

# Senate Calendar

WEDNESDAY, MAY 01, 2013

SENATE CONVENES AT: 9:30 A.M.

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**ACTION CALENDAR**

**UNFINISHED BUSINESS OF FRIDAY, APRIL 26, 2013**

**Second Reading**

**Favorable with Recommendation of Amendment**

**S. 55.**

An act relating to increasing efficiency in state government finance and lending operations.

**Reported favorably with recommendation of amendment by Senator Pollina for the Committee on Government Operations.**

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. STATE FINANCIAL SERVICES TASK FORCE

(a) Creation of task force. There is created a State Financial and Lending Efficiency Task Force to evaluate state government operations relating to finance and lending, grant-making, investing, and banking.

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

(1) The Secretary of Commerce and Community Development or designee.

(2) The President of the Vermont Community Foundation or designee.

(3) A business entrepreneur with relevant financial services experience, appointed by the Senate President Pro Tempore.

(4) A current officer or executive of a Vermont-based banking institution, appointed by the Speaker of the House of Representatives.

(5) The Vermont State Treasurer or designee.

(6) One member of the Vermont House of Representatives, appointed by the Speaker of the House of Representatives.

(7) One member of the Vermont Senate, appointed by the Senate President Pro Tempore.

(8) The Executive Director of the Vermont Economic Development Authority or designee.

(9) The executive director of a nonprofit with expertise in designing lending and banking services, appointed by the Senate President Pro Tempore.

(10) A municipal employee whose official duties involve local economic development, appointed by the Speaker of the House of Representatives.

(11) The Director of the Gund Institute for Ecological Economics or designee.

(12) An academic economist appointed jointly by the Speaker of the House of Representatives and the Senate President Pro Tempore.

(13) The president of the Vermont Student Assistance Corporation or designee.

(14) The executive director of the Vermont Housing Finance Agency or designee.

(c) Powers and duties.

(1) The Task Force shall study ways to increase efficiency and reduce costs in government financial operations, including:

(A) The number, nature, and scope of lending, loan servicing, investing, grant-making, and related operations performed by the State and its instrumentalities.

(B) The costs and benefits of contracting out banking services, including fees, transaction costs, debt service, lost profit opportunities, opportunities to increase local investing, and administrative savings.

(C) The costs and benefits of consolidating Vermont tax receipts, fees, or other revenues, including impacts on debt service, and on access to capital for Vermont economic development activities, education lending, and other lending activities:

(i) into one or more Vermont-based private banking institutions; or

(ii) into an existing or new public institution.

(D) How a new public institution can work in partnership with Vermont financial institutions:

(i) to increase access to capital for Vermont citizens and businesses; and

(ii) to provide lower cost capital to municipalities to meet infrastructure needs and other expenditures.

(2) For purposes of its study of these issues, the Task Force shall have administrative, policy, and legal support from the legislative Joint Fiscal Office and the Office of Legislative Council.

(d) Report. On or before January 15, 2014, the Task Force shall report to the House and Senate Committees on Government Operations its findings and any recommendations for legislative action.

(e) Reimbursement. For attendance at meetings during adjournment of the General Assembly, legislative members of the Task Force shall be entitled to compensation and reimbursement for expenses as provided in 2 V.S.A. § 406; and other members of the Task Force who are not employees of the State of Vermont shall be reimbursed at the per diem rate set in 32 V.S.A. § 1010(b) plus mileage reimbursement.

(f) Appropriation. The sum of \$5,000.00 is appropriated from the General Fund in fiscal year 2014 to the Department of Finance and Management for per diem and expenses of the State Financial and Lending Efficiency Task Force under this section.

Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.

(Committee vote: 5-0-0)

**Reported favorably by Senator Hartwell for the Committee on Finance when amended as recommended by the Committee on Government Operations.**

(Committee vote: 6-0-1)

**Reported favorably with recommendation of amendment by Senator Starr for the Committee on Appropriations.**

The Committee recommends that the bill be amended as recommended by the Committee on Government Operations, with the following amendments thereto:

First: In Sec. 1, by striking out subsections (e)–(f) in their entirety.

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

Sec. 2. EFFECTIVE DATE; REPEAL

This act shall take effect on passage and shall be repealed on January 16, 2014.

(Committee vote: 7-0-0)

**AMENDMENT TO S. 55 TO BE OFFERED BY SENATOR ASHE**

Senator Ashe moves that the recommendation of amendment of the Committee on Government Operations, be amended as follows:

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

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

(1) The Vermont State Treasurer, who shall serve as chair.

(2) The Secretary of Commerce and Community Development or designee.

(3) The President of the Vermont Community Foundation or designee.

(4) A business entrepreneur with relevant financial services experience, appointed by the Senate President Pro Tempore.

(5) A current officer or executive of a Vermont-based banking institution, appointed by the Speaker of the House of Representatives.

(6) The Executive Director of the Vermont Economic Development Authority or designee.

(7) The executive director of a nonprofit with expertise in designing lending and banking services, appointed by the Senate President Pro Tempore.

(8) A municipal employee whose official duties involve local economic development, appointed by the Speaker of the House of Representatives.

(9) The Director of the Gund Institute for Ecological Economics or designee.

(10) An academic economist appointed jointly by the Speaker of the House of Representatives and the Senate President Pro Tempore.

(11) The president of the Vermont Student Assistance Corporation or designee.

(12) The executive director of the Vermont Housing Finance Agency or designee.

(13) The executive director of the Vermont Municipal Bond Bank.

(14) A director of a regional economic development corporation appointed by the Senate Committee on Committees.

Second: In Sec. 1, subdivision (c) subsection (1) by adding new subparagraphs (E)–(G) to read as follows:

(E) State revenues and cash flow and liquidity requirements of the State and relevant entities or instrumentalities and the potential liquidity impact of potential structural models considered by the Task Force.

(F) Required capital appropriations, if any, or other sources of capital required under potential structural models for start-up and ongoing operations.

(G) Legal issues, constitutional or statutory, compliance with federal and state laws and regulations, and regulatory capital requirements, including:

(i) Requirements of monies paid to the treasury.

(ii) Loans of state money for private purposes.

(iii) Duties of the State Treasurer, Commissioner of Finance and Management, and other relevant state authorities.

(iv) State investment statutes.

(v) Issues arising from use and operation of special funds.

(vi) Regulatory issues for financial institutions under the authority of the Department of Financial Regulation.

Third: In Sec. 1, subsection (c) by striking out subdivision (2) in its entirety and inserting in lieu thereof a new subdivision (2) to read as follows:

(2) For purposes of its study of these issues, the Task Force shall have administrative support from the Office of the Treasurer.

## **UNFINISHED BUSINESS OF TUESDAY, APRIL 30, 2013**

### **House Proposal of Amendment**

#### **S. 47.**

An act relating to protection orders and second degree domestic assault.

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

Sec. 1. 15 V.S.A. § 1105 is amended to read:

§ 1105. SERVICE

(a) A complaint or ex parte temporary order or final order issued under this chapter shall be served in accordance with the rules of civil procedure and may be served by any law enforcement officer.

(b) A defendant who attends a hearing held under section 1103 or 1104 of this title at which a temporary or final order under this chapter is issued and who receives notice from the court on the record that the order has been issued



shall be deemed to have been served. A defendant notified by the court on the record shall be required to adhere immediately to the provisions of the order.

(c) Abuse orders shall be served by the law enforcement agency at the earliest possible time and shall take precedence over other summonses and orders. Orders shall be served in a manner calculated to ~~insure~~ ensure the safety of the plaintiff. Methods of service which include advance notification to the defendant shall not be used. The person making service shall file a return of service with the court stating the date, time, and place at which the order was delivered personally to the defendant. ~~A defendant who attends a hearing held under section 1103 or 1104 of this title at which a temporary or final order under this chapter is issued, and who receives notice from the court on the record that the order has been issued, shall be deemed to have been served.~~

~~(b)~~(d) If service of a notice of hearing issued under section 1103 or 1104 of this title cannot be made before the scheduled hearing, the court shall continue the hearing and extend the terms of the order upon request of the plaintiff for such additional time as it deems necessary to achieve service on the defendant.

Sec. 2. 15 V.S.A. § 1105 is amended to read:

§ 1105. SERVICE

(a) A complaint or ex parte temporary order or final order issued under this chapter shall be served in accordance with the rules of civil procedure and may be served by any law enforcement officer. A court that issues an order under this chapter during court hours shall promptly transmit the order electronically or by other means to a law enforcement agency for service.

(b) A defendant who attends a hearing held under section 1103 or 1104 of this title at which a temporary or final order under this chapter is issued and who receives notice from the court on the record that the order has been issued shall be deemed to have been served. A defendant notified by the court on the record shall be required to adhere immediately to the provisions of the order. However, even when the court has previously notified the defendant of the order, the court shall transmit the order for additional service by a law enforcement agency.

(c) Abuse orders shall be served by the law enforcement agency at the earliest possible time and shall take precedence over other summonses and orders. Orders shall be served in a manner calculated to ensure the safety of the plaintiff. Methods of service which include advance notification to the defendant shall not be used. The person making service shall file a return of service with the court stating the date, time, and place at which the order was delivered personally to the defendant.

(d) If service of a notice of hearing issued under section 1103 or 1104 of this title cannot be made before the scheduled hearing, the court shall continue the hearing and extend the terms of the order upon request of the plaintiff for such additional time as it deems necessary to achieve service on the defendant.

Sec. 3. 12 V.S.A. § 5135 is amended to read:

§ 5135. SERVICE

(a) A complaint or ex parte temporary order or final order issued under this chapter shall be served in accordance with the Vermont Rules of Civil Procedure and may be served by any law enforcement officer.

(b) A defendant who attends a hearing held under section 5133 or 5134 of this title at which a temporary or final order under this chapter is issued and who receives notice from the court on the record that the order has been issued shall be deemed to have been served. A defendant notified by the court on the record shall be required to adhere immediately to the provisions of the order.

(c) Orders against stalking or sexual assault shall be served by the law enforcement agency at the earliest possible time and shall take precedence over other summonses and orders, with the exception of abuse prevention orders issued pursuant to 15 V.S.A. chapter 21. Orders shall be served in a manner calculated to ensure the safety of the plaintiff. Methods of service which include advance notification to the defendant shall not be used. The person making service shall file a return of service with the court stating the date, time, and place that the order was delivered personally to the defendant.

~~(b)~~(d) If service of a notice of hearing issued under section 5133 or 5134 of this title cannot be made before the scheduled hearing, the court shall continue the hearing and extend the terms of the order upon request of the plaintiff for such additional time as it deems necessary to achieve service on the defendant.

Sec. 4. 12 V.S.A. § 5135 is amended to read:

§ 5135. SERVICE

(a) A complaint or ex parte temporary order or final order issued under this chapter shall be served in accordance with the Vermont Rules of Civil Procedure and may be served by any law enforcement officer. A court that issues an order under this chapter during court hours shall promptly transmit the order electronically or by other means to a law enforcement agency for service.

(b) A defendant who attends a hearing held under section 5133 or 5134 of this title at which a temporary or final order under this chapter is issued and who receives notice from the court on the record that the order has been issued shall be deemed to have been served. A defendant notified by the court on the

record shall be required to adhere immediately to the provisions of the order. However, even when the court has previously notified the defendant of the order, the court shall transmit the order for additional service by a law enforcement agency.

