Senate Calendar

WEDNESDAY, MAY 08, 2013

SENATE CONVENES AT: 9:00 A.M.

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House Proposal of Amendment

ORDERED TO LIE

ORDERS OF THE DAY

ACTION CALENDAR

CONSIDERATION POSTPONED UNTIL MAY 8, 2013

House Proposal of Amendment

S. 77.

An act relating to patient choice and control at end of life.

PENDING QUESTION: Shall the Senate concur with the House proposal of amendment?

(For text of House proposal of amendment see Senate Journal for May 7, 2013, page 1157)

UNFINISHED BUSINESS OF TUESDAY, MAY 7, 2013

House Proposal of Amendment

S. 150.

An act relating to miscellaneous amendments to laws related to motor vehicles.

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

* * * Definitions * * *

Sec. 1. 23 V.S.A. § 4(11) is amended to read:

(11) "Enforcement officers" shall include:

(A) the following persons certified pursuant to 20 V.S.A. § 2358: sheriffs, deputy sheriffs, constables whose authority has not been limited under 24 V.S.A. § 1936a, police officers, state's attorneys, capitol police officers, motor vehicle inspectors, state game wardens, and state police~~, and~~;

(B) for enforcement of offenses relating to parking of motor vehicles, meter checkers~~,~~ and other duly authorized employees of a municipality employed to assist in the enforcement of parking regulations~~. "Enforcement officers" shall also include~~;

(C) for enforcement of nonmoving traffic violations enumerated in subdivisions 2302(a)(1), (2), (3), and (4) of this title, duly authorized employees of the ~~department of motor vehicles for the purpose of issuing~~ Department of Motor Vehicles. Such employees may issue complaints ~~related~~

~~to their administrative duties,~~ ~~pursuant to 4 V.S.A. § 1105,~~ in accordance with 4 V.S.A. § 1105.

Sec. 2. 23 V.S.A. § 4(11) is amended to read:

(11) "Enforcement officers" shall include:

(A) the following persons certified pursuant to 20 V.S.A. § 2358: sheriffs, deputy sheriffs, constables whose authority has not been limited under 24 V.S.A. § 1936a, police officers, state's attorneys, capitol police officers, motor vehicle inspectors, liquor investigators, state game wardens, and state police~~, and~~;

(B) for enforcement of offenses relating to parking of motor vehicles, meter checkers~~,~~ and other duly authorized employees of a municipality employed to assist in the enforcement of parking regulations~~. "Enforcement officers" shall also include~~;

(C) for enforcement of nonmoving traffic violations enumerated in subdivisions 2302(a)(1), (2), (3), and (4) of this title, duly authorized employees of the ~~department of motor vehicles for the purpose of issuing~~ Department of Motor Vehicles. Such employees may issue complaints ~~related to their administrative duties, pursuant to 4 V.S.A. § 1105,~~ in accordance with 4 V.S.A. § 1105.

Sec. 3. 23 V.S.A. § 4(42) is amended to read:

(42) "Transporter" shall mean a person engaged in the business of delivering vehicles of a type required to be registered hereunder from a manufacturing, assembling, or distributing plant to dealers or sales agents of a manufacturer, and includes persons regularly engaged in the business of towing trailer coaches, owned by them or temporarily in their custody, on their own wheels over public highways, persons towing office trailers owned by them or temporarily in their custody, on their own wheels over public highways, persons regularly engaged and properly licensed for the short-term rental of "storage trailers" owned by them and who move these storage trailers on their own wheels over public highways, and persons regularly engaged in the business of moving modular homes over public highways and shall also include dealers and automobile repair shop owners when engaged in the transportation of motor vehicles to and from their place of business for repair purposes. "Transporter" shall also include ~~other persons, firms or corporations~~ the following, provided that the transportation and delivery of motor vehicles is a common and usual incident to ~~the repossession of motor vehicles in connection with~~ their business: persons towing overwidth trailers owned by them in connection with their business; persons whose business is the repossession of motor vehicles; and persons whose business involves

moving vehicles from the place of business of a registered dealer to another registered dealer, leased vehicles to the lessor at the expiration of the lease, or vehicles purchased at the place of auction of an auction dealer to the purchaser. ~~For purposes of~~ As used in this subdivision, "short-term rental" shall mean a period of less than one year. Additionally, as used in this subdivision, "repossession" shall include the transport of a repossessed vehicle to a location specified by the lienholder or owner at whose direction the vehicle was repossessed. Before a person may become licensed as a transporter, he or she shall present proof of compliance with section 800 of this title. He or she shall also either own or lease a permanent place of business located in this ~~state~~ State where business shall be conducted during regularly established business hours and the required records stored and maintained.

* * * Placards for Persons with Disabilities * * *

Sec. 4. 23 V.S.A. § 304a(c) is amended to read:

(c) Vehicles with special registration plates or removable windshield placards from any state ~~or which have a handicapped parking card issued by the commissioner of motor vehicles~~ may use the special parking spaces when:

(1) the ~~card or~~ placard is displayed ~~in the lower right side of the windshield or~~:

(A) by hanging it from the front windshield rearview mirror in such a manner that it may be viewed from the front and rear of the vehicle; or

(B) if the vehicle has no rearview mirror, on the dashboard;

(2) the plate is mounted as provided in section 511 of this title; or

(3) the plate is mounted or the placard displayed as provided by the law of the ~~state~~ jurisdiction where the vehicle is registered.

* * * Temporary Registrations * * *

Sec. 5. 23 V.S.A. § 305(d) is amended to read:

(d) When a registration for a motor vehicle, snowmobile, motorboat, or all-terrain vehicle is processed electronically, a receipt shall be available for printing. The receipt shall serve as a temporary registration. To be valid, the temporary registration shall be in the possession of the operator at all times, and it shall expire ten days after the date of the transaction.

* * * Registration Fees, Taxes on Trailers * * *

Sec. 6. 23 V.S.A. § 371(a) is amended to read:

§ 371. TRAILER AND SEMI-TRAILER

(a)(1) The one-year and two-year fees for registration of a trailer or semi-trailer, except a contractor's trailer or farm trailer, shall be as follows:

(A) $25.00 and $48.00, respectively, when such trailer or semi-trailer has a gross weight of trailer and load of ~~less than~~ 1,500 pounds or less;

(B) $49.00 and $96.00, respectively, when such trailer or semi-trailer has a gross weight of trailer and load of more than 1,500 pounds ~~or more,~~ and is drawn by a vehicle of the pleasure car type;

(C) $49.00 and $96.00, respectively, when such trailer or semi-trailer is drawn by a motor truck or tractor, when such trailer or semi-trailer has a gross weight of more than 1,500 pounds ~~or more,~~ but ~~not in excess of~~ less than 3,000 pounds;

(D) $49.00 and $96.00, respectively, when such trailer or semi-trailer is used in combination with a truck-tractor or motor truck registered at the fee provided for combined vehicles under section 367 of this title. Excepting for the fees, the provisions of this subdivision shall not apply to trailer coaches as defined in section 4 of this title nor to modular homes being transported by trailer or semi-trailer.

(2) The one-year and two-year fees for registration of a contractor's trailer shall be $145.00 and $290.00, respectively.

* * * Biennial Motorboat Registration * * *

Sec. 7. 23 V.S.A. § 3305 is amended to read:

§ 3305. FEES

(a) A person shall not operate a motorboat on the public waters of this state unless the motorboat is registered in accordance with this chapter.

(b) Annually or biennially, the owner of each motorboat required to be registered by this state shall file an application for a number with the ~~commissioner of motor vehicles~~ Commissioner of Motor Vehicles on forms approved by him or her. The application shall be signed by the owner of the motorboat and shall be accompanied by ~~a~~ an annual fee of $22.00 and a surcharge of $5.00, or a biennial fee of $39.00 and a surcharge of $10.00, for a motorboat in class A; by ~~a~~ an annual fee of $33.00 and a surcharge of $10.00, or a biennial fee of $61.00 and a surcharge of $20.00, for a motorboat in class 1; by ~~a~~ an annual fee of $60.00 and a surcharge of $10.00, or a biennial fee of $115.00 and a surcharge of $20.00, for a motorboat in class 2; by ~~a~~ an annual fee of $126.00 and a surcharge of $10.00, or a biennial fee of $247.00 and a surcharge of $20.00, for a motorboat in class 3. Upon receipt of the application in approved form, the ~~commissioner~~ Commissioner shall enter the application upon the records of the ~~department of motor vehicles~~ Department

of Motor Vehicles and issue to the applicant a registration certificate stating the number awarded to the motorboat and the name and address of the owner. The owner shall paint on or attach to each side of the bow of the motorboat the identification number in such manner as may be prescribed by rules of the ~~commissioner~~ Commissioner in order that it may be clearly visible. The registration shall be void one year from the first day of the month following the month of issue in the case of annual registrations, or void two years from the first day of the month following the month of issue in the case of biennial registrations. A vessel of less than 10 horsepower used as a tender to a registered vessel shall be deemed registered, at no additional cost, and shall have painted or attached to both sides of the bow, the same registration number as the registered vessel with the number "1" after the number. The number shall be maintained in legible condition. The registration certificate shall be pocket size and shall be available at all times for inspection on the motorboat for which issued, whenever the motorboat is in operation. A duplicate registration may be obtained upon payment of a fee of $2.00 to the ~~commissioner~~ Commissioner. Notwithstanding section 3319 of this chapter, $5.00 of each registration fee shall be allocated to the ~~transportation fund~~ Transportation Fund. The remainder of the fee shall be allocated in accordance with section 3319 of this title.

* * *

(d)(1) Registration of a motorboat ends when the owner transfers title to another. The former owner shall immediately return directly to the ~~commissioner~~ Commissioner the registration certificate previously assigned to the transferred motorboat with the date of sale and the name and residence of the new owner endorsed on the back of the certificate.

(2) When a person transfers the ownership of a registered motorboat to another, files a new application and pays a fee of $5.00, he or she may have registered in his or her name another motorboat of the same class for the remainder of the registration ~~year~~ period without payment of any additional registration fee. However, if the fee for the registration of the motorboat sought to be registered is greater than the registration fee for the transferred motorboat, the applicant shall pay the difference between the fee first paid and the fee for the class motorboat sought to be registered.

* * *

(f) Every registration certificate awarded under this subchapter shall continue in effect ~~for one year from the first day of the month of issue~~ as prescribed in subsection (b) of this section unless sooner ended under this chapter. The registration certificate may be renewed by the owner in the same manner provided for in securing the initial certificate.

* * *

* * * Off-Site Display of Vehicles by Dealers * * *

Sec. 8. 23 V.S.A. § 451(b) is amended to read:

(b) With the prior approval of the ~~commissioner~~ Commissioner, a Vermont dealer may display vehicles on a temporary basis, but in no instance for more than ~~10~~ 14 days, at fairs, shows, exhibitions, and other off-site locations within the manufacturer's stated area of responsibility in the franchise agreement. No sales may be transacted at these ~~off-site~~ off-site locations. A dealer desiring to display vehicles temporarily at an off-site location shall notify the ~~commissioner~~ Commissioner in a manner prescribed by the ~~commissioner~~ Commissioner no less than two days prior to the first day for which approval is requested.

* * * Penalties for Unauthorized Operation by Junior Operators and Learner's Permit Holders * * *

Sec. 9. 23 V.S.A. § 607a is amended to read:

§ 607a. RECALL OF LEARNER'S PERMIT OR JUNIOR OPERATOR'S LICENSE

(a) A learner's permit or junior operator's license shall contain an admonition that it is recallable and that the later procurement of an operator's license is conditional on the establishment of a record which is satisfactory to the ~~commissioner~~ Commissioner and showing compliance with the motor vehicle laws of this and other states. The ~~commissioner~~ Commissioner may recall any permit or license issued to a minor whenever he or she is satisfied, from information provided by a credible person and upon investigation, that the operator is mentally or physically unfit or, because of his or her habits or record as to accidents or convictions, is unsafe to be trusted with the operation of motor vehicles. On recommendation of a diversion or reparative board, the ~~commissioner~~ Commissioner may recall the learner's permit or junior operator's license of a person in a diversion or reparative program for up to 30 days. The ~~commissioner~~ Commissioner shall also recall any learner's permit or junior operator's license for 30 days when an operator is adjudicated of a single texting violation under section 1099 of this title, 90 days following adjudication of a single speeding violation resulting in a three-point assessment, 90 days when a total of six points has been accumulated, or 90 days when an operator is adjudicated of a violation of ~~section 678~~ subsection 614(c) or 615(a) of this title. When a learner's permit or junior operator's license is so recalled, it shall be reinstated upon expiration of a specific term, and, if required by the ~~commissioner~~ Commissioner, when the

person has passed a reexamination approved by the ~~commissioner~~ Commissioner.

(b) When a license or permit is recalled under the provisions of this section, the person whose license or permit is so recalled shall have the same right of hearing before the ~~commissioner~~ Commissioner as is provided in subsection 671(a) of this title.

(c) Except for a recall based solely upon the provisions of subsection (d) of this section, any recall of a license or permit may extend past the operator's 18th birthday. While the recall is still in effect, that operator shall be ineligible for any operator's license.

(d) The ~~commissioner~~ Commissioner shall recall a learner's permit or junior operator's license upon written request of the individual's custodial parent or guardian.

(e) Any recall period under this section shall run concurrently with any suspension period imposed under chapter 13 of this title.

Sec. 10. 23 V.S.A. § 614 is amended to read:

§ 614. RIGHTS UNDER LICENSE

(a) An operator's license shall entitle the holder to operate a registered motor vehicle with the consent of the owner whether employed to do so or not.

(b) A junior operator's license shall entitle the holder to operate a registered motor vehicle~~,~~ with the consent of the owner, but shall not entitle him or her to operate a motor vehicle in the course of his or her employment or for direct or indirect compensation for one year following issuance of the license, except that the holder may operate a farm tractor with or without compensation upon a public highway in going to and from different parts of a farm of the tractor's owner or to go to any repair shop for repair purposes. A junior operator's license shall not entitle the holder to carry passengers for hire.

(c) During the first three months of operation, the holder of a junior operator's license is restricted to driving alone or with a licensed parent or guardian, licensed or certified driver education instructor, or licensed person at least 25 years of age. During the following three months, a junior operator may additionally transport family members. No person operating with a junior operator's license shall transport more passengers than there are safety belts unless he or she is operating a vehicle that has not been manufactured with a federally approved safety belt system. A person convicted of operating a motor vehicle in violation of this subsection shall be subject to a penalty of not more than $50.00, and his or her license shall be recalled for a period of 90 days. The provisions of this subsection may be enforced only if a law

enforcement officer has detained the operator for a suspected violation of another traffic offense.

~~(b) This section shall not prohibit a holder of a junior operator's license from operating a farm tractor with or without compensation upon a public highway in going to and from different parts of a farm of the owner of such tractor and for repair purposes to any repair shop.~~

Sec. 11. 23 V.S.A. § 615 is amended to read:

§ 615. UNLICENSED OPERATORS

(a)(1) An unlicensed person 15 years of age or older~~,~~ may operate a motor vehicle~~,~~ if he or she ~~has in possession,~~ possesses a valid learner's permit issued to him or her by the ~~commissioner~~ Commissioner and if ~~their~~ his or her licensed parent or guardian, licensed or certified driver education instructor, or a licensed person at least 25 years of age rides beside him or her. Nothing in this section shall be construed to permit a person against whom a revocation or suspension of license is in force, or a person less than 15 years of age, or a person who has been refused a license by the ~~commissioner,~~ Commissioner to operate a motor vehicle.

(2) A licensed person who does not possess a valid motorcycle endorsement may operate a motorcycle, with no passengers, only during daylight hours and then only if he or she has upon his or her person a valid motorcycle learner's permit issued to him or her by the ~~commissioner~~ Commissioner.

(b) ~~The commissioner in his or her discretion, may recall a learner's permit in the same circumstances as he or she may recall a provisional license~~ A person convicted of operating a motor vehicle in violation of this section shall be subject to a penalty of not more than $50.00, and his or her learner's permit shall be recalled for a period of 90 days. No person may be issued traffic complaints alleging a violation of this section and a violation of section 676 of this title from the same incident. The provisions of this section may be enforced only if a law enforcement officer has detained the operator for a suspected violation of another traffic offense.

Sec. 12. REPEAL

23 V.S.A. § 678 (penalties for unauthorized operation) is repealed.

* * * Nondriver Identification Cards * * *

Sec. 13. 23 V.S.A. § 115 is amended to read:

§ 115. NONDRIVER IDENTIFICATION CARDS

(a) Any Vermont resident may make application to the ~~commissioner~~ Commissioner and be issued an identification card which is attested by the ~~commissioner~~ Commissioner as to true name, correct age, residential address unless the listing of another address is requested by the applicant or is otherwise authorized by law, and any other identifying data as the ~~commissioner~~ Commissioner may require which shall include, in the case of minor applicants, the written consent of the applicant's parent, guardian, or other person standing in loco parentis. Every application for an identification card shall be signed by the applicant and shall contain such evidence of age and identity as the ~~commissioner~~ Commissioner may require. New and renewal application forms shall include a space for the applicant to request that a "veteran" designation be placed on his or her identification card. If a veteran, as defined in 38 U.S.C. § 101(2), requests a veteran designation and provides a Department of Defense Form 214 or other proof of veteran status specified by the Commissioner, and the Office of Veterans Affairs confirms his or her status as an honorably discharged veteran or a veteran discharged under honorable conditions, the identification card shall include the term "veteran" on its face. The ~~commissioner~~ Commissioner shall require payment of a fee of $20.00 at the time application for an identification card is made.

* * *

(i) ~~An identification card issued under this subsection to an individual under the age of 30 shall include a magnetic strip that includes only the name, date of birth, height, and weight of the individual identified on the card.~~ Each identification card issued to an initial or renewal applicant shall include a bar code encoded with minimum data elements as prescribed in 6 C.F.R. § 37.19.

* * *

* * * License Certificates * * *

Sec. 14. 23 V.S.A. § 603 is amended to read:

§ 603. APPLICATION FOR AND ISSUANCE OF LICENSE

(a)(1) The ~~commissioner~~ Commissioner or his or her authorized agent may license operators and junior operators when an application, on a form prescribed by the ~~commissioner~~ Commissioner, signed and sworn to by the applicant for the license, is filed with him or her, accompanied by the required license fee and any valid license from another state or Canadian jurisdiction is surrendered.

(2) The ~~commissioner~~ Commissioner may, however, in his or her discretion, refuse to issue a license to any person whenever he or she is satisfied from information given him or her by credible persons, and upon

investigation, that the person is mentally or physically unfit, or because of his or her habits, or record as to accidents or convictions, is unsafe to be trusted with the operation of motor vehicles. A person refused a license, under the provisions of this subsection or section 605 of this title, shall be entitled to hearing as provided in sections 105-107 of this title.

(3) Any new or renewal application form shall include a space for the applicant to request that a "veteran" designation be placed on his or her license certificate. An applicant who requests the designation shall provide a Department of Defense Form 214, or other proof of veteran status specified by the Commissioner.

* * *

Sec. 15. 23 V.S.A. § 610 is amended to read:

§ 610. LICENSE CERTIFICATES

(a) The ~~commissioner~~ Commissioner shall assign a distinguishing number to each licensee and shall furnish the licensee with a license certificate~~,~~ ~~showing~~ that shows the number~~,~~ and the licensee's full name, date of birth, and residential address unless the listing of another address is requested by the applicant or is otherwise authorized by law. The certificate also shall include a brief physical description~~, and mailing address~~ and a space for the signature of the licensee. The license shall be void until signed by the licensee. If a veteran, as defined in 38 U.S.C. § 101(2), requests a veteran designation and provides proof of veteran status as specified in subdivision 603(a)(3) of this title, and the Office of Veterans Affairs confirms his or her status as an honorably discharged veteran or a veteran discharged under honorable conditions, the license certificate shall include the term "veteran" on its face.

* * *

(c) Each license certificate issued to a first-time applicant and each subsequent renewal by that person shall be issued with the photograph or imaged likeness of the licensee included on the certificate. The ~~commissioner~~ Commissioner shall determine the locations where photographic licenses may be issued. ~~A photographic motor vehicle operator's license issued under this subsection to an individual under the age of 30 shall include a magnetic strip that includes only the name, date of birth, height, and weight of the licensee.~~ A person issued a license under this subsection that contains an imaged likeness may renew his or her license by mail. Except that a renewal by a licensee required to have a photograph or imaged likeness under this subsection must be made in person so that an updated imaged likeness of the person is obtained no less often than once every eight years.

(d) Each license certificate issued to an initial or renewal applicant shall include a bar code with minimum data elements as prescribed in 6 C.F.R. § 37.19.

Sec. 16. 23 V.S.A. § 7 is amended to read:

§ 7. ENHANCED DRIVER LICENSE; MAINTENANCE OF DATABASE INFORMATION; FEE

(a) The face of an enhanced license shall contain the individual's name, date of birth, gender, a unique identification number, full facial photograph or imaged likeness, address, signature, issuance and expiration dates, ~~and~~ citizenship, and, if applicable, a veteran designation. The back of the enhanced license shall have a machine-readable zone. A Gen 2 vicinity Radio Frequency Identification chip shall be embedded in the enhanced license in compliance with the security standards of the U.S. Department of Homeland Security. Any additional personal identity information not currently required by the Department of Homeland Security shall need the approval of either the ~~general assembly~~ General Assembly or the ~~legislative committee on administrative rules~~ Legislative Committee on Administrative Rules prior to the implementation of the requirements.

(b) In addition to any other requirement of law or rule, before an enhanced license may be issued to a person, the person shall present for inspection and copying satisfactory documentary evidence to determine identity and United States citizenship. An application shall be accompanied by: a photo identity document, documentation showing the person's date and place of birth, proof of the person's Social Security number, and documentation showing the person's principal residence address. New and renewal application forms shall include a space for the applicant to request that a "veteran" designation be placed on the enhanced license. If a veteran, as defined in 38 U.S.C. § 101(2), requests a veteran designation and provides a Department of Defense Form 214 or other proof of veteran status specified by the Commissioner, and the Office of Veterans Affairs confirms his or her status as an honorably discharged veteran or a veteran discharged under honorable conditions, the identification card shall include the term "veteran" on its face. To be issued, an enhanced license must meet the same requirements as those for the issuance of a United States passport. Before an application may be processed, the documents and information shall be verified as determined by the ~~commissioner~~ Commissioner. Any additional personal identity information not currently required by the U.S. Department of Homeland Security shall need the approval of either the ~~general assembly~~ General Assembly or the ~~legislative committee on administrative rules~~ Legislative Committee on Administrative Rules prior to the implementation of the requirements.

(c) No person shall compile or maintain a database of electronically readable information derived from an operator's license, junior operator's license, enhanced license, learner permit, or nondriver identification card. This prohibition shall not apply to a person who accesses, uses, compiles, or maintains a database of the information for law enforcement or governmental purposes or for the prevention of fraud or abuse or other criminal conduct.

* * *

* * * Driver Training Instructors * * *

Sec. 17. 23 V.S.A. § 705 is amended to read:

§ 705. QUALIFICATIONS FOR INSTRUCTOR'S LICENSE

In order to qualify for an instructor's license, each applicant shall:

(1) not have been convicted of:

(A) a felony nor incarcerated for a felony within the 10 years prior to the date of application; ~~or~~

(B) a violation of section 1201 of this title~~,~~ or a ~~conviction~~ like offense in another jurisdiction reported to the ~~commissioner~~ Commissioner pursuant to subdivision 3905(a)(2) of this title within the three years prior to the date of application; ~~or~~

(C) a subsequent ~~conviction for an~~ violation of an offense listed in subdivision 2502(a)(5) of this title or of section 674 of this title; or

(D) a sex offense that requires registration pursuant to 13 V.S.A. chapter 167, subchapter 3;

* * *

* * * Operating on Closed Highways * * *

Sec. 18. 23 V.S.A. § 1112 is amended to read:

§ 1112. CLOSED HIGHWAYS

(a) Except by the written permit of the authority responsible for the closing, ~~no~~ a person shall not drive any vehicle over any highway across which there is a barrier or a sign indicating that the highway is closed to public travel.

(b) An authority responsible for closing a highway to public travel may erect a sign, which shall be visible to highway users and proximate to the barrier or sign indicating that the highway is closed to public travel, indicating that violators are subject to penalties and civil damages.

(c) A municipal, county, or state entity that deploys police, fire, ambulance, rescue, or other emergency services in order to aid a stranded operator of a vehicle, or to move a disabled vehicle, operated on a closed highway in violation of this section, may recover from the operator in a civil action the cost of providing the services, if at the time of the violation a sign satisfying the requirements of subsection (b) of this section was installed.

* * * DUI Suspensions; Credit * * *

Sec. 19. 23 V.S.A. § 1205(p) is amended to read:

(p) Suspensions to run concurrently. Suspensions imposed under this section or any comparable statute of any other jurisdiction and sections 1206, 1208, and 1216 of this title or any comparable statutes of any other jurisdiction, or any suspension resulting from a conviction for a violation of section 1091 of this title from the same incident, shall run concurrently and a person shall receive credit for any elapsed period of a suspension served in Vermont against a later suspension imposed in this ~~state~~ State. ~~In order for suspension credit to be available against a later suspension, the suspension issued under this section must appear and remain on the individual's motor vehicle record.~~

Sec. 20. 23 V.S.A. § 1216(i) is amended to read:

(i) Suspensions imposed under this section or any comparable statute of any other jurisdiction shall run concurrently with suspensions imposed under sections 1205, 1206, and 1208 of this title or any comparable statutes of any other jurisdiction or with any suspension resulting from a conviction for a violation of section 1091 of this title from the same incident, and a person shall receive credit for any elapsed period of a suspension served in Vermont against a later suspension imposed in this ~~state~~ State. ~~In order for suspension credit to be available against a later suspension, the suspension issued under this section must appear and remain on the individual's motor vehicle record.~~

* * * Sirens and Lights on Exhibition Vehicles * * *

Sec. 21. 23 V.S.A. § 1252 is amended to read:

§ 1252. ~~USES OF~~ ISSUANCE OF PERMITS FOR SIRENS OR COLORED LAMPS OR BOTH; USE OF AMBER LAMPS

(a) When satisfied as to the condition and use of the vehicle, the ~~commissioner~~ Commissioner shall issue and may revoke, for cause, permits for sirens or colored signal lamps in the following manner:

(1) Sirens or blue or blue and white signal lamps, or a combination of these, may be authorized for all law enforcement vehicles~~,~~ owned or leased by a law enforcement agency ~~or,~~ a certified law enforcement officer ~~and if~~, or the

Vermont Criminal Justice Training Council. If the applicant is a constable, the application shall be accompanied by a certification by the town clerk that the applicant is the duly elected or appointed constable and attesting that the town has not voted to limit the constable's authority to engage in enforcement activities under 24 V.S.A. § 1936a.

(2) Sirens and red or red and white signal lamps may be authorized for all ambulances, fire apparatus, vehicles used solely in rescue operations, or vehicles owned or leased by, or provided to, volunteer ~~firemen~~ firefighters and voluntary rescue squad members, including a vehicle owned by a volunteer's employer when the volunteer has the written authorization of the employer to use the vehicle for emergency fire or rescue activities ~~and motor vehicles used solely in rescue operations~~.

(3) No vehicle may be authorized a permit for more than one of the combinations described in subdivisions (1) and (2) of this subsection.

(4) ~~Notwithstanding subdivisions (1) and (2) of this subsection, no~~ No motor vehicle, other than one owned by the applicant, shall be issued a permit until ~~such time as~~ the ~~commissioner can adequately record~~ Commissioner has recorded the information regarding both the owner of the vehicle and the applicant for the permit.

(5) Upon application to the ~~commissioner~~ Commissioner, the ~~commissioner~~ Commissioner may issue a single permit for all the vehicles owned or leased by the applicant.

(6) Sirens and red or red and white signal lamps, or sirens and blue or blue and white signal lamps, may be authorized for restored emergency or enforcement vehicles used for exhibition purposes. Sirens and lamps authorized under this subdivision may only be activated during an exhibition, such as a car show or parade.

* * *

* * * Motor Vehicle Arbitration Board; Administrative Support * * *

Sec. 22. 9 V.S.A. § 4174 is amended to read:

§ 4174. VERMONT MOTOR VEHICLE ARBITRATION BOARD

(a) There is created a Vermont ~~motor vehicle arbitration board~~ Motor Vehicle Arbitration Board consisting of five members and three alternate members to be appointed by the ~~governor~~ Governor for terms of three years. Board members may be appointed for two additional three-year terms. One member of the ~~board~~ Board and one alternate shall be new car dealers in Vermont, one member and one alternate shall be persons active as automobile technicians, and three members and one alternate shall be persons having no

direct involvement in the design, manufacture, distribution, sales, or service of motor vehicles or their parts. Board members shall be compensated in accordance with the provisions of 32 V.S.A. § 1010. ~~The board shall be attached to the department of motor vehicles and shall receive administrative services from the department of motor vehicles~~ Administrative support for the Board shall be provided as determined by the Secretary of Transportation.

* * *

* * * Traffic Violations; Judicial Bureau * * *

Sec. 23. 4 V.S.A. § 1105 is amended to read:

§ 1105. ANSWER TO COMPLAINT; DEFAULT

(a) A violation shall be charged upon a summons and complaint form approved and distributed by the ~~court administrator~~ Court Administrator. The complaint shall be signed by the issuing officer or by the state's attorney. The original shall be filed with the ~~judicial bureau,~~ Judicial Bureau; a copy shall be retained by the issuing officer or state's attorney and two copies shall be given to the defendant. The Judicial Bureau may, consistent with rules adopted by the Supreme Court pursuant to 12 V.S.A. § 1, accept electronic signatures on any document, including the signatures of issuing officers, state's attorneys, and notaries public. The complaint shall include a statement of rights, instructions, notice that a defendant may admit, not contest, or deny a violation, notice of the fee for failure to answer within 20 days, and other notices as the ~~court administrator~~ Court Administrator deems appropriate. The ~~court administrator~~ Court Administrator, in consultation with appropriate law enforcement agencies, may approve a single form for charging all violations, or may approve two or more forms as necessary to administer the operations of the ~~judicial bureau~~ Judicial Bureau.

* * *

(f) If a person fails to appear or answer a complaint the ~~bureau~~ Bureau shall enter a default judgment against the person. However, no default judgment shall be entered until the filing of a declaration by the issuing officer or state's attorney, under penalty of perjury, setting forth facts showing that the defendant is not a person in military service as defined at 50 App. U.S.C. § 511 (Servicemembers Civil Relief Act definitions), except upon order of the hearing officer in accordance with the Servicemembers Civil Relief Act, 50 App. U.S.C. Titles I–II. The ~~bureau~~ Bureau shall mail a notice to the person that a default judgment has been entered. A default judgment may be set aside by the hearing officer for good cause shown.

* * *

* * * Texting While Driving; Penalties * * *

Sec. 24. 23 V.S.A. § 1099 is amended to read:

§ 1099. TEXTING PROHIBITED

* * *

(c) A person who violates this section commits a traffic violation as defined in section 2302 of this title and shall be subject to a penalty of not less than $100.00 and not more than $200.00 upon adjudication of a first violation, and of not less than $250.00 and not more than $500.00 upon adjudication of a second or subsequent violation within any two-year period.

* * * Portable Electronic Devices in Work Zones * * *

Sec. 25. 23 V.S.A. § 4(5) is amended to read:

(5) "Construction area" ~~shall mean and include all of that portion~~ or "work zone" or "work site" means an area of a highway ~~while under~~ undergoing construction, maintenance, or utility work activities by order or with the permission of the ~~state~~ State or a municipality ~~thereof,~~ that is designated by and located within properly posted warning ~~signs maintained at each end thereof showing such area to have been designated as a "Construction Area"~~ devices.

Sec. 26. 23 V.S.A. § 1095b is added to read:

§ 1095b. HANDHELD USE OF PORTABLE ELECTRONIC DEVICE IN WORK ZONE PROHIBITED

(a) Definition. As used in this section, "hands-free use" means the use of a portable electronic device without use of either hand and outside the immediate proximity of the user's ear, by employing an internal feature of, or an attachment to, the device.

(b) Use of handheld portable electronic device in work zone prohibited. A person shall not use a portable electronic device while operating a moving motor vehicle within a highway work zone. The prohibition of this subsection shall not apply unless the work zone is properly designated with warning devices in accordance with subdivision 4(5) of this title, and shall not apply:

(1) to hands-free use; or

(2) when use of a portable electronic device is necessary to communicate with law enforcement or emergency service personnel under emergency circumstances.

(c) Penalty. A person who violates this section commits a traffic violation and shall be subject to a penalty of not less than $100.00 and not more than

$200.00 upon adjudication of a first violation, and of not less than $250.00 and not more than $500.00 upon adjudication of a second or subsequent violation within any two-year period.

* * * Assessment of Points * * *

Sec. 27. 23 V.S.A. § 2502 is amended to read:

§ 2502. POINT ASSESSMENT; SCHEDULE

(a) Any person operating a motor vehicle shall have points assessed against his or her driving record for convictions for moving violations of the indicated motor vehicle statutes in accord with the following schedule: (All references are to Title 23 of the Vermont Statutes Annotated.)

(1) Two points assessed for:

* * *

(LL)(i)	§ 1095.	~~Operating with television set installed~~ Entertainment picture visible to operator;
(ii)	§ 1095b.	Use of portable electronic device in work zone—first offense;
(MM)	~~§ 1099. Texting prohibited—first offense;~~ [Deleted.]	

