~~ Office of the Health Care Advocate, employers and other payers, health care providers and facilities, the Vermont ~~program for quality in health care~~ Program for Quality in Health Care, health insurers, and any other individual or group appointed by the ~~commissioner~~ Commissioner to advise the ~~commissioner~~ Commissioner on the development and implementation of the consumer health care price and quality information system.

* * *

Sec. 17. 18 V.S.A. § 9440(c) is amended to read:

(c) The application process shall be as follows:

* * *

(9) The ~~health care ombudsman's office~~ Office of the Health Care Advocate established under ~~8 V.S.A. chapter 107, subchapter 1A~~ chapter 229 of this title or, in the case of nursing homes, the ~~long-term care ombudsman's office~~ Long-Term Care Ombudsman's Office established under 33 V.S.A. § 7502~~,~~ is authorized but not required to participate in any administrative or judicial review of an application under this subchapter and shall be considered an interested party in such proceedings upon filing a notice of intervention with the ~~board~~ Board.

Sec. 18. 18 V.S.A. § 9445(b) is amended to read:

(b) In addition to all other sanctions, if any person offers or develops any new health care project without first having been issued a certificate of need or certificate of exemption ~~therefore~~ for the project, or violates any other provision of this subchapter or any lawful rule ~~or regulation promulgated thereunder~~ adopted pursuant to this subchapter, the ~~board~~ Board, the ~~commissioner~~ Commissioner, the ~~state health care ombudsman~~ Office of the Health Care Advocate, the ~~state long-term care ombudsman~~ State Long-Term Care Ombudsman, and health care providers and consumers located in the ~~state~~ State shall have standing to maintain a civil action in the ~~superior court~~ Superior Court of the county ~~wherein~~ in which such alleged violation has occurred, or ~~wherein~~ in which such person may be found, to enjoin, restrain, or prevent such violation. Upon written request by the ~~board~~ Board, it shall be the duty of the ~~attorney general of the state~~ Vermont Attorney General to furnish appropriate legal services and to prosecute an action for injunctive relief to an appropriate conclusion, which shall not be reimbursed under subdivision (a)(2) of this ~~subsection~~ section.

Sec. 19. 33 V.S.A. § 1805 is amended to read:

§ 1805. DUTIES AND RESPONSIBILITIES

The Vermont ~~health benefit exchange~~ Health Benefit Exchange shall have the following duties and responsibilities consistent with the Affordable Care Act:

* * *

(16) Referring consumers to the ~~office of health care ombudsman~~ Office of the Health Care Advocate for assistance with grievances, appeals, and other issues involving the Vermont ~~health benefit exchange~~ Health Benefit Exchange.

* * *

Sec. 20. 33 V.S.A. § 1807(b) is amended to read:

(b) Navigators shall have the following duties:

* * *

(4) Provide referrals to the ~~office of health care ombudsman~~ Office of the Health Care Advocate and any other appropriate agency for any enrollee with a grievance, complaint, or question regarding his or her health benefit plan, coverage, or a determination under that plan or coverage;

* * *

* * * Allocation of Expenses * * *

Sec. 21. 18 V.S.A. § 9374(h) is amended to read:

(h)(1) ~~Expenses~~ Except as otherwise provided in subdivision (2) of this subsection, expenses incurred to obtain information, analyze expenditures, review hospital budgets, and for any other contracts authorized by the ~~board~~ Board shall be borne as follows:

(A) 40 percent by the ~~state~~ State from state monies;

(B) 15 percent by the hospitals;

(C) 15 percent by nonprofit hospital and medical service corporations licensed under 8 V.S.A. chapter 123 or 125;

(D) 15 percent by health insurance companies licensed under 8 V.S.A. chapter 101; and

(E) 15 percent by health maintenance organizations licensed under 8 V.S.A. chapter 139.

(2) The Board may determine the scope of the incurred expenses to be allocated pursuant to the formula set forth in subdivision (1) of this subsection if, in the Board's discretion, the expenses to be allocated are in the best interests of the regulated entities and of the State.

(3) Expenses under subdivision (1) of this subsection shall be billed to persons licensed under Title 8 based on premiums paid for health care coverage, which for the purposes of this section shall include major medical, comprehensive medical, hospital or surgical coverage, and comprehensive health care services plans, but shall not include long-term care or limited benefits, disability, credit or stop loss, or excess loss insurance coverage.

Sec. 22. 18 V.S.A. § 9415 is amended to read:

§ 9415. ALLOCATION OF EXPENSES

(a) ~~Expenses~~ Except as otherwise provided in subsection (b) of this section, expenses incurred to obtain information and to analyze expenditures, review

hospital budgets, and for any other related contracts authorized by the ~~commissioner~~ Commissioner shall be borne as follows:

(1) 40 percent by the ~~state~~ State from state monies~~,~~;

(2) 15 percent by the hospitals~~,~~;

(3) 15 percent by nonprofit hospital and medical service corporations licensed under 8 V.S.A. chapter 123 or 125~~,~~;

(4) 15 percent by health insurance companies licensed under 8 V.S.A. chapter 101~~,~~; and

(5) 15 percent by health maintenance organizations licensed under 8 V.S.A. chapter 139.