(c) Orders against stalking or sexual assault shall be served by the law enforcement agency at the earliest possible time and shall take precedence over other summonses and orders, with the exception of abuse prevention orders issued pursuant to 15 V.S.A. chapter 21. Orders shall be served in a manner calculated to ensure the safety of the plaintiff. Methods of service which include advance notification to the defendant shall not be used. The person making service shall file a return of service with the court stating the date, time, and place that the order was delivered personally to the defendant.

(d) If service of a notice of hearing issued under section 5133 or 5134 of this title cannot be made before the scheduled hearing, the court shall continue the hearing and extend the terms of the order upon request of the plaintiff for such additional time as it deems necessary to achieve service on the defendant.

Sec. 5. 33 V.S.A. § 6937 is amended to read:

§ 6937. SERVICE

(a) A petition or ex parte temporary order or final order issued under this subchapter shall be served by any sheriff or constable or any municipal or state police officer in accordance with the Vermont Rules of Civil Procedure.

(b) A defendant who attends a hearing held under section 6935 of this title at which a temporary or final order under this chapter is issued and who receives notice from the court on the record that the order has been issued shall be deemed to have been served. A defendant notified by the court on the record shall be required to adhere immediately to the provisions of the order.

(c) The person making service shall file a return of service with the court stating the date, time and place at which the order was delivered personally to the defendant.

Sec. 6. 33 V.S.A. § 6937 is amended to read:

§ 6937. SERVICE

(a) A petition or ex parte temporary order or final order issued under this subchapter shall be served by any sheriff or constable or any municipal or state police officer in accordance with the Vermont Rules of Civil Procedure. A court that issues an order under this chapter during court hours shall promptly transmit the order electronically or by other means to a law enforcement agency for service.

(b) A defendant who attends a hearing held under section 6935 of this title at which a temporary or final order under this chapter is issued and who receives notice from the court on the record that the order has been issued shall be deemed to have been served. A defendant notified by the court on the record shall be required to adhere immediately to the provisions of the order. However, even when the court has previously notified the defendant of the order, the court shall transmit the order for additional service by a law enforcement agency.

(c) The person making service shall file a return of service with the court stating the date, time and place at which the order was delivered personally to the defendant.

Sec. 7. 12 V.S.A. § 5136 is amended to read:

§ 5136. PROCEDURE

(a) Except as otherwise specified in this chapter, proceedings commenced under this chapter shall be in accordance with the Vermont Rules of Civil Procedure and shall be in addition to any other available civil or criminal remedies.

(b) ~~The court administrator~~ Court Administrator is authorized to contract with public or private agencies to assist plaintiffs to seek relief and to gain access to superior court. Law enforcement agencies shall assist in carrying out the intent of this section.

(c) ~~The office~~ Office of the ~~court administrator~~ Court Administrator shall ensure that the superior court has procedures in place so that the contents of orders and pendency of other proceedings can be known to all courts for cases in which an order against stalking or sexual assault proceeding is related to a criminal proceeding.

(d) Unless otherwise ordered by the court, an order issued pursuant to sections 5133 and 5134 of this title shall not be stayed pending an appeal.

Sec. 8. 15 V.S.A. § 1103 is amended to read:

§ 1103. REQUESTS FOR RELIEF

(a) Any family or household member may seek relief from abuse by another family or household member on behalf of him or herself or his or her children by filing a complaint under this chapter. The plaintiff shall submit an affidavit in support of the order.

\* \* \*

(c)(1) The court shall make such orders as it deems necessary to protect the plaintiff or the children, or both, if the court finds that the defendant has abused the plaintiff, and:

\* \* \*

(2) The court order may include the following:

(A) an order that the defendant refrain from abusing the plaintiff, his or her children, or both and from interfering with their personal liberty, including restrictions on the defendant's ability to contact the plaintiff or the children in person, by phone, or by mail and restrictions prohibiting the defendant from coming within a fixed distance of the plaintiff, the children, the plaintiff's residence, or other designated locations where the plaintiff or children are likely to spend time;

(B) an order that the defendant immediately vacate the household and that the plaintiff be awarded sole possession of a residence;

(C) a temporary award of parental rights and responsibilities in accordance with the criteria in section 665 of this title;

(D) an order for parent-child contact under such conditions as are necessary to protect the child or the plaintiff, or both, from abuse. An order for parent-child contact may if necessary include conditions under which the plaintiff may deny parent-child contact pending further order of the court;

(E) if the court finds that the defendant has a duty to support the plaintiff, an order that the defendant pay the plaintiff's living expenses for a fixed period of time not to exceed three months;

(F) if the court finds that the defendant has a duty to support the child or children, a temporary order of child support pursuant to chapter 5 of this title, for a period not to exceed three months. A support order granted under this section may be extended if the relief from abuse proceeding is consolidated with an action for legal separation, divorce, or parentage;

(G) an order concerning the possession, care, and control of any animal owned, possessed, leased, kept, or held as a pet by either party or a minor child residing in the household;

(H) an order that the defendant return any personal documentation in his or her possession, including immigration documentation, birth certificates, and identification cards:

(i) pertaining to the plaintiff; or

(ii) pertaining to the plaintiff's children if relief is sought for the children or for good cause shown.

\* \* \*

Sec. 9. 15 V.S.A. § 1104 is amended to read:

§ 1104. EMERGENCY RELIEF

(a) In accordance with the rules of civil procedure, temporary orders under this chapter may be issued ex parte, without notice to defendant, upon motion and findings by the court that defendant has abused plaintiff, his or her children, or both. The plaintiff shall submit an affidavit in support of the order. Relief under this section shall be limited as follows:

(1) ~~upon~~ Upon a finding that there is an immediate danger of further abuse, an order may be granted requiring the defendant:

(A) to refrain from abusing the plaintiff, his or her children, or both, or from cruelly treating as defined in 13 V.S.A. § 352 or 352a or killing any animal owned, possessed, leased, kept, or held as a pet by either party or a minor child residing in the household; ~~and~~

(B) to refrain from interfering with the plaintiff's personal liberty, the personal liberty of plaintiff's children, or both; and

(C) to refrain from coming within a fixed distance of the plaintiff, the plaintiff's children, the plaintiff's residence, or the plaintiff's place of employment.

(2) ~~upon~~ Upon a finding that the plaintiff, his or her children, or both have been forced from the household and will be without shelter unless the defendant is ordered to vacate the premises, the court may order the defendant to vacate immediately the household and may order sole possession of the premises to the plaintiff;

(3) ~~upon~~ Upon a finding that there is immediate danger of physical or emotional harm to minor children, the court may award temporary custody of these minor children to the plaintiff or to other persons.

\* \* \*

Sec. 10. 15 V.S.A. § 1152 is amended to read:

§ 1152. ADDRESS CONFIDENTIALITY PROGRAM; APPLICATION;  
CERTIFICATION

\* \* \*

(f) The Civil or Family Division of Washington County Superior Court shall have jurisdiction over petitions for protective orders filed by program participants pursuant to 12 V.S.A. §§ 5133 and 5134, to sections 1103 and 1104 of this title, and to 33 V.S.A. § 6935. A program participant may file a

petition for a protective order in the county in which he or she resides or in Washington County to protect the confidentiality of his or her address.

Sec. 11. 13 V.S.A. § 1044 is amended to read:

§ 1044. SECOND DEGREE AGGRAVATED DOMESTIC ASSAULT

(a) A person commits the crime of second degree aggravated domestic assault if the person:

(1) commits the crime of domestic assault and such conduct violates:

(A) specific conditions of a criminal court order in effect at the time of the offense imposed to protect that other person;

(B) a final abuse prevention order issued under ~~section 15~~ V.S.A. § 1103 of Title 15 or a similar order issued in another jurisdiction.

(C) ~~an a final~~ order against stalking or sexual assault issued under ~~chapter 178 of Title 12~~ V.S.A. § 5133 or a similar order issued in another jurisdiction; or

(D) ~~an a final~~ order against abuse of a vulnerable adult issued under ~~chapter 69 of Title 33~~ V.S.A. § 6935 or a similar order issued in another jurisdiction.

(2) commits the crime of domestic assault; and

(A) has a prior conviction within the last 10 years for violating an abuse prevention order issued under section 1030 of this title; or

(B) has a prior conviction for domestic assault under section 1042 of this title.

(3) For the purpose of this subsection, the term “issued in another jurisdiction” means issued by a court in any other state, in a federally recognized Indian tribe, territory, or possession of the United States, in the Commonwealth of Puerto Rico, or in the District of Columbia.

\* \* \*

Sec. 12. EFFECTIVE DATE

(a) Secs. 2, 4, and 6 of this act shall take effect on November 1, 2013.

(b) This section and all remaining sections of this act shall take effect on July 1, 2013.

**NEW BUSINESS**

**Third Reading**

**S. 37.**

An act relating to the creation of a tax increment financing district.

**H. 99.**

An act relating to equal pay.

**H. 169.**

An act relating to relieving employers' experience-rating records.

**H. 178.**

An act relating to anatomical gifts.

**H. 528.**

An act relating to revenue changes for fiscal year 2014 and fiscal year 2015.

**PROPOSAL OF AMENDMENT TO H. 528 TO BE OFFERED BY  
SENATOR ASHE ON BEHALF OF THE COMMITTEE ON FINANCE  
BEFORE THIRD READING**

Senator Ashe on behalf of the Committee on Finance, moves to amend the Senate proposal of amendment as follows:

First: In Sec. 3, in subsection (d), by striking out the following: "for the purpose of financing health care coverage under Catamount Health assistance, as provided under 33 V.S.A. chapter 19, subchapter 3a"

Second: In Sec. 8 (joint fiscal office), by striking out the words "state return" and inserting in lieu thereof the words state returns

Third: In Sec. 31, in subsection (a), by striking the word "agency" after the words "totality of"

Fourth: In Sec. 31, by striking subsection (b) in its entirety and inserting in lieu thereof the following:

(b) Membership. The Chair and Vice Chair of the Committee shall be legislative members selected by all the members of the Committee. The Committee on Workforce Barriers shall be composed of seven members as follows:

(1) the chairs of the Senate and House Committees on Appropriations or their designees;



(2) the chairs of the Senate Committee on Finance and the House Committee on Ways and Means or their designees;

(3) the chairs of the Senate Committee on Health and Welfare and the House Committee on Human Services or their designees;

(4) the chairs of the Senate Committee on Economic Development, Housing and General Affairs and the House Committee on Commerce and Economic Development or their designees;

(5) the Secretary of Administration or designee;

(6) the Secretary of Human Services or designee; and

(7) the Commissioner of Labor or designee.

Fifth: In Sec. 33, in subsection (b), by striking out the following: “17 (Vermont higher education tax credit),” and in subsection (f), by striking out the following: “Secs. 15 (definition of taxable income) and 16 (minimum payment)” and inserting in lieu thereof the following: Secs. 15 (definition of taxable income), 16 (minimum payment), and 17 (Vermont higher education tax credit)

**PROPOSAL OF AMENDMENT TO H. 528 TO BE OFFERED BY  
SENATOR POLLINA BEFORE THIRD READING**

Senator Pollina moves to amend the Senate proposal of amendment as follows:

First: By inserting two new sections to be numbered Sec. 15a and Sec. 15b to read as follows:

Sec. 15a. REPEAL

2009 Spec. Sess. Acts and Resolves No. 2, Sec. 20 is repealed.

Sec. 15b. TAX RATES

For tax year 2013 and after, the tax rates for the two highest income tax brackets in 32 V.S.A. § 5822(a)(1)–(5) are raised the rates of 8.80 percent and 8.95 percent to 9.8 percent and 10.45 percent respectively. The tax rates for the three lowest brackets shall remain the same as they were in tax year 2012: 3.55 percent, 6.80 percent, and 7.80 percent. The Office of Legislative Council is authorized to alter the statutory chart in 32 V.S.A. § 5822(a)(1)–(5) to reflect these changes.