* * *

(4) Five points assessed for:

* * *

(C)	§ 1099.	Texting prohibited~~—second and subsequent offenses~~;
(D)	~~Deleted~~	
	§ 1095b.	Use of portable electronic device in work zone—second and subsequent offenses;

* * *

* * * Prohibited Idling of Motor Vehicles * * *

Sec. 28. 23 V.S.A. § 1110 is added to subchapter 11 of chapter 13 to read:

§ 1110. PROHIBITED IDLING OF MOTOR VEHICLES

(a)(1) General prohibition. A person shall not cause or permit operation of the primary propulsion engine of a motor vehicle for more than five minutes in any 60-minute period, while the vehicle is stationary.

(2) Exceptions. The five-minute limitation of subdivision (1) of this subsection shall not apply when:

(A) a military vehicle; an ambulance; a police, fire, or rescue vehicle; or another vehicle used in a public safety or emergency capacity idles as necessary for the conduct of official operations;

(B) an armored vehicle idles while a person remains inside the vehicle to guard the contents or while the vehicle is being loaded or unloaded;

(C) a motor vehicle idles because of highway traffic conditions, at the direction of an official traffic control device or signal, or at the direction of a law enforcement official;

(D) the health or safety of a vehicle occupant requires idling, or when a passenger bus idles as necessary to maintain passenger comfort while nondriver passengers are on board;

(E) idling is necessary to operate safety equipment such as windshield defrosters, and operation of the equipment is needed to address specific safety concerns;

(F) idling of the primary propulsion engine is needed to power work-related mechanical, hydraulic, or electrical operations other than propulsion, such as mixing or processing cargo or straight truck refrigeration, and the motor vehicle is idled to power such work-related operations;

(G) a motor vehicle of a model year prior to 2018 with an occupied sleeper berth compartment is idled for purposes of air-conditioning or heating during a rest or sleep period;

(H) a motor vehicle idles as necessary for maintenance, service, repair, or diagnostic purposes or as part of a state or federal inspection; or

(I) a school bus idles on school grounds in compliance with rules adopted pursuant to the provisions of subsection 1282(f) of this title.

(b) Operation of an auxiliary power unit, generator set, or other mobile idle reduction technology is an alternative to operating the primary propulsion engine of a motor vehicle and is not subject to the prohibition of subdivision (a)(1) of this section.

(c) In addition to the exemptions set forth in subdivision (a)(2) of this section, the Commissioner of Motor Vehicles, in consultation with the Secretary of Natural Resources, may adopt rules governing times or circumstances when operation of the primary propulsion engine of a stationary motor vehicle is reasonably required.

(d) A person adjudicated of violating subdivision (a)(1) of this section shall be:

(1) assessed a penalty of not more than $10.00, which penalty shall be exempt from surcharges under 13 V.S.A. § 7282(a), for a first violation;

(2) assessed a penalty of not more than $50.00 for a second violation; and

(3) assessed a penalty of not more than $100.00 for a third or subsequent violation.

Sec. 29. 16 V.S.A. § 1045 is amended to read:

§ 1045. DRIVER TRAINING COURSE

* * *

(d) All driver education courses shall include instruction on the adverse environmental, health, economic, and other effects of unnecessary idling of motor vehicles and on the law governing prohibited idling of motor vehicles.

* * * Veteran Indicator on Commercial Driver Licenses * * *

Sec. 30. 23 V.S.A. § 4110(a)(5) is amended to read:

(5) The person's signature, as well as a space for the applicant to request that a "veteran" designation be placed on a commercial driver license. An applicant who requests a veteran designation shall provide a Department of Defense Form 214, or other proof of veteran status specified by the Commissioner.

Sec. 31. 23 V.S.A. § 4111 is amended to read:

§ 4111. COMMERCIAL DRIVER LICENSE

(a) Contents of license. A commercial driver's license shall be marked "commercial driver license" or "CDL," and shall be, to the maximum extent practicable, tamper proof, and shall include~~, but not be limited to~~ the following information:

* * *

(12) A veteran designation if a veteran, as defined in 38 U.S.C. § 101(2), requests the designation and provides proof of veteran status as specified in subdivision 4110(a)(5) of this title, and if the Office of Veterans Affairs confirms his or her status as an honorably discharged veteran or a veteran discharged under honorable conditions.

* * *

* * * Effective Dates and Sunsets * * *

Sec. 32. EFFECTIVE DATES AND SUNSETS

(a) This section and Sec. 22 of this act (administrative support for the Motor Vehicle Arbitration Board) shall take effect on passage.

(b)(1) Sec. 1 of this act shall take effect on July 1, 2013, if the deletion of "liquor investigators" from the definition of "enforcement officers" provided for in 2011 Acts and Resolves No. 17, Sec. 4 takes effect on or before July 1, 2013.

(2) Sec. 2 of this act shall take effect on July 1, 2013, if the deletion of "liquor investigators" from the definition of "enforcement officers" provided for in 2011 Acts and Resolves No. 17, Sec. 4 does not take effect on or before July 1, 2013.

(c) Secs. 25, 26, and 28, and in Sec. 27, § 2502(a)(1)(LL) and (a)(4)(D) of this act shall take effect on January 1, 2014.

(d) All other sections of this act shall take effect on July 1, 2013.

NEW BUSINESS

Third Reading

H. 54.

An act relating to Public Records Act exemptions.

H. 200.

An act relating to civil penalties for possession of marijuana.

H. 299.

An act relating to enhancing consumer protection provisions for propane refunds, unsolicited demands for payment, and failure to comply with civil investigations.

H. 395.

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

H. 403.

An act relating to community supports for persons with serious functional impairments.

H. 405.

An act relating to manure management and anaerobic digesters.

H. 512.

An act relating to approval of amendments to the charter of the City of Barre.

Second Reading

Favorable with Proposal of Amendment

H. 240.

An act relating to Executive Branch fees.

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

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

First: In Sec. 26, 7 V.S.A. § 231, in subsection (a) subdivision (5), by striking out the following "$130.00" and inserting in lieu thereof the following: $140.00

Second: By striking out Secs. 27 and 28 in their entirety.

Third: By striking out Sec. 30 in its entirety and inserting in lieu thereof a new Sec. 30 to read as follows:

Sec. 30. 7 V.S.A. § 1002 is amended to read:

§ 1002. LICENSE REQUIRED; APPLICATION; FEE; ISSUANCE

* * *

(d) A person applying simultaneously for a tobacco license and a liquor license shall apply to the legislative body of the municipality and shall pay to the ~~department~~ Department only the fee required to obtain the liquor license. A person applying ~~only~~ for a tobacco license shall submit a fee of ~~$10.00~~ $100.00 to the legislative body of the municipality for each tobacco license or renewal. The municipal clerk shall forward the application to the ~~department~~ Department, and the ~~department~~ Department shall issue the tobacco license. ~~The municipal clerk shall retain $5.00 of this fee, and the remainder shall be deposited in the treasury of the municipality~~ The tobacco license fee shall be forwarded to the Commissioner for deposit in the Liquor Control Enterprise Fund.

* * *

Fourth: By adding internal captions and new Secs. 35, 36, 37, 38, and 39 to read as follows:

* * * State Police Dispatch Fees * * *

Sec. 35. UNIFORM DISPATCH FEES

The Commissioner of Public Safety shall adopt rules establishing uniform statewide fees for dispatch services provided by or under the direction of the Department of Public Safety. In setting the fees, the Commissioner shall consult with sheriffs and other entities that provide dispatch services.

* * * Break-Open Tickets * * *

Sec. 36. REPEAL

32 V.S.A. chapter 239 (game of chance) is repealed.

Sec. 37. 7 V.S.A. chapter 26 is added to read:

CHAPTER 26. BREAK-OPEN TICKETS

§ 901. DEFINITIONS

As used in this chapter:

(1) "Break-open ticket" means a lottery using a card or ticket of the so-called pickle card, jar ticket, or break-open variety commonly bearing the name "Lucky 7," "Nevada Club," "Victory Bar," "Texas Poker," "Triple Bingo," or any other name.

(2) "Commissioner" means the Commissioner of Liquor Control.

(3) "Distributor" means a person who purchases break-open tickets from a manufacturer and sells or distributes break-open tickets at wholesale in Vermont. "Distributor" shall include any officer, employee, or agent of a corporation or dissolved corporation who has a duty to act for the corporation in complying with the requirements of this chapter. "Distributor" shall not include a person who distributes only jar tickets which are used only for merchandise prizes.

(4) "Manufacturer" means a person who designs, assembles, fabricates, produces, constructs, or otherwise prepares a break-open ticket for sale to a distributor.

(5) "Nonprofit organization" means a nonprofit corporation which is qualified for tax exempt status under the provisions of 26 U.S.C. § 501(c) and which has engaged, in good faith, in charitable, religious, educational, or civic activities in this State on a regular basis during the preceding year. "Nonprofit organization" also includes churches, schools, fire departments, municipalities, fraternal organizations, and organizations that operate agricultural fairs or field days and which have engaged, in good faith, in charitable, religious,

educational, or civic activities in this State on a regular basis during the preceding year.

(6) "Seller" means a nonprofit organization that sells break-open tickets at retail.

(7) "Seller's agent" means the owner of a premises where alcohol is served who has entered into a written agreement with a nonprofit organization to sell tickets at retail on behalf of the nonprofit organization.

§ 902. LICENSE REQUIRED

(a) Any manufacturer, distributor, seller, or seller's agent shall be licensed by the Commissioner.

(b) Upon application and payment of the fee, the Commissioner may issue the following licenses to qualified applicants:

(1) Manufacturer annual license	$7,500.00
(2) Distributor annual license	$7,500.00
(3) Seller's annual license	$ 50.00
(4) Seller's agent annual license	$ 50.00

(c) A license shall not be granted to an individual who has been convicted of a felony within five years of the license application nor to an entity in which any partner, officer, or director has been convicted of a felony within five years of the application.

(d) Licenses issued under this section may be renewed annually from the date of issue or last renewal, upon reapplication and payment of the licensing fee.

(e) A seller or a seller's agent must display his or her license in a conspicuous public place or in an area near where the break-open tickets are sold.

(f) All fees collected pursuant to this section shall be deposited into the Liquor Control Fund.

§ 903. DISTRIBUTION

(a) Only a licensed seller or licensed seller's agent may sell tickets at retail. A seller or seller's agent shall buy tickets for resale only from a licensed distributor. A distributor shall buy tickets only from a licensed manufacturer, and shall only sell tickets to a licensed seller or seller's agent.

(b) A distributor shall not distribute a box of break-open tickets unless the box bears indicia as required by the Commissioner. A distributor shall not

distribute a box of break-open tickets in this State with a prize payout of less than 60 percent. A person shall not distribute or sell a break-open ticket at retail unless the ticket bears a unique serial number.

(c) When making a sale of break-open tickets, a distributor shall require a seller or seller's agent to present evidence of a valid license under this chapter.

(d) A seller may sell break-open tickets on the premises of a club as defined in subdivision 2(7) of this title. All proceeds from the sale of break-open tickets shall be used by the seller exclusively for charitable, religious, educational, and civic undertakings, with only the following costs deducted from the proceeds:

(1) the actual cost of the break-open tickets;

(2) the prizes awarded;

(3) reasonable legal fees necessary to organize the nonprofit organization and to assure compliance with all legal requirements; and

(4) reasonable accounting fees necessary to account for the proceeds from the sale of break-open tickets by the seller.

(e) Notwithstanding 13 V.S.A. § 2143, a seller's agent may sell break-open tickets at premises licensed to sell alcoholic beverages if the seller's agent meets the requirements of section 904 of this title. All proceeds from the sale of break-open tickets by a seller's agent shall be remitted to the seller, except for:

(1) the actual cost of the break-open tickets;

(2) the prizes awarded; and

(3) any taxes due on the sale of break-open tickets under 32 V.S.A. chapter 245.

§ 904. REQUIREMENTS FOR A SELLER'S AGENT

(a) In order to sell break-open tickets, a seller's agent shall enter into a written agreement with the seller. The written agreement shall include the terms required by the Commissioner but at a minimum shall be filed with the Commissioner and include the names of individuals representing the seller and the seller's agent, contact information for those individuals, and the responsibility and duties of each party. The seller's agent shall file a copy of the written agreement with the Commissioner.

(b) The seller's agent must remit to the seller at least quarterly the proceeds owed to the seller under the written agreement, along with a copy of the report due under section 905 of this title.

§ 905. RECORDS; REPORT

(a) Each distributor, manufacturer, seller, and seller's agent licensed under this chapter shall maintain records and books relating to the distribution and sale of break-open tickets and to any other expenditure required by the Commissioner. A licensee shall make its records and books available to the Commissioner for auditing.

(b) Each licensed distributor shall file with the Commissioner on the same schedule as the distributor files sales tax returns the following information for the preceding reporting period:

(1) the names of organizations to which break-open tickets were sold;

(2) the number of break-open tickets sold to each organization; and

(3) the ticket denomination and serial numbers of tickets sold.

(c) Each licensed manufacturer shall file with the Commissioner quarterly reports on or before April 25, July 25, October 25, and January 25 for the quarter ending prior to the month in which the report is due. The reports shall contain the following information for the reporting period:

(1) the names of distributors to which deals of break-open ticket were sold;

(2) the number of deals of break-open tickets sold to each distributor; and

(3) the ticket denomination and serial numbers for each deal.

(d) Each licensed seller that sells tickets shall file with the Commissioner quarterly reports on or before April 25, July 25, October 25, and January 25 for the quarter ending prior to the month in which the report is due. The reports shall contain any information required by the Commissioner, but shall include:

(1) the number of boxes purchased and the actual cost of the break-open tickets;

(2) the prizes awarded;

(3) any reasonable legal fees necessary to organize the nonprofit organization and to assure compliance with all legal requirements;

(4) any reasonable accounting fees necessary to account for the proceeds from the sale of break-open tickets by the seller; and

(5) the amount of proceeds dedicated to the charitable purpose of the organization.

(e) Each licensed seller's agent that sells tickets shall file with the Commissioner quarterly reports on or before April 25, July 25, October 25, and January 25 for the quarter ending prior to the month in which the report is due. The reports shall contain any information required by the Commissioner, but shall include:

(1) the number of boxes purchased, the number of tickets in each box, and the retail sale value of the tickets;

(2) the actual cost of the break-open tickets;

(3) the prizes awarded;

(4) the amount of funds remitted to the seller; and

(5) evidence of taxes paid under 32 V.S.A. chapter 245 on the boxes purchased by the seller's agent.

(f) Records and reports filed under this section shall be subject to the provisions of 32 V.S.A. § 3102, except as necessary for the administration of this chapter.

(g) The Commissioner of Liquor Control shall provide the records and reports filed under this section to the Attorney General and Commissioner of Taxes upon request.

§ 906. RULES

The Department of Liquor Control shall regulate the sale of break-open tickets in this State. The Commissioner may adopt regulations for the licensure and reporting requirements under this chapter to establish indicia for boxes of break-open tickets and to establish reasonable reporting and accounting requirements on manufacturers, distributors, sellers, and seller's agents of break-open tickets to ensure the requirements of this chapter are met.

§ 907. ENFORCEMENT

(a) Any person who intentionally violates section 903 of this title shall be fined not more than $500.00 for each violation.

(b) Any person who intentionally violates section 902, 904, or 905 of this title shall be fined not more than $10,000.00 for the first offense and fined not more than $20,000.00 or imprisoned not more than one year, or both, for each subsequent offense.

(c) In addition to the criminal penalties provided under subsections (a) and (b) of this section, any person who violates a provision of this chapter shall be subject to one or both of the following penalties:

(1) revocation or suspension by the Commissioner of a license granted pursuant to this chapter; or

(2) confiscation of break-open tickets or confiscation of the revenues derived from the sale of those tickets, or both.

§ 908. APPEALS

Any licensee aggrieved by an action taken under this chapter and any person aggrieved by the Commissioner's refusal to issue or renew a license under this chapter may appeal in writing within 30 days of the Commissioner's decision to the Liquor Control Board for review of such action. The Board shall thereafter grant a hearing subject to the provisions of 3 V.S.A. chapter 25 upon the matter and notify the aggrieved person in writing of its determination. The Board's determination may be appealed within 30 days to the Vermont Supreme Court. Appeal pursuant to this section shall be the exclusive remedy for contesting the Commissioner's action under this chapter.

* * * Groundwater extraction * * *

Sec. 38. 3 V.S.A. § 2822 is amended to read:

§ 2822. BUDGET AND REPORT; POWERS

* * *

(j) In accordance with subsection (i) of this section, the following fees are established for permits, licenses, certifications, approvals, registrations, orders, and other actions taken by the ~~agency of natural resources~~ Agency of Natural Resources.

* * *

(7) For public water supply ~~and~~, bottled water permits, and bulk water permits ~~and approvals~~ issued under 10 V.S.A. chapter 56 and ~~interim~~ groundwater withdrawal permits ~~and approvals~~ issued under 10 V.S.A. chapter 48:

(A) For public water supply construction permit applications: $375.00 per application plus $0.0055 per gallon of design capacity. Amendments $150.00 per application.

(B) For water treatment plant applications, except those applications submitted by a municipality as defined in 1 V.S.A. § 126 or a consolidated water district established under 24 V.S.A. § 3342: $0.003 per gallon of design capacity. Amendments $150.00 per application.

(C) For source permit applications:

(i) Community water systems: $945.00 per source.

(ii) Transient noncommunity: $385.00 per source.

(iii) Nontransient, noncommunity: $770.00 per source.

(iv) Amendments. $150.00 per application.

(D) For public water supplies ~~and~~, bottled water facilities, and bulk water facilities, annually:

(i) Transient noncommunity: $50.00

(ii) Nontransient, noncommunity: $0.0355 per 1,000 gallons of water produced annually or $70.00, whichever is greater.

(iii) Community: $0.0439 per 1,000 gallons of water produced annually.

(iv) Bottled water: $1,390.00 per permitted facility.

(E) Amendment to bottled water facility permit, $150.00 per application.

(F) For facilities permitted to withdraw groundwater pursuant to 10 V.S.A. § 1418: $2,300.00 annually per facility.

(G) For facilities that bottle water or sell water in bulk, except for municipalities as defined in 1 V.S.A. § 126 or a consolidated water district established under 24 V.S.A. § 3342: $0.05 per gallon produced annually per permitted facility

~~(G)~~(H) In calculating flow-based fees under this subsection, the ~~secretary~~ Secretary will use metered production flows where available. When metered production flows are not available, the ~~secretary~~ Secretary shall estimate flows based on the standard design flows for new construction.

~~(H)~~(I) The ~~secretary~~ Secretary shall bill public water supplies and bottled water companies for the required fee. Annual fees may be divided into semiannual or quarterly billings.

* * *

Sec. 39. 10 V.S.A. § 1675 is amended to read:

§ 1675. PERMITS; CONDITIONS; DURATION; SUSPENSION OF REVOCATION

* * *

(h) A public water system permitted after the effective date of this act that bottles drinking water for public distribution and sale, including systems that sell water to a different state system that bottles the water, shall obtain from the ~~secretary~~ Secretary a source water permit under subsection 1672(g) of this title upon renewal of its operating permit under this section and every 10 years thereafter.

* * *

And by renumbering the remaining sections to be numerically correct.

(Committee vote: 5-1-1)

(No House Amendments)

H. 295.

An act relating to technical tax changes.

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

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

First: By striking out Sec. 12 in its entirety and inserting in lieu thereof:

Sec. 12. [Deleted.]

Second: In Sec. 13, 32 V.S.A. § 5811(18)(A)(i), in subdivision (III), by inserting the word federal before the words "net operating loss";

Third: By adding a Sec. 13a to read to as follows:

Sec. 13a. 32 V.S.A. § 5811(21)(B) is amended to read:

(B) Decreased by the following items of income (to the extent such income is included in federal adjusted gross income):

(i) income from United States government obligations;

(ii) with respect to adjusted net capital gain income as defined in Section 1(h) of the Internal Revenue Code reduced by the total amount of any qualified dividend income: either the first $5,000.00 of such adjusted net capital gain income; or 40 percent of adjusted net capital gain income from the sale of assets held by the taxpayer for more than three years, except not adjusted net capital gain income from:

* * *

Fourth: In Sec. 31, in subsection (b), after the following: "Commissioner may reasonably require for the proper administration of this chapter." by inserting the following: The return shall include notice that the property may

be subject to regulations governing potable water supplies and wastewater systems under 10 V.S.A. chapter 64 and to building, zoning, and subdivision regulations; and that the parties have an obligation under law to investigate and disclose his or her knowledge regarding flood regulation, if any, affecting the property.

Fifth: By inserting a Sec. 34a to read: [adds intent language, extends cloud moratorium to July 1, 2016, requires regulations with specific standards by January 1, 2016.]

Sec. 34a. 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

(a) The General Assembly finds that "cloud-based services" is the general term given to a variety of services that are accessed via the Internet or a proprietary network. Cloud-based services allow users to store data, access software, and access services and platforms from almost any device that can access the cloud via a broadband connection. The use of cloud services has greatly increased over the past decade. As a result, states have taken a wide range of positions regarding the way to characterize cloud-based services for the purpose of applying the sales and use tax. It is in this context that the General Assembly adopts this section.

(b) 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~~ 2016, 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.

(c) Beginning on July 1, 2013, the moratorium in subsection (b) of this section shall not apply to charges by a vendor for the right to access and use prewritten software if any vendor offers for sale, in a storage medium or by an electronic download to the user's computer or server, either directly or through wholesale or retail channels that same computer software or comparable computer software that performs the same functions. The software shall be considered the same or comparable if the seller provides the customer with the

use of software that functions with little or no personal intervention by the seller or seller's employees other than "help desk" assistance for customers having difficulty using the software.

(d) By January 1, 2016, the Department of Taxes shall promulgate regulations specifying how the sales and use tax will be applied to remotely accessed software. The regulations shall conform to the following general standards:

(1) The sale of computer hardware, computer equipment, and prewritten software shall be taxed, regardless of the method of delivery. The term "sale" shall include electronic delivery or load and leave, licenses or leases, transfer of rights to use software installed on a remote server, upgrades, and license upgrades.

(2) The lease of computer hardware on the premise of another shall be taxed if the lessor operates, directs, or controls the hardware.

(3) Charges for the installation of hardware shall not be taxed.

(4) If computer hardware cannot be purchased without mandatory services, such as training, maintenance, or testing, charges for these services shall be considered taxable. If, on the other hand, the services are optional, the charges shall not be taxed.

(5) The sale of the right to reproduce a program shall generally be considered taxable.

(6) The sale of custom software shall not be taxed, regardless of the method of delivery.

(7) If a sale involves both prewritten and custom software or if it involves the customization of prewritten software, the sale shall be taxable unless the price of both the prewritten component and the custom component are stated separately, in which case only the prewritten software component shall be taxed.

(8) The furnishing of reports of standard information to more than two customers shall generally be considered taxable.

(9) The provision of data processing services and access to database services shall generally be considered nontaxable.

(10) The regulations drafted by the Department of Taxes under this subsection shall conform with current Vermont law and maintain Vermont's compliance with the Streamlined Sales and Use Tax Agreement.

Sixth: By inserting Secs. 35 and 36 to read as follows:

Sec. 35. 8 V.S.A. § 15(c) is amended to read:

(c) The ~~commissioner~~ Commissioner may waive the requirements of 15 V.S.A. § 795(b) as the ~~commissioner~~ Commissioner deems necessary to permit the ~~department~~ Department to participate in any national licensing or registration systems with respect to any person or entity subject to the jurisdiction of the ~~commissioner~~ Commissioner under this title, Title 9, or 18 V.S.A. chapter 221 ~~of Title 18. The commissioner may waive the requirements of 32 V.S.A. § 3113(b) as the commissioner deems necessary to permit the department to participate in any national licensing or registration systems with respect to any person or entity not residing in this state and subject to the jurisdiction of the commissioner under this title, Title 9, or chapter 221 of Title 18~~.

Sec. 36. 32 V.S.A. § 3113(b) is amended to read:

(b) No agency of the ~~state~~ State shall grant, issue, or renew any license or other authority to conduct a trade or business (including a license to practice a profession) to, or enter into, extend, or renew any contract for the provision of goods, services, or real estate space with~~,~~ any person unless such person shall first sign a written declaration under the pains and penalties of perjury~~,~~ that the person is in good standing with respect to or in full compliance with a plan to pay~~,~~ any and all taxes due as of the date such declaration is made, except that the Commissioner may waive this requirement as the Commissioner deems appropriate to facilitate the Department of Financial Regulation's participation in any national licensing or registration systems for persons required to be licensed or registered by the Commissioner of Financial Regulation under Title 8, Title 9, or 18 V.S.A. chapter 221.

Seventh: By inserting Secs. 37–43 to read: [Health care claims tax]

* * * Health Insurance Claims Tax * * *

Sec. 37. 32 V.S.A. chapter 243 is added to read:

CHAPTER 243. HEALTH CARE CLAIMS TAX

§ 10401. DEFINITIONS

As used in this section:

(1) "Health insurance" means any group or individual health care benefit policy, contract, or other health benefit plan offered, issued, renewed, or administered by any health insurer, including any health care benefit plan offered, issued, renewed, or administered by any health insurance company, any nonprofit hospital and medical service corporation, any dental service corporation, or any managed care organization as defined in 18 V.S.A. § 9402. The term includes comprehensive major medical policies, contracts, or plans

and Medicare supplemental policies, contracts, or plans, but does not include Medicaid or any other state health care assistance program in which claims are financed in whole or in part through a federal program unless authorized by federal law and approved by the General Assembly. The term does not include policies issued for specified disease, accident, injury, hospital indemnity, long-term care, disability income, or other limited benefit health insurance policies, except that any policy providing coverage for dental services shall be included.

(2) "Health insurer" means any person who offers, issues, renews, or administers a health insurance policy, contract, or other health benefit plan in this State and includes third party administrators or pharmacy benefit managers who provide administrative services only for a health benefit plan offering coverage in this State. The term does not include a third party administrator or pharmacy benefit manager to the extent that a health insurer has paid the fee which would otherwise be imposed in connection with health care claims administered by the third party administrator or pharmacy benefit manager.

§ 10402. HEALTH CARE CLAIMS TAX

(a) There is imposed on every health insurer an annual tax in an amount equal to 0.999 of one percent of all health insurance claims paid by the health insurer for its Vermont members in the previous fiscal year ending June 30. The annual fee shall be paid to the Commissioner of Taxes in one installment due by January 1.

(b) Revenues paid and collected under this chapter shall be deposited as follows:

(1) 0.199 of one percent of all health insurance claims into the Health IT-Fund established in section 10301 of this title; and

(2) 0.8 of one percent of all health insurance claims into the State Health Care Resources Fund established in 33 V.S.A. § 1901d.

(c) The annual cost to obtain Vermont Healthcare Claims Uniform Reporting and Evaluation System (VHCURES) data, pursuant to 18 V.S.A. § 9410, for use by the Department of Taxes shall be paid from the Vermont Health IT-Fund and the State Health Care Resources Fund in the same proportion as revenues are deposited into those Funds.

(d) It is the intent of the General Assembly that all health insurers shall contribute equitably through the tax imposed in subsection (a) of this section. In the event that the tax is found not to be enforceable as applied to third party administrators or other entities, the tax owed by all other health insurers shall remain at the existing level and the General Assembly shall consider

alternative funding mechanisms that would be enforceable as to all health insurers.

§ 10403. ADMINISTRATION OF TAX

(a) The Commissioner of Taxes shall administer and enforce this chapter and the tax. The Commissioner may adopt rules under 3 V.S.A. chapter 25 to carry out such administration and enforcement.

(b) All of the administrative provisions of chapter 151 of this title, including those relating to the collection and enforcement by the Commissioner of the withholding tax and the income tax, shall apply to the tax imposed by this chapter. In addition, the provisions of chapter 103 of this title, including those relating to the imposition of interest and penalty for failure to pay the tax as provided in section 10402 of this title, shall apply to the tax imposed by this chapter.

§ 10404. DETERMINATION OF DEFICIENCY, REFUND, PENALTY, OR INTEREST

(a) Within 60 days after the mailing of a notice of deficiency, denial or reduction of a refund claim, or assessment of penalty or interest, a health insurer may petition the Commissioner in writing for a determination of that deficiency, refund, or assessment. The Commissioner shall thereafter grant a hearing upon the matter and notify the health insurer in writing of his or her determination concerning the deficiency, penalty, or interest. This is the exclusive remedy of a health insurer with respect to these matters.

(b) Any hearing granted by the Commissioner under this section shall be subject to and governed by 3 V.S.A. chapter 25.

(c) Any aggrieved health insurer may, within 30 days after a determination by the Commissioner concerning a notice of deficiency, an assessment of penalty or interest, or a claim to refund, appeal that determination to the Washington Superior Court or to the Superior Court for the county in which the health insurer has a place of business.

Sec. 38. 32 V.S.A. § 3102(e) is amended to read:

(e) The ~~commissioner~~ Commissioner may, in his or her discretion and subject to such conditions and requirements as he or she may provide, including any confidentiality requirements of the Internal Revenue Service, disclose a return or return information:

* * *

(14) to the ~~office of the state treasurer~~ Office of the State Treasurer, only in the form of mailing labels, with only the last address known to the

~~department of taxes~~ Department of Taxes of any person identified to the ~~department~~ Department by the ~~treasurer~~ Treasurer by name and Social Security number, for the ~~treasurer's~~ Treasurer's use in notifying owners of unclaimed property; ~~and~~

(15) to the ~~department of liquor control~~ Department of Liquor Control, provided that the information is limited to information concerning the sales and use tax and meals and rooms tax filing history with respect to the most recent five years of a person seeking a liquor license or a renewal of a liquor license; and

(16) to the Commissioner of Financial Regulation and the Commissioner of Vermont Health Access, if such return or return information relates to obligations of health insurers under chapter 243 of this title.

Sec. 39. 32 V.S.A. § 10301 is amended to read:

§ 10301. HEALTH IT-FUND

* * *

(c) Into the fund shall be deposited:

(1) revenue from the ~~reinvestment fee~~ health care claims tax imposed on health insurers pursuant to ~~8 V.S.A. § 4089k~~ subdivision 10402(b)(1) of this title.

* * *

Sec. 40. 2008 Acts and Resolves No. 192, Sec. 9.001(g) is amended to read:

(g) Sec. 7.005 of this act shall sunset July 1, ~~2015~~ 2013.

Sec. 41. 32 V.S.A. § 10301 is amended to read:

§ 10301. HEALTH IT-FUND

* * *

(c) Into the fund shall be deposited:

(1) ~~revenue from the health care claims tax imposed on health insurers pursuant to subdivision 10402(b)(1) of this title.~~ [Deleted.]

* * *

Sec. 42. 32 V.S.A. § 10402 is amended to read:

§ 10402. HEALTH CARE CLAIMS TAX

(a) There is imposed on every health insurer an annual tax in an amount equal to ~~0.999~~ 0.8 of one percent of all health insurance claims paid by the health insurer for its Vermont members in the previous fiscal year ending

June 30. The annual fee shall be paid to the Commissioner of Taxes in one installment due by January 1.

(b) Revenues paid and collected under this chapter shall be deposited ~~as follows:~~

~~(1) 0.199 of one percent of all health insurance claims into the Health IT Fund established in section 10301 of this title; and~~

~~(2) 0.8 of one percent of all health insurance claims~~ into the State Health Care Resources Fund established in 33 V.S.A. § 1901d.

* * *

Sec. 43. REPEAL

8 V.S.A. § 4089l (health care claims assessment) is repealed on July 1, 2013.

Eighth: By inserting a Sec. 44 and 45 to read as follows:

Sec. 44 23 V.S.A. § 3106(a)(2) is amended to read:

(2) For the purposes of subdivision (1)(B) of this subsection, the tax-adjusted retail price applicable for a quarter shall be the average of the ~~monthly~~ retail ~~prices~~ price for regular gasoline determined and published by the Department of Public Service for each of the three months of the preceding quarter~~. The tax-adjusted retail price applicable for a quarter shall be the retail price exclusive of all~~ after all federal and state taxes and assessments, and the petroleum distributor licensing fee established by 10 V.S.A. § 1942~~, at the rates~~ applicable in ~~the preceding quarter~~ each month has been subtracted from that month's retail price.

Sec 45. 2013 Acts and Resolves No. 12, Sec. 24 is amended to read:

Sec. 24. ~~MOTOR~~ FUEL ~~ASSESSMENTS~~ TAX ASSESSMENT: MAY 1, 2013–SEPTEMBER 30, 2013

Notwithstanding the provisions of 23 V.S.A. § ~~3106(a)(1)(B)~~ 3106(a)(1)(B)(ii) and 3106(a)(2), from May 1, 2013 through September 30, 2013, the ~~motor fuel transportation infrastructure assessment required under 23 V.S.A. § 3106(a)(1)(B)(i) shall be $0.0656 per gallon, and the~~ fuel tax assessment required under 23 V.S.A. § 3106(a)(1)(B)(ii) shall be $0.067 per gallon.

And by renumbering the remaining sections to be numerically correct

Ninth: In the renumbered Sec. 46 (effective dates), by adding a subsection (8) to read as follows:

(8) Secs. 37–40 (health claims tax) shall take effect July 1, 2013 and Secs. 41 and 42 (health claims sunset) shall take effect on July 1, 2017.

(Committee vote: 7-0-0)

(No House amendments)

H. 521.

An act relating to making miscellaneous amendments to education law.

Reported favorably with recommendation of proposal of amendment by Senator McCormack for the Committee on Education.