(b) The Commissioner may determine the scope of the incurred expenses to be allocated pursuant to the formula set forth in subsection (a) of this section if, in the Commissioner's discretion, the expenses to be allocated are in the best interests of the regulated entities and of the State.

(c) Expenses under subsection (a) of this section shall be billed to persons licensed under Title 8 based on premiums paid for health care coverage, which for the purposes of this section include major medical, comprehensive medical, hospital or surgical coverage, and any comprehensive health care services plan, but ~~does~~ shall not include long-term care, limited benefits, disability, credit or stop loss or excess loss insurance coverage

Sec. 23. BILL-BACK REPORT

(a) Annually on or before September 15, the Green Mountain Care Board and the Department of Financial Regulation shall report to the House Committee on Health Care, the Senate Committees on Health and Welfare and on Finance, and the House and Senate Committees on Appropriations the total amount of all expenses eligible for allocation pursuant to 18 V.S.A. §§ 9374(h) and 9415 during the preceding state fiscal year and the total amount actually billed back to the regulated entities during the same period.

(b) The Board and the Department shall also present the information required by subsection (a) of this section to the Joint Fiscal Committee annually at its September meeting.

* * * Prior Authorizations * * *

Sec. 24. 18 V.S.A. § 9377a is added to read:

§ 9377a. PRIOR AUTHORIZATION PILOT PROGRAM

(a) The Green Mountain Care Board shall develop and implement a pilot program or programs for the purpose of measuring the change in system costs

within primary care associated with eliminating prior authorization requirements for imaging, medical procedures, prescription drugs, and home care. The program shall be designed to measure the effects of eliminating prior authorizations on provider satisfaction and on the number of requests for and expenditures on imaging, medical procedures, prescription drugs, and home care. In developing the pilot program proposal, the Board shall collaborate with health care professionals and health insurers throughout the State or regionally.

(b) The Board shall submit an update regarding implementation of prior authorization pilot programs as part of its annual report under subsection 9375(d) of this title.

Sec. 25. 18 V.S.A. § 9375(d) is amended to read:

(d) Annually on or before January 15, the ~~board~~ Board shall submit a report of its activities for the preceding ~~state fiscal~~ calendar year to the ~~house committee~~ House Committee on ~~health care~~ Health Care and the ~~senate committee~~ Senate Committee on ~~health and welfare~~ Health and Welfare. The report shall include any changes to the payment rates for health care professionals pursuant to section 9376 of this title, any new developments with respect to health information technology, the evaluation criteria adopted pursuant to subdivision (b)(8) of this section and any related modifications, the results of the systemwide performance and quality evaluations required by subdivision (b)(8) of this section and any resulting recommendations, the process and outcome measures used in the evaluation, an update regarding implementation of any prior authorization pilot programs under section 9377a of this title, any recommendations for modifications to Vermont statutes, and any actual or anticipated impacts on the work of the ~~board~~ Board as a result of modifications to federal laws, regulations, or programs. The report shall identify how the work of the ~~board~~ Board comports with the principles expressed in section 9371 of this title.

Sec. 26. 18 V.S.A. § 9414b is added to read:

§ 9414b. ANNUAL REPORTING BY THE DEPARTMENT OF VERMONT HEALTH ACCESS

(a) The Department of Vermont Health Access shall annually report the following information, in plain language, to the House Committee on Health Care and the Senate Committee on Health and Welfare, as well as posting the information on its website:

(1) the total number of Vermont lives covered by Medicaid;

(2) the total number of claims submitted to the Department for services

provided to Medicaid beneficiaries;

(3) the total number of claims denied by the Department;

(4) the total number of denials of service by the Department at the preauthorization level, the total number of denials that were appealed, and of those, the total number overturned;

(5) the total number of adverse determinations made by the Department;

(6) the total number of claims denied by the Department because the service was experimental, investigational, or an off-label use of a drug; was not medically necessary; or involved access to a provider that is inconsistent with the limitations imposed by Medicaid;

(7) the total number of claims denied by the Department as duplicate claims, as coding errors, or for services or providers not covered;

(8) the Department's legal expenses related to claims or service denials during the preceding year; and

(9) the effects of the Department's policy of allowing automatic approval of certain prior authorizations on the number of requests for imaging, medical procedures, prescription drugs, and home care.

(b) The Department may indicate the extent of overlap or duplication in reporting the information described in subsection (a) of this section.

(c) To the extent practicable, the Department shall model its report on the standardized form created by the Department of Financial Regulation for use by health insurers under subsection 9414a(c) of this title.

(d) The Department of Financial Regulation shall post on its website, in the same location as the forms posted under subdivision 9414a(d)(1) of this title, a link to the information reported by the Department of Vermont Health Access under subsection (a) of this section.