Second: In Sec. 33, in subsection (f), after the following: “Secs. 15 (definition of taxable income)” by inserting following: 15a (income tax rate repeal), 15b (income tax rates),

Third: By striking out Sec. 22 (sales tax definitions) and Sec. 23 (sales tax exemptions), and inserting in lieu thereof the following:

Sec. 23. [Deleted.]

Sec. 24. [Deleted.]

And in Sec. 33, in subsection (b) by striking out the following: “22 (sales tax definitions), 23 (sales tax exemptions),”

Fourth: By striking out Secs. 24 (satellite programming tax), 25 (satellite tax rate for fiscal year 2015), 26 (satellite tax exemption), and 27 (satellite tax rate for fiscal year 2016), in their entirety and inserting in lieu thereof the following:

Sec. 24. [Deleted.]

Sec. 25. [Deleted.]

Sec. 26. [Deleted.]

Sec. 27. [Deleted.]

And in Sec. 33, in subsection (b), by striking the following “24 (satellite programming tax),” and by striking out subsections 33(h) and Sec. 33(i) in their entirety.

### **PROPOSAL OF AMENDMENT TO H. 528 TO BE OFFERED BY SENATOR CUMMINGS BEFORE THIRD READING**

Senator Cummings moves to amend the Senate proposal of amendment as follows:

First: By adding a Sec. 15a to read as follows:

Sec. 15a. MORTGAGE INTEREST ADJUSTMENT

Beginning with taxable year 2014, the amount of the home mortgage interest limitation in 32 V.S.A. § 5811(21) shall be adjusted from the previous year’s limitation by a percentage equal to the percentage that the United States Prime Lending Rate as listed in the Eastern print edition of the Wall Street Journal has changed from the previous year, rounded down to the nearest \$100.00 increment. The Department of Taxes shall calculate the amount of the limitation under this section and publish the limitation for the upcoming taxable year by December 1 of the preceding year.

Second: In Sec. 33, in subsection (b), after the phrase “13 (blighted property),” by adding the phrase 15a (mortgage interest limitation adjustment),

**PROPOSAL OF AMENDMENT TO H. 528 TO BE OFFERED BY  
SENATORS LYONS AND SNELLING BEFORE THIRD READING**

Senators Lyons and Snelling move to amend the Senate proposal of amendment as follows:

First: By adding a new section to be numbered Sec. 23a to read as follows:

Sec. 23a. 2012 Acts and Resolves No. 143, Sec. 52 is amended to read:

Sec. 52. TEMPORARY MORATORIUM ON ENFORCEMENT OF  
SALES TAX ON PREWRITTEN SOFTWARE ACCESSED  
REMOTELY

Notwithstanding the imposition of sales and use tax on prewritten computer software by 32 V.S.A. chapter 233, the ~~department of taxes~~ Department of Taxes shall not assess tax on charges for remotely accessed software made after December 31, 2006 and before July 1, ~~2013~~ 2015, and taxes paid on such charges shall be refunded upon request if within the statute of limitations and documented to the satisfaction of the ~~commissioner~~ Commissioner. “Charges for remotely accessed software” means charges for the right to access and use prewritten software run on underlying infrastructure that is not managed or controlled by the consumer or a related company. Enforcement of the sales and use tax imposed on the purchase of specified digital products pursuant to 32 V.S.A. § 9771(8) is not affected by this section.

Second: By adding a new section to be numbered Sec. 23b to read as follows:

Sec. 23b. CLOUD TAX IMPLEMENTATION

The Department of Taxes shall report to the Senate Committee on Finance and House Committee on Ways and Means on how it plans to implement the sales and use tax on the sale of prewritten software accessed remotely under Vermont law. The report shall specify the types of transactions that would be taxable under current law and the types of transactions that would not be taxable. To the extent the report identifies any outstanding issues with implementing the tax, the report shall include specific recommendations for administrative or legislative action. The report shall be due on or before January 15, 2015.

Third: In Sec. 33, in subsection (b), after the following: “23 (sales tax exemptions),” by inserting the following: 23a (cloud moratorium), 23b (cloud implementation).

Fourth: By striking out Secs. 24 (satellite tax), 25 (satellite tax rate for FY 2015), 26 (satellite exemptions), and 27 (satellite tax rate for FY 2016) in their entirety, and inserting in lieu thereof the following:

Sec. 24. 32 V.S.A. chapter 242 is added to read:

CHAPTER 242. TAX ON SATELLITE TELEVISION PROGRAMMING

§ 10401. DEFINITIONS

As used in this chapter:

(1) "Commissioner" means the Commissioner of Taxes.

(2) "Distributor" means any person engaged in the business of making satellite programming available for purchase by subscribers.

(3) "Satellite programming" means radio and television audio and video programming services where the programming is distributed or broadcast by satellite directly to the subscriber's receiving equipment located at an end user subscribers' or end user customers' premises.

(4) "Subscriber" means a person who purchases programming taxable under this chapter.

§ 10402. TAX IMPOSED

(a) There is imposed a tax on provision of satellite programming to a subscriber located in this State. The tax shall be at the rate of five percent of all gross receipts derived by the distributor from the provision of satellite programming in this State.

(b) The tax together with a return in a form prescribed by the Commissioner shall be paid to the Commissioner quarterly on or before the 25th day of the month following the last day of each quarter of the taxpayer's taxable year under the Internal Revenue Code. The Commissioner shall deposit the payments collected into the General Fund.

(c) To the extent they are not explicitly in conflict with the provisions of this chapter, the provisions of chapter 103 and subchapters 6, 7, 8, and 9 of chapter 151 of this title shall apply to the tax imposed by this section.

§ 10403. EXEMPTIONS

(a) The following transactions are not covered by the tax in this chapter:

(1) transactions that are not within the taxing power of this State;

(2) the provision of satellite programming to a person for resale; and

(3) the first \$15.00 of monthly charges paid by each subscriber for the provision of satellite programming which shall not be counted as gross receipts.

(b) The following organizations are not covered by the tax in this chapter:

(1) the State of Vermont or any of its agencies, instrumentalities, public authorities, or political subdivisions; and

(2) the United States of America or any of its agencies and instrumentalities.

Sec. 25. 32 V.S.A. § 10403(a) is amended to read:

(a) The following transactions are not covered by the tax in this chapter:

(1) transactions that are not within the taxing power of this State; and

(2) the provision of satellite programming to a person for resale;

~~(3) the first \$15.00 of monthly charges paid by each subscriber for the provision of satellite programming shall not be counted as gross receipts.~~

Sec. 26. [Deleted.]

Sec. 27. [Deleted.]

Fifth: In Sec. 33 (effective dates), by striking out subsections (h) and (i) in their entirety and inserting a new subsection (h) to read as follows:

(h) Sec. 25 (satellite exemptions) shall take effect on July 1, 2014.

**PROPOSAL OF AMENDMENT TO H. 528 TO BE OFFERED BY  
SENATOR RODGERS AND STARR BEFORE THIRD READING**

Senator Rodgers and Starr move that the Senate propose to the House to amend the bill as follows

First: By adding a new section to be numbered Sec. 17a to read as follows:

**Sec. 17a. WOOD PRODUCTS MANUFACTURERS TAX CREDIT**

2005 Spec. Sess. Acts and Resolves No. 2, Sec. 2, as amended by 2006 Acts and Resolves No. 212, Sec. 9 and 2008 Acts and Resolves No. 190, Sec. 29, and as further amended by 2011 Acts and Resolves No. 45, Sec. 17, is further amended to read:

**Sec. 2. EFFECTIVE DATE; SUNSET**

Sec. 1 of this act (wood products manufacture tax credit) shall apply to taxable years beginning on or after July 1, 2005. 32 V.S.A. § 5930y is repealed July 1, ~~2013~~ 2014, and no credit under that section shall be available for any taxable year beginning on or after July 1, ~~2013~~ 2014.

Second: In Sec. 33(b), after the following: "13 (blighted property)." by inserting the following: 17a (wood manufacturers tax credit).

**PROPOSAL OF AMENDMENT TO H. 528 TO BE OFFERED BY  
SENATORS RODGERS AND STARR BEFORE THIRD READING**

Senators Rodgers and Starr move to amend the Senate proposal of amendment as follows:

First: By striking out Secs. 24 (satellite programming tax), 25 (satellite tax rate for fiscal year 2015), 26 (satellite tax exemption), and 27 (satellite tax rate for fiscal year 2016), in their entirety and inserting in lieu thereof the following:

Sec. 24. [Deleted.]

Sec. 25. [Deleted.]

Sec. 26. [Deleted.]

Sec. 27. [Deleted.]

And in Sec. 33, in subsection (b), by striking out the following: “24 (satellite programming tax),” and by striking out subsections 33(h) and 33(i) in their entirety

Second: In Sec. 15, in subdivision 21(A)(iv), by striking out the following: “\$12,000.00” and inserting in lieu thereof the following: \$10,000.00

**PROPOSAL OF AMENDMENT TO H. 528 TO BE OFFERED BY  
SENATORS WESTMAN, CAMPBELL, COLLINS, CUMMINGS,  
FRENCH, POLLINA AND WHITE**

Senators Westman, Campbell, Collins, Cummings, French, Pollina and White move to amend the Senate proposal of amendment by striking out Sec. 17 (Vermont higher education tax credit) in its entirety and inserting in lieu thereof the following:

Sec. 17. [Deleted.]

And in Sec. 33(b) by striking out the phrase “17 (Vermont higher education tax credit),”

**Second Reading**

**Favorable**

**H. 315.**

An act relating to group health coverage for same-sex spouses.

**Reported favorably by Senator Mullin for the Committee on Finance.**

(Committee vote: 4-0-3)

(For House amendments, see House Journal of March 15, 2012, page 329)

## Favorable with Proposal of Amendment

### H. 50.

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

#### **Reported favorably with recommendation of proposal of amendment by Senator McAllister for the Committee on Agriculture.**

The Committee recommends that the Senate propose 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.

(Committee vote: 4-0-1)

(For House amendments, see House Journal for April 4, 2013, page 646.)

#### **Reported favorably by Senator Lyons for the Committee on Finance when so amended as recommended by the Committee on Agriculture.**

(Committee vote: 4-0-3)

### H. 101.

An act relating to hunting, fishing, and trapping.

#### **Reported favorably with recommendation of proposal of amendment by Senator Rodgers for the Committee on Natural Resources and Energy.**

The Committee recommends that the Senate propose 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) <del>second muzzle loader license</del> <u>[Deleted.]</u> | <del>\$17.00</del> |
| (E) <del>second archery license</del> <u>[Deleted.]</u>       | <del>\$17.00</del> |
| (F) moose license   | \$100.00           |
| (G) <del>additional</del> <u>early season</u> 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

(Committee vote: 5-0-0)

(For House amendments, see House Journal for April 4, 2013, page 661.)