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

First: By deleting Sec. 2 in its entirety

Second: After Sec. 7, by inserting three new sections to be Secs. 7a through 7c to read:

Sec. 7a. 33 V.S.A. § 6911(a)(1) is amended to read:

(1) The investigative report shall be disclosed only to: the ~~commissioner~~ Commissioner or person designated to receive such records; persons assigned by the ~~commissioner~~ Commissioner to investigate reports; the person reported to have abused, neglected, or exploited a vulnerable adult; the vulnerable adult or his or her representative; the ~~office of professional regulation~~ Office of Professional Regulation when deemed appropriate by the ~~commissioner~~ Commissioner; the Secretary of Education when deemed appropriate by the Committioner; a law enforcement agency, the ~~state's attorney, or the office of the attorney general~~ State's Attorney, or the Office of the Attorney General, when the ~~department~~ Department believes there may be grounds for criminal prosecution or civil enforcement action, or in the course of a criminal or a civil investigation. When disclosing information pursuant to this subdivision, reasonable efforts shall be made to limit the information to the minimum necessary to accomplish the intended purpose of the disclosure, and no other information, including the identity of the reporter, shall be released absent a court order.

Sec. 7b. 33 V.S.A. § 6911(c) is amended to read:

(c) The ~~commissioner~~ Commissioner or the ~~commissioner's~~ Commissioner's designee may disclose registry information only to:

* * *

(7) upon request or when relevant to other states' adult protective services offices; ~~and~~

(8) the ~~board of medical practice~~ Board of Medical Practice for the purpose of evaluating an applicant, licensee, or holder of certification pursuant to 26 V.S.A. § 1353; and

(9) the Secretary of Education or the Secretary's designee, for purposes related to the licensing of professional educators pursuant to 16 V.S.A. chapter 5, subchapter 4 and chapter 51.

Sec. 7c. 16 V.S.A. § 253 is amended to read:

§ 253. CONFIDENTIALITY OF RECORDS

(a) Criminal records and criminal record information received under this subchapter are designated confidential unless, under state or federal law or regulation, the record or information may be disclosed to specifically designated persons.

(b) The Secretary, a superintendent, or a headmaster may disclose criminal records and criminal record information received under this subchapter to a qualified entity upon request, provided that the qualified entity has signed a user agreement and received authorization from the subject of the record request. As used in this section, "qualified entity" means an individual, organization, or governmental body doing business in Vermont that has one or more individuals performing services for it within the State and that provides care or services to children, persons who are elders, or persons with disabilities as defined in 42 U.S.C. § 5119c.

Third: By deleting Sec. 11 in its entirety

Fourth: By striking Secs. 16 through 18 in their entirety and inserting in lieu thereof three new sections to be Secs. 16 through 18 to read:

* * * Creation of New Independent Schools * * *

Sec. 16. 16 V.S.A. § 821(e) is added to read:

(e) Notwithstanding the authority of a school district to cease operation of an elementary school and to begin paying tuition on behalf of its resident elementary students pursuant to subdivision (a)(1) or subsection (d) of this section, a school district shall not cease operation of an elementary school with the intention, for the purpose, or with the result of having the school building or buildings reopen as an independent school serving essentially the same population of students.

Sec. 17. 16 V.S.A. § 822(d) is added to read:

(d) Notwithstanding the authority of a school district to cease operation of a secondary school and to begin paying tuition on behalf of its resident secondary students pursuant to subdivision (a)(1) of this section, a school

district shall not cease operation of a secondary school with the intention, for the purpose, or with the result of having the school building or buildings reopen as an independent school serving essentially the same population of students.

Sec. 18. 16 V.S.A. § 166(b)(8) is added to read:

(8) Notwithstanding any other provision of law, approval under this subsection of a new or existing independent school that proposes to operate in a building in which a school district operated a school is subject to either subsection 821(e) or 822(d) of this title, as appropriate for the grades operated.

Fifth: By striking Sec. 20 and inserting in lieu thereof 14 new sections to be Secs. 20 through 33 and related reader assistance headings to read:

* * * Transportation Grants * * *

Sec. 20. 16 V.S.A. § 4016(c) is amended to read:

(c) ~~A district may apply and the commissioner may pay for extraordinary transportation expenditures incurred due to geographic or other conditions such as the need to transport students out of the school district to attend another school because the district does not maintain a public school. The state board of education shall define extraordinary transportation expenditures by rule. The total amount of base year extraordinary transportation grant expenditures shall be $250,000.00 for fiscal year 1997, increased each year thereafter by the annual price index for state and local government purchases of goods and services. Extraordinary transportation expenditures shall not be paid out of the funds appropriated under subsection (b) of this section for other transportation expenditures. Grants paid under this section shall be paid from the education fund and shall be added to adjusted education payment receipts paid under section 4011 of this title.~~ [Repealed.]

* * * Compact for Military Children * * *

Sec. 21. 16 V.S.A. § 806m.E is amended to read:

E. The Interstate Commission may not assess, levy, or collect from Vermont in its annual assessment more than ~~$100~~ $2,000.00 per year. Other funding sources may be accepted and used to offset expenses related to the ~~state's~~ State's participation in the compact.

Sec. 22. AGENCY OF EDUCATION BUDGET

There shall be no separate or additional General Fund appropriation to the Agency of Education in fiscal year 2014 for purposes of funding the increased assessment to be paid pursuant to Sec. 21 of this act.

* * * Adult Basic Education * * *

Sec. 23. 16 V.S.A. § 164 is amended to read:

§ 164. STATE BOARD; GENERAL POWERS AND DUTIES

The ~~state board~~ State Board shall evaluate education policy proposals, including timely evaluation of policies presented by the ~~governor~~ Governor and ~~secretary~~ Secretary; engage local school board members and the broader education community; and establish and advance education policy for the ~~state~~ State of Vermont. In addition to other specified duties, the ~~board~~ Board shall:

* * *

(13) ~~Constitute~~ Be the ~~state board~~ State Board for the program of adult education and literacy and perform all the duties and powers prescribed by law pertaining to adult education and literacy and to act as the state approval agency for educational institutions conducting programs of adult education and literacy.

* * *

* * * Special Education Employees; Transition to Employment

by Supervisory Unions * * *

Sec. 24. 2010 Acts and Resolves No. 153, Sec. 18, as amended by 2011 Acts and Resolves No. 58, Sec. 18, is further amended to read:

Sec. 18. TRANSITION

(a) Each supervisory union shall provide for any transition of employment of special education and transportation ~~staff~~ employees by member districts to employment by the supervisory union, pursuant to Sec. 9 of this act, 16 V.S.A. § 261a(a)(6), and (8)(E) by:

(1) providing that the supervisory union assumes all obligations of each existing collective bargaining agreement in effect between the member districts and their special education employees and their transportation employees until the agreement's expiration, subject to employee compliance with performance standards and any lawful reduction in force, layoff, nonrenewal, or dismissal;

(2) providing, in the absence of an existing recognized representative of its employees, for the immediate and voluntary recognition by the supervisory union of the recognized representatives of the employees of the member districts as the recognized representatives of the employees of the supervisory union;

(3) ensuring that an employee of a member district who is not a probationary employee shall not be considered a probationary employee upon transition to the supervisory union; and

(4) ~~containing an agreement~~ negotiating a collective bargaining agreement, addressing special education employees, with the recognized representatives of the employees of the member districts ~~that is effective on the day the supervisory union assumes obligations of existing agreements regarding how the supervisory union, prior to reaching its first collective bargaining agreement with its special education employees and with its transportation employees, will address issues of seniority, reduction in force, layoff, and recall~~ , which, for the purposes of this section, shall be: the exclusive representative of special education teachers; the exclusive representative of the special education administrators; and the exclusive bargaining agent for special education paraeducators if the supervisory union has elected to employ special education paraeducators pursuant to subdivision (b)(3) of this section. The supervisory union shall become the employer of these employees on the date specified in the ratified agreement.

(b) For purposes of this section and Sec. 9 of this act, "special education employee" shall include a special education teacher, a special education administrator, and a special education paraeducator, which means a teacher, administrator, or paraeducator whose job assignment consists of providing special education services directly related to students' individualized education programs or to the administration of those services. Provided, however, that "special education employee" shall include a "special education paraeducator" only if the supervisory union board elects to employ some or all special education paraeducators because it determines that doing so will lead to more effective and efficient delivery of special education services to students. If the supervisory union board does not elect to employ all special education paraeducators, it must use objective, nondiscriminatory criteria and identify specific duties to be performed when determining which categories of special education paraeducators to employ.

(c) Education-related parties to negotiations under either Title 16 or 21 shall incorporate in their current or next negotiations matters addressing the terms and conditions of special education employees.

(d) If a supervisory union has not entered into a collective bargaining agreement with the representative of its prospective special education employees by August 15, 2015, it shall provide the Secretary of Education with a report identifying the reasons for not meeting the deadline and an estimated date by which it expects to ratify the agreement.

Sec. 25. 16 V.S.A. § 1981(8) is amended to read:

(8) "School board negotiations council" means, for a supervisory district, its school board, and, for school districts within a supervisory union, the body comprising representatives designated by each school board within

the supervisory union and by the supervisory union board to engage in professional negotiations with a teachers' or administrators' organization.

Sec. 26. 21 V.S.A. § 1722(18) is amended to read:

(18) "School board negotiations council" means, for a supervisory district, its school board, and, for school districts within a supervisory union, the body comprising representatives designated by each school board within the supervisory union and by the supervisory union board to engage in collective bargaining with their school employees' negotiations council.

Sec. 27. EXCESS SPENDING; TRANSITION

For purposes of calculating excess spending pursuant to 32 V.S.A. § 5401(12) in fiscal years 2014 through 2017, "education spending" shall not include the portion of a district's proposed budget that is directly attributable to assessments from the supervisory union for special education services that exceeds the portion of the district's proposed budget in the year prior to transition for special education services provided by the district.

Sec. 28. APPLICABILITY

Only school districts and supervisory unions that have not completed the transition of special education employees to employment by the supervisory union or have not negotiated transition provisions into current master agreements as of the effective dates of Secs. 24 through 27 of this act are subject to the employment transition provisions of those sections.

Sec. 29. REPORT

On or before January 1, 2017, the Secretary of Education shall report to the House and Senate Committees on Education regarding the decisions of supervisory unions to exercise or not to exercise the flexibility regarding employment of special education paraeducators provided in Sec. 24 of this act and may propose amendments to Sec. 24 or to related statutes as he or she deems appropriate.

* * * Early Education; Labor Relations * * *

Sec. 30. FINDINGS

The General Assembly finds:

(1) The early education a child receives before school age, particularly before the age of three, has a profound effect on a child's development during this critical stage of life. Investments in the consistency and quality of early education lay a vital foundation for the future cognitive, social, and academic success of Vermont children.

(2) Early education providers should have the opportunity to work collectively with the State to enhance professional development and educational opportunities for early educators, to increase child care subsidy funding to enable more children to receive critical early education opportunities, and to ensure the continual improvement of early education in Vermont.

Sec. 31. 33 V.S.A. chapter 36 is added to read:

CHAPTER 36. EARLY CARE AND EDUCATION PROVIDERS

LABOR RELATIONS ACT

§ 3601. PURPOSE

(a) The General Assembly recognizes the right of all early care and education providers to bargain collectively with the State over matters within the State's control and identified as subjects of bargaining pursuant to subsection 3603(b) of this chapter.

(b) The General Assembly intends to create an opportunity for early care and education providers to choose to form a union and bargain with the State over matters within the State's control and identified as subjects of bargaining pursuant to subsection 3603(b) of this chapter.

(c) Specific terms and conditions of employment at individual child care centers, which are the subject of traditional collective bargaining between employers and employees, are outside the limited scope of this act.

(d) The matters subject to this chapter are those within the control of the State of Vermont and relevant to all early care and education providers.

(e) Early care and education providers do not forfeit their rights under the National Labor Relations Act, 29 U.S.C. § 151, et seq., or the Vermont State Labor Relations Act, 21 V.S.A. § 1501, et seq., by becoming members of an organization that represents them in their dealings with the State. The terms and conditions of employment with individual early care and education providers, which are the subjects of traditional collective bargaining between employers and employees and which are governed by federal law, fall outside the limited scope of bargaining defined in this chapter.

§ 3602. DEFINITIONS

As used in this chapter:

(1) "Board" means the State Labor Relations Board established under 3 V.S.A. § 921.

(2) "Early care and education provider" means a licensed child care home provider, a registered child care home provider, or a legally exempt child care home provider who provides child care services as defined in subdivision 3511(3) of this title.

(3) "Subsidy payment" means any payment made by the State to assist families in paying for child care services through the State's child care financial assistance program.

(4) "Collective bargaining" or "bargaining collectively" means the process by which the State and the exclusive representative of early care and education providers negotiate terms or conditions related to the subjects of collective bargaining identified in subsection 3603(b) of this title which when reached and funded shall be legally binding.

(5) "Exclusive representative" means the labor organization that has been elected or recognized and certified by the Board under this chapter and consequently has the exclusive right under section 3608 of this title to represent early care and education providers for the purpose of collective bargaining and the enforcement of any contract provisions.

(6) "Grievance" means the exclusive representative's formal written complaint regarding an improper application of one or more terms of the collective bargaining agreement.

§ 3603. ESTABLISHMENT OF COLLECTIVE BARGAINING

(a) Early care and education providers, through their exclusive representative, shall have the right to bargain collectively with the State through the Governor's designee.

(b) Mandatory subjects of bargaining are limited to child care subsidy reimbursement rates and payment procedures, professional development, the collection of dues or agency fees and disbursement to the exclusive representative, and procedures for resolving grievances. The parties may also negotiate on any mutually agreed matters that are not in conflict with state or federal law.

(c) The State, acting through the Governor's designee, shall meet with the exclusive representative for the purpose of entering into a written agreement.

(d) Early care and education providers shall be considered employees and the State shall be considered the employer solely for the purpose of collective bargaining under this chapter. Early care and education providers shall not be considered state employees other than for purposes of collective bargaining, including for purposes of vicarious liability in tort, and for purposes of unemployment compensation or workers' compensation. Early care and

education providers shall not be eligible for participation in the state employees' retirement system or the health insurance plans available to executive branch employees solely by virtue of bargaining under this chapter.

(e) Agency fees may be collected only from early care and education providers who receive subsidy payments from the State.

§ 3604. RIGHTS OF EARLY CARE AND EDUCATION PROVIDERS

Early care and education providers shall have the right to:

(1) organize, form, join, or assist any union or labor organization for the purpose of collective bargaining without any interference, restraint, or coercion;

(2) bargain collectively through a representative of their own choice;

(3) engage in concerted activities for the purpose of supporting or engaging in collective bargaining;

(4) pursue grievances through the exclusive representative as negotiated pursuant to this chapter; and

(5) refrain from any or all such activities.

§ 3605. RIGHTS OF THE STATE

Nothing in this chapter shall be construed to interfere with right of the State to:

(1) take necessary actions to carry out the mission of the Agency of Human Services;

(2) comply with federal and state laws and regulations regarding child care and child care subsidies;

(3) enforce child care regulations and regulatory processes including regulations regarding the qualifications of early care and education providers and the prevention of abuse in connection with the provisions of child care services;

(4) develop child care regulations and regulatory processes subject to the rulemaking authority of the General Assembly and the Human Services Board;

(5) establish and administer quality standards under the Step Ahead Recognition system;

(6) solicit and accept for use any grant of money, services, or property from the federal government, the State, or any political subdivision or agency of the State, including federal matching funds, and to cooperate with the

federal government or any political subdivision or agency of the State in making an application for any grant; and

(7) refuse to take any action that would diminish the quantity or quality of child care provided under existing law.

§ 3606. UNIT

(a) The bargaining unit shall be composed of licensed home child care providers, registered home child care providers, and legally exempt child care providers as defined in this chapter.

(b) Early care and education providers may select an exclusive representative for the purpose of collective bargaining by using the procedures in sections 3607 and 3608 of this title.

(c) The exclusive representative of the early care and education providers is required to represent all of the providers in the unit without regard to membership in the union.

§ 3607. PETITIONS FOR ELECTION; FILING; INVESTIGATIONS; HEARINGS; DETERMINATIONS

(a) A petition may be filed with the Board in accordance with regulations prescribed by the Board:

(1) By an early care and education provider or group of providers or any individual or labor organization acting on the providers' behalf:

(A) alleging that not less than 30 percent of the providers in the petitioned bargaining unit wish to be represented for collective bargaining and that the State declines to recognize their representative as the representative defined in this chapter; or

(B) asserting that the labor organization that has been certified as the bargaining representative no longer represents a majority of early care and education providers.

(2) By the State alleging that one or more individuals or labor organizations has presented a claim to be recognized as the exclusive representative defined in this chapter.

(b) The Board shall investigate the petition and, if it has reasonable cause to believe that a question concerning representation exists, shall conduct a hearing. The hearing shall be held before the Board, a member of the Board, or its agents appointed for that purpose upon due notice. Written notice of the hearing shall be mailed by certified mail to the parties named in the petition not less than seven days before the hearing. If the Board finds upon the record of the hearing that a question of representation exists, it shall conduct an

election by secret ballot and certify to the parties, in writing, the results thereof.

(c) In determining whether or not a question of representation exists, the Board shall apply the same regulations and rules of decision regardless of the identity of the persons filing the petition or the kind of relief sought.

(d) Nothing in this chapter prohibits the waiving of hearings by stipulation for a consent election in conformity with regulations and rules of the Board.

(e) For the purposes of this chapter, the State may voluntarily recognize the exclusive representative of a unit of early care and education providers if the labor organization demonstrates that it has the support of a majority of the providers in the unit it seeks to represent and no other employee organization seeks to represent the providers.

§ 3608. ELECTION; RUNOFF ELECTIONS

(a) If a question of representation exists, the Board shall conduct a secret ballot election to determine the exclusive representative of the unit of early care and education providers. The original ballot shall be prepared to permit a vote against representation by anyone named on the ballot. The labor organization receiving a majority of votes cast shall be certified by the Board as the exclusive representative of the unit of early care and education providers. In any election in which there are three or more choices, including the choice of "no union," and none of the choices on the ballot receives a majority, a runoff election shall be conducted by the Board. The ballot shall provide for a selection between the two choices receiving the largest and second largest number of valid votes cast in the election.

(b) An election shall not be directed if in the preceding 12 months a valid election has been held.

§ 3609. POWERS OF REPRESENTATIVES

The exclusive representative shall be the exclusive representative of all the early care and education providers in the unit for the purposes of collective bargaining and the resolution of grievances.

§ 3610. NEGOTIATED AGREEMENT; FUNDING

If the State and the exclusive representative reach an agreement, the Governor shall request from the General Assembly an appropriation sufficient to fund the agreement in the next operating budget. If the General Assembly appropriates sufficient funds, the negotiated agreement shall become effective and binding at the beginning of the next fiscal year. If the General Assembly appropriates a different amount of funds, the terms of the agreement affected by that appropriation shall be renegotiated based on the amount of funds

actually appropriated by the General Assembly and shall become effective and legally binding in the next fiscal year.

§ 3611. MEDIATION; FACT-FINDING; LAST BEST OFFER

(a) If after a reasonable period of negotiation, the exclusive representative and the State reach an impasse, the Board upon petition of either party may authorize the parties to submit their differences to mediation. Within five days after receipt of the petition, the Board shall appoint a mediator who shall communicate with the parties and attempt to mediate an amicable settlement. A mediator shall be of high standing and not affiliated with either labor or management.

(b) If after a minimum of 15 days after the appointment of a mediator, the impasse is not resolved, the mediator shall certify to the Board that the impasse continues.

(c) Upon the request of either party, the Board shall appoint a fact finder who has been mutually agreed upon by the parties. If the parties fail to agree on a fact finder within five days, the Board shall appoint a fact finder who shall be a person of high standing and shall not be affiliated with either labor or management. A member of the Board or any individual who has actively participated in mediation proceedings for which fact-finding has been called shall not be eligible to serve as a fact finder under this section unless agreed upon by the parties.

(d) The fact finder shall conduct hearings pursuant to rules of the Board. Upon request of either party or of the fact finder, the Board may issue subpoenas of persons and documents for the hearings and the fact finder may require that testimony be given under oath and may administer oaths.

(e) Nothing in this section shall prohibit the fact finder from mediating the dispute at any time prior to issuing recommendations.

(f) In making a recommendation, the fact finder shall consider whether the proposal increases the amount and quality of care provided to children and families in a manner that is more affordable for Vermont families and citizens and whether the subsidies provided are consistent with federal guidance.

(g) Upon completion of the hearings, the fact finder shall file written findings and recommendations with both parties.

(h) The costs of witnesses and other expenses incurred by either party in fact-finding proceedings shall be paid directly by the parties incurring them, and the costs and expenses of the fact finder shall be paid equally by the parties. The fact finder shall be paid a rate mutually agreed upon by the parties for each day or any part of a day while performing fact-finding duties and shall

be reimbursed for all reasonable and necessary expenses incurred in the performance of his or her duties. A statement of fact-finding per diem and expenses shall be certified by the fact finder and submitted to the Board for approval. The Board shall provide a copy of approved fact-finding costs to each party with its order apportioning half of the total to each party for payment. Each party shall pay its half of the total within 15 days after receipt of the order. Approval by the Board of the fact finder's costs and expenses and its order for payment shall be final as to the parties.

(i) If the dispute remains unresolved 15 days after transmittal of findings and recommendations, each party shall submit to the Board its last best offer on all disputed issues as a single package. Each party's last best offer shall be filed with the Board under seal and shall be unsealed and placed in the public record only when both parties' last best offers are filed with the Board. The Board may hold hearings and consider the recommendations of the fact finder. Within 30 days of the certifications, the Board shall select between the last best offers of the parties, considered in their entirety without amendment, and shall determine that selection's cost. The Board shall not issue an order under this subsection that is in conflict with any law or rule or that relates to an issue that is not a mandatory subject of collective bargaining. The Board shall determine the cost of the agreement selected and recommend to the General Assembly its choice with a request for appropriation. If the General Assembly appropriates sufficient funds, the agreement shall become effective and legally binding at the beginning of the next fiscal year. If the General Assembly appropriates a different amount of funds, the terms of the agreement affected by that appropriation shall be renegotiated based on the amount of funds actually appropriated by the General Assembly, and the agreement with the negotiated changes shall become effective and binding at the beginning of the next fiscal year.

§ 3612. GENERAL DUTIES AND PROHIBITED CONDUCT

(a) The State and all early care and education providers and their representatives shall exert every reasonable effort to make and maintain agreements concerning matters allowable under this chapter and to settle all disputes, whether arising out of the application of those agreements or growing out of any disputes concerning those agreements. However, this obligation does not compel either party to agree to a proposal or make a concession.

(b) It shall be an unfair labor practice for the State to:

(1) interfere with, restrain, or coerce early care and education providers in the exercise of their rights under this chapter or by any other law, rule, or regulation;

(2) discriminate against an early care and education provider because of the provider's affiliation with a labor organization or because a provider has filed charges or complaints or has given testimony under this chapter;

(3) take negative action against an early care and education provider because the provider has taken actions such as signing a petition, grievance, or affidavit that demonstrates the provider's support for a labor organization;

(4) refuse to bargain collectively in good faith with the exclusive representative;

(5) discriminate against an early care and education provider based on race, color, religion, ancestry, age, sex, sexual orientation, gender identity, national origin, place of birth, marital status, or against a qualified disabled individual; or

(6) request or require an early care and education provider to have an HIV-related blood test or discriminate against a provider on the basis of HIV status of the provider.

(c) It shall be an unfair labor practice for the exclusive representative to:

(1) restrain or coerce early care and education providers in the exercise of the rights guaranteed to them under this chapter or by law, rule, or regulation. However, a labor organization may prescribe its own rules with respect to the acquisition or retention of membership provided such rules are not discriminatory;

(2) cause or attempt to cause the State to discriminate against an early care and education provider or to discriminate against a provider;

(3) refuse to bargain collectively in good faith with the State; or

(4) threaten to or cause a provider to strike or curtail the provider's services in recognition of a picket line of any employee or labor organization.

(d) Early care and education providers shall not strike or curtail their services in recognition of a picket line of any employee or labor organization.

(e) Complaints related to this section shall be made and resolved in accordance with procedures set forth in 3 V.S.A. § 965.

§ 3613. ANTITRUST EXEMPTION

The activities of early care and education providers and their exclusive representatives that are necessary for the exercise of their rights under this chapter shall be afforded state action immunity under applicable federal and state antitrust laws. The State intends that the "state action" exemption to federal antitrust laws be available only to the State, to early care and education

providers, and to their exclusive representative in connection with these necessary activities. Exempt activities shall be actively supervised by the State.

§ 3614. RIGHTS UNALTERED

(a) This chapter does not alter or infringe upon the rights of:

(1) a parent or legal guardian to select and discontinue child care services of any early care and education provider;

(2) an early care and education provider to choose, direct, and terminate the services of any employee that provides care in that home; or

(3) the Judiciary and General Assembly to make programmatic modifications to the delivery of state services through child care subsidy programs, including standards of eligibility for families, legal guardians, and providers participating in child care subsidy programs, and to the nature of services provided.

(b) Nothing in this chapter shall affect the rights and obligations of private sector employers and employees under the National Labor Relations Act, 29 U.S.C. § 151, et seq., or the Vermont State Labor Relations Act, 21 V.S.A. § 1501, et seq. The terms and conditions of employment at individual centers, which are the subjects of traditional collective bargaining between employers and their employees and which are governed by federal laws, fall outside the limited scope of bargaining defined in this chapter.

Sec. 32. NEGOTIATIONS; EARLY CARE AND EDUCATION PROVIDERS

The State's costs of negotiating an agreement pursuant to 33 V.S.A. chapter 36 shall be borne by the State out of existing appropriations made to it by the General Assembly.

* * * Effective Dates * * *

Sec. 33. EFFECTIVE DATES

(a) Sec. 20 of this act (extraordinary transportation aid) shall take effect on July 1, 2014 and shall apply to grants that would have been made in fiscal year 2015 and after.

(b) This section and all other sections of this act shall take effect on passage; provided, however, that Sec. 14 of this act (salary) shall apply retroactively beginning on January 2, 2013.

(Committee vote: 4-1-0)

(For House amendments, see House Journal for April 11, 2013, page 723.)

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

The Committee recommends that the Senate propose to the House to amend the bill as recommended by the Committee on Education with the following amendments thereto:

First: By striking out the *fourth* proposal of amendment in its entirety

Second: In the *fifth* proposal of amendment, by striking out Sec. 20 (transportation grants) and its related reader assistance heading in their entirety

Third: In the *fifth* proposal of amendment, in Sec. 31, in 33 V.S.A. § 3602, by striking out subdivision (3) in its entirety and by renumbering the remaining subdivisions to be numerically correct

Fourth: In the *fifth* proposal of amendment, in Sec. 31, 33 V.S.A. § 3603, in subsection (b), by striking out the first sentence and inserting in lieu thereof a new first sentence to read as follows: Mandatory subjects of bargaining are limited to child care reimbursement rates and payment methods, professional development, the collection of dues or agency fees and disbursement to the exclusive representative, and procedures for resolving grievances.

Fifth: In the *fifth* proposal of amendment, in Sec. 31, 33 V.S.A. § 3603, in subsection (e), by striking out the words "subsidy payments" and inserting in lieu thereof the word reimbursement

Sixth: In the *fifth* proposal of amendment, in Sec. 31, 33 V.S.A. § 3605, in subdivision (4), by striking out the words "and the Human Services Board"

(Committee vote: 6-1-0)

PROPOSAL OF AMENDMENT TO H. 521 TO BE OFFERED BY SENATOR COLLINS

Senator Collins moves that the Senate propose to the House to amend that the bill be further amended by adding a new section to be Sec. 16a to read:

Sec. 16a. CREATION OF NEW INDEPENDENT SCHOOLS; MORATORIUM; SUNSET

(a) The State Board of Education shall not approve any independent school under 16 V.S.A. § 166 if, on or after the effective date of this act, the school district for the municipality in which the independent school proposes to operate voted to cease operating a school that at the time of the vote served essentially the same population of students as the independent school proposes to serve.

(b) This section is repealed on July 1, 2014.

PROPOSAL OF AMENDMENT TO H. 521 TO BE OFFERED BY SENATORS WHITE, HARTWELL AND SEARS

Senators White, Hartwell and Sears move to amend the proposal of amendment of the Committee on Education as follows:

By striking out Sec. 33 (effective dates) in its entirety and inserting in lieu thereof three new sections to be Secs. 33 through 35 and related reader assistance headings to read:

* * * Out-of-State Career Technical Education * * *

Sec. 33. 16 V.S.A. § 1531(c) is amended to read:

(c) For a school district ~~which~~ that is geographically isolated from a Vermont technical center, the ~~state board~~ State Board may approve a technical center in another state as the technical center ~~which~~ that district students may attend. In this case, the school district shall receive transportation assistance pursuant to section 1563 of this title and tuition assistance pursuant to section 1561(c) of this title. Any student who is a resident in the Windham Southwest ~~supervisory union~~ Supervisory Union and who is enrolled at public expense in the Charles H. McCann Technical School ~~at public expense~~ or the Franklin County Technical School shall be considered to be attending an approved technical center in another state pursuant to this subsection, and, if the student is from a school district eligible for a small schools support grant pursuant to section 4015 of this title, the student's full-time equivalency shall be computed according to time attending the school.

Sec. 34. INSTRUCTIONAL HOURS; DATA COLLECTION

(a) Survey and data compilation. On or before March 15, 2014, the Secretary of Education shall survey all public schools and approved independent schools receiving public tuition dollars regarding the areas identified in subsections (b) and (c) of this section and shall present compiled data to the House and Senate Committees on Education.

(b) Elementary education.

(1) The total number of instruction hours per year for each elementary student in each of the following subjects: art, music, physical education, foreign language information technology, and library or media studies.

(2) The combined per student cost of providing all subjects identified in subdivision (1) of this subsection (b), including materials and the salaries and benefits for necessary employees.

(3) The combined per student cost of providing all subjects not identified in subdivision (1) of this subsection (b), including materials and the salaries and benefits for necessary employees.

(c) Secondary education.

(1) Considering science, math, technology and engineering, foreign languages, and business as distinct categories:

(A) The total number of Advanced Placement courses offered in each category.

(B) The total number of courses, exclusive of Advanced Placement courses, offered in each category.

(C) The total annual budgeted cost of materials for each category.

(D) The total number of faculty employed to provide instruction in each category.

(E) The total salary and benefits for faculty employed to provide instruction in each category.

(F) The complete list of all courses offered in each category.

(2) The total number of laptop computers provided for student use.

(3) The total annual budgeted cost of learning experiences occurring outside the classroom, including field trips, dual enrollment courses, and internships.

(4) The total annual budgeted cost for all courses and programs in the fine arts.

(5) The total annual budget for "enrichment" and other after-school activities.

(6) The total annual budget for physical education courses offered during the school day.

(7) The total annual budget for extracurricular athletic opportunities.

Sec. 35. EFFECTIVE DATES

(a) Sec. 33 of this act (out-of-state career technical education) shall take effect on July 1, 2013 and shall apply to enrollments in academic year 2013–2014 and after.

(b) This section and all other sections of this act shall take effect on passage; provided, however, that Sec. 14 of this act (salary) shall apply retroactively beginning on January 2, 2013.

House Proposal of Amendment

S. 85.

An act relating to workers' compensation for firefighters and rescue or ambulance workers.

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

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

Sec. 2. EDUCATION AND TRAINING

The Department of Health shall provide annual education and training to emergency medical personnel licensed under 18 V.S.A. chapter 17 and the Vermont Fire Academy shall provide annual education and training to firefighters on the requirements of the Occupational Safety and Health Administration standards 1910.134 (respiratory protection) and 1910.1030 (bloodborne pathogens).

Second: In Sec. 1, 21 V.S.A. § 601, in subdivision (11)(H)(i), after the words "infectious disease" by inserting the words either one of which is

NOTICE CALENDAR

Second Reading

Favorable with Proposal of Amendment

H. 65.

An act relating to limited immunity from liability for reporting a drug or alcohol overdose.

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

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

First: In Sec. 2, 18 V.S.A. § 4254(b), after "faith" by adding and in a timely manner

Second: By adding a 2a to read as follows:

Sec. 2a. REPORT

The Executive Director of the Department of State's Attorneys and Sheriffs and the Defender General shall each report to the Senate and House Committees on Judiciary on the implementation and effect of Sec. 2 of this act no later than November 2015.

Third: By adding Sec. 2b to read as follows:

Sec. 2b. 12 V.S.A. § 5784 is added to read:

§ 5784. VOLUNTEER ATHLETIC OFFICIALS

(a) A person providing services or assistance without compensation, except for reimbursement of expenses, in connection with the person's duties as an athletic coach, manager, or official for a sports team that is organized as a nonprofit corporation, or which is a member team in a league organized by or affiliated with a county or municipal recreation department, shall not be held personally liable for damages to a player, participant, or spectator incurred as a result of the services or assistance provided. This section shall apply to acts and omissions made during sports competitions, practices, and instruction.

(b) This section shall not protect a person from liability for damages resulting from reckless or intentional conduct, or the negligent operation of a motor vehicle.

(c) Nothing in this section shall be construed to affect the liability of any nonprofit or governmental entity with respect to harm caused to any person.

(d) Any sports team organized as described in subsection (a) of this section shall be liable for the acts and omissions of its volunteer athletic coaches, managers, and officials to the same extent as an employer is liable for the acts and omissions of its employees.

(Committee vote: 5-0-0)

(For House amendments, see House Journal for March 21, 2013, page 520.)

H. 107.

An act relating to health insurance, Medicaid, and the Vermont Health Benefit Exchange.

Reported favorably with recommendation of proposal of amendment by Senator Lyons 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:

* * * Health Insurance * * *

Sec. 1. 8 V.S.A. § 4079 is amended to read:

§ 4079. GROUP INSURANCE POLICIES; DEFINITIONS

Group health insurance is hereby declared to be that form of health insurance covering one or more persons, with or without their dependents, and issued upon the following basis:

(1)(A) Under a policy issued to an employer, who shall be deemed the policyholder, insuring at least one employee of such employer, for the benefit of persons other than the employer. The term "employees," as used herein, shall be deemed to include the officers, managers, and employees of the employer, the partners, if the employer is a partnership, the officers, managers, and employees of subsidiary or affiliated corporations of a corporation employer, and the individual proprietors, partners, and employees of individuals and firms, the business of which is controlled by the insured employer through stock ownership, contract, or otherwise. The term "employer," as used herein, may be deemed to include any municipal or governmental corporation, unit, agency, or department thereof and the proper officers as such, of any unincorporated municipality or department thereof, as well as private individuals, partnerships, and corporations.