Sec. 27. 18 V.S.A. § 9414a(a)(5) is amended to read:

(5) data regarding the number of denials of service by the health insurer at the preauthorization level, including:

(A) the total number of denials of service by the health insurer at the preauthorization level~~, including:~~;

~~(A)~~(B) the total number of denials of service at the preauthorization level appealed to the health insurer at the first-level grievance and, of those, the total number overturned;

~~(B)~~(C) the total number of denials of service at the preauthorization

level appealed to the health insurer at any second-level grievance and, of those, the total number overturned;

~~(C)~~(D) the total number of denials of service at the preauthorization level for which external review was sought and, of those, the total number overturned;

* * * Additional Provisions * * *

Sec. 28. RATE FILINGS FOR 2014

In reviewing health insurance rate filings to take effect in calendar year 2014 pursuant to 8 V.S.A. § 4062, the Department of Financial Regulation and the Green Mountain Care Board shall take into account the consumer assistance assessment established by this act in 18 V.S.A. § 9607.

Sec. 29. REPEAL

8 V.S.A. § 4089w (Health Care Ombudsman) is repealed.

Sec. 30. APPROPRIATION

The sum of $250,000.00 is appropriated from the Consumer Assistance Assessment Fund established by 18 V.S.A. § 9607 to the Agency of Administration in fiscal year 2014 for the purposes of a contract with Vermont Legal Aid to carry out the duties of the Office of the Health Care Advocate established in 18 V.S.A. chapter 229.

Sec. 31. APPLICABILITY AND EFFECTIVE DATES

(a) Secs. 1–12 (rate review) of this act shall take effect on January 1, 2014 and shall apply to all insurers filing rates and forms for major medical insurance plans on and after January 1, 2014, except that the Green Mountain Care Board and the Department of Financial Regulation may amend their rules and take such other actions before that date as are necessary to ensure that the revised rate review process will be operational on January 1, 2014.

(b) Secs. 13–20 (Office of the Health Care Advocate) shall take effect on January 1, 2014.

(c) Sec. 28 (2014 rate filings) of this act and this section shall take effect on passage.

(d) The remaining sections of this act shall take effect on July 1, 2013.

(Committee vote: 8-3-0)

(For text see Senate Journal 3/27/2013)

Rep. Ancel of Calais, for the Committee on **Ways and Means,** recommends the bill ought to pass when amended as recommended by the Committee on **Health Care** and when further amended as follows:

First: In Sec. 13, 18 V.S.A. chapter 229, in subsection 9603(c), preceding the word "retaliatory", by striking out the words "disciplinary or"

Second: In Sec. 13, 18 V.S.A. chapter 229, by striking out § 9607 in its entirety

Third: In Sec. 21, 18 V.S.A. § 9374(h), by adding a subdivision (4) to read:

(4) Financial support for the Office of the Health Care Advocate established pursuant to chapter 229 of this title for services related to the Board's regulatory and supervisory duties shall be considered expenses incurred by the Board under this subsection and shall be an acceptable use of the funds realized pursuant to this subsection.

Fourth: In Sec. 22, 18 V.S.A. § 9415, by adding a subsection (d) to read:

(d) Financial support for the Office of the Health Care Advocate established pursuant to chapter 229 of this title for services related to the Department's regulatory and supervisory duties shall be considered expenses incurred by the Department under this subsection and shall be an acceptable use of the funds realized pursuant to this subsection.

Fifth: By striking out Sec. 28, Rate filings for 2014, in its entirety and inserting in lieu thereof a new Sec. 28 to read:

Sec. 28. OFFICE OF THE HEALTH CARE ADVOCATE BUDGET; INTENT

(a) Beginning in fiscal year 2015, the Governor's budget submitted to the General Assembly in accordance with 32 V.S.A. § 306 shall include a separate line item within the Agency of Administration for the Office of the Health Care Advocate program and related program costs and shall specify the sums appropriated for the program's actuarial services.

(b) It is the intent of the General Assembly that the Office of the Health Care Advocate shall maximize the amount of federal and grant funds available to support the activities of the Office.

Fifth: By striking out Sec. 30, Appropriation, in its entirety

Sixth: By renumbering Sec. 31, Applicability and Effective Dates, to be Sec. 30 and by striking subsections (b)–(d) in their entirety and inserting in lieu thereof the following:

(b) Secs. 13–20 (Office of the Health Care Advocate) and 28 (budget) of

this act shall take effect on January 1, 2014.

(c) The remaining sections of this act shall take effect on July 1, 2013.

(Committee Vote: 8-3-0)

Rep. Keenan of St. Albans City, for the Committee on **Appropriations,** recommends the bill ought to pass when amended as recommended by the Committee on **Health Care and Ways and Means** and when further amended as follows:

amended in Sec. 28 by striking out subsection (a) in its entirety and inserting in lieu thereof a new subsection (a) to read as follows:

(a) Beginning with the 2014 annual report filed pursuant to 18 V.S.A. § 9603(a)(11), the Office of the Health Care Advocate shall specify the sums expended by the Office in carrying out its duties, including identifying the specific amount expended for actuarial services.

(Committee Vote: 7-3-1)

Information Notice

Michael Chernick is no longer accepting House Concurrent Resolution requests. All requests already submitted will be placed on the Concurrent Calendar for Thursday May 9, 2013.