**Reported favorably by Senator MacDonald for the Committee on Finance when amended as recommended by the Committee on Natural Resources and Energy.**

(Committee vote: 4-0-3)

### **H. 530.**

An act relating to making appropriations for the support of government.

**Reported favorably with recommendation of proposal of amendment by Senator Kitchel for the Committee on Appropriations.**

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

For Text of Report of Committee on Appropriations, see Addendum to Senate Calendar for April 30, 2013.

(Committee vote: 7-0-0)

(For House amendments, see House Journal for March 28, 2013, page 574 and March 29, page 599.)

**NOTICE CALENDAR**  
**Second Reading**  
**Favorable with Proposal of Amendment**  
**H. 136.**

An act relating to cost-sharing for preventive services.

**Reported favorably with recommendation of proposal of amendment by Senator Ayer for the Committee on Health and Welfare.**

The Committee recommends that the Senate propose to the House to amend the bill by striking out 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.

(Committee vote: 5-0-0)

(No House amendments.)

#### **H. 182.**

An act relating to search and rescue.

**Reported favorably with recommendation of proposal of amendment by Senator McAllister for the Committee on Government Operations.**

The Committee recommends that the Senate propose to the House to amend the bill as follows:

First: 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.

Second: In Sec. 1, in 20 V.S.A. § 1847 (Search and Rescue Council), by striking out subdivision (b)(1) in its entirety and inserting in lieu thereof the following:

(b)(1) Membership. The Council shall be composed of ten 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 House of Representatives, appointed by the Speaker of the House;

(D) one member of the Senate, appointed by the Senate Committee on Committees;

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

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

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

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

(I) one volunteer firefighter and one career firefighter, appointed by the Governor.

Third: By striking out Sec. 4 (effective dates) in its entirety and inserting in lieu thereof the following two new sections:

#### 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 17 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, 17 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. 5. EFFECTIVE DATES

This act shall take effect on passage, except that:

(1) Sec. 1, 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; and

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

(Committee vote: 5-0-0)

(For House amendments, see House Journal for March 13, 2013, page 320, and page 321.)

**Reported favorably with recommendation of proposal of amendment by Senator Sears for the Committee on Appropriations.**

The Committee recommends that the Senate propose to the House that the bill be amended as recommended by the Committee on Government Operations and that it be further amended 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 § 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, appointed by the Governor.

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

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

Sec. 4a. REPEAL

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

Fifth: By striking out Sec. 5 (Effective Dates) in its entirety and inserting in lieu thereof the following:

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.

(Committee vote: 7-0-0)

### **H. 395.**

An act relating to the establishment of the Vermont Clean Energy Loan Fund.

**Reported favorably by Senator Collins for the Committee on Economic Development, Housing and General Affairs.**

(Committee vote: 5-0-0)

(For House amendments, see House Journal for April 5, 2013, page 678.)

**Reported favorably with recommendation of proposal of amendment by Senator Galbraith for the Committee on Natural Resources and Energy.**

The Committee recommends that the Senate propose to the House to amend the bill as follows:

First: In Sec. 1, in 10 V.S.A. § 280dd(c)(1), by striking “traditional”

Second: In Sec. 6, in 10 V.S.A. § 213(b), in the first sentence, after the phrase “each of whom shall serve as” by striking “a voting” and inserting in lieu thereof an

(Committee vote: 5-0-0)

**Reported favorably with recommendation of proposal of amendment by Senator Lyons for the Committee on Finance.**

The Committee recommends that the Senate propose to the House that the bill be amended after Sec. 8 by inserting Sec. 8a as follows:

Sec. 8a. VERMONT STATE TREASURER; CREDIT FACILITY FOR RESIDENTIAL ENERGY EFFICIENCY LOANS

(a) Notwithstanding any other provision of law to the contrary, the Vermont State Treasurer, working in collaboration with the Vermont Housing Finance Agency, the entities appointed to deliver energy efficiency under 30 V.S.A. § 209(d)(2), NeighborWorks of Western Vermont, and other appropriate parties, shall have the authority to establish a credit facility of up to \$6,500,000.00, on terms acceptable to the Treasurer.

(b) The credit facility described in subsection (a) of this section shall be used for the purpose of financing energy efficiency improvements throughout Vermont for dwellings the owners of which demonstrate that they are credit-worthy and have a need for access to financing to make energy efficiency improvements in their dwellings. For the purpose of this section, “dwelling” means a residential structure that contains one or more housing units or that part of a structure that contains one or more residential housing units.

(c) The Treasurer shall take all reasonable steps to minimize the administrative costs of the financing programs supported by the facility described in subsection (a) of this section. On or before December 15, 2013, the Treasurer shall submit a written report to the House Committee on Commerce and Economic Development and the Senate Committees on

Economic Development, Housing and General Affairs and on Finance detailing the steps taken to implement this subsection.

(Committee vote: 5-0-2)

**H. 522.**

An act relating to strengthening Vermont's response to opioid addiction and methamphetamine abuse.

**Reported favorably with recommendation of proposal of amendment by Senator Fox for the Committee on Health and Welfare.**

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

\* \* \* Legislative Intent \* \* \*

Sec. 1. LEGISLATIVE INTENT

(a) This act is intended to provide a comprehensive approach to combating opioid addiction and methamphetamine abuse in Vermont through strategies that address prevention, treatment, and recovery, and increase community safety by reducing drug-related crime.

(b) It is the intent of the General Assembly that the initiatives described in this act should be integrated to the extent possible with the Blueprint for Health and Vermont's health care system and health care reform initiatives.

\* \* \* Preventing Abuse of Prescription Drugs \* \* \*

Sec. 2. 18 V.S.A. § 4201 is amended to read:

§ 4201. DEFINITIONS

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

\* \* \*

(26) "Prescription" means an order for a regulated drug made by a physician, physician assistant, advanced practice registered nurse, dentist, or veterinarian licensed under this chapter to prescribe such a drug which shall be in writing except as otherwise specified ~~herein~~ in this subdivision. Prescriptions for such drugs shall be made to the order of an individual patient, dated as of the day of issue and signed by the prescriber. The prescription shall bear the full name and, address, and date of birth of the patient, or if the patient is an animal, the name and address of the owner of the animal and the species of the animal. Such prescription shall also bear the full name, address, and registry number of the prescriber and, unless electronically prescribed,

shall be written with ink, indelible pencil, or typewriter; if typewritten, it shall be signed by the ~~physician~~ prescriber. A written or typewritten prescription for a controlled substance, as defined in 21 C.F.R. Part 1308, shall contain the quantity of the drug written both in numeric and word form.

\* \* \*

Sec. 2a. 18 V.S.A. § 4202(d) is amended to read:

(d) The regulations adopted by the ~~board of health~~ Board of Health under section 4201 of this title for the purpose of determining those drugs defined under that section may be adopted only after prior written notice to the ~~board of pharmacy~~ Board of Pharmacy and the ~~board of medical practice~~ Board of Medical Practice and after the ~~board of pharmacy~~ Board of Pharmacy and the ~~board of medical practice~~ Board of Medical Practice have had an opportunity to advise the ~~board of health~~ Board of Health with respect to the form and substance of those regulations or amendments and to recommend revisions thereof, except with respect to emergency rules adopted pursuant to 3 V.S.A. § 844, which may be adopted without notice by the Commissioner of Health.

Sec. 3. 18 V.S.A. § 4215b is added to read:

§ 4215b. IDENTIFICATION

Only a patient for whom a prescription was written, the owner of an animal for which a prescription was written, or a bona fide representative of the patient or animal owner, as defined by the Board of Pharmacy by rule after consultation with the Commissioner of Health, may pick up a prescription for a Schedule II, III, or IV controlled substance. Prior to dispensing a prescription for a Schedule II, III, or IV controlled substance, a pharmacist shall require the individual receiving the drug to provide a signature and show valid and current government-issued photographic identification as evidence that the individual is the patient for whom the prescription was written, the owner of the animal for which the prescription was written, or the bona fide representative of the patient or animal owner. If the individual does not have valid, current government-issued photographic identification, the pharmacist may request alternative evidence of the individual's identity, as appropriate.

Sec. 3a. BOARD OF PHARMACY; RULEMAKING

The Board of Pharmacy shall adopt rules pursuant to 3 V.S.A. chapter 25 to define which persons shall be considered bona fide representatives of a patient or animal owner for the purposes of picking up a prescription for a Schedule II, III, or IV controlled substance pursuant to 18 V.S.A. § 4215b.

Sec. 4. 18 V.S.A. § 4218 is amended to read:

§ 4218. ENFORCEMENT

\* \* \*

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

(e) The Department of Public Safety, in consultation with representatives of licensed Vermont pharmacies, shall adopt standard operating guidelines for accessing pharmacy records through the authority granted in this section. Any person authorized to access pharmacy records pursuant to subsection (a) of this section shall follow the Department of Public Safety's guidelines. These guidelines shall be a public record.

Sec. 5. DEPARTMENT OF PUBLIC SAFETY; REPORTING STANDARD OPERATING GUIDELINES

On or before December 15, 2013, the Commissioner of Public Safety shall submit to the House and Senate Committees on Judiciary, the House Committees on Human Services and on Health Care, and the Senate Committee on Health and Welfare the Department's written standard operating guidelines used to access pharmacy records at individual pharmacies pursuant to 18 V.S.A. § 4218. Subsequently, if the guidelines are substantively amended by the Department, it shall submit the amended guidelines to the same committees as soon as practicable.

Sec. 6. 18 V.S.A. § 4282 is amended to read:

§ 4282. DEFINITIONS

As used in this chapter:

\* \* \*

(3) ~~“Trained law enforcement officer” shall include any officer designated by the department of public safety who has completed a training program established by rule by the department of health, which is designed to ensure that officers have the training necessary to use responsibly and properly any information that they receive from VPMS.~~

(4) ~~“VPMS” shall mean the Vermont prescription monitoring system established under this chapter.~~

(4) “Delegate” means an individual employed by a health care provider or pharmacy or in the Office of the Chief Medical Examiner and authorized by a health care provider or dispenser or by the Chief Medical Examiner to request information from the VPMS relating to a bona fide current patient of the health care provider or dispenser or to a bona fide investigation or inquiry into an individual’s death.

(5) “Department” means the Department of Health.

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

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

Sec. 7. 18 V.S.A. § 4283 is amended to read:

§ 4283. CREATION; IMPLEMENTATION

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

\* \* \*

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

\* \* \*

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

§ 4284. PROTECTION AND DISCLOSURE OF INFORMATION

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

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

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

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

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

(C) The Medical Director of the Department of Vermont Health Access, for the purposes of Medicaid quality assurance, utilization, and federal monitoring requirements with respect to Medicaid recipients for whom a Medicaid claim for a Schedule II, III, or IV controlled substance has been submitted.

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

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

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

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

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

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

~~(5)~~(D) The relevant occupational licensing or certification authority if the ~~commissioner~~ Commissioner reasonably suspects fraudulent or illegal activity by a health care provider. The licensing or certification authority may report the data that are the evidence for the suspected fraudulent or illegal activity to a ~~trained law enforcement officer~~ drug diversion investigator.