(B) In accordance with section 3368 of this title, an employer domiciled in another jurisdiction that has more than 25 certificate-holder employees whose principal worksite and domicile is in Vermont and that is defined as a large group in its own jurisdiction and under the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, § 1304, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152, may purchase insurance in the large group health insurance market for its Vermont-domiciled certificate-holder employees.

* * *

Sec. 2. 8 V.S.A. § 4089a is amended to read:

§ 4089a. MENTAL HEALTH CARE SERVICES REVIEW

* * *

(b) Definitions. As used in this section:

* * *

(4) "Review agent" means a person or entity performing service review activities within one year of the date of a fully compliant application for licensure who is either affiliated with, under contract with, or acting on behalf of a business entity in this ~~state; or a third party~~ State and who provides or administers mental health care benefits to ~~citizens of Vermont~~ members of health benefit plans subject to the Department's jurisdiction, including a health insurer, nonprofit health service plan, health insurance service organization, health maintenance organization or preferred provider organization, including

organizations that rely upon primary care physicians to coordinate delivery of services~~, authorized to offer health insurance policies or contracts in Vermont~~.

* * *

(g) ~~Members of the independent panel of mental health care providers shall be compensated as provided in 32 V.S.A. § 1010(b) and (c).~~ [Deleted.]

* * *

Sec. 3. 8 V.S.A. § 4089i(d) is amended to read:

(d) For prescription drug benefits offered in conjunction with a high-deductible health plan (HDHP), the plan may not provide prescription drug benefits until the expenditures applicable to the deductible under the HDHP have met the amount of the minimum annual deductibles in effect for self-only and family coverage under Section 223(c)(2)(A)(i) of the Internal Revenue Code of 1986 for self-only and family coverage, respectively, except that a plan may offer first-dollar prescription drug benefits to the extent permitted under federal law. Once the foregoing expenditure amount has been met under the HDHP, coverage for prescription drug benefits shall begin, and the limit on out-of-pocket expenditures for prescription drug benefits shall be as specified in subsection (c) of this section.

Sec. 4. 8 V.S.A. § 4092(b) is amended to read:

(b) Coverage for a newly born child shall be provided without notice or additional premium for no less than ~~31~~ 60 days after the date of birth. If payment of a specific premium or subscription fee is required in order to have the coverage continue beyond such ~~31-day~~ 60-day period, the policy may require that notification of birth of newly born child and payment of the required premium or fees be furnished to the insurer or nonprofit service or indemnity corporation within a period of not less than ~~31~~ 60 days after the date of birth.

Sec. 5. 18 V.S.A. § 9418 is amended to read:

§ 9418. PAYMENT FOR HEALTH CARE SERVICES

(a) Except as otherwise specified, as used in this subchapter:

* * *

(17) "Product" means, to the extent permitted by state and federal law, one of the following types of categories of coverage for which a participating provider may be obligated to provide health care services pursuant to a health care contract:

(A) ~~Health~~ health maintenance organization;

(B) ~~Preferred~~ preferred provider organization;

(C) ~~Fee-for-service~~ fee-for-service or indemnity plan;

(D) Medicare Advantage HMO plan;

(E) Medicare Advantage private fee-for-service plan;

(F) Medicare Advantage special needs plan;

(G) Medicare Advantage PPO;

(H) Medicare supplement plan;

(I) ~~Workers~~ workers compensation plan; or

(J) ~~Catamount Health; or~~

~~(K)~~ ~~Any~~ any other commercial health coverage plan or product.

(b) No later than 30 days following receipt of a claim, a health plan, contracting entity, or payer shall do one of the following:

(1) Pay or reimburse the claim.

(2) Notify the claimant in writing that the claim is contested or denied. The notice shall include specific reasons supporting the contest or denial and a description of any additional information required for the health plan, contracting entity, or payer to determine liability for the claim.

(3) Pend a claim for services rendered to an enrollee during the second and third months of the consecutive three-month grace period required for recipients of advance payments of premium tax credits pursuant to 26 U.S.C. § 36B. In the event the enrollee pays all outstanding premiums prior to the exhaustion of the grace period, the health plan, contracting entity, or payer shall have 30 days following receipt of the outstanding premiums to proceed as provided in subdivision (1) or (2) of this subsection, as applicable.

* * *

* * * Catamount Health and VHAP * * *

Sec. 6. 8 V.S.A. § 4080d is amended to read:

§ 4080d. COORDINATION OF INSURANCE COVERAGE WITH MEDICAID

Any insurer as defined in section 4100b of this title is prohibited from considering the availability or eligibility for medical assistance in this or any other state under 42 U.S.C. § 1396a (Section 1902 of the Social Security Act), herein referred to as Medicaid, when considering eligibility for coverage or making payments under its plan for eligible enrollees, subscribers,

policyholders, or certificate holders. ~~This section shall not apply to Catamount Health, as established by section 4080f of this title.~~

Sec. 7. 8 V.S.A. § 4080g(b) is amended to read:

(b) Small group plans.

* * *

(11)(A) A registered small group carrier may require that 75 percent or less of the employees or members of a small group with more than 10 employees participate in the carrier's plan. A registered small group carrier may require that 50 percent or less of the employees or members of a small group with 10 or fewer employees or members participate in the carrier's plan. A small group carrier's rules established pursuant to this subdivision shall be applied to all small groups participating in the carrier's plans in a consistent and nondiscriminatory manner.

(B) For purposes of the requirements set forth in subdivision (A) of this subdivision (11), a registered small group carrier shall not include in its calculation an employee or member who is already covered by another group health benefit plan as a spouse or dependent or who is enrolled in ~~Catamount Health,~~ Medicaid~~, the Vermont health access plan,~~ or Medicare. Employees or members of a small group who are enrolled in the employer's plan and receiving premium assistance under ~~33 V.S.A. chapter 19~~ the Health Insurance Premium Payment program established pursuant to Section 1906 of the Social Security Act, 42 U.S.C. § 1396e, shall be considered to be participating in the plan for purposes of this subsection. If the small group is an association, trust, or other substantially similar group, the participation requirements shall be calculated on an employer-by-employer basis.

* * *

Sec. 8. 8 V.S.A. § 4088i is amended to read:

§ 4088i. COVERAGE FOR DIAGNOSIS AND TREATMENT OF EARLY CHILDHOOD DEVELOPMENTAL DISORDERS

(a)(1) A health insurance plan shall provide coverage for the evidence-based diagnosis and treatment of early childhood developmental disorders, including applied behavior analysis supervised by a nationally board-certified behavior analyst, for children, beginning at birth and continuing until the child reaches age 21.

(2) Coverage provided pursuant to this section by Medicaid~~, the Vermont health access plan,~~ or any other public health care assistance program shall comply with all federal requirements imposed by the Centers for Medicare and Medicaid Services.

* * *

(f) As used in this section:

* * *

(7) "Health insurance plan" means Medicaid~~, the Vermont health access plan,~~ and any other public health care assistance program, any individual or group health insurance policy, any hospital or medical service corporation or health maintenance organization subscriber contract, or any other health benefit plan offered, issued, or renewed for any person in this ~~state~~ State by a health insurer, as defined in 18 V.S.A. § 9402. The term does not include benefit plans providing coverage for specific diseases or other limited benefit coverage.

* * *

Sec. 9. 8 V.S.A. § 4089j is amended to read:

§ 4089j. RETAIL PHARMACIES; FILLING OF PRESCRIPTIONS

* * *

(c) This section shall apply to Medicaid~~, the Vermont health access plan, the VScript pharmaceutical assistance program,~~ and any other public health care assistance program.

Sec. 10. 8 V.S.A. § 4089w is amended to read:

§ 4089w. OFFICE OF HEALTH CARE OMBUDSMAN

* * *

(h) As used in this section, "health insurance plan" means a policy, service contract or other health benefit plan offered or issued by a health insurer, as defined by 18 V.S.A. § 9402, and includes ~~the Vermont health access plan and~~ beneficiaries covered by the Medicaid program unless such beneficiaries are otherwise provided ombudsman services.

Sec. 11. 8 V.S.A. § 4099d is amended to read:

§ 4099d. MIDWIFERY COVERAGE; HOME BIRTHS

* * *

(d) As used in this section, "health insurance plan" means any health insurance policy or health benefit plan offered by a health insurer, as defined in 18 V.S.A. § 9402, as well as Medicaid~~, the Vermont health access plan,~~ and any other public health care assistance program offered or administered by the ~~state~~ State or by any subdivision or instrumentality of the ~~state~~ State. The term

shall not include policies or plans providing coverage for specific disease or other limited benefit coverage.

Sec. 12. 8 V.S.A. § 4100b is amended to read:

§ 4100b. COVERAGE OF CHILDREN

(a) As used in this subchapter:

(1) "Health plan" shall include~~, but not be limited to,~~ a group health plan as defined under Section 607(1) of the Employee Retirement Income Security Act of 1974~~,~~ and a nongroup plan as defined in section 4080b of this title~~, and a Catamount Health plan as defined in section 4080f of this title~~.

* * *

Sec. 13. 8 V.S.A. § 4100e is amended to read:

§ 4100e. REQUIRED COVERAGE FOR OFF-LABEL USE

* * *

(b) As used in this section, the following terms have the following meanings:

(1) "Health insurance plan" means a health benefit plan offered, administered, or issued by a health insurer doing business in Vermont.

(2) "Health insurer" is defined by ~~section~~ 18 V.S.A. § 9402 ~~of Title 18~~. As used in this subchapter, the term includes the ~~state~~ State of Vermont and any agent or instrumentality of the ~~state~~ State that offers, administers, or provides financial support to state government, including Medicaid~~, the Vermont health access plan, the VScript pharmaceutical assistance program,~~ or any other public health care assistance program.

* * *

Sec. 14. 8 V.S.A. § 4100j is amended to read:

§ 4100j. COVERAGE FOR TOBACCO CESSATION PROGRAMS

* * *

(b) As used in this subchapter:

(1) "Health insurance plan" means any health insurance policy or health benefit plan offered by a health insurer, as defined in 18 V.S.A. § 9402, as well as Medicaid~~, the Vermont health access plan,~~ and any other public health care assistance program offered or administered by the ~~state~~ State or by any subdivision or instrumentality of the ~~state~~ State. The term does not include

policies or plans providing coverage for specified disease or other limited benefit coverage.

* * *

Sec. 15. 8 V.S.A. § 4100k is amended to read:

§ 4100k. COVERAGE FOR TELEMEDICINE SERVICES

* * *

(g) As used in this subchapter:

(1) "Health insurance plan" means any health insurance policy or health benefit plan offered by a health insurer, as defined in 18 V.S.A. § 9402, as well as Medicaid~~, the Vermont health access plan,~~ and any other public health care assistance program offered or administered by the ~~state~~ State or by any subdivision or instrumentality of the ~~state~~ State. The term does not include policies or plans providing coverage for specified disease or other limited benefit coverage.

* * *

Sec. 16. 13 V.S.A. § 5574(b) is amended to read:

(b) A claimant awarded judgment in an action under this subchapter shall be entitled to damages in an amount to be determined by the trier of fact for each year the claimant was incarcerated, provided that the amount of damages shall not be less than $30,000.00 nor greater than $60,000.00 for each year the claimant was incarcerated, adjusted proportionally for partial years served. The damage award may also include:

(1) Economic damages, including lost wages and costs incurred by the claimant for his or her criminal defense and for efforts to prove his or her innocence.

(2) ~~Notwithstanding the income eligibility requirements of the Vermont Health Access Plan in section 1973 of Title 33, and notwithstanding the requirement that the individual be uninsured, up~~ Up to 10 years of eligibility for ~~the Vermont Health Access Plan using state-only funds~~ state-funded health coverage equivalent to Medicaid services.

* * *

Sec. 17. 18 V.S.A. § 1130 is amended to read:

§ 1130. IMMUNIZATION PILOT PROGRAM

(a) As used in this section:

* * *

(5) "State health care programs" shall include Medicaid, ~~the Vermont health access plan,~~ Dr. Dynasaur, and any other health care program providing immunizations with funds through the Global Commitment for Health waiver approved by the Centers for Medicare and Medicaid Services under Section 1115 of the Social Security Act.

* * *

Sec. 18. 18 V.S.A. § 3801 is amended to read:

§ 3801. DEFINITIONS

As used in this subchapter:

(1)(A) "Health insurer" shall have the same meaning as in section 9402 of this title and shall include:

(i) a health insurance company, a nonprofit hospital and medical service corporation, and health maintenance organizations;

(ii) an employer, a labor union, or another group of persons organized in Vermont that provides a health plan to beneficiaries who are employed or reside in Vermont; and

(iii) except as otherwise provided in section 3805 of this title, the ~~state~~ State of Vermont and any agent or instrumentality of the ~~state~~ State that offers, administers, or provides financial support to state government.

(B) The term "health insurer" shall not include Medicaid~~, the Vermont health access plan, Vermont Rx,~~ or any other Vermont public health care assistance program.

* * *

Sec. 19. 18 V.S.A. § 4474c(b) is amended to read:

(b) This chapter shall not be construed to require that coverage or reimbursement for the use of marijuana for symptom relief be provided by:

(1) a health insurer as defined by section 9402 of this title, or any insurance company regulated under Title 8;

(2) Medicaid~~, Vermont health access plan, and~~ or any other public health care assistance program;

(3) an employer; or

(4) for purposes of workers' compensation, an employer as defined in 21 V.S.A. § 601(3).

Sec. 20. 18 V.S.A. § 9373 is amended to read:

§ 9373. DEFINITIONS

As used in this chapter:

* * *

(8) "Health insurer" means any health insurance company, nonprofit hospital and medical service corporation, managed care organization, and, to the extent permitted under federal law, any administrator of a health benefit plan offered by a public or a private entity. The term does not include Medicaid~~, the Vermont health access plan,~~ or any other state health care assistance program financed in whole or in part through a federal program.

* * *

Sec. 21. 18 V.S.A. § 9471 is amended to read:

§ 9471. DEFINITIONS

As used in this subchapter:

* * *

(2) "Health insurer" is defined by section 9402 of this title and shall include:

(A) a health insurance company, a nonprofit hospital and medical service corporation, and health maintenance organizations;

(B) an employer, labor union, or other group of persons organized in Vermont that provides a health plan to beneficiaries who are employed or reside in Vermont;

(C) the ~~state~~ State of Vermont and any agent or instrumentality of the ~~state~~ State that offers, administers, or provides financial support to state government; and

(D) Medicaid, ~~the Vermont health access plan, Vermont Rx,~~ and any other public health care assistance program.

* * *

Sec. 22. 33 V.S.A. § 1807(b) is amended to read:

(b) Navigators shall have the following duties:

* * *

(3) ~~Facilitate~~ facilitate enrollment in qualified health benefit plans, Medicaid, Dr. Dynasaur, VPharm, ~~VermontRx,~~ and other public health benefit programs;

* * *

(5) ~~Provide~~ provide information in a manner that is culturally and linguistically appropriate to the needs of the population being served by the Vermont health benefit exchange; ~~and~~

(6) ~~Distribute~~ distribute information to health care professionals, community organizations, and others to facilitate the enrollment of individuals who are eligible for Medicaid, Dr. Dynasaur, VPharm, ~~VermontRx,~~ other public health benefit programs, or the Vermont health benefit exchange in order to ensure that all eligible individuals are enrolled~~.~~; and

(7) ~~Provide~~ provide information about and facilitate employers' establishment of cafeteria or premium-only plans under Section 125 of the Internal Revenue Code that allow employees to pay for health insurance premiums with pretax dollars.

Sec. 23. 33 V.S.A. § 1901(b) is amended to read:

(b) ~~The secretary may charge a monthly premium, in amounts set by the general assembly, to each individual 18 years or older who is eligible for enrollment in the health access program, as authorized by section 1973 of this title and as implemented by rules. All premiums collected by the agency of human services or designee for enrollment in the health access program shall be deposited in the state health care resources fund established in section 1901d of this title. Any co-payments, coinsurance, or other cost sharing to be charged shall also be authorized and set by the general assembly.~~ [Deleted.]

Sec. 24. 33 V.S.A. § 1903a is amended to read:

§ 1903a. CARE MANAGEMENT PROGRAM

(a) The ~~commissioner~~ Commissioner of Vermont ~~health access~~ Health Access shall coordinate with the ~~director~~ Director of the Blueprint for Health to provide chronic care management through the Blueprint and, as appropriate, create an additional level of care coordination for individuals with one or more chronic conditions who are enrolled in Medicaid~~, the Vermont health access plan (VHAP),~~ or Dr. Dynasaur. The program shall not include individuals who are in an institute for mental disease as defined in 42 C.F.R. § 435.1009.

* * *

Sec. 25. 33 V.S.A. § 1997 is amended to read:

§ 1997. DEFINITIONS

As used in this subchapter:

* * *

(7) "State public assistance program"~~,~~ includes~~, but is not limited to,~~ the Medicaid program, ~~the Vermont health access plan,~~ VPharm, ~~VermontRx,~~ the ~~state children's health insurance program~~ State Children's Health Insurance Program, the ~~state~~ State of Vermont AIDS ~~medication assistance program~~ Medication Assistance Program, the General Assistance program, the ~~pharmacy discount plan program~~ Pharmacy Discount Plan Program, and the out-of-state counterparts to such programs.

Sec. 26. 33 V.S.A. § 1998(c)(1) is amended to read:

(c)(1) The ~~commissioner~~ Commissioner may implement the ~~pharmacy best practices and cost control program~~ Pharmacy Best Practices and Cost Control Program for any other health benefit plan within or outside this ~~state~~ State that agrees to participate in the program. For entities in Vermont, the ~~commissioner~~ Commissioner shall directly or by contract implement the program through a joint pharmaceuticals purchasing consortium. The joint pharmaceuticals purchasing consortium shall be offered on a voluntary basis no later than January 1, 2008, with mandatory participation by state or publicly funded, administered, or subsidized purchasers to the extent practicable and consistent with the purposes of this chapter, by January 1, 2010. If necessary, the ~~department of Vermont health access~~ Department of Vermont Health Access shall seek authorization from the Centers for Medicare and Medicaid to include purchases funded by Medicaid. "State or publicly funded purchasers" shall include the ~~department of corrections~~ Department of Corrections, the ~~department of mental health~~ Department of Mental Health, Medicaid, ~~the Vermont Health Access Program (VHAP),~~ Dr. Dynasaur, ~~VermontRx,~~ VPharm, Healthy Vermonters, workers' compensation, and any other state or publicly funded purchaser of prescription drugs.

Sec. 27. 33 V.S.A. § 2004(a) is amended to read:

(a) Annually, each pharmaceutical manufacturer or labeler of prescription drugs that are paid for by the ~~department of Vermont health access~~ Department of Vermont Health Access for individuals participating in Medicaid, ~~the Vermont Health Access Program,~~ Dr. Dynasaur, or VPharm~~, or VermontRx~~ shall pay a fee to the ~~agency of human services~~ Agency of Human Services. The fee shall be 0.5 percent of the previous calendar year's prescription drug spending by the ~~department~~ Department and shall be assessed based on manufacturer labeler codes as used in the Medicaid rebate program.

* * * Vermont Health Benefit Exchange * * *

Sec. 28. 33 V.S.A. § 1804 is amended to read:

§ 1804. QUALIFIED EMPLOYERS

(a)(1) Until January 1, 2016, a qualified employer shall be an ~~employer~~ entity which~~, on at least 50 percent of its~~ employed an average of not more than 50 employees on working days during the preceding calendar year, ~~employed at least one and no more than 50 employees,~~ and the term "qualified employer" includes self-employed persons to the extent permitted under the Affordable Care Act. Calculation of the number of employees of a qualified employer shall not include a part-time employee who works fewer than 30 hours per week or a seasonal worker as defined in 26 U.S.C. § 4980H(c)(2)(B).

* * *

(b)(1) From January 1, 2016 until January 1, 2017, a qualified employer shall be an ~~employer~~ entity which~~, on at least 50 percent of its~~ employed an average of not more than 100 employees on working days during the preceding calendar year~~, employed at least one and no more than 100 employees,~~ and the term "qualified employer" includes self-employed persons to the extent permitted under the Affordable Care Act. ~~Calculation of the number of employees of a qualified employer shall not include a part-time employee who works fewer than 30 hours per week~~ The number of employees shall be calculated using the method set forth in 26 U.S.C. § 4980H(c)(2).

* * *

Sec. 29. 33 V.S.A. § 1805 is amended to read:

§ 1805. DUTIES AND RESPONSIBILITIES

The Vermont ~~health benefit exchange~~ Health Benefit Exchange shall have the following duties and responsibilities consistent with the Affordable Care Act:

* * *

(2) Determining eligibility for and enrolling individuals in Medicaid, Dr. Dynasaur, and VPharm~~, and VermontRx~~ pursuant to chapter 19 of this title, as well as any other public health benefit program.

* * *

(12) ~~Consistent with federal law, crediting the amount of any free choice voucher provided pursuant to Section 10108 of the Affordable Care Act to the~~

~~monthly premium of the plan in which a qualified employee is enrolled and collecting the amount credited from the offering employer.~~ [Deleted.]

* * *

Sec. 30. 33 V.S.A. § 1811(a) is amended to read:

(a) As used in this section:

* * *

(3)(A) Until January 1, 2016, "small employer" means an ~~employer~~ entity which~~, on at least 50 percent of its~~ employed an average of not more than 50 employees on working days during the preceding calendar year, ~~employs at least one and no more than 50 employees~~. The term includes self-employed persons to the extent permitted under the Affordable Care Act. Calculation of the number of employees of a small employer shall not include a part-time employee who works fewer than 30 hours per week or a seasonal worker as defined in 26 U.S.C. § 4980H(c)(2)(B). An employer may continue to participate in the ~~exchange~~ Exchange even if the employer's size grows beyond 50 employees as long as the employer continuously makes qualified health benefit plans in the Vermont ~~health benefit exchange~~ Health Benefit Exchange available to its employees.

(B) Beginning on January 1, 2016, "small employer" means an ~~employer~~ entity which~~, on at least 50 percent of its~~ employed an average of not more than 100 employees on working days during the preceding calendar year, ~~employs at least one and no more than 100 employees~~. The term includes self-employed persons to the extent permitted under the Affordable Care Act. ~~Calculation of the number of employees of a small employer shall not include a part-time employee who works fewer than 30 hours per week~~ The number of employees shall be calculated using the method set forth in 26 U.S.C. § 4980H(c)(2). An employer may continue to participate in the ~~exchange~~ Exchange even if the employer's size grows beyond 100 employees as long as the employer continuously makes qualified health benefit plans in the Vermont ~~health benefit exchange~~ Health Benefit Exchange available to its employees.

* * * Medicaid and CHIP * * *

Sec. 31. 33 V.S.A. § 2003(c) is amended to read:

(c) As used in this section:

(1) "Beneficiary" means any individual enrolled in the Healthy Vermonters program.

(2) "Healthy Vermonters beneficiary" means any individual Vermont resident without adequate coverage:

(A) who is at least 65 years of age, or is disabled and is eligible for Medicare or Social Security disability benefits, with household income equal to or less than 400 percent of the federal poverty level, as calculated ~~under the rules of the Vermont health access plan, as amended~~ using modified adjusted gross income as defined in 26 U.S.C. § 36B(d)(2)(B); or

(B) whose household income is equal to or less than 350 percent of the federal poverty level, as calculated ~~under the rules of the Vermont Health access plan, as amended~~ using modified adjusted gross income as defined in 26 U.S.C. § 36B(d)(2)(B).

* * *

Sec. 32. 33 V.S.A. § 2072(a) is amended to read:

(a) An individual shall be eligible for assistance under this subchapter if the individual:

(1) is a resident of Vermont at the time of application for benefits;

(2) is at least 65 years of age or is an individual with disabilities as defined in subdivision 2071(1) of this title; and

(3) has a household income, when calculated ~~in accordance with the rules adopted for the Vermont health access plan under No. 14 of the Acts of 1995, as amended~~ using modified adjusted gross income as defined in 26 U.S.C. § 36B(d)(2)(B), no greater than 225 percent of the federal poverty level.

Sec. 32a. MODIFIED ADJUSTED GROSS INCOME; LEGISLATIVE INTENT

It is the intent of the General Assembly that individuals receiving benefits under the Healthy Vermonters and VPharm programs on the date that the method of income calculation changes from VHAP rules to modified adjusted gross income as described in Secs. 31 and 32 of this act should not lose eligibility for the applicable program solely as a result of the change in the income calculation method.

* * * Health Information Exchange * * *

Sec. 33. 18 V.S.A. § 707(a) is amended to read:

(a) No later than July 1, 2011, hospitals shall participate in the Blueprint for Health by creating or maintaining connectivity to the ~~state's~~ State's health information exchange network as provided ~~for~~ in this section and in section 9456 of this title. ~~The director of health care reform or designee and the director of the Blueprint shall establish criteria by rule for this requirement consistent with the state health information technology plan required under~~

~~section 9351 of this title. The criteria shall not require a hospital to create a level of connectivity that the state's exchange is not able to support.~~

Sec. 34. 18 V.S.A. § 9456 is amended to read:

§ 9456. BUDGET REVIEW

(a) The ~~board~~ Board shall conduct reviews of each hospital's proposed budget based on the information provided pursuant to this subchapter~~,~~ and in accordance with a schedule established by the ~~board~~ Board. ~~The board shall require the submission of documentation certifying that the hospital is participating in the Blueprint for Health if required by section 708 of this title.~~

(b) In conjunction with budget reviews, the ~~board~~ Board shall:

* * *

(10) require each hospital to provide information on administrative costs, as defined by the ~~board~~ Board, including specific information on the amounts spent on marketing and advertising costs; and

(11) require each hospital to create or maintain connectivity to the State's health information exchange network in accordance with the criteria established by the Vermont Information Technology Leaders, Inc., pursuant to subsection 9352(i) of this title, provided that the Board shall not require a hospital to create a level of connectivity that the State's exchange is unable to support.

* * *

Sec. 34a. 18 V.S.A. § 9352(i) is amended to read:

(i) Certification of meaningful use and connectivity.

(1) To the extent necessary to support Vermont's health care reform goals or as required by federal law, VITL shall be authorized to certify the meaningful use of health information technology and electronic health records by health care providers licensed in Vermont.

(2) VITL, in consultation with health care providers and health care facilities, shall establish criteria for creating or maintaining connectivity to the State's health information exchange network. VITL shall provide the criteria annually by March 1 to the Green Mountain Care Board established pursuant to chapter 220 of this title.

* * * Special Funds * * *

Sec. 35. [DELETED.]

Sec. 36. 18 V.S.A. § 9404 is amended to read:

§ 9404. ADMINISTRATION ~~OF THE DIVISION~~

(a) The ~~commissioner~~ Commissioner shall supervise and direct the execution of all laws vested in the ~~division~~ Department by ~~virtue of~~ this chapter, and shall formulate and carry out all policies relating to this chapter.

(b) ~~The commissioner may delegate the powers and assign the duties required by this chapter as the commissioner may deem appropriate and necessary for the proper execution of the provisions of this chapter, including the review and analysis of certificate of need applications and hospital budgets; however, the commissioner shall not delegate the commissioner's quasi-judicial and rulemaking powers or authority, unless the commissioner has a personal or financial interest in the subject matter of the proceeding.~~

~~(c) The commissioner may employ professional and support staff necessary to carry out the functions of the commissioner, and may employ consultants and contract with individuals and entities for the provision of services.~~

~~(d)~~ The ~~commissioner~~ Commissioner may:

(1) ~~Apply~~ apply for and accept gifts, grants, or contributions from any person for purposes consistent with this chapter~~.~~;

(2) ~~Adopt~~ adopt rules necessary to implement the provisions of this chapter~~.~~; and

(3) ~~Enter~~ enter into contracts and perform such acts as are necessary to accomplish the purposes of this chapter.

~~(e)~~(c) There is hereby created a fund to be known as the ~~division of health care administration regulatory and supervision fund~~ Health Care Administration Regulatory and Supervision Fund for the purpose of providing the financial means for the ~~commissioner of financial regulation~~ Commissioner of Financial Regulation to administer this chapter and 33 V.S.A. § 6706. All fees and assessments received by the ~~department~~ Department pursuant to such administration shall be credited to this ~~fund~~ Fund. All fines and administrative penalties, however, shall be deposited directly into the ~~general fund~~ General Fund.

(1) All payments from the ~~division of health care administration regulatory and supervision fund~~ Health Care Administration Regulatory and Supervision Fund for the maintenance of staff and associated expenses, including contractual services as necessary, shall be disbursed from the ~~state treasury~~ State Treasury only upon warrants issued by the ~~commissioner of finance and management~~ Commissioner of Finance and Management, after receipt of proper documentation regarding services rendered and expenses incurred.

(2) The ~~commissioner of finance and management~~ Commissioner of Finance and Management may anticipate receipts to the ~~division of health care administration regulatory and supervision fund~~ Health Care Administration Regulatory and Supervision Fund and issue warrants based thereon.

* * * Health Resource Allocation Plan * * *

Sec. 37. 18 V.S.A. § 9405 is amended to read:

§ 9405. STATE HEALTH PLAN; HEALTH RESOURCE ALLOCATION PLAN

(a) No later than January 1, 2005, the ~~secretary of human services~~ Secretary of Human Services or designee, in consultation with the ~~commissioner~~ Chair of the Green Mountain Care Board and health care professionals and after receipt of public comment, shall adopt a ~~state health plan~~ State Health Plan that sets forth the health goals and values for the ~~state~~ State. The ~~secretary~~ Secretary may amend the ~~plan~~ Plan as the ~~secretary~~ Secretary deems necessary and appropriate. The ~~plan~~ Plan shall include health promotion, health protection, nutrition, and disease prevention priorities for the ~~state~~ State, identify available human resources as well as human resources needed for achieving the ~~state's~~ State's health goals and the planning required to meet those needs, and identify geographic parts of the ~~state~~ State needing investments of additional resources in order to improve the health of the population. The ~~plan~~ Plan shall contain sufficient detail to guide development of the ~~state health resource allocation plan~~ State Health Resource Allocation Plan. Copies of the ~~plan~~ Plan shall be submitted to members of the ~~senate and house committees on health and welfare~~ Senate and House Committees on Health and Welfare no later than January 15, 2005.

(b) On or before July 1, 2005, the ~~commissioner~~ Green Mountain Care Board, in consultation with the ~~secretary of human services~~ Secretary of Human Services, shall submit to the ~~governor~~ Governor a four-year ~~health resource allocation plan~~ Health Resource Allocation Plan. The ~~plan~~ Plan shall identify Vermont needs in health care services, programs, and facilities; the resources available to meet those needs; and the priorities for addressing those needs on a statewide basis.

(1) The ~~plan~~ Plan shall include:

(A) A statement of principles reflecting the policies enumerated in sections 9401 and 9431 of this chapter to be used in allocating resources and in establishing priorities for health services.

(B) Identification of the current supply and distribution of hospital, nursing home, and other inpatient services; home health and mental health

services; treatment and prevention services for alcohol and other drug abuse; emergency care; ambulatory care services, including primary care resources, federally qualified health centers, and free clinics; major medical equipment; and health screening and early intervention services.

(C) Consistent with the principles set forth in subdivision (A) of this subdivision (1), recommendations for the appropriate supply and distribution of resources, programs, and services identified in subdivision (B) of this subdivision (1), options for implementing such recommendations and mechanisms which will encourage the appropriate integration of these services on a local or regional basis. To arrive at such recommendations, the ~~commissioner~~ Green Mountain Care Board shall consider at least the following factors:

(i) the values and goals reflected in the ~~state health plan~~ State Health Plan;

(ii) the needs of the population on a statewide basis;

(iii) the needs of particular geographic areas of the ~~state~~ State, as identified in the ~~state health plan~~ State Health Plan;

(iv) the needs of uninsured and underinsured populations;

(v) the use of Vermont facilities by out-of-state residents;

(vi) the use of out-of-state facilities by Vermont residents;

(vii) the needs of populations with special health care needs;

(viii) the desirability of providing high quality services in an economical and efficient manner, including the appropriate use of midlevel practitioners;

(ix) the cost impact of these resource requirements on health care expenditures; ~~the services appropriate for the four categories of hospitals described in subdivision 9402(12) of this title;~~

(x) the overall quality and use of health care services as reported by the Vermont ~~program for quality in health care~~ Program for Quality in Health Care and the Vermont ~~ethics network~~ Ethics Network;

(xi) the overall quality and cost of services as reported in the annual hospital community reports;

(xii) individual hospital four-year capital budget projections; and

(xiii) the four-year projection of health care expenditures prepared by the ~~division~~ Board.

(2) In the preparation of the ~~plan~~ Plan, the ~~commissioner shall assemble an advisory committee of no fewer than nine nor more than 13 members who shall reflect a broad distribution of diverse perspectives on the health care system, including health care professionals, payers, third-party payers, and consumer representatives~~ Green Mountain Care Board shall convene the Green Mountain Care Board General Advisory Committee established pursuant to subdivision 9374(e)(1) of this title. The ~~advisory committee~~ Green Mountain Care Board General Advisory Committee shall review drafts and provide recommendations to the ~~commissioner~~ Board during the development of the ~~plan~~ Plan. ~~Upon adoption of the plan, the advisory committee shall be dissolved.~~

(3) The ~~commissioner~~ Board, with the ~~advisory committee~~ Green Mountain Care Board General Advisory Committee, shall conduct at least five public hearings, in different regions of the state, on the ~~plan~~ Plan as proposed and shall give interested persons an opportunity to submit their views orally and in writing. To the extent possible, the ~~commissioner~~ Board shall arrange for hearings to be broadcast on interactive television. Not less than 30 days prior to any such hearing, the ~~commissioner~~ Board shall publish in the manner prescribed in 1 V.S.A. § 174 the time and place of the hearing and the place and period during which to direct written comments to the ~~commissioner~~ Board. In addition, the ~~commissioner~~ Board may create and maintain a website to allow members of the public to submit comments electronically and review comments submitted by others.

(4) The ~~commissioner~~ Board shall develop a mechanism for receiving ongoing public comment regarding the ~~plan~~ Plan and for revising it every four years or as needed.

(5) The ~~commissioner~~ Board in consultation with appropriate health care organizations and state entities shall inventory and assess existing state health care data and expertise, and shall seek grants to assist with the preparation of any revisions to the ~~health resource allocation plan~~ Health Resource Allocation Plan.

(6) The ~~plan~~ Plan or any revised ~~plan~~ Plan proposed by the ~~commissioner~~ Board shall be the ~~health resource allocation plan~~ Health Resource Allocation Plan for the ~~state~~ State after it is approved by the ~~governor~~ Governor or upon passage of three months from the date the ~~governor~~ Governor receives the ~~plan~~ proposed Plan, whichever occurs first, unless the ~~governor~~ Governor disapproves the ~~plan~~ proposed Plan, in whole or in part. If the ~~governor~~ Governor disapproves, he or she shall specify the sections of the ~~plan~~ proposed Plan which are objectionable and the changes necessary to meet the objections. The sections of the ~~plan~~ proposed Plan not disapproved shall

become part of the ~~health resource allocation plan~~ Health Resource Allocation Plan.

* * * Hospital Community Reports * * *

Sec. 38. 18 V.S.A. § 9405b is amended to read:

§ 9405b. HOSPITAL COMMUNITY REPORTS

(a) The ~~commissioner~~ Commissioner of Health, in consultation with representatives from hospitals, other groups of health care professionals, and members of the public representing patient interests, shall adopt rules establishing a standard format for community reports, as well as the contents, which shall include:

* * *

(b) On or before January 1, 2005, and annually thereafter beginning on June 1, 2006, the board of directors or other governing body of each hospital licensed under chapter 43 of this title shall publish on its website, making paper copies available upon request, its community report in a uniform format approved by the ~~commissioner,~~ Commissioner of Health and in accordance with the standards and procedures adopted by rule under this section~~, and shall hold one or more public hearings to permit community members to comment on the report. Notice of meetings shall be by publication, consistent with 1 V.S.A. § 174~~. Hospitals located outside this ~~state~~ State which serve a significant number of Vermont residents, as determined by the ~~commissioner~~ Commissioner of Health, shall be invited to participate in the community report process established by this subsection.

(c) The community reports shall be provided to the ~~commissioner~~ Commissioner of Health. The ~~commissioner~~ Commissioner of Health shall publish the reports on a public website and shall develop and include a format for comparisons of hospitals within the same categories of quality and financial indicators.

Sec. 39. EXTENSION FOR PUBLICATION OF 2013 HOSPITAL COMMUNITY REPORTS

Notwithstanding the June 1 publication date specified in 18 V.S.A. § 9405b(b), hospitals shall publish their 2013 hospital community reports on or before October 1, 2013. Following publication of the hospital reports, the Department of Financial Regulation shall publish hospital comparison information as required under 18 V.S.A. § 9405b(c).

* * * VHCURES * * *

Sec. 40. 18 V.S.A. § 9410 is amended to read:

§ 9410. HEALTH CARE DATABASE

(a)(1) The ~~commissioner~~ Board shall establish and maintain a unified health care database to enable the ~~commissioner and the Green Mountain Care board~~ Commissioner and the Board to carry out their duties under this chapter, chapter 220 of this title, and Title 8, including:

(A) ~~Determining~~ determining the capacity and distribution of existing resources~~.~~;

(B) ~~Identifying~~ identifying health care needs and informing health care policy~~.~~;

(C) ~~Evaluating~~ evaluating the effectiveness of intervention programs on improving patient outcomes~~.~~;

(D) ~~Comparing~~ comparing costs between various treatment settings and approaches~~.~~;

(E) ~~Providing~~ providing information to consumers and purchasers of health care~~.~~; and

(F) ~~Improving~~ improving the quality and affordability of patient health care and health care coverage.

(2)(A) The program authorized by this section shall include a consumer health care price and quality information system designed to make available to consumers transparent health care price information, quality information, and such other information as the ~~commissioner~~ Board determines is necessary to empower individuals, including uninsured individuals, to make economically sound and medically appropriate decisions.

~~(B) The commissioner shall convene a working group composed of the commissioner of mental health, the commissioner of Vermont health access, health care consumers, the office of the health care ombudsman, employers and other payers, health care providers and facilities, the Vermont program for quality in health care, health insurers, and any other individual or group appointed by the commissioner to advise the commissioner on the development and implementation of the consumer health care price and quality information system.~~

~~(C)~~ The ~~commissioner~~ Commissioner may require a health insurer covering at least five percent of the lives covered in the insured market in this state to file with the ~~commissioner~~ Commissioner a consumer health care price

and quality information plan in accordance with rules adopted by the ~~commissioner~~ Commissioner.

~~(D)~~(C) The ~~commissioner~~ Board shall adopt such rules as are necessary to carry out the purposes of this subdivision. The ~~commissioner's~~ Board's rules may permit the gradual implementation of the consumer health care price and quality information system over time, beginning with health care price and quality information that the ~~commissioner~~ Board determines is most needed by consumers or that can be most practically provided to the consumer in an understandable manner. The rules shall permit health insurers to use security measures designed to allow subscribers access to price and other information without disclosing trade secrets to individuals and entities who are not subscribers. The ~~regulations~~ rules shall avoid unnecessary duplication of efforts relating to price and quality reporting by health insurers, health care providers, health care facilities, and others, including activities undertaken by hospitals pursuant to their community report obligations under section 9405b of this title.

(b) The database shall contain unique patient and provider identifiers and a uniform coding system, and shall reflect all health care utilization, costs, and resources in this ~~state~~ State, and health care utilization and costs for services provided to Vermont residents in another ~~state~~ State.

(c) Health insurers, health care providers, health care facilities, and governmental agencies shall file reports, data, schedules, statistics, or other information determined by the ~~commissioner~~ Board to be necessary to carry out the purposes of this section. Such information may include:

(1) health insurance claims and enrollment information used by health insurers;

(2) information relating to hospitals filed under subchapter 7 of this chapter (hospital budget reviews); and

(3) any other information relating to health care costs, prices, quality, utilization, or resources required by the Board to be filed ~~by the commissioner~~.

(d) The ~~commissioner~~ Board may by rule establish the types of information to be filed under this section, and the time and place and the manner in which such information shall be filed.

(e) Records or information protected by the provisions of the physician-patient privilege under 12 V.S.A. § 1612(a), or otherwise required by law to be held confidential, shall be filed in a manner that does not disclose the identity of the protected person.

(f) The ~~commissioner~~ Board shall adopt a confidentiality code to ensure that information obtained under this section is handled in an ethical manner.

(g) Any person who knowingly fails to comply with the requirements of this section or rules adopted pursuant to this section shall be subject to an administrative penalty of not more than $1,000.00 per violation. The ~~commissioner~~ Board may impose an administrative penalty of not more than $10,000.00 each for those violations the ~~commissioner~~ Board finds were willful. In addition, any person who knowingly fails to comply with the confidentiality requirements of this section or confidentiality rules adopted pursuant to this section and uses, sells, or transfers the data or information for commercial advantage, pecuniary gain, personal gain, or malicious harm shall be subject to an administrative penalty of not more than $50,000.00 per violation. The powers vested in the ~~commissioner~~ Board by this subsection shall be in addition to any other powers to enforce any penalties, fines, or forfeitures authorized by law.

(h)(1) All health insurers shall electronically provide to the ~~commissioner~~ Board in accordance with standards and procedures adopted by the ~~commissioner~~ Board by rule:

(A) their health insurance claims data, provided that the ~~commissioner~~ Board may exempt from all or a portion of the filing requirements of this subsection data reflecting utilization and costs for services provided in this ~~state~~ State to residents of other states;

(B) cross-matched claims data on requested members, subscribers, or policyholders; and

(C) member, subscriber, or policyholder information necessary to determine third party liability for benefits provided.

(2) The collection, storage, and release of health care data and statistical information that is subject to the federal requirements of the Health Insurance Portability and Accountability Act ("HIPAA") shall be governed exclusively by the ~~rules~~ regulations adopted thereunder in 45 ~~CFR~~ C.F.R. Parts 160 and 164.

(A) All health insurers that collect the Health Employer Data and Information Set (HEDIS) shall annually submit the HEDIS information to the ~~commissioner~~ Board in a form and in a manner prescribed by the ~~commissioner~~ Board.

(B) All health insurers shall accept electronic claims submitted in Centers for Medicare and Medicaid Services format for UB-92 or HCFA-1500 records, or as amended by the Centers for Medicare and Medicaid Services.

(3)(A) The ~~commissioner~~ Board shall collaborate with the ~~agency of human services~~ Agency of Human Services and participants in ~~agency of human services~~ the Agency's initiatives in the development of a comprehensive health care information system. The collaboration is intended to address the formulation of a description of the data sets that will be included in the comprehensive health care information system, the criteria and procedures for the development of ~~limited use~~ limited-use data sets, the criteria and procedures to ensure that HIPAA compliant ~~limited use~~ limited-use data sets are accessible, and a proposed time frame for the creation of a comprehensive health care information system.

(B) To the extent allowed by HIPAA, the data shall be available as a resource for insurers, employers, providers, purchasers of health care, and state agencies to continuously review health care utilization, expenditures, and performance in Vermont. In presenting data for public access, comparative considerations shall be made regarding geography, demographics, general economic factors, and institutional size.

(C) Consistent with the dictates of HIPAA, and subject to such terms and conditions as the ~~commissioner~~ Board may prescribe by ~~regulation~~ rule, the Vermont ~~program for quality in health care~~ Program for Quality in Health Care shall have access to the unified health care database for use in improving the quality of health care services in Vermont. In using the database, the Vermont ~~program for quality in health care~~ Program for Quality in Health Care shall agree to abide by the rules and procedures established by the ~~commissioner~~ Board for access to the data. The ~~commissioner's~~ Board's rules may limit access to the database to limited-use sets of data as necessary to carry out the purposes of this section.

(D) Notwithstanding HIPAA or any other provision of law, the comprehensive health care information system shall not publicly disclose any data that contains direct personal identifiers. For the purposes of this section, "direct personal identifiers" include information relating to an individual that contains primary or obvious identifiers, such as the individual's name, street address, e-mail address, telephone number, and Social Security number.

(i) On or before January 15, 2008 and every three years thereafter, the ~~commissioner~~ Commissioner shall submit a recommendation to the ~~general assembly~~ General Assembly for conducting a survey of the health insurance status of Vermont residents.

(j)(1) As used in this section, and without limiting the meaning of subdivision 9402(8) of this title, the term "health insurer" includes:

(A) any entity defined in subdivision 9402(8) of this title;

(B) any third party administrator, any pharmacy benefit manager, any entity conducting administrative services for business, and any other similar entity with claims data, eligibility data, provider files, and other information relating to health care provided to a Vermont resident, and health care provided by Vermont health care providers and facilities required to be filed by a health insurer under this section;

(C) any health benefit plan offered or administered by or on behalf of the ~~state~~ State of Vermont or an agency or instrumentality of the ~~state~~ State; and

(D) any health benefit plan offered or administered by or on behalf of the federal government with the agreement of the federal government.

(2) The ~~commissioner~~ Board may adopt rules to carry out the provisions of this subsection, including ~~standards and procedures requiring the registration of persons or entities not otherwise licensed or registered by the commissioner and~~ criteria for the required filing of such claims data, eligibility data, provider files, and other information as the ~~commissioner~~ Board determines to be necessary to carry out the purposes of this section and this chapter.

* * * Cost-Shift Reporting * * *

Sec. 41. 18 V.S.A. § 9375(d) is amended to read:

(d) Annually on or before January 15, the ~~board~~ Board shall submit a report of its activities for the preceding ~~state fiscal~~ calendar year to the ~~house committee on health care and the senate committee on health and welfare~~ House Committee on Health Care and the Senate Committee on Health and Welfare.

(1) The report shall include:

(A) any changes to the payment rates for health care professionals pursuant to section 9376 of this title~~,~~;

(B) any new developments with respect to health information technology~~,~~;

(C) the evaluation criteria adopted pursuant to subdivision (b)(8) of this section and any related modifications~~,~~;

(D) the results of the systemwide performance and quality evaluations required by subdivision (b)(8) of this section and any resulting recommendations~~,~~;

(E) the process and outcome measures used in the evaluation~~,~~;

(F) any recommendations on mechanisms to ensure that appropriations intended to address the Medicaid cost shift will have the intended result of reducing the premiums imposed on commercial insurance premium payers below the amount they otherwise would have been charged;

(G) any recommendations for modifications to Vermont statutes~~,~~; and

(H) any actual or anticipated impacts on the work of the ~~board~~ Board as a result of modifications to federal laws, regulations, or programs.

(2) The report shall identify how the work of the ~~board~~ Board comports with the principles expressed in section 9371 of this title.

Sec. 42. 2000 Acts and Resolves No. 152, Sec. 117b is amended to read:

Sec. 117b. MEDICAID COST SHIFT REPORTING

(a) It is the intent of this section to measure the elimination of the Medicaid cost shift. For hospitals, this measurement shall be based on a comparison of the difference between Medicaid and Medicare reimbursement rates. For other health care providers, an appropriate measurement shall be developed that includes an examination of the Medicare rates for providers. In order to achieve the intent of this section, it is necessary to establish a reporting and tracking mechanism to obtain the facts and information necessary to quantify the Medicaid cost shift, to evaluate solutions for reducing the effect of the Medicaid cost shift in the commercial insurance market, to ensure that any reduction in the cost shift is passed on to the commercial insurance market, to assess the impact of such reductions on the financial health of the health care delivery system, and to do so within a sustainable utilization growth rate in the Medicaid program.

(b) ~~By~~ Notwithstanding 2 V.S.A. § 20(d), annually on or before December 15, ~~2000, and annually thereafter, the commissioner of banking, insurance, securities, and health care administration, the secretary of human services~~ the chair of the Green Mountain Care Board, the Commissioner of Vermont Health Access, and each acute care hospital shall file with the ~~joint fiscal committee~~ Joint Fiscal Committee**,** the House Committee on Health Care, and the Senate Committee on Health and Welfare, in the manner required by the ~~committee~~ Joint Fiscal Committee, such information as is necessary to carry out the purposes of this section. Such information shall pertain to the provider delivery system to the extent it is available.

(c) ~~By December 15, 2000, and annually thereafter, the~~ The report of hospitals to the ~~joint fiscal committee~~ Joint Fiscal Committee and the standing committees under subsection (b) of this section shall include information on how they will manage utilization in order to assist the ~~agency of human~~

~~services~~ Department of Vermont Health Access in developing sustainable utilization growth in the Medicaid program.

~~(d) By December 15, 2000, the commissioner of banking, insurance, securities, and health care administration shall report to the joint fiscal committee with recommendations on mechanisms to assure that appropriations intended to address the Medicaid cost shift will result in benefits to commercial insurance premium payers in the form of lower premiums than they otherwise would be charged.~~

~~(e) The first $250,000.00 resulting from declines in caseload and utilization related to hospital costs, as determined by the commissioner of social welfare, from the funds allocated within the Medicaid program appropriation for hospital costs in fiscal year 2001 shall be reserved for cost shift reduction for hospitals.~~

* * * Workforce Planning Data * * *

Sec. 43. 26 V.S.A. § 1353 is amended to read:

§ 1353. POWERS AND DUTIES OF THE BOARD

The ~~board~~ Board shall have the following powers and duties to:

* * *

(10) As part of the license application or renewal process, collect data necessary to allow for workforce strategic planning required under 18 V.S.A. chapter 222.

Sec. 44. WORKFORCE PLANNING; DATA COLLECTION

(a) The Board of Medical Practice shall collaborate with the Director of Health Care Reform in the Agency of Administration, the Vermont Medical Society, and other interested stakeholders to develop data elements for the Board to collect pursuant to 26 V.S.A. § 1353(10) to allow for the workforce strategic planning required under 18 V.S.A. chapter 222. The data elements shall be consistent with any nationally developed or required data in order to simplify collection and minimize the burden on applicants.

(b) The Office of Professional Regulation, the Board of Nursing, and other relevant professional boards shall collaborate with the Director of Health Care Reform in the Agency of Administration in the collection of data necessary to allow for workforce strategic planning required under 18 V.S.A. chapter 222. The boards shall develop the data elements in consultation with the Director and with interested stakeholders. The data elements shall be consistent with any nationally developed or required data elements in order to simplify collection and minimize the burden on applicants. Data shall be collected as

part of the licensure process to minimize administrative burden on applicants and the State.

* * * Administration * * *

Sec. 45. 8 V.S.A. § 11(a) is amended to read:

(a) General. The ~~department of financial regulation~~ Department of Financial Regulation created by 3 V.S.A. ~~section 212,~~ § 212 shall have jurisdiction over and shall supervise:

(1) Financial institutions, credit unions, licensed lenders, mortgage brokers, insurance companies, insurance agents, broker-dealers, investment advisors, and other similar persons subject to the provisions of this title and 9 V.S.A. chapters 59, 61, and 150.

(2) The administration of health care~~, including oversight of the quality and cost containment of health care provided in this state, by conducting and supervising the process of health facility certificates of need, hospital budget reviews, health care data system development and maintenance, and funding and cost containment of health care~~ as provided in 18 V.S.A. chapter 221.

* * * Miscellaneous Provisions * * *

Sec. 46. 33 V.S.A. § 1901(h) is added to read:

(h) To the extent required to avoid federal antitrust violations, the Department of Vermont Health Access shall facilitate and supervise the participation of health care professionals and health care facilities in the planning and implementation of payment reform in the Medicaid and SCHIP programs. The Department shall ensure that the process and implementation include sufficient state supervision over these entities to comply with federal antitrust provisions and shall refer to the Attorney General for appropriate action the activities of any individual or entity that the Department determines, after notice and an opportunity to be heard, violate state or federal antitrust laws without a countervailing benefit of improving patient care, improving access to health care, increasing efficiency, or reducing costs by modifying payment methods.

Sec. 46a. STUDY OF FEES FOR COPIES OF ELECTRONIC MEDICAL RECORDS

The Green Mountain Care Board shall study the costs and fees associated with providing copies, pursuant to 18 V.S.A. § 9419, of medical records maintained and provided to patients in a paperless format. The Department shall consult with interested stakeholders, including the Vermont Association of Hospitals and Health Systems and the Vermont Association for Justice, and shall review related laws and policies in other states. On or before January 15,

2014 the Board shall report the results of its study to the House Committees on Health Care and on Human Services and the Senate Committee on Health and Welfare.

Sec. 47. 33 V.S.A. § 1901b is amended to read:

§ 1901b. PHARMACY PROGRAM ENROLLMENT

(a) The ~~department of Vermont health access~~ Department of Vermont Health Access and the ~~department for children and families~~ Department for Children and Families shall monitor actual caseloads, revenue, and expenditures~~,~~; anticipated caseloads, revenue, and expenditures~~,~~; and actual and anticipated savings from implementation of the preferred drug list, supplemental rebates, and other cost containment activities in each state pharmaceutical assistance program, including VPharm ~~and VermontRx~~. ~~The departments~~ When applicable, the Departments shall allocate supplemental rebate savings to each program proportionate to expenditures in each program. ~~During the second week of each month, the department of Vermont health access shall report such actual and anticipated caseload, revenue, expenditure, and savings information to the joint fiscal committee and to the health care oversight committee.~~

(b)~~(1) If at any time expenditures for VPharm and VermontRx are anticipated to exceed the aggregate amount of state funds expressly appropriated for such state pharmaceutical assistance programs during any fiscal year, the department of Vermont health access shall recommend to the joint fiscal committee and notify the health care oversight committee of a plan to cease new enrollments in VermontRx for individuals with incomes over 225 percent of the federal poverty level.~~

~~(2) If at any time expenditures for VPharm and VermontRx are anticipated to exceed the aggregate amount of state funds expressly appropriated for such state pharmaceutical assistance programs during any fiscal year, even with the cessation of new enrollments as provided for in subdivision (1) of this subsection, the department of Vermont health access shall recommend to the joint fiscal committee and notify the health health care oversight committee of a plan to cease new enrollments in the VermontRx for individuals with incomes more than 175 percent and less than 225 percent of the federal poverty level.~~

~~(3) The determinations of the department of Vermont health access under subdivisions (1) and (2) of this subsection shall be based on the information and projections reported monthly under subsection (a) of this section, and on the official revenue estimates under 32 V.S.A. § 305a. An enrollment cessation plan shall be deemed approved unless the joint fiscal~~

~~committee disapproves the plan after 21 days notice of the recommendation and financial analysis of the department of Vermont health access.~~

~~(4) Upon the approval of or failure to disapprove an enrollment cessation plan by the joint fiscal committee, the department of Vermont health access shall cease new enrollment in VermontRx for the individuals with incomes at the appropriate level in accordance with the plan.~~

~~(c)(1) If at any time after enrollment ceases under subsection (b) of this section expenditures for VermontRx, including expenditures attributable to renewed enrollment, are anticipated, by reason of increased federal financial participation or any other reason, to be equal to or less than the aggregate amount of state funds expressly appropriated for such state pharmaceutical assistance programs during any fiscal year, the department of Vermont health access shall recommend to the joint fiscal committee and notify the health care oversight committee of a plan to renew enrollment in VermontRx, with priority given to individuals with incomes more than 175 percent and less than 225 percent, if adequate funds are anticipated to be available for each program for the remainder of the fiscal year.~~

~~(2) The determination of the department of Vermont health access under subdivision (1) of this subsection shall be based on the information and projections reported monthly under subsection (a) of this section, and on the official revenue estimates under 32 V.S.A. § 305a. An enrollment renewal plan shall be deemed approved unless the joint fiscal committee disapproves the plan after 21 days notice of the recommendation and financial analysis of the department of Vermont health access.~~

~~(3) Upon the approval of, or failure to disapprove an enrollment renewal plan by the joint fiscal committee, the department of Vermont health access shall renew enrollment in VermontRx in accordance with the plan.~~

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

~~(1) "State~~ "state pharmaceutical assistance program" means any health assistance programs administered by the ~~agency of human services~~ Agency of Human Services providing prescription drug coverage, including the Medicaid program, ~~the Vermont health access plan,~~ VPharm, ~~VermontRx, the state children's health insurance program~~ State Children's Health Insurance Program, the ~~state~~ State of Vermont AIDS ~~medication assistance program~~ Medication Assistance Program, the General Assistance program, the ~~pharmacy discount plan program~~ Pharmacy Discount Plan Program, and any other health assistance programs administered by the ~~agency~~ Agency providing prescription drug coverage.

~~(2) "VHAP" or "Vermont health access plan" means the programs of health care assistance authorized by federal waivers under Section 1115 of the Social Security Act, by No. 14 of the Acts of 1995, and by further acts of the General Assembly.~~

~~(3) "VHAP-Pharmacy" or "VHAP-Rx" means the VHAP program of state pharmaceutical assistance for elderly and disabled Vermonters with income up to and including 150 percent of the federal poverty level (hereinafter "FPL").~~

~~(4) "VScript" means the Section 1115 waiver program of state pharmaceutical assistance for elderly and disabled Vermonters with income over 150 and less than or equal to 175 percent of FPL, and administered under subchapter 4 of chapter 19 of this title.~~

~~(5) "VScript Expanded" means the state-funded program of pharmaceutical assistance for elderly and disabled Vermonters with income over 175 and less than or equal to 225 percent of FPL, and administered under subchapter 4 of chapter 19 of this title.~~

Sec. 48. 2012 Acts and Resolves No. 171, Sec. 2c, is amended to read:

Sec. 2c. EXCHANGE OPTIONS

In approving benefit packages for the Vermont health benefit exchange pursuant to 18 V.S.A. ~~§ 9375(b)(7)~~ § 9375(b)(9), the Green Mountain Care ~~board~~ Board shall approve a full range of cost-sharing structures for each level of actuarial value. To the extent permitted under federal law, the ~~board~~ Board shall also allow health insurers to establish rewards, premium discounts, split benefit designs, rebates, or otherwise waive or modify applicable co-payments, deductibles, or other cost-sharing amounts in return for adherence by an insured to programs of health promotion and disease prevention pursuant to 33 V.S.A. § 1811(f)(2)(B).

Sec. 49. 2012 Acts and Resolves No. 171, Sec. 41(e), is amended to read:

(e) ~~33~~ 18 V.S.A. chapter 13, subchapter 2 (payment reform pilots) is repealed on passage.

Sec. 49a. 16 V.S.A. § 3851 is amended to read:

§ 3851. DEFINITIONS

* * *

(c) "Eligible institution" means any:

* * *

(5) any:

* * *

(D) nonprofit assisted living facility, nonprofit continuing care retirement facility, nonprofit residential care facility or similar nonprofit facility for the continuing care of the elderly or the infirm, provided that such facility is owned by or under common ownership with an otherwise eligible institution, and in the case of facilities to be financed for an eligible institution provided by this subdivision (5) of this subsection, for which the ~~department of financial regulation~~ Green Mountain Care Board, if required, has issued a certificate of need.

* * *

Sec. 49b. 18 V.S.A. § 9351(d) is amended to read:

(d) The health information technology plan shall serve as the framework within which the ~~commissioner of financial regulation~~ Green Mountain Care Board reviews certificate of need applications for information technology under section 9440b of this title. In addition, the ~~commissioner of information and innovation~~ Commissioner of Information and Innovation shall use the health information technology plan as the basis for independent review of state information technology procurements.

Sec. 49c. 33 V.S.A. § 6304(c) is amended to read:

(c) Designations for new home health agencies shall be established pursuant to certificates of need approved by the ~~commissioner of financial regulation~~ Green Mountain Care Board. Thereafter, designations shall be subject to the provisions of this subchapter.

* * * Transfer of Positions * * *

Sec. 50. TRANSFER OF POSITIONS

(a) On or before July 1, 2013, the Department of Financial Regulation shall transfer positions numbered 290071, 290106, and 290074 and associated funding to the Green Mountain Care Board for the administration of the health care database.

(b) On or before July 1, 2013, the Department of Financial Regulation shall transfer position number 297013 and associated funding to the Agency of Administration.

(c) On or after July 1, 2013, the Department of Financial Regulation shall transfer one position and associated funding to the Department of Health for the purpose of administering the hospital community reports in 18 V.S.A. § 9405b. The Department of Financial Regulation shall continue to collect

funds for the publication of the reports pursuant to 18 V.S.A. § 9415 and shall transfer the necessary funds annually to the Department of Health.

* * * Emergency Rulemaking * * *

Sec. 51. EMERGENCY RULEMAKING

The Agency of Human Services may adopt emergency rules pursuant to 3 V.S.A. § 844 prior to April 1, 2014 to conform Vermont's rules regarding operation of the Vermont Health Benefit Exchange to federal guidance and regulations implementing the provisions of the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the federal Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152. The Agency may also adopt emergency rules in order to implement the provisions of 2011 Acts and Resolves No. 48 and 2012 Acts and Resolves No. 171 regarding changes to eligibility, enrollment, renewals, grievances and appeals, public availability of program information, and coordination across health benefit programs, as well as to revise and coordinate existing agency health benefit program rules into a single integrated and updated code. The need for timely compliance with state and federal laws and guidance, in addition to the need to coordinate and consolidate the Agency's current health benefit program eligibility rules, for the effective launch and operation of the Vermont Health Benefit Exchange shall be deemed to meet the standard for the adoption of emergency rules required pursuant to 3 V.S.A. § 844(a).

* * * Repeals * * *

Sec. 52. REPEALS

(a) 8 V.S.A. § 4080f (Catamount Health) is repealed on January 1, 2014, except that current enrollees may continue to receive transitional coverage from the Department of Vermont Health Access as authorized by the Centers on Medicare and Medicaid Services.

(b) 18 V.S.A. § 708 (health information technology certification process) is repealed on passage.

(c) 33 V.S.A. § chapter 19, subchapter 3a (Catamount Health Assistance) is repealed January 1, 2014, except that current enrollees may continue to receive transitional coverage from the Department of Vermont Health Access as authorized by the Centers for Medicare and Medicaid Services.

(d) 33 V.S.A. § 2074 (VermontRx) is repealed on January 1, 2014.

(e) 18 V.S.A. § 9403 (Division of Health Care Administration) is repealed on July 1, 2013.

* * * Effective Dates * * *

Sec. 53. EFFECTIVE DATES

(a) Secs. 2 (mental health care services review), 3 (prescription drug deductibles), 33–34a (health information exchange), 39 (publication extension for 2013 hospital reports), 40 (VHCURES), 43 and 44 (workforce planning), 46 (DVHA antitrust provision), 48 (Exchange options), 49 (correction to payment reform pilot repeal), 50 (transfer of positions), 51 (emergency rules), and 52 (repeals) of this act and this section shall take effect on passage.

(b) Sec. 1 (interstate employers) and Secs. 28–30 (employer definitions) shall take effect on October 1, 2013 for the purchase of insurance plans effective for coverage beginning January 1, 2014.

(c) Secs. 4 (newborn coverage), 5 (grace period for premium payment), 6–27 (Catamount and VHAP), and 47 (pharmacy program enrollment) shall take effect on January 1, 2014.

(d) Secs. 31 (Healthy Vermonters) and 32 (VPharm) shall take effect on January 1, 2014, except that the Department of Vermont Health Access may continue to calculate household income under the rules of the Vermont Health Access Plan after that date if the system for calculating modified adjusted gross income for the Healthy Vermonters and VPharm programs is not operational by that date, but no later than December 31, 2014.

(e) All 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 19, 2013, page 385 and page 387 and March 20, 2013 page 465.)

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 as recommended by the Committee on Health and Welfare with the following amendments thereto:

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

Sec. 3. 8 V.S.A. § 4089i is amended to read:

* * *

(d) For prescription drug benefits offered in conjunction with a high-deductible health plan (HDHP), the plan may not provide prescription drug benefits until the expenditures applicable to the deductible under the

HDHP have met the amount of the minimum annual deductibles in effect for self-only and family coverage under Section 223(c)(2)(A)(i) of the Internal Revenue Code of 1986 for self-only and family coverage, respectively, except that a plan may offer first-dollar prescription drug benefits to the extent permitted under federal law. Once the foregoing expenditure amount has been met under the HDHP, coverage for prescription drug benefits shall begin, and the limit on out-of-pocket expenditures for prescription drug benefits shall be as specified in subsection (c) of this section.

(e)(1) A health insurance or other health benefit plan offered by a health insurer or pharmacy benefit manager that provides coverage for prescription drugs and uses step-therapy protocols shall not require failure on the same medication on more than one occasion for continuously enrolled members or subscribers.

(2) Nothing in this subsection shall be construed to prohibit the use of tiered co-payments for members or subscribers not subject to a step-therapy protocol.

(f)(1) A health insurance or other health benefit plan offered by a health insurer or pharmacy benefit manager that provides coverage for prescription drugs shall not require, as a condition of coverage, use of drugs not indicated by the federal Food and Drug Administration for the condition diagnosed and being treated under supervision of a health care professional.

(2) Nothing in this subsection shall be construed to prevent a health care professional from prescribing a medication for off-label use.

(g) As used in this section:

(1) "Health care professional" means an individual licensed to practice medicine under 26 V.S.A. chapter 23 or 33, an individual certified as a physician assistant under 26 V.S.A. chapter 31, or an individual licensed as an advanced practice registered nurse under 26 V.S.A. chapter 28.

(2) "Health insurer" shall have the same meaning as in 18 V.S.A. § 9402.

~~(2)~~(3) "Out-of-pocket expenditure" means a co-payment, coinsurance, deductible, or other cost-sharing mechanism.

~~(3)~~(4) "Pharmacy benefit manager" shall have the same meaning as in section 4089j of this title.

(5) "Step therapy" means protocols that establish the specific sequence in which prescription drugs for a specific medical condition are to be prescribed.

~~(f)~~(h) The ~~department of financial regulation~~ Department of Financial Regulation shall enforce this section and may adopt rules as necessary to carry out the purposes of this section.

Second: By adding a Sec. 5a to read as follows:

Sec. 5a. 18 V.S.A. § 9418b(g)(4) is amended to read:

(4) A health plan shall respond to a completed prior authorization request from a prescribing health care provider within 48 hours ~~for urgent requests and within 120 hours for non-urgent requests~~ of receipt. The health plan shall notify a health care provider of or make available to a health care provider a receipt of the request for prior authorization and any needed missing information within 24 hours of receipt. If a health plan does not, within the time limits set forth in this section, respond to a completed prior authorization request, acknowledge receipt of the request for prior authorization, or request missing information, the prior authorization request shall be deemed to have been granted.

Third: By adding a Sec. 5b to read as follows:

* * * Standardized Claims and Edits * * *

Sec. 5b. STANDARDIZED HEALTH INSURANCE CLAIMS AND EDITS

(a)(1) As part of moving away from fee-for-service and toward other models of payment for health care services in Vermont, the Green Mountain Care Board, in consultation with the Department of Vermont Health Access, health care providers, health insurers, and other interested stakeholders, shall develop a complete set of standardized edits and payment rules based on Medicare or on another set of standardized edits and payment rules appropriate for use in Vermont. The Board and the Department shall adopt by rule the standards and payment rules that health care providers, health insurers, and other payers shall use beginning on January 1, 2015.