~~(6)~~(E)(i) ~~The commissioner of public safety~~ Commissioner of Public Safety, personally, ~~or the Deputy Commissioner of Public Safety, personally,~~ if the ~~commissioner of health~~ Commissioner of Health, personally, or a Deputy Commissioner of Health, personally, makes the disclosure, ~~and~~ has consulted with at least one of the patient's health care providers, and believes that when the disclosure is necessary to avert a serious and imminent threat to a person or the public.

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

(iii) The Commissioner or Deputy Commissioner of Public Safety may disclose such data received pursuant to this subdivision (E) as is necessary, in his or her discretion, to avert the serious and imminent threat.

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

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

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



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

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

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

(g) Following consultation with the Unified Pain Management System Advisory Council and an opportunity for input from stakeholders, the Department shall develop a policy that will enable it to use information from VPMS to determine if individual prescribers and dispensers are using VPMS appropriately.

(h) Following consultation with the Unified Pain Management System Advisory Council and an opportunity for input from stakeholders, the Department shall develop a policy that will enable it to evaluate the prescription of regulated drugs by prescribers.

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

(j) All information and correspondence relating to the disclosure of information by the Commissioner to a patient's health care provider pursuant to subdivision (b)(2)(A) of this section shall be confidential and privileged, exempt from public inspection and copying under the Public Records Act, immune from subpoena or other disclosure, and not subject to discovery or introduction into evidence.

(k) Each request for disclosure of data pursuant to subdivision (b)(2)(B) of this section shall document a bona fide specific investigation and shall specify the case number of the investigation.

Sec. 9. 18 V.S.A. § 4287 is amended to read:

§ 4287. RULEMAKING

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

Sec. 10. 18 V.S.A. § 4288 is added to read:

§ 4288. RECIPROCAL AGREEMENTS

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

Sec. 11. 18 V.S.A. § 4289 is added to read:

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

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

(b)(1) Each health care provider who prescribes any Schedule II, III, or IV controlled substances shall register with the VPMS by November 15, 2013.

(2) If the VPMS shows that a patient has filled a prescription for a controlled substance written by a health care provider who is not a registered user of VPMS, the Commissioner of Health shall notify the applicable licensing authority and the provider by mail of the provider's registration requirement pursuant to subdivision (1) of this subsection.

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

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

(d) Health care providers shall query the VPMS with respect to an individual patient in the following circumstances:

(1) at least annually for patients who are receiving ongoing treatment with an opioid Schedule II, III, or IV controlled substance;

(2) when starting a patient on a Schedule II, III, or IV controlled substance for nonpalliative, long-term pain therapy of 90 days or more; and

(3) prior to writing a replacement prescription for a Schedule II, III, or IV controlled substance pursuant to section 4290 of this title.

(e) The Commissioner of Health shall, after consultation with the Unified Pain Management System Advisory Council, adopt rules necessary to effect the purposes of this section. The Commissioner and the Council shall consider additional circumstances under which health care providers should be required to query the VPMS, including whether health care providers should be required to query the VPMS:

(1) the first time the provider prescribes an opioid Schedule II, III, or IV controlled substance written to treat chronic pain; and

(2) when a patient requests renewal of a prescription for an opioid Schedule II, III, or IV controlled substance written to treat acute pain.

(f) Each professional licensing authority for dispensers shall adopt standards, consistent with rules adopted by the Department of Health under this section, regarding the frequency and circumstances under which its respective licensees shall:

(1) query the VPMS; and

(2) report to the VPMS, which shall be no less than once every seven days.

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

#### Sec. 11a. REPORTING OF DISPENSER STANDARDS

No later than March 31, 2014, each professional licensing authority for dispensers shall submit the standards required by 18 V.S.A. § 4289(e) to the VPMS Advisory Committee established in 18 V.S.A. § 4286.

Sec. 12. 18 V.S.A. § 4290 is added to read:

§ 4290. REPLACEMENT PRESCRIPTIONS AND MEDICATIONS

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

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

(c) When a health care provider writes a replacement prescription pursuant to this section, the provider shall clearly indicate as much by writing the word “REPLACEMENT” on the face of the prescription. The health care provider shall document the writing of the replacement prescription in the patient’s medical record.

Sec. 13. VPMS ADVISORY COMMITTEE

(a)(1) The Commissioner shall maintain an advisory committee to assist in the implementation and periodic evaluation of the Vermont Prescription Monitoring System (VPMS).

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

(3) The Committee shall have access to aggregated, deidentified data from the VPMS.

(b) The VPMS Advisory Committee shall be chaired by the Commissioner of Health or designee and shall include the following members:

(1) the Deputy Commissioner of Health for Alcohol and Drug Abuse Programs;

(2) a representative from the Vermont Medical Society;

(3) a representative from the American College of Emergency Physicians - Vermont Chapter;

(4) a representative from the Vermont State Nurses Association;

(5) a representative from the Vermont Board of Medical Practice;

(6) a representative from the Vermont Board of Pharmacy;

(7) a representative from the Vermont Pharmacists Association;

- (8) a representative from the Vermont State Dental Society;
- (9) the Commissioner of Public Safety;
- (10) a representative of the Vermont Attorney General;
- (11) a representative of the Vermont Substance Abuse Treatment Providers Association;
- (12) a mental health provider or a certified alcohol and drug abuse counselor;
- (13) a consumer in recovery from prescription drug abuse;
- (14) a consumer receiving medical treatment for chronic pain; and
- (15) any other member invited by the Commissioner.

(c) The Committee shall meet at least once annually but may be convened at any time by the Commissioner or the Commissioner's designee.

(d) On or before January 15, 2014, the Committee shall provide recommendations to the House Committees on Human Services and on Health Care and the Senate Committee on Health and Welfare regarding ways to maximize the effectiveness and appropriate use of the VPMS database, including adding new reporting capabilities, in order to improve patient outcomes and avoid prescription drug diversion. The Committee shall also report on the feasibility of obtaining real-time information from the VPMS and on its evaluation of whether increasing the frequency of dispenser reporting to the VPMS from at least once every seven days to at least once every 24 hours, or more frequently, would yield substantial benefits.

(e) The Committee shall cease to exist on July 1, 2014.

#### Sec. 13a. REPORT ON INTEGRATION OF ELECTRONIC MEDICAL RECORDS AND THE VERMONT PRESCRIPTION MONITORING SYSTEM

On or before December 1, 2014, the Department of Health shall provide to the House Committees on Human Services and on Health Care, the Senate Committee on Health and Welfare, and the House and Senate Committees on Judiciary a report evaluating the potential for the integration of electronic medical records with the VPMS. The report shall include an assessment of the feasibility of the integration, identification of potential barriers to the integration, and an estimate of the costs associated with the integration.

#### Sec. 13b. REPORT ON PREVENTION ACTIVITIES

(a) The Agency of Education and the Department of Health shall use the School Health Profile to survey public and approved independent middle and

high schools in Vermont to determine the quality and effectiveness of substance abuse prevention education in Vermont's schools.

(b) On or before January 15, 2015, the Secretary of Education and the Commissioner of Health shall report their evaluation of the quality and effectiveness of substance abuse prevention education in Vermont based on the results of the survey required by this section, as well as their recommendations for evidence-based and data-driven practices to be incorporated into school quality standards in the health education domain, to the House Committees on Human Services and on Health Care, the Senate Committee on Health and Welfare, and the House and Senate Committees on Education and on Judiciary.

\* \* \* Improving Access to Treatment and Recovery \* \* \*

Sec. 14. UNIFIED PAIN MANAGEMENT SYSTEM ADVISORY COUNCIL

(a) There is hereby created a Unified Pain Management System Advisory Council for the purpose of advising the Commissioner of Health on matters relating to the appropriate use of controlled substances in treating chronic pain and addiction and in preventing prescription drug abuse.

(b) The Unified Pain Management System Advisory Council shall consist of the following members:

(1) the Commissioner of Health or designee, who shall serve as chair;

(2) the Deputy Commissioner of Health for Alcohol and Drug Abuse Programs or designee;

(3) the Commissioner of Mental Health or designee;

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

(5) the Chair of the Board of Medical Practice or designee, who shall be a clinician;

(6) a representative of the Vermont State Dental Society, who shall be a dentist;

(7) a representative of the Vermont Board of Pharmacy, who shall be a pharmacist;

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

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

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

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

(12) a representative from the Vermont Board of Osteopathic Physicians, who shall be an osteopath;

(13) a representative of the Federally Qualified Health Centers, who shall be a primary care clinician selected by the Bi-State Primary Care Association;

(14) a representative of the Vermont Ethics Network;

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

(16) a representative of the Office of the Health Care Ombudsman;

(17) the Medical Director for the Department of Vermont Health Access;

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

(19) a member of the Vermont Board of Nursing Subcommittee on APRN Practice, who shall be an advanced practice registered nurse;

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

(21) a psychologist licensed pursuant to 26 V.S.A. chapter 55 who has experience in treating chronic pain, to be selected by the Board of Psychological Examiners;

(22) a drug and alcohol abuse counselor licensed pursuant to 33 V.S.A. chapter 8, to be selected by the Deputy Commissioner of Health for Alcohol and Drug Abuse Programs;

(23) a retail pharmacist, to be selected by the Vermont Pharmacists Association;

(24) an advanced practice registered nurse full-time faculty member from the University of Vermont's Department of Nursing; and

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

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

(d)(1) The Advisory Council shall provide advice to the Commissioner concerning rules for the appropriate use of controlled substances in treating chronic noncancer pain and addiction and in preventing prescription drug abuse.

(2) The Advisory Council shall evaluate the use of nonpharmacological approaches to treatment for chronic pain, including the appropriateness, efficacy, and cost-effectiveness of using complementary and alternative therapies such as chiropractic, acupuncture, and massage.

(e) The Commissioner of Health may adopt rules pursuant to 3 V.S.A. chapter 25 regarding the appropriate use of controlled substances after seeking the advice of the Council.

#### Sec. 14a. COMPLEMENTARY AND ALTERNATIVE TREATMENT REPORT

On or before January 15, 2014, the Commissioner of Health shall provide to the House Committees on Human Services and on Health Care and the Senate Committee on Health and Welfare the findings and recommendations of the Unified Pain Management System Advisory Council's initial evaluation of the use of nonpharmacological approaches to treatment for chronic pain, including the use of complementary and alternative therapies. The Commissioner shall provide the Committees with additional recommendations as appropriate as the Advisory Council continues to consider nonpharmacological approaches to treating chronic pain.

#### Sec. 14b. DEPARTMENT OF HEALTH; ACCESS TO OPIOID TREATMENT

(a) The prevalence of opioid addiction and the lack of sufficient access to opioid treatment in Vermont pose an imminent peril to the public health, welfare, and safety to our citizens.

(b) The Vermont Department of Health shall study how Vermont can increase access to opioid treatment, including methadone and suboxone, by establishing a program whereby state-licensed physicians who are affiliated with a licensed opioid maintenance treatment program may provide methadone or suboxone to opioid-dependent people.

(c) The Commissioner of Health shall consult with the following people:

(1) The Deputy Commissioner of Health for Alcohol and Drug Abuse Programs;



- (2) a representative from the Vermont Medical Society;
- (3) a representative from the Vermont State Nurses Association;
- (4) a representative from the Vermont Board of Medical Practice;
- (5) a representative from the Vermont Board of Pharmacy;
- (6) a representative from the Vermont Pharmacists Association;
- (7) the Commissioner of Public Safety;
- (8) a representative of the Vermont Attorney General;
- (9) a representative of the Vermont Substance Abuse Treatment Providers Association;
- (10) a mental health provider or a certified alcohol and drug abuse counselor;
- (11) a consumer in recovery from prescription drug abuse;
- (12) a representative from a clinical laboratory providing drug testing and clinical support services to addiction treatment programs;
- (13) the Commissioner of Corrections;
- (14) The Defender General; and
- (15) any other member designated by the Commissioner of Health.