(2) The Green Mountain Care Board and the Department of Vermont Health Access shall report to the General Assembly on or before February 15, 2014 on the progress toward a complete set of standardized edits and payment rules.

(b) The Department of Vermont Health Access's request for proposals for the Medicaid Management Information System (MMIS) claims payment system shall ensure that the MMIS will:

(1) have the capability to include uniform edit standards and payment rules developed pursuant to this section; and

(2) include full transparency of edit standards, payment rules, prior authorization guidelines, and other utilization review provisions, including the source or basis in evidence for the standards and guidelines.

(c)(1) The Department of Vermont Health Access shall ensure that contracts for benefit management and claims management systems in effect on January 1, 2015 include full transparency of edit standards, payment rules, prior authorization guidelines, and other utilization review provisions, including the source or basis in evidence for the standards and guidelines.

(2) The Department of Financial Regulation shall ensure that beginning on January 1, 2015, health insurers and their subcontractors for benefit management and claim management systems include full transparency of edit standards, payment rules, prior authorization guidelines, and other utilization review provisions, including the source or basis in evidence for the standards and guidelines. In addition to any other remedy available to the Commissioner under Title 8 or Title 18, a health insurer, subcontractor, or other person who violates the requirements of this section may be assessed an administrative penalty of not more than $2,000.00 for each day of noncompliance.

(d) As used in this section:

(1) "Health care provider" means a person, partnership, corporation, facility, or institution licensed or certified or authorized by law to administer health care in this State.

(2) "Health insurer" means a health insurance company, nonprofit hospital or medical service corporation, managed care organization, or third-party administrator as well as Medicaid and any other public health care assistance program offered or administered by the State or by any subdivision or instrumentality of the State.

Fourth: By adding Secs. 5c–5n to read as follows:

* * * Health Insurance Rate Review * * *

Sec. 5c. 8 V.S.A. § 4062 is amended to read:

§ 4062. FILING AND APPROVAL OF POLICY FORMS AND PREMIUMS

(a)(1) No policy of health insurance or certificate under a policy filed by an insurer offering health insurance as defined in subdivision 3301(a)(2) of this title, a nonprofit hospital or medical service corporation, health maintenance organization, or a managed care organization and not exempted by subdivision 3368(a)(4) of this title shall be delivered or issued for delivery in this ~~state~~ State, nor shall any endorsement, rider, or application which becomes a part of any such policy be used, until~~:~~

~~(A)~~ a copy of the form~~,~~ and of the rules for the classification of risks has been filed with the Department of Financial Regulation and a copy of the premium rates~~, and rules for the classification of risks pertaining thereto have~~ has been filed with the ~~commissioner of financial regulation~~ Green Mountain Care Board; and

~~(B) a decision by~~ the Green Mountain Care ~~board~~ Board has ~~been applied by the commissioner as provided in subdivision (2) of this subsection~~ issued a decision approving, modifying, or disapproving the proposed rate.

(2)(A) ~~Prior to approving a rate pursuant to this subsection, the commissioner shall seek approval for such rate from the Green Mountain Care board established in 18 V.S.A. chapter 220. The commissioner shall make a recommendation to the Green Mountain Care board about whether to approve, modify, or disapprove the rate within 30 days of receipt of a completed application from an insurer. In the event that the commissioner does not make a recommendation to the board within the 30-day period, the commissioner shall be deemed to have recommended approval of the rate, and the Green Mountain Care board shall review the rate request pursuant to subdivision (B) of this subdivision (2).~~

~~(B)~~ The Green Mountain Care ~~board~~ Board shall review rate requests ~~forwarded by the commissioner pursuant to subdivision (A) of this subdivision (2)~~ and shall approve, modify, or disapprove a rate request within ~~30~~ 90 calendar days ~~of receipt of the commissioner's recommendation or, in the absence of a recommendation from the commissioner, the expiration of the 30-day period following the department's receipt of the completed application. In the event that the board does not approve or disapprove a rate within 30 days, the board shall be deemed to have approved the rate request~~ after receipt of an initial rate filing from an insurer. If an insurer fails to provide necessary materials or other information to the Board in a timely manner, the Board may extend its review for a reasonable additional period of time, not to exceed 30 calendar days.

~~(C) The commissioner shall apply the decision of the Green Mountain Care board as to rates referred to the board within five business days of the board's decision.~~

(B) Prior to the Board's decision on a rate request, the Department of Financial Regulation shall provide the Board with an analysis and opinion on the impact of the proposed rate on the insurer's solvency and reserves.

(3) The ~~commissioner~~ Board shall ~~review policies and rates to~~ determine whether a ~~policy or~~ rate is affordable, promotes quality care, promotes access to health care, protects insurer solvency, and is not unjust, unfair, inequitable,

misleading, or contrary to the laws of this ~~state~~ State. ~~The commissioner shall notify in writing the insurer which has filed any such form, premium rate, or rule if it contains any provision which does not meet the standards expressed in this section. In such notice, the commissioner shall state that a hearing will be granted within 20 days upon written request of the insurer.~~ In making this determination, the Board shall consider the analysis and opinion provided by the Department of Financial Regulation pursuant to subdivision (2)(B) of this subsection.

(b) ~~The commissioner may, after a hearing of which at least 20 days' written notice has been given to the insurer using such form, premium rate, or rule, withdraw approval on any of the grounds stated in this section. For premium rates, such withdrawal may occur at any time after applying the decision of the Green Mountain Care board pursuant to subdivision (a)(2)(C) of this section. Disapproval pursuant to this subsection shall be effected by written order of the commissioner which shall state the ground for disapproval and the date, not less than 30 days after such hearing when the withdrawal of approval shall become effective.~~

~~(c)~~ In conjunction with a rate filing required by subsection (a) of this section, an insurer shall file a plain language summary of ~~any requested rate increase of five percent or greater. If, during the plan year, the insurer files for rate increases that are cumulatively five percent or greater, the insurer shall file a summary applicable to the cumulative rate increase~~ the proposed rate. All summaries shall include a brief justification of any rate increase requested, the information that the Secretary of the U.S. Department of Health and Human Services (HHS) requires for rate increases over 10 percent, and any other information required by the ~~commissioner~~ Board. The plain language summary shall be in the format required by the Secretary of HHS pursuant to the Patient Protection and Affordable Care Act of 2010, Public Law 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Public Law 111-152, and shall include notification of the public comment period established in subsection ~~(d)~~(c) of this section. In addition, the insurer shall post the summaries on its website.

~~(d)~~(c)(1) The ~~commissioner~~ Board shall provide information to the public on the ~~department's~~ Board's website about the public availability of the filings and summaries required under this section.

(2)(A) Beginning no later than January 1, ~~2012~~ 2014, the ~~commissioner~~ Board shall post the rate filings pursuant to subsection (a) of this section and summaries pursuant to subsection ~~(c)~~(b) of this section on the ~~department's~~ Board's website within five calendar days of filing. The Board shall also

establish a mechanism by which members of the public may request to be notified automatically each time a proposed rate is filed with the Board.

(B) The ~~department~~ Board shall provide an electronic mechanism for the public to comment on ~~proposed rate increases over five percent~~ all rate filings. The ~~public shall have 21 days from the posting of the summaries and filings to provide~~ Board shall accept public comment on each rate filing from the date on which the Board posts the rate filing on its website pursuant to subdivision (A) of this subdivision (2) until 15 calendar days after the Board posts on its website the analyses and opinions of the Department of Financial Regulation and of the Board's consulting actuary, if any, as required by subsection (d) of this section. The ~~department~~ Board shall review and consider the public comments prior to ~~submitting the policy or rate for the Green Mountain Care board's approval pursuant to subsection (a) of this section. The department shall provide the Green Mountain Care board with the public comments for its consideration in approving any rates~~ issuing its decision.

(3) In addition to the public comment provisions set forth in this subsection, the Health Care Ombudsman, acting on behalf of health insurance consumers in this State, may, within 30 calendar days after the Board receives an insurer's rate request pursuant to this section, submit to the Board, in writing, suggested questions regarding the filing for the Board to provide to its contracting actuary, if any.

~~(e)~~(d)(1) No later than 60 calendar days after receiving an insurer's rate request pursuant to this section, the Green Mountain Care Board shall make available to the public the insurer's rate filing, the Department's analysis and opinion of the effect of the proposed rate on the insurer's solvency, and the analysis and opinion of the rate filing by the Board's contracting actuary, if any.

(2) The Board shall post on its website, after redacting any confidential or proprietary information relating to the insurer or to the insurer's rate filing:

(A) all questions the Board poses to its contracting actuary, if any, and the actuary's responses to the Board's questions; and

(B) all questions the Board, the Board's contracting actuary, if any, or the Department poses to the insurer and the insurer's responses to those questions.

(e) Within 30 calendar days after making the rate filing and analysis available to the public pursuant to subsection (d) of this section, the Board shall:

(1) conduct a public hearing, at which the Board shall:

(A) call as witnesses the Commissioner of Financial Regulation or designee and the Board's contracting actuary, if any, unless all parties agree to waive such testimony; and

(B) provide an opportunity for testimony from the insurer; the Health Care Ombudsman; and members of the public;

(2) at a public hearing, announce the Board's decision of whether to approve, modify, or disapprove the proposed rate; and

(3) issue its decision in writing.

(f)(1) The insurer shall notify its policyholders of the Board's decision in a timely manner, as defined by the Board by rule.

(2) Rates shall take effect on the date specified in the insurer's rate filing.

(3) If the Board has not issued its decision by the effective date specified in the insurer's rate filing, the insurer shall notify its policyholders of its pending rate request and of the effective date proposed by the insurer in its rate filing.

(g) An insurer, the Health Care Ombudsman, and any member of the public with party status, as defined by the Board by rule, may appeal a decision of the Board approving, modifying, or disapproving the insurer's proposed rate to the Vermont Supreme Court.

(h)~~(1) The following provisions of this~~ This section shall apply only to policies for major medical insurance coverage and shall not apply to policies for specific disease, accident, injury, hospital indemnity, dental care, vision care, disability income, long-term care, or other limited benefit coverage~~:~~; to Medicare supplemental insurance; or

~~(A) the requirement in subdivisions (a)(1) and (2) of this section for the Green Mountain Care board's approval on rate requests;~~

~~(B) the review standards in subdivision (a)(3) of this section as to whether a policy or rate is affordable, promotes quality care, and promotes access to health care; and~~

~~(C) subsections (c) and (d) of this section.~~

~~(2) The exemptions from the provisions described in subdivisions (1)(A) through (C) of this subsection shall also apply~~ to benefit plans that are paid directly to an individual insured or to his or her assigns and for which the amount of the benefit is not based on potential medical costs or actual costs incurred.

~~(3) Medicare supplemental insurance policies shall be exempt only from the requirement in subdivisions (a)(1) and (2) of this section for the Green Mountain Care board's approval on rate requests and shall be subject to the remaining provisions of this section.~~

(i) Notwithstanding the procedures and timelines set forth in subsections (a) through (e) of this section, the Board may establish, by rule, a streamlined rate review process for certain rate decisions, including proposed rates affecting fewer than a minimum number of covered lives and proposed rates for which a de minimis increase, as defined by the Board by rule, is sought.

Sec. 5d. 8 V.S.A. § 4062a is amended to read:

§ 4062a. FILING FEES

Each filing of a policy, contract, or document form or premium rates or rules, submitted pursuant to section 4062 of this title, shall be accompanied by payment to the ~~commissioner~~ Commissioner or the Green Mountain Care Board, as appropriate, of a nonrefundable fee of ~~$50.00~~ $150.00.

Sec. 5e. 8 V.S.A. § 4089b(d)(1)(A) is amended to read:

(d)(1)(A) A health insurance plan that does not otherwise provide for management of care under the plan, or that does not provide for the same degree of management of care for all health conditions, may provide coverage for treatment of mental health conditions through a managed care organization provided that the managed care organization is in compliance with the rules adopted by the ~~commissioner~~ Commissioner that assure that the system for delivery of treatment for mental health conditions does not diminish or negate the purpose of this section. In reviewing rates and forms pursuant to section 4062 of this title, the ~~commissioner~~ Commissioner or the Green Mountain Care Board established in 18 V.S.A. chapter 220, as appropriate, shall consider the compliance of the policy with the provisions of this section.

Sec. 5f. 8 V.S.A. § 4512(b) is amended to read:

(b) Subject to the approval of the ~~commissioner~~ Commissioner or the Green Mountain Care Board established in 18 V.S.A. chapter 220, as appropriate, a hospital service corporation may establish, maintain, and operate a medical service plan as defined in section 4583 of this title. The ~~commissioner~~ Commissioner or the Board may refuse approval if the ~~commissioner~~ Commissioner or the Board finds that the rates submitted are excessive, inadequate, or unfairly discriminatory, fail to protect the hospital service corporation's solvency, or fail to meet the standards of affordability, promotion of quality care, and promotion of access pursuant to section 4062 of this title. The contracts of a hospital service corporation which operates a

medical service plan under this subsection shall be governed by chapter 125 of this title to the extent that they provide for medical service benefits, and by this chapter to the extent that the contracts provide for hospital service benefits.

Sec. 5g. 8 V.S.A. § 4513(c) is amended to read:

(c) In connection with a rate decision, the ~~commissioner~~ Green Mountain Care Board may also make reasonable supplemental orders to the corporation and may attach reasonable conditions and limitations to such orders as ~~he~~ the Board finds, on the basis of competent and substantial evidence, necessary to ~~insure~~ ensure that benefits and services are provided at minimum cost under efficient and economical management of the corporation. The ~~commissioner~~ Commissioner and, except as otherwise provided by 18 V.S.A. §§ 9375 and 9376, the Green Mountain Care Board, shall not set the rate of payment or reimbursement made by the corporation to any physician, hospital, or other health care provider.

Sec. 5h. 8 V.S.A. § 4515a is amended to read:

§ 4515a. FORM AND RATE FILING; FILING FEES

Every contract or certificate form, or amendment thereof, including the rates charged therefor by the corporation shall be filed with the ~~commissioner~~ Commissioner or the Green Mountain Care Board established in 18 V.S.A. chapter 220, as appropriate, for ~~his or her~~ the Commissioner's or the Board's approval prior to issuance or use. Prior to approval, there shall be a public comment period pursuant to section 4062 of this title. In addition, each such filing shall be accompanied by payment to the ~~commissioner~~ Commissioner or the Board, as appropriate, of a nonrefundable fee of ~~$50.00~~ $150.00 and the plain language summary of rate increases pursuant to section 4062 of this title.

Sec. 5i. 8 V.S.A. § 4584(c) is amended to read:

(c) In connection with a rate decision, the ~~commissioner~~ Green Mountain Care Board may also make reasonable supplemental orders to the corporation and may attach reasonable conditions and limitations to such orders as ~~he or she~~ the Board finds, on the basis of competent and substantial evidence, necessary to ~~insure~~ ensure that benefits and services are provided at minimum cost under efficient and economical management of the corporation. The ~~commissioner~~ Commissioner and, except as otherwise provided by 18 V.S.A. §§ 9375 and 9376, the Green Mountain Care Board, shall not set the rate of payment or reimbursement made by the corporation to any physician, hospital, or other health care provider.

Sec. 5j. 8 V.S.A. § 4587 is amended to read:

§ 4587. FILING AND APPROVAL OF CONTRACTS

A medical service corporation which has received a permit from the ~~commissioner of financial regulation~~ Commissioner of Financial Regulation under section 4584 of this title shall not thereafter issue a contract to a subscriber or charge a rate therefor which is different from copies of contracts and rates originally filed with such ~~commissioner~~ Commissioner and approved by him or her at the time of the issuance to such medical service corporation of its permit, until it has filed copies of such contracts which it proposes to issue and the rates it proposes to charge therefor and the same have been approved by ~~such commissioner~~ the Commissioner or the Green Mountain Care Board established in 18 V.S.A. chapter 220, as appropriate. Prior to approval, there shall be a public comment period pursuant to section 4062 of this title. Each such filing of a contract or the rate therefor shall be accompanied by payment to the ~~commissioner~~ Commissioner or the Board, as appropriate, of a nonrefundable fee of ~~$50.00~~ $150.00. A medical service corporation shall file a plain language summary of rate increases pursuant to section 4062 of this title.

Sec. 5k. 8 V.S.A. § 5104 is amended to read:

§ 5104. FILING AND APPROVAL OF RATES AND FORMS; SUPPLEMENTAL ORDERS

(a)(1) A health maintenance organization which has received a certificate of authority under section 5102 of this title shall file and obtain approval of all policy forms and rates as provided in sections 4062 and 4062a of this title. This requirement shall include the filing of administrative retentions for any business in which the organization acts as a third party administrator or in any other administrative processing capacity. The ~~commissioner~~ Commissioner or the Green Mountain Care Board, as appropriate, may request and shall receive any information that the ~~commissioner~~ Commissioner or the Board deems necessary to evaluate the filing. In addition to any other information requested, the ~~commissioner~~ Commissioner or the Board shall require the filing of information on costs for providing services to the organization's Vermont members affected by the policy form or rate, including Vermont claims experience, and administrative and overhead costs allocated to the service of Vermont members. Prior to approval, there shall be a public comment period pursuant to section 4062 of this title. A health maintenance organization shall file a summary of rate filings pursuant to section 4062 of this title.

(2) The ~~commissioner~~ Commissioner or the Board shall refuse to approve~~, or to seek the Green Mountain Care board's approval of,~~ the form of evidence of coverage, filing, or rate if it contains any provision which is unjust, unfair, inequitable, misleading, or contrary to the law of the ~~state~~ State or plan

of operation, or if the rates are excessive, inadequate or unfairly discriminatory, fail to protect the organization's solvency, or fail to meet the standards of affordability, promotion of quality care, and promotion of access pursuant to section 4062 of this title. No evidence of coverage shall be offered to any potential member unless the person making the offer has first been licensed as an insurance agent in accordance with chapter 131 of this title.

(b) In connection with a rate decision, the ~~commissioner~~ Board may also~~, with the prior approval of the Green Mountain Care board established in 18 V.S.A. chapter 220,~~ make reasonable supplemental orders and may attach reasonable conditions and limitations to such orders as the ~~commissioner~~ Board finds, on the basis of competent and substantial evidence, necessary to ~~insure~~ ensure that benefits and services are provided at reasonable cost under efficient and economical management of the organization. The ~~commissioner~~ Commissioner and, except as otherwise provided by 18 V.S.A. §§ 9375 and 9376, the Green Mountain Care Board, shall not set the rate of payment or reimbursement made by the organization to any physician, hospital, or health care provider.

Sec. 5l. 18 V.S.A. § 9375(b) is amended to read:

(b) The ~~board~~ Board shall have the following duties:

* * *

(6) Approve, modify, or disapprove requests for health insurance rates pursuant to 8 V.S.A. § 4062 ~~within 30 days of receipt of a request for approval from the commissioner of financial regulation~~, taking into consideration the requirements in the underlying statutes, changes in health care delivery, changes in payment methods and amounts, protecting insurer solvency, and other issues at the discretion of the ~~board~~ Board;

* * *

Sec. 5m. 18 V.S.A. § 9381 is amended to read:

§ 9381. APPEALS

(a)~~(1)~~ The Green Mountain Care ~~board~~ Board shall adopt procedures for administrative appeals of its actions, orders, or other determinations. Such procedures shall provide for the issuance of a final order and the creation of a record sufficient to serve as the basis for judicial review pursuant to subsection (b) of this section.

~~(2) Only decisions by the board shall be appealable under this subsection. Recommendations to the board by the commissioner of financial regulation pursuant to 8 V.S.A. § 4062(a) shall not be subject to appeal.~~

(b) Any person aggrieved by a final action, order, or other determination of the Green Mountain Care ~~board~~ Board may, upon exhaustion of all administrative appeals available pursuant to subsection (a) of this section, appeal to the ~~supreme court~~ Supreme Court pursuant to the Vermont Rules of Appellate Procedure.

(c) If an appeal or other petition for judicial review of a final order is not filed in connection with an order of the Green Mountain Care ~~board~~ Board pursuant to subsection (b) of this section, the ~~chair~~ Chair may file a certified copy of the final order with the clerk of a court of competent jurisdiction. The order so filed has the same effect as a judgment of the court and may be recorded, enforced, or satisfied in the same manner as a judgment of the court.

(d) A decision of the Board approving, modifying, or disapproving a health insurer's proposed rate pursuant to 8 V.S.A. § 4062 shall be considered a final action of the Board and may be appealed to the Supreme Court pursuant to subsection (b) of this section.

Sec. 5n. 33 V.S.A. § 1811(j) is amended to read:

(j) The ~~commissioner~~ Commissioner or the Green Mountain Care Board established in 18 V.S.A. chapter 220, as appropriate, shall disapprove any rates filed by any registered carrier, whether initial or revised, for insurance policies unless the anticipated medical loss ratios for the entire period for which rates are computed are at least 80 percent, as required by the ~~Patient Protection and~~ Affordable Care Act ~~(Public Law 111-148)~~.

Fifth: By adding a Sec. 35 to read as follows:

* * * Hospital Energy Efficiency * * *

Sec. 35. HOSPITALS; ENERGY EFFICIENCY

(a) In this section, "hospital" shall have the same meaning as in 18 V.S.A. § 1902.

(b) On or before July 1, 2014, each hospital shall present an energy efficiency action plan to the Green Mountain Care Board. The action plan shall include specific measures to be undertaken which may include energy audits, periodic benchmarking to track performance over time, and energy savings goals. The action plan shall be consistent with the hospital's strategic goals, capital plans, and previous energy efficiency initiatives, if any.

(c) When conducting an energy assessment or audit, the hospital shall use assessment and audit methodologies approved by the energy efficiency entity or entities appointed under 30 V.S.A. § 209(d)(2) to serve the area in which the building or structure is located. These methodologies shall meet standards that are consistent with those contained in 30 V.S.A. § 218c.

(d) The energy efficiency entities appointed under 30 V.S.A. § 209(d)(2) to serve the area in which the building or structure is located shall provide assistance to hospitals in the development of their action plans and presentation to the Green Mountain Care Board. This assistance shall be provided pursuant to the entities' obligations under 30 V.S.A. § 209(d) and (e) and implementing Public Service Board orders.

Sixth: By adding Secs. 37a–37c to read as follows:

* * * Allocation of Expenses * * *

Sec. 37a. 18 V.S.A. § 9374(h) is amended to read:

(h)(1) ~~Expenses~~ Except as otherwise provided in subdivision (2) of this subsection, expenses incurred to obtain information, analyze expenditures, review hospital budgets, and for any other contracts authorized by the ~~board~~ Board shall be borne as follows:

(A) 40 percent by the ~~state~~ State from state monies;

(B) 15 percent by the hospitals;

(C) 15 percent by nonprofit hospital and medical service corporations licensed under 8 V.S.A. chapter 123 or 125;

(D) 15 percent by health insurance companies licensed under 8 V.S.A. chapter 101; and

(E) 15 percent by health maintenance organizations licensed under 8 V.S.A. chapter 139.

(2) The Board may determine the scope of the incurred expenses to be allocated pursuant to the formula set forth in subdivision (1) of this subsection if, in the Board's discretion, the expenses to be allocated are in the best interests of the regulated entities and of the State.

(3) Expenses under subdivision (1) of this subsection shall be billed to persons licensed under Title 8 based on premiums paid for health care coverage, which for the purposes of this section shall include major medical, comprehensive medical, hospital or surgical coverage, and comprehensive health care services plans, but shall not include long-term care or limited benefits, disability, credit or stop loss, or excess loss insurance coverage.

Sec. 37b. 18 V.S.A. § 9415 is amended to read:

§ 9415. ALLOCATION OF EXPENSES

(a) ~~Expenses~~ Except as otherwise provided in subsection (b) of this section, expenses incurred to obtain information and to analyze expenditures, review

hospital budgets, and for any other related contracts authorized by the ~~commissioner~~ Commissioner shall be borne as follows:

(1) 40 percent by the ~~state~~ State from state monies~~,~~;

(2) 15 percent by the hospitals~~,~~;

(3) 15 percent by nonprofit hospital and medical service corporations licensed under 8 V.S.A. chapter 123 or 125~~,~~;

(4) 15 percent by health insurance companies licensed under 8 V.S.A. chapter 101~~,~~; and

(5) 15 percent by health maintenance organizations licensed under 8 V.S.A. chapter 139.

(b) The Commissioner may determine the scope of the incurred expenses to be allocated pursuant to the formula set forth in subsection (a) of this section if, in the Commissioner's discretion, the expenses to be allocated are in the best interests of the regulated entities and of the State.

(c) Expenses under subsection (a) of this section shall be billed to persons licensed under Title 8 based on premiums paid for health care coverage, which for the purposes of this section include major medical, comprehensive medical, hospital or surgical coverage, and any comprehensive health care services plan, but ~~does~~ shall not include long-term care, limited benefits, disability, credit or stop loss or excess loss insurance coverage

Sec. 37c. BILL-BACK REPORT

(a) Annually on or before September 15, the Green Mountain Care Board and the Department of Financial Regulation shall report to the House Committee on Health Care, the Senate Committees on Health and Welfare and on Finance, and the House and Senate Committees on Appropriations the total amount of all expenses eligible for allocation pursuant to 18 V.S.A. §§ 9374(h) and 9415 during the preceding state fiscal year and the total amount actually billed back to the regulated entities during the same period.

(b) The Board and the Department shall also present the information required by subsection (a) of this section to the Joint Fiscal Committee annually at its September meeting.

Seventh: By adding a Sec. 42a to read as follows:

Sec. 42a. EXCHANGE IMPACT REPORT

On or before March 15, 2015 and every three years thereafter, the Agency of Administration shall report to the House Committee on Health Care and the Senate Committees on Health and Welfare and on Finance regarding the

impact of the Vermont Health Benefit Exchange and the federal individual responsibility requirement on:

(1) the number of uninsured and underinsured Vermonters;

(2) the amount of uncompensated care and bad debt in Vermont; and

(3) the cost shift.

Eighth: By striking out Sec. 51, Emergency Rulemaking, in its entirety and inserting in lieu thereof a new Sec. 51 to read as follows:

* * * Emergency Rulemaking * * *

Sec. 51. EMERGENCY RULEMAKING

The Agency of Human Services shall adopt rules pursuant to 3 V.S.A. chapter 25 prior to April 1, 2014 to conform Vermont's rules regarding operation of the Vermont Health Benefit Exchange to federal guidance and regulations implementing the provisions of the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the federal Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152. The Agency shall also adopt rules in order to implement the provisions of 2011 Acts and Resolves No. 48 and 2012 Acts and Resolves No. 171 regarding changes to eligibility, enrollment, renewals, grievances and appeals, public availability of program information, and coordination across health benefit programs, as well as to revise and coordinate existing agency health benefit program rules into a single integrated and updated code. The rules shall be adopted to achieve timely compliance with state and federal laws and guidance and to coordinate and consolidate the Agency's current health benefit program eligibility rules for the effective launch and operation of the Vermont Health Benefit Exchange and shall be deemed to meet the standard for the adoption of emergency rules required pursuant to 3 V.S.A. § 844(a).

Ninth: By adding Secs. 51a–51c to read as follows:

* * * Cigarette and Snuff Taxes * * *

Sec. 51a. 32 V.S.A. § 7771 is amended to read:

§ 7771. RATE OF TAX

* * *

(d) The tax imposed under this section shall be at the rate of ~~131~~ 171 mills per cigarette or little cigar and for each 0.0325 ounces of roll-your-own tobacco. The interest and penalty provisions of section 3202 of this title shall apply to liabilities under this section.

Sec. 51b. 32 V.S.A. § 7811 is amended to read:

§ 7811. IMPOSITION OF TOBACCO PRODUCTS TAX

There is hereby imposed and shall be paid a tax on all other tobacco products, snuff, and new smokeless tobacco possessed in the State of Vermont by any person for sale on and after July 1, 1959 which were imported into the State or manufactured in the State after that date, except that no tax shall be imposed on tobacco products sold under such circumstances that this State is without power to impose such tax, or sold to the United States, or sold to or by a voluntary unincorporated organization of the Armed Forces of the United States operating a place for the sale of goods pursuant to regulations promulgated by the appropriate executive agency of the United States. The tax is intended to be imposed only once upon the wholesale sale of any other tobacco product and shall be at the rate of 92 percent of the wholesale price for all tobacco products except snuff, which shall be taxed at ~~$1.87~~ $2.85 per ounce, or fractional part thereof, new smokeless tobacco, which shall be taxed at the greater of ~~$1.87~~ $2.85 per ounce or, if packaged for sale to a consumer in a package that contains less than 1.2 ounces of the new smokeless tobacco, at the rate of ~~$2.24~~ $3.42 per package, and cigars with a wholesale price greater than $2.17, which shall be taxed at the rate of $2.00 per cigar if the wholesale price of the cigar is greater than $2.17 and less than $10.00, and at the rate of $4.00 per cigar if the wholesale price of the cigar is $10.00 or more. Provided, however, that upon payment of the tax within 10 days, the distributor or dealer may deduct from the tax two percent of the tax due. It shall be presumed that all other tobacco products, snuff, and new smokeless tobacco within the State are subject to tax until the contrary is established and the burden of proof that any other tobacco products, snuff, and new smokeless tobacco are not taxable hereunder shall be upon the person in possession thereof. Licensed wholesalers of other tobacco products, snuff, and new smokeless tobacco shall state on the invoice whether the price includes the Vermont tobacco products tax.

Sec. 51c. 32 V.S.A. § 7814 is amended to read:

§ 7814. FLOOR STOCK TAX

(a) Snuff. A floor stock tax is hereby imposed upon every retailer of snuff in this ~~state~~ State in the amount by which the new tax exceeds the amount of the tax already paid on the snuff. The tax shall apply to snuff in the possession or control of the retailer at 12:01 a.m. ~~o'clock~~ on July 1, ~~2006~~ 2013, but shall not apply to retailers who hold less than $500.00 in wholesale value of such snuff. Each retailer subject to the tax shall, on or before July 25, ~~2006~~ 2013 file a report to the ~~commissioner~~ Commissioner in such form as the ~~commissioner~~ Commissioner may prescribe showing the snuff on hand at

12:01 a.m. ~~o'clock~~ on July 1, ~~2006~~ 2013, and the amount of tax due thereon. The tax imposed by this section shall be due and payable on or before ~~August 25, 2006~~ July 25, 2013, and thereafter shall bear interest at the rate established under section 3108 of this title. In case of timely payment of the tax, the retailer may deduct from the tax due two percent of the tax. Any snuff with respect to which a floor stock tax has been imposed and paid under this section shall not again be subject to tax under section 7811 of this title.

(b) Cigarettes, little cigars, or roll-your-own tobacco. Notwithstanding the prohibition against further tax on stamped cigarettes, little cigars, or roll-your-own tobacco under section 7771 of this title, a floor stock tax is hereby imposed upon every dealer of cigarettes, little cigars, or roll-your-own tobacco in this ~~state~~ State who is either a wholesaler, or a retailer who at 12:01 a.m. on July 1, ~~2011,~~ 2013 has more than 10,000 cigarettes or little cigars or who has $500.00 or more of wholesale value of roll-your-own tobacco, for retail sale in his or her possession or control. The amount of the tax shall be the amount by which the new tax exceeds the amount of the tax already paid for each cigarette, little cigar, or roll-your-own tobacco in the possession or control of the wholesaler or retailer at 12:01 a.m. on July 1, ~~2011~~ 2013, and on which cigarette stamps have been affixed before July 1, ~~2011~~ 2013. A floor stock tax is also imposed on each Vermont cigarette stamp in the possession or control of the wholesaler at 12:01 a.m. on July 1, ~~2011~~ 2013, and not yet affixed to a cigarette package, and the tax shall be at the rate of ~~$0.38~~ $0.80 per stamp. Each wholesaler and retailer subject to the tax shall, on or before July 25, ~~2011~~ 2013, file a report to the ~~commissioner~~ Commissioner in such form as the ~~commissioner~~ Commissioner may prescribe showing the cigarettes, little cigars, or roll-your-own tobacco and stamps on hand at 12:01 a.m. on July 1, ~~2011~~ 2013, and the amount of tax due thereon. The tax imposed by this section shall be due and payable on or before July 25, ~~2011,~~ 2013 and thereafter shall bear interest at the rate established under section 3108 of this title. In case of timely payment of the tax, the wholesaler or retailer may deduct from the tax due two and three-tenths of one percent of the tax. Any cigarettes, little cigars, or roll-your-own tobacco with respect to which a floor stock tax has been imposed under this section shall not again be subject to tax under section 7771 of this title.

Tenth: In Sec. 53, effective dates, in subsection (a), following "3 (prescription drug deductibles),", by adding "5a (prior authorization), 5b (standardized claims and edits),"; in subsection (a), following "33–34a (health information exchange),", by adding "35 (hospital energy efficiency),"; and by redesignating the existing subsection (e) to be subsection (g) and adding new subsections (e) and (f) to read as follows:

(e) Secs. 5c–5n (rate review) of this act shall take effect on January 1, 2014 and shall apply to all insurers filing rates and forms for major medical insurance plans on and after January 1, 2014, except that the Green Mountain Care Board and the Department of Financial Regulation may amend their rules and take such other actions before that date as are necessary to ensure that the revised rate review process will be operational on January 1, 2014.

(f) Sec. 42a (Exchange impact report) shall take effect on July 1, 2014.

(Committee vote: 7-0-0)

H. 270.

An act relating to providing access to publicly funded prekindergarten education .

Reported favorably with recommendation of proposal of amendment by Senator Collins for the Committee on Education.

The Committee recommends that the Senate propose to the House that the bill be amended by inserting a new section to be Sec. 3b to read:

Sec. 3b. PREKINDERGARTEN REGIONS; PROCESS AND CRITERIA

The Agencies of Education and of Human Services, in consultation with the Vermont Superintendents Association, the Vermont School Boards Association, the Vermont Principals' Association, the Vermont-NEA, and the Vermont Early Childhood Alliance, shall develop a detailed proposal outlining the process and criteria by which the Agencies will determine the prekindergarten region of a school district if requested to do so pursuant to Sec. 1, 16 V.S.A. § 829(h)(2), of this act. The Agencies shall present the proposal to the House and Senate Committees on Education on or before January 15, 2014. The Agencies shall also present any recommendations for amendments to statute, including repeal of or amendments to subsection (h).

(Committee vote: 5-0-0)

(For House amendments, see House Journal for April 30, 2013, pages 1002 and 1003 and May 1, 2013, page 1043.)

H. 450.

An act relating to expanding the powers of regional planning commissions.

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, 24 V.S.A. § 4345, in subdivision (16)(B), by striking out the first sentence and inserting in lieu thereof the following:

borrow money and incur indebtedness for the purposes of purchasing or leasing property for office space, establish and administer a revolving loan fund, or establish a line of credit, if approved by a two-thirds vote of those representatives to the regional planning commission present and voting at a meeting to approve such action.

Second: After Sec. 2, by inserting a new Sec. 3 as follows:

Sec. 3. 24 V.S.A. § 4341 is amended to read:

§ 4341. CREATION OF REGIONAL PLANNING COMMISSIONS

(a) A regional planning commission may be created at any time by the act of the voters or the legislative body of each of a number of contiguous municipalities, upon the written approval of the ~~agency of commerce and community development~~ Agency of Commerce and Community Development. Approval of a designated region shall be based on whether the municipalities involved constitute a logical geographic and a coherent ~~socio-economic~~ socioeconomic planning area. All municipalities within a designated region shall be considered members of the regional planning commission. For the purpose of a regional planning commission's carrying out its duties and functions under state law, such a designated region shall be considered a political subdivision of the State.

* * *

And by renumbering the remaining section to be numerically correct.

(Committee vote: 5-0-0)

(For House amendments, see House Journal for April 24, 2013, page 854.)

H. 515.

An act relating to miscellaneous agricultural subjects.

Reported favorably with recommendation of proposal of amendment by Senator Starr for the Committee on Agriculture.

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:

* * * Livestock and Poultry Products * * *

Sec. 1. 6 V.S.A. § 3302 is amended to read:

§ 3302. DEFINITIONS

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

* * *

(10) "Custom slaughterhouse" means a person who maintains a slaughtering establishment under this chapter for the purposes of slaughtering livestock or poultry for another person's exclusive use by him or her and members of his or her household and his or her nonpaying guests and employees ~~and who is not engaged in the business of buying or selling carcasses, parts of carcasses, meat or meat food products or any cattle, sheep, swine, goats, domestic rabbits, equines, or poultry, capable of use as human food~~.

* * *

(43) "Itinerant livestock slaughter" means slaughter, in accordance with the requirements of subsection 3311a(e) of this title, of livestock owned by a person for his or her exclusive use or for use by members of his or her household and his or her nonpaying guests and employees.

(44) "Itinerant poultry slaughter" means the slaughter of poultry:

(A) at a person's home or farm in accordance with subsection 3312(b) of this title; or

(B) at a facility approved by the Secretary for the slaughtering of poultry.

(45) "Itinerant slaughterer" means a person, who for compensation or gain, engages in itinerant livestock slaughter or itinerant poultry slaughter.

Sec. 2. 6 V.S.A. § 3305 is amended to read:

§ 3305. ADDITIONAL POWERS OF THE SECRETARY

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

* * *

(18) sell or lease a mobile slaughtering unit, and may retain any proceeds therefrom in a ~~revolving~~ fund designated for the purpose of purchasing additional mobile slaughtering units ~~by the agency~~ or providing

matching grants for capital investments to increase poultry slaughter or poultry processing capacity.

Sec. 3. 6 V.S.A. § 3306 is amended to read:

§ 3306. LICENSING

(a) No person ~~may~~ shall engage in intrastate commerce in the business of buying, selling, preparing, processing, packing, storing, transporting, or otherwise handling meat, meat food products, or poultry products, unless that person holds a valid license issued under this chapter. Categories of licensure shall include: commercial slaughterers, custom slaughterers, commercial processors, custom processors, wholesale distributors, retail vendors, meat and poultry product brokers, renderers, public ~~warehousemen~~ warehouse operators, animal food manufacturers, handlers of dead, dying, disabled, or diseased animals, and any other category which the ~~secretary~~ Secretary may by rule establish.

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

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

(d) The annual fee for a license for a retail vendor is $15.00 for vendors without meat cutting operations, $30.00 for vendors with meat cutting space of less than 300 square feet or meat display space of less than 20 linear feet, and $60.00 for vendors with 300 or more square feet of meat cutting space and 20 or more linear feet of meat display space. Fees collected under this section shall be deposited in a special fund managed pursuant to 32 V.S.A. chapter 7, subchapter 5 ~~of chapter 7 of Title 32~~, and shall be available to the ~~agency~~ Agency to offset the cost of administering chapter 204 of this title. For all other plants, establishments, and related businesses listed under subsection (a) of this section, except for a public warehouse licensed under chapter 67 of this title, the annual license fee shall be $50.00.

* * *

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

Sec. 4. 6 V.S.A. § 3311a is added to read:

§ 3311a. LIVESTOCK; INSPECTION; LICENSING; PERSONAL SLAUGHTER; ITINERANT SLAUGHTER

(a) As used in this section:

(1) "Assist in the slaughter of livestock" means the act of slaughtering or butchering an animal and shall not mean the farmer's provision of a site on the farm for slaughter, provision of implements for slaughter, or the service of disposal of the carcass or offal from slaughter.

(2) "Sanitary conditions" means a site on a farm that is:

(A) clean and free of contaminants; and

(B) located or designed in a way to prevent:

(i) the occurrence of water pollution; and

(ii) the adulteration of the livestock or the slaughtered meat.

(b) The requirement for a license under section 3306 of this title or for inspection under this chapter shall not apply to the slaughter by an individual of livestock that the individual raised for the individual's exclusive use or for the use of members of his or her household and his or her nonpaying guests and employees.

(c) The requirement for a license under section 3306 of this title or for inspection under this chapter shall not apply to the slaughter of livestock that occurs in a manner that meets all of the following requirements:

(1) an individual purchases livestock from a farmer that raised the livestock;

(2) the individual who purchased the livestock performs the act of slaughtering the livestock;

(3) the act of slaughter occurs, after approval from the farmer who sold the livestock, on a site on the farm where the livestock was purchased;

(4) the slaughter is conducted under sanitary conditions;

(5) the farmer who sold the livestock to the individual does not assist in the slaughter of the livestock; and

(6) no more than the following number of livestock per year are slaughtered under this subsection:

(A) 10 swine;

(B) three cattle;

(C) 25 sheep or goats; or

(D) any combination of swine, cattle, sheep, or goats, provided that no more than 3,500 pounds of the live weight of livestock are slaughtered per year; and

(7) the farmer who sold the livestock to the individual maintains a record of each slaughter conducted under this subsection and reports to the Secretary on or before the 15th day of each month regarding all slaughter activity conducted under this subsection in the previous month.

(d) The requirement for a license under section 3306 of this title or for inspection under this chapter shall not apply to an itinerant slaughterer engaged in the act of itinerant livestock slaughter or itinerant poultry slaughter.

(e) An itinerant slaughterer may slaughter livestock owned by a person on the farm where the livestock was raised under the following conditions:

(1) the meat from the slaughter of the livestock is distributed only as whole or half carcasses to the person who owned the animal for their personal use or for use by members of their households or nonpaying guests; and

(2) the slaughter is conducted under sanitary conditions.

(f) A carcass or offal from slaughter conducted under this section shall be disposed of according to the requirements under the accepted agricultural practices for the management of agricultural waste.

* * * Public Warehouses that Store Farm Products * * *

Sec. 5. 6 V.S.A. § 891 is amended to read:

§ 891. LICENSE

Excepting frozen food locker plants, any person, as defined in 9A V.S.A. §§ 1-201 and 7-102, who stores milk, cream, butter, cheese, eggs, ~~dressed~~ meat, poultry and fruit for hire in quantities of 1,000 pounds or more of ~~each~~ any commodity shall first be licensed by the ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets. Each separate place of business shall be licensed.

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

Sec. 6. 9 V.S.A. § 2697 is amended to read:

§ 2697. LIQUID FUELS

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

(1) at the time of delivery; or

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

(A) the name and address of the vendor;

(B) the name and address of the purchaser;

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

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

(E) in the case of sale by liquid measure, the liquid volume of the delivery shall be determined by a meter with a register printing the meter readings on a ticket, a copy of which shall be given to the purchaser, from which such liquid volume shall be computed, expressed in terms of the gallon and its binary or decimal subdivisions (the ticket shall not be inserted into the register until immediately before delivery is begun, and in no case shall a ticket be in the register when the vehicle is in motion); or the liquid volume may be determined by a vehicle tank used as a measure when in full compliance with Handbook H-44 and calibrated by a weights and measures official. Sale by a liquid measuring device as defined in Handbook H-44, and sale by a vapor meter are excluded from this section. The volume of liquid fuels delivered on consignment shall be computed and charged for only from the totalizers on the devices dispensing the product;

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

(b) The use of temperature compensation during delivery of all liquid fuels, with the exception of the delivery of liquefied petroleum gas, is prohibited. The Secretary shall enforce this prohibition in the same manner as other violations of this chapter.

* * * Dairy Operations * * *

Sec. 7. 6 V.S.A. § 2672 is amended to read:

§ 2672. DEFINITIONS

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

* * *

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

* * *

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

* * *

Sec. 8. 6 V.S.A. § 2723a is added to read:

§ 2723a. DISTRIBUTOR'S LICENSES

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

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

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

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

* * * Mosquito Abatement * * *

Sec. 9. 6 V.S.A. § 1085 is amended to read:

§ 1085. MOSQUITO CONTROL GRANT PROGRAM

(a) A mosquito control district formed pursuant to 24 V.S.A. chapter 121 ~~of Title 24~~ may apply, in a manner prescribed by the ~~secretary~~ Secretary, in writing to the ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets, for a state assistance grant for mosquito control activities.

(b) After submission of an application under subsection (a) of this section, the ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets may award a grant of 75 percent or less of the project costs for the purchase and application of larvicide and the costs associated with required larval survey activities within a mosquito control district. The mosquito control district may provide 25 percent of the project costs through in-kind services, including adulticide application or the purchase of capital equipment used for mosquito control activities.

* * *

* * * Agricultural Water Quality;
Nutrient Management Planning * * *

Sec. 10. 6 V.S.A. § 4801 is amended to read:

§ 4801. PURPOSE; STATE POLICY

It is the purpose of this chapter to ensure that agricultural animal wastes do not enter the waters of this ~~state~~ State. Therefore, it is state policy that:

(1) All farms meet certain standards in the handling and disposal of animal wastes, as provided by this chapter and the cost of meeting these standards shall not be borne by farmers only, but rather by all members of society, who are in fact the beneficiaries. Accordingly, state and federal funds shall be made available to farms, regardless of size, to defray the major cost of complying with the ~~animal waste~~ requirements of this chapter. State and federal conservation programs to assist farmers should be directed to those farms that need to improve their infrastructure to prohibit direct discharges or bring existing water pollution control structures into compliance with United States Department of Agriculture (U.S.D.A.) Natural Resources Conservation Service standards. Additional resources should be directed to education and

technical assistance for farmers to improve the management of agricultural wastes and protect water quality.

(2) Officials who administer the provisions of this chapter:

(A) shall educate farmers and other affected citizens on requirements of this chapter through an outreach collaboration with farm associations and other community groups; ~~and~~

(B) shall, in the process of rendering official decisions, afford farmers and other affected citizens an opportunity to be heard and give consideration to all interests expressed; and

(C) may provide grants from a program established under this chapter to eligible Vermont municipalities, local or regional governmental agencies, nonprofit organizations, and citizen groups in order to provide direct financial assistance to farms in implementing conservation practices.

Sec. 11. 6 V.S.A. § 4827 is amended to read:

§ 4827. NUTRIENT MANAGEMENT PLANNING; INCENTIVE GRANTS

(a) A farm developing or implementing a nutrient management plan under chapter 215 of this title or federal regulations may apply to the ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets for financial assistance. The financial assistance shall be in the form of incentive grants. Annually, after consultation with the Natural Resources Conservation Service of the U.S. Department of Agriculture, natural resources conservation districts, the University of Vermont extension service and others, the ~~secretary~~ Secretary shall determine the average cost of developing and implementing a nutrient management plan in Vermont. The dollar amount of an incentive grant awarded under this section shall be equal to the average cost of developing a nutrient management plan as determined by the ~~secretary~~ Secretary or the cost of complying with the nutrient management planning requirements of chapter 215 of this title or federal regulations, whichever is less.

(b) Application for a state assistance grant shall be made in a manner prescribed by the ~~secretary~~ Secretary and shall include, at a minimum:

(1) an estimated cost of developing and implementing a nutrient management plan for the applicant;

(2) the amount of incentive grant requested; and

(3) a schedule for development and implementation of the nutrient management plan.

(c) The ~~secretary~~ Secretary annually shall prepare a list of farms ranked, regardless of size, in priority order that have applied for an incentive grant under this section. The priority list shall be established according to factors that the ~~secretary~~ Secretary determines are relevant to protect the quality of waters of the ~~state~~ State, including:

(1) the proximity of a farm to a water listed as impaired for agricultural runoff, pathogens, phosphorus, or sediment by the ~~agency of natural resources~~ Agency of Natural Resources;

(2) the proximity of a farm to an unimpaired water of the ~~state~~ State;

(3) the proximity of a drinking water well to land where a farm applies manure; and

(4) the risk of discharge to waters of the ~~state~~ State from the land application of manure by a farm.

(d) Assistance in accordance with this section shall be provided from state funds appropriated to the ~~agency of agriculture, food and markets~~ Agency of Agriculture, Food and Markets for integrated crop management.

(e) If the ~~secretary~~ Secretary lacks adequate funds necessary for the financial assistance required by subsection (a) of this section, the requirement to develop and implement a nutrient management plan under state statute or state regulation shall be suspended until adequate funding becomes available. Suspension of a state-required nutrient management plan does not relieve an owner or operator of a farm permitted under section 4858 of this title of the remaining requirements of a state permit, including discharge standards, groundwater protection, and land application of manure. This subsection does not apply to farms permitted under 10 V.S.A. § 1263 or farms permitted under section 4851 of this title.

(f) The ~~secretary~~ Secretary may contract with natural resources conservation districts, the University of Vermont extension service, and other persons and organizations to aid in the implementation of the incentive grants program under subsection (a) of this section and to assist farmers in the development and implementation of nutrient management plans.

(g) ~~Notwithstanding the requirements of subsection (c) of this section, the secretary may, as general funds are appropriated for this purpose, provide a one-time incentive payment under this section to encourage farmers to inject manure on grass or crop land over one growing season.~~ [Repealed.]

Sec. 12. 6 V.S.A. § 4951 is amended to read:

§ 4951. FARM AGRONOMIC PRACTICES PROGRAM

(a) The ~~farm agronomic practices assistance program~~ Farm Agronomic Practices Assistance Program is created in the ~~agency of agriculture, food and markets~~ Agency of Agriculture, Food and Markets to provide the farms of Vermont with state financial assistance for the implementation of soil-based practices that improve soil quality and nutrient retention, increase crop production, minimize erosion potential, and reduce agricultural waste discharges. The following practices shall be eligible for assistance to farms under the grant program:

(1) conservation crop rotation;

(2) cover cropping;

(3) strip cropping;

(4) cross-slope tillage;

(5) zone or no-tillage;

(6) pre-sidedress nitrate tests;

(7) annual maintenance of a nutrient management plan that is no longer receiving funding under a state or federal contract, provided the maximum assistance provided to a farmer under this subdivision shall be ~~$1,000.00~~ $2,000.00 per year;

(8) educational and instructional activities to inform the farmers and citizens of Vermont of:

(A) the impact on Vermont waters of agricultural waste discharges;

(B) the federal and state requirements for controlling agricultural waste discharges;

(9) implementing alternative manure application techniques; and

(10) additional soil erosion reduction practices.

(b) Funding available under section 4827 of this title for nutrient management planning may be used to fund practices under this section.

* * * Sunset; Livestock Slaughter Exemptions * * *

Sec. 13. REPEAL; LIVESTOCK SLAUGHTER EXEMPTIONS

6 V.S.A. § 3311a (livestock slaughter inspection and license exemptions) shall be repealed on July 1, 2016.

* * * Effective Date * * *

Sec. 14. EFFECTIVE DATE

This act shall take effect on passage.

(Committee vote: 4-0-1)

(No House amendments.)

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

The Committee recommends that the Senate propose to the House to amend the bill as recommended by the Committee on Agriculture with the following amendment thereto:

In Sec. 8, 6 V.S.A. § 2723a, in subsection (a), in the second sentence, by striking "$15.00" and inserting in lieu thereof $20.00

(Committee vote: 7-0-0)

H. 520.

An act relating to reducing energy costs and greenhouse gas emissions.

Reported favorably with recommendation of proposal of amendment by Senator Hartwell 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 (findings), by striking out subdivision (1) in its entirety, and in subdivision (9), by striking out the second sentence and inserting in lieu thereof the following:

The State must encourage the efficient use of energy to heat buildings and water in order to reduce Vermont's carbon footprint and fuel costs and make heating more affordable for all Vermonters.

And by renumbering the subdivisions of Sec. 1 to be numerically correct

Second: In Sec. 2, 30 V.S.A. § 209, in subdivision (g)(2), in the second sentence, after the word "appropriate" by inserting to service providers and to entities having information on associated environmental issues such as the presence of asbestos in existing insulation and, in subdivision (g)(4), in the second sentence, after the word "performed" by inserting according to a standard methodology and

Third: In Sec. 3 (appointed entities; initial plan; statutory revision), in subsection (b), in the first sentence, by striking out the word "September" and inserting in lieu thereof November and by striking out the word "annual" and, in the third sentence, by striking out "December 15, 2013" and inserting in lieu thereof February 15, 2014 and by striking out the word "annual" and, in subsection (c), by striking out "December 15, 2013" and inserting in lieu thereof February 15, 2014

Fourth: By striking out Sec. 6 in its entirety and inserting in lieu thereof a new Sec. 6 as follows:

Sec. 6. 21 V.S.A. § 266 is amended to read:

§ 266. RESIDENTIAL BUILDING ENERGY STANDARDS; STRETCH CODE

(a) Definitions. ~~For purposes of~~ In this subchapter, the following definitions apply:

* * *

(2) "Residential buildings" means one family dwellings, two family dwellings, and multi-family housing three stories or less in height.

(A) With respect to a structure that is three stories or less in height and is a mixed-use building that shares residential and commercial users, the term "residential building" shall include the living spaces in the structure and the nonliving spaces in the structure that serve only the residential users such as common hallways, laundry facilities, residential management offices, community rooms, storage rooms, and foyers.

(B) "Residential buildings" shall not include hunting camps.

* * *

(5) "Stretch code" means a building energy code for residential buildings that achieves greater energy savings than the RBES and is adopted in accordance with subsection (d) of this section.

* * *

(d) Stretch code. The Commissioner may adopt a stretch code by rule. This stretch code shall meet the requirements of subdivision (c)(1) of this section. The stretch code shall be available for adoption by municipalities under 24 V.S.A. chapter 117 and, on final adoption by the Commissioner, shall apply in proceedings under 10 V.S.A. chapter 151 (Act 250) in accordance with subsection (e) of this section.

(e) Role of RBES and Stretch Code in Act 250. Substantial and reliable evidence of compliance with the RBES and, when adopted, the stretch code established and updated ~~as required~~ under this section shall serve as a presumption of compliance with 10 V.S.A. § 6086(a)(9)(F), except no presumption shall be created insofar as compliance with subdivision (a)(9)(F) involves the role of electric resistance space heating. In attempting to rebut a presumption of compliance created under this subsection, a challenge may only focus on the question of whether or not there will be compliance with the RBES and stretch code established and updated ~~as required~~ under this

subsection. A presumption under this subsection may not be overcome by evidence that the RBES and stretch code adopted and updated ~~as required~~ under this section fail to comply with 10 V.S.A. § 6086(a)(9)(F).

~~(e)~~(f) Certification.

(1) Issuance; recording. A certification may be issued by a builder, a licensed professional engineer, a licensed architect or an accredited home energy rating organization. If certification is not issued by a licensed professional engineer, a licensed architect or an accredited home energy rating organization, it shall be issued by the builder. Any certification shall certify that residential construction meets the RBES. The ~~department of public service~~ Department of Public Service will develop and make available to the public a certificate that lists key features of the RBES. Any person certifying shall use this certificate or one substantially like it to certify compliance with RBES. Certification shall be issued by completing and signing a certificate and permanently affixing it to the outside of the heating or cooling equipment, to the electrical service panel located inside the building, or in a visible location in the vicinity of one of these three areas. The certificate shall certify that the residential building has been constructed in compliance with the requirements of the RBES. The person certifying under this subsection shall provide a copy of each certificate to the ~~department of public service~~ Department of Public Service and shall assure that a certificate is recorded and indexed in the town land records. A builder may contract with a licensed professional engineer, a licensed architect or an accredited home energy rating organization to issue certification and to indemnify the builder from any liability to the owner of the residential construction caused by noncompliance with the RBES.

(2) Condition precedent. Provision of a certificate as required by subdivision (1) of this subsection shall be a condition precedent to:

(A) issuance by the Commissioner of Public Safety or a municipal official acting under 20 V.S.A. § 2736 of any final occupancy permit required by the rules of the Commissioner of Public Safety for use or occupancy of residential construction commencing on or after July 1, 2013 that is also a public building as defined in 20 V.S.A. § 2730(a); and

(B) issuance by a municipality of a certificate of occupancy for residential construction commencing on or after July 1, 2013, if the municipality requires such a certificate under 24 V.S.A. chapter 117.

~~(f)~~(g) Action for damages.

(1) Except as otherwise provided in this subsection, a person aggrieved by noncompliance with this section may bring a civil action against a person

who has the obligation of certifying compliance under subsection (e) of this section. This action may seek injunctive relief, damages, court costs, and attorney's fees. As used in this subdivision, "damages" means:

(A) costs incidental to increased energy consumption; and

(B) labor, materials, and other expenses associated with bringing the structure into compliance with RBES in effect on the date construction was commenced.

(2) A person's failure to affix the certification as required by this section shall not be an affirmative defense in such an action against the person.

(3) The rights and remedies created by this section shall not be construed to limit any rights and remedies otherwise provided by law.

~~(g)~~(h) Applicability and exemptions. The construction of a residential addition to a building shall not create a requirement that the entire building comply with this subchapter. The following residential construction shall not be subject to the requirements of this subchapter:

(1) Buildings or additions whose peak energy use design rate for all purposes is less than 3.4 BTUs per hour, per square foot, or less than one watt per square foot of floor area.

(2) Homes subject to Title VI of the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. §§ 5401-5426).

(3) Buildings or additions that are neither heated nor cooled.

(4) Residential construction by an owner, if all of the following apply:

(A) The owner of the residential construction is the builder, as defined under this section.

(B) The residential construction is used as a dwelling by the owner.

(C) The owner in fact directs the details of construction with regard to the installation of materials not in compliance with RBES.

(D) The owner discloses in writing to a prospective buyer, before entering into a binding purchase and sales agreement, with respect to the nature and extent of any noncompliance with RBES. Any statement or certificate given to a prospective buyer shall itemize how the home does not comply with RBES, and shall itemize which measures do not meet the RBES standards in effect at the time construction commenced. Any certificate given under this subsection shall be recorded in the land records where the property is located, and sent to the department of public service, within 30 days following sale of the property by the owner.

~~(h)~~(i) Title validity not affected. A defect in marketable title shall not be created by a failure to issue certification or a certificate, as required under subsection (e) or subdivision (g)(4) of this section, or by a failure under that subsection to: affix a certificate; to provide a copy of a certificate to the department of public service; or to record and index a certificate in the town records.

Fifth: In Sec. 9, 24 V.S.A. § 4449, in subdivision (a)(1), in the third sentence, before the words "building energy standards" by inserting the word applicable and, after the fourth sentence, by inserting the following:

In addition, the administrative officer may provide a copy of the Vermont Residential Building Energy Code Book published by the Department of Public Service in lieu of the full text of the residential building energy standards.

Sixth: By striking out Sec. 10 in its entirety and inserting in lieu thereof a new Sec. 10 as follows:

Sec. 10. 10 V.S.A. § 6086(a)(9)(F) is amended to read:

(F) Energy conservation. A permit will be granted when it has been demonstrated by the applicant that, in addition to all other applicable criteria, the planning and design of the subdivision or development reflect the principles of energy conservation, including reduction of greenhouse gas emissions from the use of energy, and incorporate the best available technology for efficient use or recovery of energy. An applicant seeking an affirmative finding under this criterion shall provide evidence that the subdivision or development complies with the applicable building energy standards under 21 V.S.A. § 266 or 268.

Seventh: In Sec. 12 (disclosure tool working group; reports), by striking out subsection (d) and inserting in lieu thereof a new subsection (d) as follows:

(d) The Department of Public Service (the Department) shall report to the General Assembly in writing:

(1) on or before December 15, 2013, on the findings of the Working Group with regard to the development of a residential building energy disclosure tool; and

(2) on or before December 15, 2014, on the findings of the Working Group with regard to the development of a commercial building energy disclosure tool.

Eighth: After the internal caption "Other Changes to Title 30" and before Sec. 13, by inserting Sec. 12a to read:

Sec. 12a. 30 V.S.A. § 2(e) is added to read:

(e) The Commissioner of Public Service (the Commissioner) will work with the Director of the Office of Economic Opportunity (the Director), the Commissioner of Housing and Community Development, the Vermont Housing and Conservation Board (VHCB), the Vermont Housing Finance Agency (VHFA), the Vermont Community Action Partnership, and the efficiency entity or entities appointed under subdivision 209(d)(2) of this title and such other affected persons or entities as the Commissioner considers relevant to improve the energy efficiency of both single- and multi-family affordable housing units, including multi-family housing units previously funded by VHCB and VHFA and subject to the Multifamily Energy Design Standards adopted by the VHCB and VHFA. In consultation with the other entities identified in this subsection, the Commissioner and the Director together shall report twice to the House and Senate Committees on Natural Resources and Energy, on or before January 31, 2015 and 2017, respectively, on their joint efforts to improve energy savings of affordable housing units and increase the number of units assisted, including their efforts to:

(1) simplify access to funding and other resources for energy efficiency and renewable energy available for single- and multi-family affordable housing. For the purpose of this subsection, "renewable energy" shall have the same meaning as under section 8002 of this title;

(2) ensure the delivery of energy services in a manner that is timely, comprehensive, and cost-effective;

(3) implement the energy efficiency standards applicable to single- and multi-family affordable housing;

(4) measure the outcomes and performance of energy improvements;

(5) develop guidance for the owners and residents of affordable housing to maximize energy savings from improvements; and

(6) determine how to enhance energy efficiency resources for the affordable housing sector in a manner that avoids or reduces the need for assistance under 33 V.S.A. chapter 26 (home heating fuel assistance).

Ninth: In Sec. 21 (fuel purchasing; home heating fuel assistance), by striking out subsections (c) and (d) in their entirety

Tenth: By striking out Sec. 22 (workforce development working group; report) and the associated internal caption entitled "Workforce Development" in their entirety and inserting in lieu thereof [Deleted.]

Eleventh: By striking out Sec. 24 (study; renewables; heating and cooling) in its entirety and inserting in lieu thereof [Deleted.]

Twelfth: By striking out Sec. 25 (Public Service Board; review of cost-effectiveness screening tool) in its entirety and inserting in lieu thereof [Deleted.]

Thirteenth: By striking out Sec. 26 in its entirety and inserting in lieu thereof a new Sec. 26 as follows:

Sec. 26. PELLET STOVE EMISSIONS STANDARDS; REBATES

With respect to pellet stoves eligible for rebates and incentives funded by the State, the Secretary of Natural Resources shall determine whether the State should adopt emissions standards for these pellet stoves that are more stringent than the applicable standards under the Clean Air Act, 42 U.S.C. § 7401 et seq., and shall make this determination in writing on or before November 1, 2013.

Fourteenth: In Sec. 27, 2012 Acts and Resolves No. 170, Sec. 13, in subsection (b), by striking out subdivisions (2) and (3) in their entirety and inserting in lieu thereof new subdivisions (2) and (3) to read:

(2) The group's study and report shall consider currently available information on the economic impacts to the state economy of implementing the policies and funding mechanisms described in this subsection.

(3) The group's report shall ~~include its recommended policy and funding mechanisms and the reasons for the recommendations~~ identify those policies and funding mechanisms described in this subsection that do and do not warrant serious consideration and any areas requiring further analysis and shall include any proposals for legislative action. The report shall be submitted to the ~~general assembly~~ General Assembly by December 15, 2013.

Fifteenth: After Sec. 27, by inserting a Sec. 27a to read as follows:

Sec. 27a. COORDINATION; TOTAL ENERGY AND THERMAL EFFICIENCY FUNDING REPORTS

To the extent feasible, the Department of Public Service and the Public Service Board shall coordinate the total energy study and report to be prepared under 2012 Acts and Resolves No. 170, Sec. 13, as amended by Sec. 27 of this act, and the public process and report on thermal efficiency funding and savings to be prepared under Sec. 29 of this act.

Sixteenth: By striking out Sec. 28 (climate change education; report) in its entirety and inserting in lieu thereof [Deleted.]

Seventeenth: By striking out Sec. 29 (thermal efficiency funding and savings; Public Service Board report) in its entirety and inserting in lieu thereof a new Sec. 29 as follows:

Sec. 29. THERMAL EFFICIENCY FUNDING AND SAVINGS; PUBLIC SERVICE BOARD REPORT

(a) On or before December 15, 2013, the Public Service Board shall conduct and complete a public process and submit a report to the House and Senate Committees on Natural Resources and Energy, the House Committee on Commerce and Economic Development, and the Senate Committee on Finance on the efficient use of unregulated fuels. In this section:

(1) "Regulated fuels" means electricity and natural gas delivered by a regulated utility.

(2) "Unregulated fuels" means all fuels used for heating and process fuel customers other than electricity and natural gas delivered by a regulated utility.

(b) During the process and in the report required by this section, the Board shall evaluate whether there are barriers or inefficiencies in the markets for unregulated fuels that inhibit the efficient use of such fuels.

(c) The Board need not conduct the public process under this section as a contested case under 3 V.S.A. chapter 25 but shall provide notice and an opportunity for written and oral comments to the public and affected parties and state agencies.

Eighteenth: By striking out Sec. 29a (electric vehicles and charging stations, state fleet) in its entirety

Nineteenth: In Sec. 29b, 3 V.S.A. § 2291, in subdivision (c)(6), after the word "incorporate" by inserting conventional hybrid, and after the words "plug-in hybrid" by inserting a comma, and by renumbering the section to be Sec. 29a

Twentieth: By striking out Sec. 29c (promoting the use of electric vehicles) in its entirety

Twenty-first: After Sec. 29c, by inserting two new Secs. to be Secs. 30 and 31 as follows:

* * * State Lands * * *

Sec. 30. 10 V.S.A. chapter 88 is added to read:

CHAPTER 88. PROHIBITION; COMMERCIAL CONSTRUCTION; CERTAIN PUBLIC LANDS

§ 2801. POLICY

Vermont's state parks, forests, natural areas, wilderness areas, wildlife management areas, and wildlife refuges shall be managed to protect their natural or wild state, their recreational uses, and their historic and educational qualities, as appropriate.

§ 2802. PROHIBITION

(a) Construction for any commercial purpose, including the generation of electric power, shall not be permitted within any state park or forest, wilderness area designated by law, or natural area designated under section 2607 of this title.

(b) This section shall not prohibit:

(1) the construction or maintenance of:

(A) a concession or other structure for the use of visitors to state parks or forests;

(B) a recreational trail;

(C) a boat ramp;

(D) a cabin, picnic shelter, interpretive display, or sign;

(E) a sewer or water system at a state park;

(F) a garage, road, or driveway for the purpose of operating or maintaining a state park or forest, or

(G) a net metering system under 30 V.S.A. § 219a to provide electricity to a state park or forest facility;

(2) a modification or improvement to a dam in existence as of the effective date of this section, if the modification or improvement is:

(A) to ensure public safety;

(B) to provide outdoor recreation opportunities or enhance wetlands or habitat for fish or wildlife; or

(C) to allow the dam's use for the generation of electricity, and the construction of any power lines and facilities necessary for such use;

(3) the construction of telecommunications facilities, as defined in 30 V.S.A. § 248a(b) (certificate of public good; communications facilities), in accordance with all other applicable state law;

(4) the harvesting of timber or the construction of a structure, road, or landing for forestry purposes as may be permitted on a state land;

(5) tapping of maple trees and associated activities on state forestland authorized under a license pursuant to section 2606b of this title;

(6) construction on state land that is permitted under a lease or license that was in existence on this section's effective date and, in the case of a ski area, the renewal of such a lease or license or its modification to allow expansion of the ski area; or

(7) the construction or reconstruction of or placement of equipment on utility poles and wires in a right-of-way cleared and in existence as of the effective date of this section.

Sec. 31. REPEAL

10 V.S.A. § 2606(c) (state forests; parks; leases for mining or quarrying) is repealed.

Twenty-second: By striking out Sec. 30 (effective dates) and inserting in lieu thereof a new Sec. 32 as follows:

Sec. 32. EFFECTIVE DATES

(a) The following shall take effect on passage: this section and Secs. 1 (findings); 2 (jurisdiction; general scope); 3 (appointed entities; initial plan; statutory revision); 12 (disclosure tool working group; reports); 18 (eligible beneficiaries; requirements); 19 (benefit amounts); 27 (total energy; report); and 29 (thermal efficiency funding and savings; report) of this act.