(d)(1) The Department of Health shall adopt rules establishing a program whereby state-licensed physicians who are affiliated with a licensed opioid maintenance treatment program may provide methadone or suboxone to opioid-dependent people. Such rules may be adopted as emergency rules in accordance with 3 V.S.A. chapter 25. The Department may adopt and enforce such reasonable rules and procedures as are deemed necessary to carry out the administration of the provisions of this section.

(2) The Commissioner of Health shall report its findings, including any recommendations or proposed legislation to the House Committees on Health Care and on Human Services and Senate Committees on Judiciary and on Health and Welfare on or before January 15, 2014.

Sec. 14c. 33 V.S.A. § 703 is amended to read:

§ 703. ALCOHOL AND DRUG ABUSE COUNCIL; CREATION; TERMS;  
PER DIEM

(a) ~~The alcohol and drug abuse council~~ Alcohol and Drug Abuse Council is established within the ~~agency of human services~~ Agency of Human Services to

promote the reduction of problems arising from alcohol and drug abuse by advising the Secretary on policy areas that can inform agency programs.

(b) The ~~council~~ Council shall consist of ~~eleven~~ 11 members:

(1) ~~the secretary of the agency of human services, commissioner of public safety, commissioner of education, commissioner of liquor control, and commissioner of motor vehicles~~ Secretary of Human Services, Commissioner of Public Safety, Secretary of Education, Commissioner of Liquor Control, and Commissioner of Motor Vehicles or their designees;

(2) one member shall be a member of a mental health or substance abuse agency who shall be appointed by the ~~governor~~ Governor; and

(3) five members shall be appointed by the ~~governor~~ Governor of which every consideration shall be given, if possible, to equal geographic apportionment. ~~One of these~~ Consideration will be given for one of these members ~~shall~~ to be a certified practicing teacher and one of these members ~~shall~~ to be a school administrator.

(c) The term of office of members appointed pursuant to subdivisions (b)(2) and (b)(3) of this section shall be three years.

(d) The ~~secretary of the agency of human services~~ council membership shall annually elect a member to serve as chairperson.

(e) All members shall be voting members.

(f) At the expiration of the term of an appointed member, or in the event of a vacancy during an unexpired term, the new member shall be appointed in the same manner as his or her predecessor. Members of the ~~council~~ Council may be reappointed.

(g) Each member of the ~~council~~ Council not otherwise receiving compensation from the ~~state~~ State of Vermont or any political subdivision thereof shall be entitled to receive per diem compensation ~~of \$30.00 for each day as provided in 32 V.S.A. § 1010(b).~~ Each member shall be entitled to his or her actual and necessary expenses.

#### Sec. 15. OPIOID ADDICTION TREATMENT IN HOSPITALS

Pursuant to 18 V.S.A. § 4240(b)(5), the Department of Health, in collaboration with the Vermont Association of Hospitals and Health Systems, the Vermont Association for Mental Health and Addiction Recovery, and the Vermont Council of Developmental and Mental Health Services, shall, subject to available resources, develop evidence-based guidelines and training for hospitals regarding:

(1) screening for addiction;

- (2) performing addiction interventions;
- (3) making referrals to addiction treatment and recovery services for victims admitted to or treated in a hospital emergency department; and
- (4) informing hospitals about the specific addiction treatment and recovery services available in the hospital's service area.

Sec. 15a. REPORT ON OPIOID ADDICTION TREATMENT PROGRAMS

(a) On or before December 15, 2013, the Commissioners of Health and of Vermont Health Access shall provide a written report to the House Committees on Health Care and on Human Services, the Senate Committee on Health and Welfare, and the House and Senate Committees on Judiciary regarding opioid addiction treatment and recovery services being provided in Vermont.

(b) The report shall include:

(1) each program's capacity, including the number of persons currently served and the program's maximum capacity;

(2) the number of persons on the waiting list for each program, if applicable, and the average length of time a person spends on the program's waiting list before services become available;

(3) specific information regarding the number of persons served by each program that uses buprenorphine, buprenorphine/naloxone, or methadone for the treatment of opioid addiction and the number of persons on the waiting list for that program, if any;

(4) specific information about the implementation of the Hub and Spoke Opioid Integrated Treatment Initiative, including a description of specialty addiction treatment programs and general medical practices currently providing medication-assisted treatment (MAT) and the number of persons currently being served in specialty addiction treatment programs and in Blueprint primary care practices toward a goal of reducing current waiting lists statewide by 90 percent by January 15, 2015;

(5) how opioid addiction treatment services are integrated with existing recovery and counseling programs in Vermont; and

(6) the Department of Health's plans for addressing the need for additional opioid addiction treatment programs, including a description of the resources that the Department would need to meet the statewide demand for specialty services, of continued barriers to treatment, and of particular workforce needs.

\* \* \* Safe Disposal of Prescription Medication \* \* \*

Sec. 16. UNUSED DRUG DISPOSAL PROGRAM PROPOSAL

(a) On or before January 15, 2014, the Commissioners of Health and of Public Safety shall provide recommendations to the House and Senate Committees on Judiciary, the House Committees on Human Services and on Health Care, and the Senate Committee on Health and Welfare regarding the design and implementation of a voluntary statewide drug disposal program for unused over-the-counter and prescription drugs at no charge to the consumer. In preparing their recommendations, the Commissioners shall consider successful unused drug disposal programs in Vermont, including the Bennington County Sheriff's Department's program, and programs in other states.

(b) On or before July 1, 2014, the Commissioners of Health and of Public Safety shall implement the voluntary unused drug disposal program developed pursuant to subsection (a) of this section and shall take steps to publicize the program and to make all Vermont residents aware of opportunities to avail themselves of it.

\* \* \* Preventing Deaths from Opioid Overdose \* \* \*

Sec. 17. 18 V.S.A. § 4240 is added to read:

§ 4240. PREVENTION AND TREATMENT OF OPIOID-RELATED OVERDOSES

(a) As used in this section:

(1) "Health care professional" means a physician licensed pursuant to 26 V.S.A. chapter 23 or 33, a physician's assistant certified to prescribe and dispense prescription drugs pursuant to 26 V.S.A. chapter 31, or an advanced practice registered nurse authorized to prescribe and dispense prescription drugs pursuant to 26 V.S.A. chapter 28.

(2) "Opioid antagonist" means a drug that, when administered, negates or neutralizes in whole or part the pharmacological effects of an opioid in the body.

(3) "Victim" means the person who has overdosed on an opioid drug or who is believed to have overdosed on an opiate drug.

(b) For the purpose of addressing prescription and nonprescription opioid overdoses in Vermont, the Department shall develop and implement a prevention, intervention, and response strategy, depending on available resources, that shall:

(1) provide educational materials on opioid overdose prevention to the public free of charge, including to substance abuse treatment providers, health care providers, opioid users, and family members of opioid users;

(2) increase community-based prevention programs aimed at reducing risk factors that lead to opioid overdoses;

(3) increase timely access to treatment services for opioid users, including medication-assisted treatment;

(4)(A) educate substance abuse treatment providers on methods to prevent opioid overdoses;

(B) provide education and training on overdose prevention, intervention, and response to individuals living with addiction and participating in opioid treatment programs, syringe exchange programs, residential drug treatment programs, or correctional services;

(5) facilitate overdose prevention, drug treatment, and addiction recovery services by implementing and expanding hospital referral services for individuals treated for an opioid overdose; and

(6) develop a statewide opioid antagonist pilot program that emphasizes access to opioid antagonists to and for the benefit of individuals with a history of opioid use.

(c)(1) A health care professional acting in good faith may directly or by standing order prescribe, dispense, and distribute an opioid antagonist to the following persons, provided the person has been educated about opioid-related overdose prevention and treatment in a manner approved by the Department:

(A) a person at risk of experiencing an opioid-related overdose; or

(B) a family member, friend, or other person in a position to assist a person at risk of experiencing an opioid-related overdose.

(2) A health care professional who prescribes, dispenses, or distributes an opioid antagonist in accordance with subdivision (1) of this subsection shall be immune from civil or criminal liability with regard to the subsequent use of the opioid antagonist, unless the health professional's actions with regard to prescribing, dispensing, or distributing the opioid antagonist constituted recklessness, gross negligence, or intentional misconduct. The immunity granted in this subdivision shall apply whether or not the opioid antagonist is administered by or to a person other than the person for whom it was prescribed.

(d)(1) A person may administer an opioid antagonist to a victim if he or she believes, in good faith, that the victim is experiencing an opioid-related overdose.

(2) After a person has administered an opioid antagonist pursuant to subdivision (1) of this subsection (d), he or she shall immediately call for emergency medical services if medical assistance has not yet been sought or is not yet present.

(3) A person shall be immune from civil or criminal liability for administering an opioid antagonist to a victim pursuant to subdivision (1) of this subsection unless the person's actions constituted recklessness, gross negligence, or intentional misconduct. The immunity granted in this subdivision shall apply whether or not the opioid antagonist is administered by or to a person other than the person for whom it was prescribed.

(e) A person acting on behalf of a community-based overdose prevention program shall be immune from civil or criminal liability for providing education on opioid-related overdose prevention or for purchasing, acquiring, distributing, or possessing an opioid antagonist unless the person's actions constituted recklessness, gross negligence, or intentional misconduct.

(f) Any health care professional who treats a victim and who has knowledge that the victim has been administered an opioid antagonist within the preceding 30 days shall refer the victim to professional substance abuse treatment services.

#### Sec. 18. STATEWIDE OPIOID ANTAGONIST PILOT PROGRAM

(a) The Department of Health shall develop and administer a statewide pilot program for the purpose of distributing opioid antagonists to:

(1) individuals at risk of an opioid overdose;

(2) the family and friends of an individual at risk of experiencing an opioid overdose; and

(3) others who may be in a position to assist individuals experiencing an opioid overdose.

(b) In developing and implementing the pilot program, the Department shall collaborate with community-based substance abuse organizations that have experience delivering opioid-related prevention and treatment services as determined by the Commissioner.

(c) The pilot program shall be in effect from July 1, 2013 through June 30, 2016. During the term of the pilot program, the Department shall purchase,

provide for the distribution of, and monitor the use of opioid antagonists distributed in accordance with this section.

(d) On or before January 15, 2016, the Department of Health shall submit a report to the House Committees on Human Services, on Health Care, and on Judiciary and to the Senate Committees on Health and Welfare and on Judiciary evaluating the statewide opioid antagonist pilot program. The report shall include findings that pertain to the cost and effectiveness of the program and recommendations as to whether the program should be continued after June 30, 2016.

Sec. 18a. 18 V.S.A. § 5208 is amended to read:

§ 5208. HEALTH DEPARTMENT; REPORT ON STATISTICS

(a) Beginning Notwithstanding the provisions of 2 V.S.A. § 20(d), beginning October 1, 2011 and every two years thereafter, the Vermont department of health Department of Health shall report to the house committee on human services and the senate committee on health and welfare House Committees on Human Services and on Health Care and the Senate Committee on Health and Welfare regarding the number of persons who died during the preceding two calendar years in hospital emergency rooms, other hospital settings, in their own homes, in a nursing home, in a hospice facility, and in any other setting for which information is available, as well as whether each decedent received hospice care within the last 30 days of his or her life. Beginning with the 2013 report, the department Department shall include information on the number of persons who died in hospital intensive care units, assisted living facilities, or residential care homes during the preceding two calendar years.

(b) In addition to the report required by subsection (a) of this section and notwithstanding the provisions of 2 V.S.A. § 20(d), beginning March 1, 2014 and annually thereafter, the Department shall report to the House Committees on Human Services and on Health Care, the Senate Committee on Health and Welfare, and the House and Senate Committees on Judiciary regarding the number of persons who died during the preceding calendar year from an overdose of a Schedule II, III, or IV controlled substance. The report shall list separately the number of deaths specifically related to opioids, including for each death whether an opioid antagonist was administered and whether it was administered by persons other than emergency medical personnel, firefighters, or law enforcement officers. Beginning in 2015, the report shall include similar data from prior years to allow for comparison.

\* \* \* Protecting Communities from  
Methamphetamine Abuse \* \* \*

Sec. 19. 18 V.S.A. § 4234b is amended to read:

§ 4234b. EPHEDRINE AND PSEUDOEPHEDRINE

\* \* \*

(b) Sale.

(1) A drug product containing ephedrine base, pseudoephedrine base, or phenylpropanolamine base shall not be distributed at retail to the general public unless it is maintained in a locked display case or behind the counter out of the public's reach.

(2)(A) A retail establishment shall not knowingly ~~sell~~ complete a sale to a person ~~within a calendar day~~ any if the drug product or combination of drug products ~~containing~~ purchased would surpass a total of more than 3.6 grams within a 24-hour period or nine grams within a 30-day period of ephedrine base, pseudoephedrine base, or phenylpropanolamine base or their isomers.

(B) This subdivision shall not apply to drug products dispensed pursuant to a valid prescription.

(3) A person or business which violates this subdivision shall:

(A) for a first violation be assessed a civil penalty of not more than \$100.00; ~~and~~

(B) for a second and subsequent violation be assessed a civil penalty of not more than \$500.00.

(c) Electronic registry system.

(1)(A) Retail establishments shall use an electronic registry system to record the sale of products made pursuant to subsection (b) of this section. The electronic registry system shall have the capacity to block a sale of nonprescription drug products containing ephedrine base, pseudoephedrine base, or phenylpropanolamine base that would result in a purchaser exceeding the lawful daily or monthly amount. The system shall contain an override function that may be used by an agent of a retail establishment who is dispensing the drug product and who has a reasonable fear of imminent bodily harm to his or her person or to another person if the transaction is not completed. The system shall create a record of each use of the override mechanism.

(B) The electronic registry system shall be available free of charge to the State of Vermont, retail establishments, and local law enforcement agencies.



(C) The electronic registry system shall operate in real time to enable communication among in-state users and users of similar systems in neighboring states.

(D) The State shall use the National Precursor Log Exchange (NPLEx) online portal or its equivalent to host Vermont's electronic registry system.

(2)(A) Prior to completing a sale under subsection (b) of this section, a retail establishment shall require the person purchasing the drug product to present a current, valid government-issued identification document. The retail establishment shall record in the electronic registry system:

(i) the name and address of the purchaser;

(ii) the name of the drug product and quantity of ephedrine, pseudoephedrine, and phenylpropanolamine base sold in grams;

(iii) the date and time of purchase;

(iv) the form of identification presented, the issuing government entity, and the corresponding identification number; and

(v) the name of the person selling or furnishing the drug product.

(B)(i) If the retail establishment experiences an electronic or mechanical failure of the electronic registry system and is unable to comply with the electronic recording requirement, the retail establishment shall maintain a written log or an alternative electronic record-keeping mechanism until the retail establishment is able to comply fully with this subsection (c).

(ii) If the region of the State where the retail establishment is located does not have broadband Internet access, the retail establishment shall maintain a written log or an alternative electronic record-keeping mechanism until broadband Internet access becomes accessible to that region. At that time, the retail establishment shall come into compliance with this subsection (c).

(C) A retail establishment shall maintain all records of drug product purchases made pursuant to this subsection (c) for a minimum of two years.

(3) A retail establishment shall display a sign at the register provided by NPLEx or its equivalent to notify purchasers of drug products containing ephedrine, pseudoephedrine, or phenylpropanolamine base that:

(A) the purchase of the drug product or products shall result in the purchaser's identity being listed on a national database; and

(B) the purchaser has the right to request the transaction number for any purchase that was denied pursuant to this subsection (c).

(4) Except as provided in subdivision (5) of this subsection (c), a person or retail establishment that violates this subsection shall:

(A) for a first violation be assessed a civil penalty of not more than \$100.00; and

(B) for a second or subsequent violation be assessed a civil penalty of not more than \$500.00.

(d) This section shall not apply to a manufacturer ~~which~~ that has obtained an exemption from the Attorney General of the United States under Section 711(d) of the federal Combat Methamphetamine Epidemic Act of 2005.

~~(d)~~(e) As used in this section:

(1) “Distributor” means a person, other than a manufacturer or wholesaler, who sells, delivers, transfers, or in any manner furnishes a drug product to any person who is not the ultimate user or consumer of the product.

(2) “Knowingly” means having actual knowledge of the relevant facts.

(3) “Manufacturer” means a person who produces, compounds, packages, or in any manner initially prepares a drug product for sale or use.

(4) “Wholesaler” means a person, other than a manufacturer, who sells, transfers, or in any manner furnishes a drug product to any other person for the purpose of being resold.

Sec. 19a. 18 V.S.A. § 4234b is amended to read:

§ 4234b. EPHEDRINE AND PSEUDOEPHEDRINE

\* \* \*

~~(c) Electronic registry system.~~

~~(1)(A) Retail establishments shall use an electronic registry system to record the sale of products made pursuant to subsection (b) of this section. The electronic registry system shall have the capacity to block a sale of nonprescription drug products containing ephedrine base, pseudoephedrine base, or phenylpropanolamine base that would result in a purchaser exceeding the lawful daily or monthly amount. The system shall contain an override function that may be used by an agent of a retail establishment who is dispensing the drug product and who has a reasonable fear of imminent bodily harm to his or her person or to a co-worker if the transaction is not completed. The system shall create a record of each use of the override mechanism.~~

~~(B) The electronic registry system shall be available free of charge to the State of Vermont, retail establishments, and local law enforcement agencies.~~

~~(C) The electronic registry system shall operate in real time to enable communication among in-state users and users of similar systems in neighboring states.~~

~~(D) The State shall use the National Precursor Log Exchange (NPLEx) online portal or its equivalent to host Vermont's electronic registry system.~~

~~(2)(A) Prior to completing a sale under subsection (b) of this section, a retail establishment shall require the person purchasing the drug product to present a current, valid government-issued identification document. The retail establishment shall record in the electronic registry system:~~

~~(i) the name and address of the purchaser;~~

~~(ii) the name of the drug product and quantity of ephedrine, pseudoephedrine, and phenylpropanolamine base sold in grams;~~

~~(iii) the date and time of purchase;~~

~~(iv) the form of identification presented, the issuing government entity, and the corresponding identification number; and~~

~~(v) the name of the person selling or furnishing the drug product.~~

~~(B)(i) If the retail establishment experiences an electronic or mechanical failure of the electronic registry system and is unable to comply with the electronic recording requirement, the retail establishment shall maintain a written log or an alternative electronic record-keeping mechanism until the retail establishment is able to comply fully with this subsection (c).~~

~~(ii) If the region of the State where the retail establishment is located does not have broadband Internet access, the retail establishment shall maintain a written log or an alternative electronic record-keeping mechanism until broadband Internet access becomes accessible to that region. At that time, the retail establishment shall come into compliance with this subsection (c).~~

~~(C) A retail establishment shall maintain all records of drug product purchases made pursuant to this subsection (c) for a minimum of two years.~~

~~(3) A retail establishment shall display a sign at the register provided by NPLEx or its equivalent to notify purchasers of drug products containing ephedrine, pseudoephedrine, or phenylpropanolamine base that:~~

~~(A) the purchase of the drug product or products shall result in the purchaser's identity being listed on a national database; and~~

~~(B) the purchaser has the right to request the transaction number for any purchase that was denied pursuant to this subsection (c).~~

~~(4) Except as provided in subdivision (5) of this subsection (c), a person or retail establishment that violates this subsection shall:~~

~~(A) for a first violation be assessed a civil penalty of not more than \$100.00; and~~

~~(B) for a second or subsequent violation be assessed a civil penalty of not more than \$500.00.~~

~~(d)~~ This section shall not apply to a manufacturer that has obtained an exemption from the Attorney General of the United States under Section 711(d) of the federal Combat Methamphetamine Epidemic Act of 2005.

~~(e)~~(d) As used in this section:

(1) "Distributor" means a person, other than a manufacturer or wholesaler, who sells, delivers, transfers, or in any manner furnishes a drug product to any person who is not the ultimate user or consumer of the product.

(2) "Knowingly" means having actual knowledge of the relevant facts.

(3) "Manufacturer" means a person who produces, compounds, packages, or in any manner initially prepares a drug product for sale or use.

(4) "Wholesaler" means a person, other than a manufacturer, who sells, transfers, or in any manner furnishes a drug product to any other person for the purpose of being resold.

## Sec. 20. THE EFFECT OF METHAMPHETAMINE PRODUCTION ON HOUSING

(a) The Commissioner of Health shall recommend guidance for reoccupancy of a structure that was used in the production of methamphetamine.

(b) The Commissioner shall examine:

(1) Approaches for identifying housing that is or has been used for methamphetamine production and methods for making such housing safe, including:

(A) standards for reoccupancy;

(B) whether purchasers or tenants of housing that has been affected by methamphetamine production should be provided with notification of such, and if so, how; and

(C) methods taken by other states in identifying, quarantining, and cleaning such housing as well as methods used by other states to notify affected parties.

(2) The public health effects of long-term exposure to housing that is or has been contaminated by by-products resulting from production of methamphetamine.

(c) The Commissioner shall report his or her findings, including any recommendations or proposed legislation to the House Committees on General, Housing and Military Affairs, on Judiciary, on Health Care, and on Human Services and the Senate Committees on Economic Development, Housing and General Affairs, on Judiciary, and on Health and Welfare on or before June 15, 2014.

\* \* \* Community Safety \* \* \*

Sec. 21. 13 V.S.A. § 3705 is amended to read:

§ 3705. UNLAWFUL TRESPASS

(a)(1) A person shall be imprisoned for not more than three months or fined not more than \$500.00, or both, if, without legal authority or the consent of the person in lawful possession, he or she enters or remains on any land or in any place as to which notice against trespass is given by:

~~(1)(A) Actual~~ actual communication by the person in lawful possession or his or her agent or by a law enforcement officer acting on behalf of such person or his or her agent; ~~or~~

~~(2)(B) Signs~~ signs or placards so designed and situated as to give reasonable notice; or

(C) in the case of abandoned property:

(i) signs or placards, posted by the owner, the owner's agent, or a law enforcement officer, and so designed and situated as to give reasonable notice; or

(ii) actual communication by a law enforcement officer.

(2) As used in this subsection, "abandoned property" means:

(A) Real property on which there is a vacant structure that for the previous 60 days has been continuously unoccupied by a person with the legal right to occupy it and with respect to which the municipality has by first class mail to the owner's last known address provided the owner with notice and an opportunity to be heard; and

(i) property taxes have been delinquent for six months or more; or

(ii) one or more utility services have been disconnected.

(B) A railroad car that for the previous 60 days has been unremoved and unoccupied by a person with the legal right to occupy it.

(b) Prosecutions for offenses under subsection (a) of this section shall be commenced within 60 days following the commission of the offense and not thereafter.

(c) A person who enters a building other than a residence, whose ~~normal~~ access is normally locked, whether or not the access is actually locked, or a residence in violation of an order of any court of competent jurisdiction in this ~~state~~ State shall be imprisoned for not more than one year or fined not more than \$500.00, or both.

(d) A person who enters a dwelling house, whether or not a person is actually present, knowing that he or she is not licensed or privileged to do so shall be imprisoned for not more than three years or fined not more than \$2,000.00, or both.

Sec. 22. [DELETED.]

Sec. 22a. 9 V.S.A. chapter 97 is amended to read:

#### CHAPTER 97. PAWNBROKERS

\* \* \*

#### § 3865. RECORDS OF A PAWNBROKER OR SECONDHAND DEALER

(a) In each year a pawnbroker or secondhand dealer resells over ~~\$500.00~~ \$2,500.00 of items pawned, pledged, or sold to the pawnbroker or secondhand dealer, he or she shall maintain the following records for each transaction in that year:

(1) a legible statement written at the time of the transaction stating the amount of money lent or paid for the items pawned, pledged, or sold, the time of the transaction, and the rate of interest to be paid on the loan, as applicable;

(2) a legible statement of the name, current address, telephone number, and vehicle license number of the person pawning, pledging, or selling the items;

(3) a legible written description and photograph, or alternatively a video, of the items pawned, pledged, or sold;

(4) a photocopy of a government-issued identification card issued to the person pawning, pledging, or selling the items, if available.

(b) At all reasonable times, the records required under subsection (a) of this section shall be open to the inspection of law enforcement. A law enforcement

agency shall make a reasonable effort to notify a dealer before conducting an inspection pursuant to this section unless providing notice would interfere with a criminal investigation or any other legitimate law enforcement purpose.

(c) In this section:

(1) "Precious metal" means gold, silver, platinum, or palladium.

(2) "Secondhand dealer" means a person engaged in the business of purchasing used or estate precious metal, coins, ~~antiques, furniture,~~ jewelry, or similar items for the purpose of resale.

\* \* \*

#### § 3871. PENALTIES

(a) A licensee who violates a provision of sections ~~3863-3870~~ 3863-3864 or 3866-3870 of this title, shall be fined not more than \$100.00 nor less than \$10.00 for each offense.

(b) A pawnbroker or precious metal dealer who violates a provision of section 3865 or 3872 of this chapter:

(1) may be assessed a civil penalty not to exceed \$1,000.00 for a first violation; and

(2) shall be fined not more than \$25,000.00 for a second or subsequent violation.

\* \* \*

#### Sec. 22b. PUBLIC OUTREACH TO VERMONT PRECIOUS METAL DEALERS

The Department of Public Safety shall design and implement a public outreach campaign to inform and educate pawnbrokers, precious metal dealers, and others affected by 9 V.S.A. chapter 97 of the current statutory provisions governing the purchase and sale of precious metals, including:

(1) the items that should be regulated as "precious metal" or other secondhand goods;

(2) the type of transactions governed by the chapter;

(3) the recordkeeping requirements of the chapter;

(4) the 10-day holding period requirement;

(5) methods for increasing communication with the Department of Public Safety regarding possible suspicious activity within their business transactions; and

(6) other information supporting the purpose of the campaign.

Sec. 22c. INTERIM STUDY COMMITTEE ON THE REGULATION OF  
PRECIOUS METAL DEALERS

(a) Creation of committee. There is created an Interim Study Committee on the Regulation of Precious Metal Dealers, the purpose of which shall be to examine the current practices in the trade of precious metals in Vermont, the nexus of that trade to drug-related and other illegal activity, and to provide recommendations to the General Assembly on the most effective means of regulating the trade to decrease the amount of related illegal activity and promote the recovery of stolen property.

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

(1) a Vermont-based representative from the New England Jewelers Association;

(2) a representative from the Vermont Antique Dealers Association;

(3) a Vermont-based coin dealer appointed by the Governor;

(4) a representative of local law enforcement from the Vermont Police Association;

(5) a Vermont-based auctioneer appointed by the Governor;

(6) a private citizen who has been affected by the theft of precious metals appointed by the Governor;

(7) a representative from a Vermont-based business that uses precious metal for manufacturing or industrial purposes appointed by the Governor;

(8) a representative from the jewelry manufacturing industry appointed by the Governor;

(9) a representative from the Vermont State's Attorneys and Sheriffs' Association;

(10) the Commissioner of Public Safety or designee, who shall serve as Chair of the Committee;

(11) the Vermont Attorney General or designee;

(12) a member of the House of Representatives, appointed by the Speaker of the House; and

(13) a member of the Senate, appointed by the Senate Committee on Committees.



(c) Powers and duties.

(1) The Committee shall study methods for increasing cooperation between law enforcement and precious metal dealers in an effort to prevent the theft of these items and retrieve stolen goods, including the following:

(A) the advisability, cost, and effectiveness of creating and maintaining a stolen property database and website for the purpose of posting pictures and information about stolen items;

(B) the creation of a licensing system for precious metal dealers, including what information would be required of applicants, who would be eligible for a license, and how the licensing program would be implemented;

(C) refinement of the recordkeeping requirements for precious metal dealers, including the possibility of requiring sales of a certain amount to be recorded electronically; and

(D) any other issues related to precious metal as the Committee deems appropriate.

(2) For purposes of its study of these issues, the Committee shall have the administrative, technical, and legal assistance of the Office of Legislative Council and the Joint Fiscal Office.

(d) Report. On or before January 1, 2014, the Committee shall report to the Senate Committees on Economic Development, Housing and General Affairs and on Judiciary, and the House Committees on Commerce and Economic Development and on Judiciary its findings and any recommendations for legislative action.

(e) Meetings.

(1) Seven members of the Committee shall be physically present at the same location to constitute a quorum.

(2) Action shall be taken only if there is both a quorum and an affirmative vote of the members physically present and voting.

(3) The Committee may meet no more than five times, and shall cease to exist on January 2, 2014.

(4) Legislative members of the Committee shall be entitled to the same per diem compensation and reimbursement as provided to members of standing committees under 2 V.S.A. § 406. Nonlegislative members of the Committee who are not state employees and who are not otherwise compensated for their participation by their employer or association shall be entitled to per diem compensation as provided in 32 V.S.A. § 1010.

\* \* \* Effective Dates \* \* \*

Sec. 23. EFFECTIVE DATES; SUNSET

(a) This section and Secs. 2a (emergency rules), 3a (board of pharmacy; rulemaking), 11(e) (Health Department rules), 11(f) (licensing authority standards), 13 (VPMS Advisory Committee), 13b (prevention report), 20 (study committee on the effects of the production of methamphetamine and other illegal drugs on housing), 22a (9 V.S.A. chapter 97A; secondhand dealers), 22b (public outreach; precious metal dealers), and 22c (interim study; precious metal dealers) of this act shall take effect on passage.

(b) Secs. 10 (18 V.S.A. § 4288; reciprocal agreements), 12 (18 V.S.A. § 4290; replacement prescriptions), and 19 (18 V.S.A. § 4234b; ephedrine and pseudoephedrine), and Sec. 8(b)(2)(G) (18 V.S.A. § 4284(b)(2)(G); interstate data sharing) of this act shall take effect on October 1, 2013.

(c) Sec. 11(d) (VPMS query requirements) of this act shall take effect on November 15, 2013.

(d) Sec. 19a (18 V.S.A. § 4234b; ephedrine and pseudoephedrine) of this act shall take effect on September 30, 2016.

(e) The remaining sections of this act shall take effect on July 1, 2013.

(Committee vote: 5-0-0)

(For House amendments, see House Journal for March 21, 2013, page 488, March 22, 2013 pages 533, 535, 536, and 537.)

**Reported favorably with recommendation of proposal of amendment by Senator Nitka for the Committee on Appropriations.**

The Committee recommends that the Senate propose to the House that the bill, as amended by the Committee on Health and Welfare, be further amended as follows:

First: In Sec. 22c, in subsection (b), by inserting and at the end of subdivision (10), by striking the semicolon at the end of subdivision (11) and inserting in lieu thereof a period, and by striking out subdivisions (12) and (13) in their entireties

Second: In Sec. 22c, in subsection (e), by striking out subdivision (4) in its entirety and inserting in lieu thereof a new subdivision (4) to read:

(4) Members of the Committee who are not state employees and who are not otherwise compensated for their participation by their employer or association shall be entitled to per diem compensation as provided in 32 V.S.A. § 1010(b).

(Committee vote: 7-0-0)

**PROPOSAL OF AMENDMENT TO H. 522 TO BE OFFERED BY  
SENATOR SEARS**

Senator Sears moves that the Senate propose to the House to amend the bill by striking out Secs. 4 and 5 in their entirety

**ORDERED TO LIE**

**S. 165.**

An act relating to collective bargaining for deputy state's attorneys.

**PENDING ACTION:** Third Reading

**CONFIRMATIONS**

The following appointments will be considered by the Senate, as a group, under suspension of the Rules, as moved by the President *pro tempore*, for confirmation together and without debate, by consent thereby given by the Senate. However, upon request of any senator, any appointment may be singled out and acted upon separately by the Senate, with consideration given to the report of the Committee to which the appointment was referred, and with full debate; and further, all appointments for the positions of Secretaries of Agencies, Commissioners of Departments, Judges, Magistrates, and members of the Public Service Board shall be fully and separately acted upon.

Patrick Berry of Middlebury – Commissioner, Fish and Wildlife – By Sen. Hartwell for the Committee on Natural Resources and Energy. (3/27/13)

Robert Ide of Peacham – Commissioner, Department of Motor Vehicles – By Sen. Kitchel for the Committee on Transportation. (4/18/13)

Brian Searles of Burlington – Secretary of Transportation – By Sen. Mazza for the Committee on Transportation. (4/19/13)

Keith Flynn of Troy – Commissioner of Public Safety – By Sen. Flory for the Committee on Transportation. (4/23/13)

Cory Richardson of East Montpelier – Member of the Vermont State Housing Authority – By Sen. Cummings for the Committee on Economic Development, Housing and General Affairs. (4/26/13)

Annie Noonan of Montpelier – Commissioner of Labor - By Sen. Doyle for the Committee on Economic Development, Housing and General Affairs. (5/2/13)

## **REPORTS ON FILE**

### **Reports 2013**

Pursuant to the provisions of 2 V.S.A. §20(c), one (1) hard copy of the following reports is on file in the office of the Secretary of the Senate. Effective January 2010, pursuant to Act No. 192, Adj. Sess. (2008) §5.005(g) some reports will automatically be sent by electronic copy only and can be found on the State of Vermont Legislative webpage.

4. Report by Secretary of Administration pursuant to Act 156, Adj. Sess. (2012), Sec. 8 regarding supervisory union size and structure.