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

(Committee vote: 4-0-1)

(For House amendments, see House Journal for March 22, 2013, pages 526 and 530.)

H. 523.

An act relating to jury questionnaires, the filing of foreign child custody determinations, court fees, and judicial record keeping.

Reported favorably with recommendation of proposal of amendment by Senator Ashe for the Committee on Judiciary.

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. 4 V.S.A. § 955 is amended to read:

§ 955. QUESTIONNAIRE

The clerk shall send a jury questionnaire prepared by the ~~court administrator~~ Court Administrator to each person selected. When returned, it shall be retained in the ~~superior court clerk's office~~ Office of the Superior Court Clerk. ~~The questionnaire shall at all times during business hours be open to inspection by the court and attorneys of record of the state of Vermont.~~ Pursuant to section 952 of this title, the Court Administrator shall promulgate rules governing the inspection and availability of the juror questionnaires and the information contained in them.

Sec. 2. 15 V.S.A. § 1085 is amended to read:

§ 1085. REGISTRATION OF CHILD CUSTODY DETERMINATION

* * *

(b) On receipt of the documents required by subsection (a) of this section, the ~~court administrator~~ Family Division shall:

(1) ~~cause the determination to be filed~~ send the certified copy of the determination to the Court Administrator who shall file it as a foreign judgment~~, together with one copy of any accompanying documents and information, regardless of their form~~; and

* * *

Sec. 3. 32 V.S.A. § 1431 is amended to read:

§ 1431. FEES IN SUPREME AND SUPERIOR COURTS

* * *

(2) Prior to the entry of any divorce or annulment proceeding in the ~~superior court~~ Superior Court, there shall be paid to the ~~clerk of the court~~ Clerk of the Court for the benefit of the state a fee of $250.00 in lieu of all other fees not otherwise set forth in this section. If the divorce or annulment complaint is filed with a stipulation for a final order ~~acceptable to the court~~, the fee shall be $75.00 if one or both of the parties are residents, and $150.00 if neither party is a resident, except that if the stipulation is not acceptable to the Court or if a matter previously agreed to becomes contested, the difference between the full fee and the reduced fee shall be paid to the Court prior to the issuance of a final order.

(3) Prior to the entry of any parentage or desertion and support proceeding brought under 15 V.S.A. chapter 5 ~~of Title 15~~ in the ~~superior court~~ Superior Court, there shall be paid to the ~~clerk of the court~~ Clerk of the Court for the benefit of the ~~state~~ State a fee of $100.00 in lieu of all other fees not otherwise set forth in this section~~; however, if~~. If the parentage or desertion and support complaint is filed with a stipulation for a final order acceptable to the ~~court~~ Court, the fee shall be $25.00 except that if the stipulation is not acceptable to the Court or if a matter previously agreed to becomes contested, the difference between the full fee and the reduced fee shall be paid to the Court prior to the issuance of a final order.

(4) Prior to the entry of any motion or petition to enforce ~~an~~ a final order for parental rights and responsibilities, parent-child contact, property division, or maintenance in the ~~superior court~~ Superior Court, there shall be paid to the ~~clerk of the court~~ Clerk of the Court for the benefit of the ~~state~~ State a fee of

$75.00 in lieu of all other fees not otherwise set forth in this section. Prior to the entry of any motion or petition to vacate or modify ~~an~~ a final order for parental rights and responsibilities, parent-child contact, or maintenance in the ~~superior court~~ Superior Court, there shall be paid to the ~~clerk of the court~~ Clerk of the Court for the benefit of the ~~state~~ State a fee of $100.00 in lieu of all other fees not otherwise set forth in this section. However, if the motion or petition is filed with a stipulation for an order ~~acceptable to the court~~, the fee shall be $25.00~~. All motions or petitions filed by one party at one time shall be assessed one fee~~ except that if the stipulation is not acceptable to the Court or if a matter previously agreed to becomes contested, the difference between the full fee and the reduced fee shall be paid to the Court prior to the issuance of a final order. All motions or petitions filed by one party under this subsection at one time shall be assessed one fee equal to the highest of the filing fees associated with the motions or petitions involved. There are no filing fees for prejudgment motions or petitions filed before a final divorce, legal separation, dissolution of civil union, parentage, desertion, or nonsupport judgment issued.

(5) Prior to the entry of any motion or petition to vacate or modify an order for child support in the ~~superior court~~ Superior Court, there shall be paid to the ~~clerk of the court~~ Clerk of the Court for the benefit of the ~~state~~ State a fee of $35.00 in lieu of all other fees not otherwise set forth in this section~~; however, if~~. If the motion or petition is filed with a stipulation for an order ~~acceptable to the court~~, there shall be no fee except that if the stipulation is not acceptable to the Court or if a matter previously agreed to becomes contested, the difference between the full fee and the reduced fee shall be paid to the Court prior to the issuance of a final order. A motion or petition to enforce an order for child support shall require no fee. All motions or petitions filed by one party at one time shall be assessed one fee; if a simultaneous motion is filed by a party under subdivision (4) of this subsection, the fee under subdivision (4) shall be the only fee assessed. There are no filing fees for prejudgment motions or petitions filed before a final divorce, legal separation, dissolution of civil union, parentage, desertion, or nonsupport judgment has issued.

(6) Prior to the registration in Vermont of a child custody determination issued by a court of another state, there shall be paid to the Clerk of the Court for the benefit of the State a fee of $75.00 unless the request for registration is filed with a simultaneous motion for enforcement, in which event the fee for registration shall be $30.00 in addition to the fee for the motion as provided in subdivision (4) of this subsection.

* * *

(d) Prior to the entry of any subsequent pleading which sets forth a claim for relief in the supreme court or the superior court, there shall be paid to the clerk of the court for the benefit of the state a fee of $100.00 for every appeal, cross-claim, or third-party claim and a fee of $75.00 for every counterclaim in the superior court in lieu of all other fees not otherwise set forth in this section. The fee for an appeal of a magistrate's decision in the superior court shall be $100.00. The filing fee for civil suspension proceedings filed pursuant to 23 V.S.A § 1205 shall be $75.00, which shall be taxed in the bill of costs in accordance with sections 1433 and 1471 of this title. This subsection does not apply to filing fees in the Family Division, except with respect to the fee for an appeal of a magistrate's decision.

(e) Prior to the filing of any postjudgment motion in the ~~superior court~~ Civil, Criminal, or Environmental Division of the Superior Court, including motions to reopen civil suspensions and motions for sealing or expungement in the criminal division pursuant to 13 V.S.A. § 7602, there shall be paid to the ~~clerk of the court~~ Clerk of the Court for the benefit of the ~~state~~ State a fee of $75.00 except for small claims actions.

* * *

(h) Pursuant to Vermont Rules of Civil Procedure 3.1 or Vermont Rules of Appellate Procedure 24(a), part or all of the filing fee may be waived if the ~~court~~ Court finds that the applicant is unable to pay it. The ~~clerk of the court~~ Clerk of the Court or the clerk's designee shall establish the in forma pauperis fee in accordance with procedures and guidelines established by administrative order of the ~~supreme court~~ Supreme Court. If, during the course of the proceeding and prior to a final judgment, the Court determines that the applicant has the ability to pay all or a part of the waived fee, the Court shall require that payment be made prior to issuing a final judgment. If the applicant fails to pay the fee within a reasonable time, the Court may dismiss the proceeding.

Sec. 4. 32 V.S.A. § 1434 is amended to read:

§ 1434. PROBATE CASES

* * *

(b) ~~For economic cause, the probate judge may waive this fee.~~ Pursuant to Rule 3.1 of the Vermont Rules of Civil Procedure, part of the filing fee may be waived if the Court finds the applicant is unable to pay it. The Court shall use procedures established in subsection 1431(h) of this title to determine the fee. No fee shall be charged for necessary documents pertaining to the opening of estates, trusts, and guardianships, including the issuance of two certificates of appointment and respective letters. No fee shall be charged for the issuance of

two certified copies of adoption decree and two certified copies of instrument changing name.

* * *

Sec. 5. 4 V.S.A. § 657 is amended to read:

§ 657. TRANSCRIBING DAMAGED RECORDS

When records in the ~~court clerk's office~~ Office of the Superior Court Clerk become faded, defaced, torn, or otherwise injured, so as to endanger the permanent legibility or proper preservation of the same, ~~by an order in writing recorded in the court clerk's office, the court administrator shall~~ the Court Administrator may direct the ~~court clerk~~ Court Clerk to provide suitable books and transcribe such records therein. At the end of a transcript of record so made, the ~~clerk~~ Clerk shall certify under official signature and the seal of the ~~court~~ Court that the same is a true transcript of the original record. Such transcript or a duly certified copy thereof shall be entitled to the same faith and credit and have the same force as the original record. The expense of making such transcript shall be paid by the ~~state~~ State.

Sec. 6. 4 V.S.A. § 659 is amended to read:

§ 659. PRESERVATION OF COURT RECORDS

(a) The ~~supreme court~~ Supreme Court by administrative order may provide for permanent preservation of all court records by any photographic or electronic or comparable process ~~which will provide compact records in reduced size,~~ in accordance with standards ~~established by the secretary of state which~~ that shall be no less protective of the records than the standards established by the state archives and records administration programs that take into account the quality and security of the records, and ready access to the record of any cause so recorded.

(b) After preservation in accordance with subsection (a) of this section, the ~~supreme court~~ Supreme Court by administrative order may provide for the disposition of original court records by destruction or in cases where the original court record may have historical or intrinsic value by transfer to the archives of the ~~secretary of state, the Vermont historical society, or the University of Vermont~~ Secretary of State.

Sec. 7. 4 V.S.A. § 732 is amended to read:

§ 732. LOST ~~WRIT OR COMPLAINT-FILING OF NEW PAPERS~~ DOCUMENT OR RECORD

When ~~the writ or complaint~~ a court document, record, or file in an action pending in court is lost, mislaid, or destroyed, the court~~, on written motion for~~

~~that purpose,~~ may order a ~~writ or a complaint for the same cause of action~~ duplicate document, record, or file to be filed under such ~~regulations~~ conditions as the court prescribes~~, and the same proceedings shall be had thereon as though it were the original writ or complaint. If the plaintiff refuses to file such writ or complaint, the court shall direct a nonsuit in the action, and tax costs for the defendant~~. A duplicate document or record shall have the same validity and may be used in evidence in the same manner as the original document, record, or file.

Sec. 8. 4 V.S.A. § 740 is amended to read:

§ 740. COURT RECORDS; DOCKETS; CERTIFIED COPIES

The ~~supreme court~~ Supreme Court by administrative order or directive shall provide for the preparation, maintenance, recording, indexing, docketing, preservation, and storage of all court records and the provision, subject to confidentiality requirements of law or court rules, of certified copies of those records to persons requesting them.

Sec. 9. 12 V.S.A. § 5 is amended to read:

§ 5. DISSEMINATION OF ELECTRONIC CASE RECORDS

(a) The court shall not permit public access via the Internet to criminal or family case records. The court may permit criminal justice agencies, as defined in 20 V.S.A. § 2056a, Internet access to criminal case records for criminal justice purposes, as defined in section 2056a.

(b) This section shall not be construed to prohibit the court from providing electronic access to:

(1) court schedules of the superior court, or opinions of the criminal division of the superior court; ~~or~~

(2) state agencies in accordance with data dissemination contracts entered into under Rule 6 of the Vermont Rules of Electronic Access to Court Records; or

(3) decisions, recordings of oral arguments, briefs, and printed cases of the Supreme Court.

Sec. 10. 4 V.S.A. § 908 is amended to read:

§ 908. ATTORNEYS' ADMISSION, LICENSING, AND PROFESSIONAL RESPONSIBILITY SPECIAL FUND

There is established the attorneys' admission, licensing, and professional responsibility special fund which shall be managed in accordance with 32 V.S.A. chapter 7, subchapter 5. Fees collected for licensing of attorneys,

administration of the bar examination, admitting attorneys to practice in Vermont, and administration of mandatory continuing legal education shall be deposited and credited to this fund. This fund shall be available to the ~~judicial branch~~ Judicial Branch to offset the cost of operating the ~~professional responsibility board~~ Professional Responsibility Board, the ~~board of bar examiners~~ Board of Bar Examiners, the ~~judicial conduct board~~ Judicial Conduct Board, the ~~committee on character and fitness~~ Committee on Character and Fitness, the mandatory continuing legal education program for attorneys and, at the discretion of the ~~supreme court~~ Supreme Court, to make grants for access to justice programs or to the Vermont ~~bar foundation~~ Bar Foundation to be used to support legal services for the disadvantaged.

Sec. 11. 13 V.S.A. § 7030 is amended to read:

§ 7030. SENTENCING ALTERNATIVES

(a)(1) In determining which of the following should be ordered, the court shall consider the nature and circumstances of the crime, the history and character of the defendant, the need for treatment, and the risk to self, others, and the community at large presented by the defendant:

~~(1)~~(A) ~~A~~ a deferred sentence pursuant to section 7041 of this title~~.~~;

~~(2)~~(B) ~~Referral~~ referral to a community reparative board pursuant to 28 V.S.A. chapter 12 in the case of an offender who has pled guilty to a nonviolent felony, a nonviolent misdemeanor, or a misdemeanor that does not involve the subject areas prohibited for referral to a community justice center under 24 V.S.A. § 1967. Referral to a community reparative board pursuant to this subdivision does not require the court to place the offender on probation. The offender shall return to court for further sentencing if the reparative board does not accept the case or if the offender fails to complete the reparative board program to the satisfaction of the board in a time deemed reasonable by the board~~.~~;

~~(3)~~(C) ~~Probation~~ probation pursuant to 28 V.S.A. § 205~~.~~;

~~(4)~~(D) ~~Supervised~~ supervised community sentence pursuant to 28 V.S.A. § 352~~.~~; or

~~(5)~~(E) ~~Sentence~~ sentence of imprisonment.

(2)(A) In determining a sentence upon conviction for a nonviolent misdemeanor or a nonviolent felony, in addition to the factors identified in subdivision (1) of this subsection, the court shall consider the approximate financial cost of available sentences.

(B) The Department of Corrections shall develop and maintain a database on the approximate costs of sentences, including incarceration,

probation, deferred sentence, supervised community sentence, participation in the Restorative Justice Program, and any other possible sentence. The database information shall be made available to the courts for the purposes of this subdivision (2).

(b) When ordering a sentence of probation, the court may require participation in the ~~restorative justice program~~ Restorative Justice Program established by 28 V.S.A. chapter 12 as a condition of the sentence.

Sec. 12. 13 V.S.A. § 15 is added to read:

§ 15. NONVIOLENT MISDEMEANOR AND NONVIOLENT FELONY DEFINED

As used in this title:

(1) "Nonviolent felony" means a felony offense which is not a listed crime as defined in section 5301 of this title or an offense listed in chapter 64 of this title (sexual exploitation of children).

(2) "Nonviolent misdemeanor" means a misdemeanor offense which is not a listed crime as defined in section 5301 of this title or an offense listed in chapter 64 of this title (sexual exploitation of children) or section 1030 of this title (violation of a protection order).

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

§ 353. DEGREE OF OFFENSE; SENTENCING UPON CONVICTION

(a) Penalties.

* * *

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

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

title in the ~~criminal division of the superior court~~ Criminal Division of the Superior Court.

(C) Nothing in this subdivision shall be construed to require that a civil citation be issued prior to a criminal charge of violating subdivision 352(3), (4), or (9) of this title.

* * *

Sec. 14. 13 V.S.A. § 354 is amended to read:

§ 354. ENFORCEMENT; POSSESSION OF ABUSED ANIMAL; SEARCHES AND SEIZURES; FORFEITURE

* * *

(a) The ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets shall be consulted prior to any enforcement action brought pursuant to this chapter which involves livestock and poultry.

(b) Any humane officer as defined in section 351 of this title may enforce this chapter. As part of an enforcement action, a humane officer may seize an animal being cruelly treated in violation of this chapter.

(1) Voluntary surrender. A humane officer may accept animals voluntarily surrendered by the owner anytime during the cruelty investigation. The humane officer shall have a surrendered animal examined and assessed within 72 hours by a veterinarian licensed to practice in the ~~state~~ State of Vermont.

(2) Search and seizure using a search warrant. A humane officer having probable cause to believe an animal is being subjected to cruel treatment in violation of this subchapter may apply for a search warrant pursuant to the Rules of Criminal Procedure to authorize the officer to enter the premises where the animal is kept and seize the animal. The application and affidavit for the search warrant shall be reviewed and authorized by an attorney for the ~~state~~ State when sought by an officer other than an enforcement officer defined in 23 V.S.A. § 4(11). A veterinarian licensed to practice in Vermont must accompany the humane officer during the execution of the search warrant.

(3) Seizure without a search warrant. If the humane officer witnesses a situation in which the humane officer determines that an animal's life is in jeopardy and immediate action is required to protect the animal's health or safety, the officer may seize the animal without a warrant. The humane officer shall immediately take an animal seized under this subdivision to a licensed veterinarian for medical attention to stabilize the animal's condition and to assess the health of the animal.

(c) A humane officer shall provide suitable care at a reasonable cost for an animal seized under this section, and have a lien on the animal for all expenses incurred. A humane officer may arrange for the euthanasia of a severely injured, diseased, or suffering animal upon the recommendation of a licensed veterinarian. A humane officer may arrange for euthanasia of an animal seized under this section when the owner is unwilling or unable to provide necessary medical attention required while the animal is in custodial care or when the animal cannot be safely confined under standard housing conditions. An animal not destroyed by euthanasia shall be kept in custodial care until final disposition of the criminal charges except as provided in subsections (d) through (h) of this section. The custodial caregiver shall be responsible for maintaining the records applicable to all animals seized, including identification, residence, location, medical treatment, and disposition of the animals.

(d) If an animal is seized under this section, the ~~state may~~ State shall institute a civil proceeding for forfeiture of the animal in the territorial unit of the ~~criminal division of the superior court~~ Criminal Division of the Superior Court where the offense is alleged to have occurred. The proceeding shall be instituted by a motion for forfeiture, which shall be filed with the ~~court~~ Court and served upon the animal's owner.

(e) ~~The court shall set a hearing to be held within 21 days after institution of a forfeiture proceeding under this section~~ A preliminary hearing shall be held within 21 days of institution of the civil forfeiture proceeding. If the defendant requests a hearing on the merits, the Court shall schedule a final hearing on the merits to be held within 21 days of the date of the preliminary hearing. In no event shall a final hearing occur more than 42 days after the date of the commencement of the civil forfeiture proceeding. Time limits under this subsection shall not be construed as jurisdictional.

(f)(1) At the hearing on the motion for forfeiture, the ~~state~~ State shall have the burden of establishing by ~~clear and convincing evidence~~ a preponderance of the evidence that the animal was subjected to cruelty, neglect, or abandonment in violation of section 352 or 352a of this title. The ~~court~~ Court shall make findings of fact and conclusions of law and shall issue a final order. ~~If the state meets its burden of proof, the motion shall be granted and the court shall order the immediate forfeiture of the animal in accordance with the provisions of subsection 353(c) of this title~~ If the Court finds for the petitioner by a preponderance of the evidence, the Court shall order immediate forfeiture of the animal to the petitioner.

(2) No testimony or other information presented by the defendant in connection with a forfeiture proceeding under this section or any information

directly or indirectly derived from such testimony or other information may be used for any purpose, including impeachment and cross-examination, against the defendant in any criminal case, except a prosecution for perjury or giving a false statement.

(g)(1) If the defendant is convicted of criminal charges under this chapter or if an order of forfeiture is entered against an owner under this section, the defendant or owner shall be required to repay all reasonable costs incurred by the custodial caregiver for caring for the animal, including veterinary expenses.

(2)(A) If the defendant is acquitted of criminal charges under this chapter and a civil forfeiture proceeding under this section is not pending, an animal that has been taken into custodial care shall be returned to the defendant unless the ~~state~~ State institutes a civil forfeiture proceeding under this section within seven days of the acquittal.

(B) If the ~~court~~ Court rules in favor of the owner in a civil forfeiture proceeding under this section and criminal charges against the owner under this chapter are not pending, an animal that has been taken into custodial care shall be returned to the owner unless the ~~state~~ State files criminal charges under this section within seven days after the entry of final judgment.

(C) If an animal is returned to a defendant or owner under this subdivision, the defendant or owner shall not be responsible for the costs of caring for the animal.

(h) An order of the ~~criminal division of the superior court~~ Criminal Division of the Superior Court under this section may be appealed as a matter of right to the ~~supreme court~~ Supreme Court. The order shall not be stayed pending appeal.

(i) The provisions of this section are in addition to and not in lieu of the provisions of section 353 of this title.

(j) It is unlawful for a person to interfere with a humane officer or the ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets engaged in official duties under this chapter. A person who violates this subsection shall be prosecuted under section 3001 of this title.

Sec. 15. INCIDENT REPORTS OF ANIMAL CRUELTY

(a) The Commissioner of Public Safety, in consultation with the Vermont Center for Justice Research, shall collect data on:

(1) the number and nature of complaints or incident reports to law enforcement based on a suspected violation of 13 V.S.A. chapter 8 (humane and proper treatment of animals); and

(2) how such complaints or incidents are generally addressed, such as referral to others, investigation, civil penalties, or criminal charges.

(b) Based upon examination of the data requested in subsection (a) of this section, the Commissioner shall make recommendations to the Senate and House Committees on Judiciary on or before November 15, 2013 for improving the statewide response to complaints of animal cruelty.

Sec. 16. 4 V.S.A. § 36 is amended to read:

§ 36. COMPOSITION OF THE COURT

(a) Unless otherwise specified by law, when in session, a ~~superior court~~ Superior Court shall consist of:

(1) For cases in the ~~civil~~ Civil or ~~family division~~ Family Division, one presiding superior judge and two assistant judges, if available.

(2)(A) For cases in the ~~family division~~ Family Division, except as provided in subdivision (B) of this subdivision (2), one presiding ~~superior judge~~ judicial officer and two assistant judges, if available.

(B) The ~~family court~~ Family Division shall consist of one presiding ~~superior judge~~ judicial officer sitting alone in the following proceedings:

(i) All juvenile proceedings filed pursuant to 33 V.S.A. chapters 51, 52, and 53 ~~of Title 33~~, including proceedings involving "youthful offenders" pursuant to 33 V.S.A. § 5281, whether the matter originated in the criminal or family division of the superior court.

(ii) All protective services for developmentally disabled persons proceedings filed pursuant to 18 V.S.A. chapter 215 ~~of Title 18~~.

(iii) All mental health proceedings filed pursuant to 18 V.S.A. chapters 179, 181, and 185 ~~of Title 18~~.

(iv) All involuntary sterilization proceedings filed pursuant to 18 V.S.A. chapter 204 ~~of Title 18~~.

(v) All care for mentally retarded persons proceedings filed pursuant to 18 V.S.A. chapter 206 ~~of Title 18~~.

(vi) All proceedings specifically within the jurisdiction of the office of magistrate except child support contempt proceedings pursuant to subdivision 461(a)(1) of this title.

* * *

Sec. 17. 23 V.S.A. § 1607 is added to read:

§ 1607. AUTOMATED LICENSE PLATE RECOGNITION SYSTEMS

(a) Definitions. As used in this section:

(1) "Active data" is distinct from historical data as defined in subdivision (3) of this subsection and means data uploaded to individual automated license plate recognition system units before operation as well as data gathered during the operation of an ALPR system. Any data collected by an ALPR system shall be considered collected for a legitimate law enforcement purpose.

(2) "Automated license plate recognition system" (ALPR) means a system of one or more mobile or fixed high-speed cameras combined with computer algorithms to convert images of registration plates into computer-readable data.

(3) "Historical data" means any data collected by an ALPR system and stored on the statewide ALPR server operated by the Vermont Justice Information Sharing System of the Department of Public Safety. Any data collected by an ALPR system shall be considered collected for a legitimate law enforcement purpose. Entry of any data into the system other than data collected by the ALPR system itself must be approved by a supervisor and shall have a legitimate law enforcement purpose.

(4) "Law enforcement officer" means a state police officer, municipal police officer, motor vehicle inspector, capitol police officer, constable, sheriff, or deputy sheriff certified by the Vermont Criminal Justice Training Council as having satisfactorily completed the approved training programs required to meet the minimum training standards applicable to that person under 20 V.S.A. § 2358.

(5) "Legitimate law enforcement purpose" applies to access to active or historical data and means crime investigation, detection, and analysis or operation of AMBER alerts or missing or endangered person searches.

(6) "Vermont Information and Analysis Center Analyst" means any sworn or civilian employee who through his or her employment with the Vermont Information and Analysis Center (VTIAC) has access to secure databases that support law enforcement investigations.

(b) Operation. A Vermont law enforcement officer shall be certified in ALPR operation by the Vermont Criminal Justice Training Council in order to operate an ALPR system.

(c) Confidentiality and access to ALPR data.

(1)(A) Active ALPR data may only be accessed by a law enforcement officer operating the ALPR system who has a legitimate law enforcement purpose for the data. Entry of any data into the system other than data

collected by the ALPR system itself must be approved by a supervisor and shall have a legitimate law enforcement purpose.

(B) Deployment of ALPR equipment is intended to provide access to stolen and wanted files and to further legitimate law enforcement purposes. Use of ALPR systems and access to active data are restricted to these purposes.

(C)(i) Requests to review active data shall be in writing and include the name of the requester, the law enforcement agency the requester is employed by, and the law enforcement agency's Originating Agency Identifier (ORI) number. The request shall describe the legitimate law enforcement purpose. The written request and the outcome of the request shall be transmitted to VTIAC and retained for not less than three years.

(ii) In each department operating an ALPR system, access to active data shall be limited to designated personnel who have been provided account access by the department to conduct authorized ALPR stored data queries. Access to active data shall be restricted to data collected within the past seven days.

(2) Requests for historical data, whether from Vermont or out-of-state law enforcement officers, shall be made in writing to an analyst at VTIAC. The request shall include the name of the requester, the law enforcement agency the requester is employed by, and the law enforcement agency's ORI number. The request shall describe the legitimate law enforcement purpose. VTIAC shall retain all requests as well as the outcome of the request and shall record in writing any information that was provided to the requester or why the request was denied or not fulfilled. ALPR requests shall be retained by VTIAC for not less than three years.

(d) Retention.

(1) Any ALPR information gathered by a Vermont law enforcement agency shall be sent to the Department of Public Safety to be retained pursuant to the requirements of subdivision (2) of this subsection. The Department of Public Safety shall maintain the ALPR storage system for Vermont law enforcement agencies.

(2) Except as provided in section 1608 of this title, information gathered through use of an ALPR system shall only be retained for 18 months after the date it was obtained. When the permitted 18-month period for retention of the information has expired, the Department of Public Safety and any local law enforcement agency with custody of the information shall destroy it and cause to have destroyed any copies or back-ups made of the original data. Data may be retained beyond the 18-month period pursuant to a preservation request made or disclosure order issued under section 1608 of this title, or pursuant to

a warrant issued under Rule 41 of the Vermont or Federal Rules of Criminal Procedure.

(e) Oversight; rulemaking.

(1) The Department of Public Safety shall establish a review process to ensure that information obtained through the use of ALPR systems is used only for the purposes permitted by this section. The Department shall report the results of this review annually on or before January 15 to the Senate and House Committees on Judiciary and on Transportation. The report shall contain the following information based on prior calendar year data:

(A) the total number of ALPR units being operated in the State and the number of units submitting data to the statewide ALPR database;

(B) the total number of ALPR reads each agency submitted to the statewide ALPR database;

(C) the 18-month accumulative number of ALPR reads being housed on the statewide ALPR database;

(D) the total number of requests made to VTIAC for ALPR data;

(E) the total number of requests that resulted in the release of information from the statewide ALPR database;

(F) the total number of out-of-state requests; and

(G) the total number of out-of-state requests that resulted in the release of information from the statewide ALPR database.

(2) The Department of Public Safety may adopt rules to implement this section.

Sec. 18. 23 V.S.A. § 1608 is added to read:

§ 1608. PRESERVATION OF DATA

(a) Preservation request.

(1) A law enforcement agency or the Department of Motor Vehicles may apply to the Criminal Division of the Superior Court for an extension of up to 90 days of the 18-month retention period established under subdivision 1607(d)(2) of this title if the agency or Department offers specific and articulable facts showing that there are reasonable grounds to believe that the captured plate data are relevant and material to an ongoing criminal or missing persons investigation, or to a pending proceeding in the Judicial Bureau. Requests for additional 90-day extensions or for longer periods may be made to the Superior Court subject to the same standards applicable to an initial extension request under this subdivision.

(2) A governmental entity making a preservation request under this section shall submit an affidavit stating:

(A) the particular camera or cameras for which captured plate data must be preserved, or the particular license plate for which captured plate data must be preserved; and

(B) the date or dates and time frames for which captured plate data must be preserved.

(b) Captured plate data shall be destroyed on the schedule specified in section 1607 of this title if the preservation request is denied, or 14 days after the denial of the application for disclosure, whichever is later.

Sec. 19. 12 V.S.A. § 5784 is added to read:

§ 5784. VOLUNTEER ATHLETIC OFFICIALS

(a) A person providing services or assistance without compensation, except for reimbursement of expenses, in connection with the person's duties as an athletic coach, manager, or official for a sports team that is organized as a nonprofit corporation, or which is a member team in a league organized by or affiliated with a county or municipal recreation department, shall not be held personally liable for damages to a player, participant, or spectator incurred as a result of the services or assistance provided. This section shall apply to acts and omissions made during sports competitions, practices, and instruction.

(b) This section shall not protect a person from liability for damages resulting from reckless or intentional conduct, or the negligent operation of a motor vehicle.

(c) Nothing in this section shall be construed to affect the liability of any nonprofit or governmental entity with respect to harm caused to any person.

(d) Any sports team organized as described in subsection (a) of this section shall be liable for the acts and omissions of its volunteer athletic coaches, managers, and officials to the same extent as an employer is liable for the acts and omissions of its employees.

Sec. 20. 23 V.S.A. § 800 is amended to read:

§ 800. MAINTENANCE OF FINANCIAL RESPONSIBILITY

(a) No owner of a motor vehicle required to be registered, or operator required to be licensed or issued a learner's permit, shall operate or permit the operation of the vehicle upon the highways of the ~~state~~ State without having in effect an automobile liability policy or bond in the amounts of at least $25,000.00 for one person and $50,000.00 for two or more persons killed or injured and $10,000.00 for damages to property in any one accident. In lieu

thereof, evidence of self-insurance in the amount of $115,000.00 must be filed with the ~~commissioner of motor vehicles~~ Commissioner of Motor Vehicles, and shall be maintained and evidenced in a form prescribed by the ~~commissioner~~ Commissioner. The ~~commissioner~~ Commissioner may require that evidence of financial responsibility be produced before motor vehicle inspections are performed pursuant to the requirements of section 1222 of this title.

(b) A person who violates this section shall be assessed a civil penalty of ~~not less than $250.00 and~~ not more than $500.00, and such violation shall be a traffic violation within the meaning of chapter 24 of this title.

Sec. 21. CHIEF DEPUTY STATE'S ATTORNEY; DESIGNATION

The designation of chief deputy state's attorney is created. A state's attorney may appoint a deputy state's attorney as the chief deputy in any state's attorney's office where there are three or more full-time deputies. A chief deputy shall be compensated at his or her existing step level or at step 9, whichever is greater.

Sec. 22. REPEAL

4 V.S.A. §§ 652 (records of judgments and other proceedings; dockets; certified copies), 655 (court accounts), 656 (index of records), 658 (Supreme Court records), 695 (accounts of court officer and reporter), 734 (copy of lost petition), 735 (record of proceedings), 736 (lost records or judgment files; recording of copy), 737 (appeal or exception), and 738 (costs for recording); 2009 Acts and Resolves No. 4, Sec. 121 (transitional provisions for merger of Bennington and Manchester probate courts); and 2009 Acts and Resolves No. 4, Sec. 125 (transitional provisions of the consolidated probate court system) are repealed.

Sec. 23. EFFECTIVE DATES

(a) This section and Secs. 2 (registration of child custody determination) and 16 (limitations of prosecutions for certain crimes) of this act shall take effect on passage.

(b) Secs. 11 (sentencing alternatives) and 12 (definition of nonviolent misdemeanor and nonviolent felony) of this act shall take effect on March 1, 2014.

(c) The rest of this act shall take effect on July 1, 2013.

And that after passage the title of the bill be amended to read: "An act relating to court administration and procedure"

(Committee vote: 5-0-0)

(No House amendments.)

H. 524.

An act relating to making technical amendments to education laws.

Reported favorably with recommendation of proposal of amendment by Senator Collins for the Committee on Education.

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

First: By striking out Secs. 16 through 22 in their entirety and inserting in lieu thereof 7 new sections to be Secs. 16 through 22 to read:

Sec. 16. REDESIGNATION; ADDITION OF SUBCHAPTER

16 V.S.A. chapter 1, subchapter 2, which shall include §§ 41–55, is added to read:

Subchapter 2. Federal Funds

* * *

Sec. 17. 16 V.S.A. § 168 is amended to read:

§ ~~168~~ 41. AUTHORITY OF ~~STATE BOARD OF EDUCATION~~ AGENCY TO ~~UTILIZE~~ USE FEDERAL FUNDS TO AID EDUCATION

(a) The ~~state board~~ Agency of Education is designated as the sole state agency to establish and administer ~~through the department of education~~ any statewide plan ~~which is now or hereafter may be~~ required as a condition for receipt of federal funds ~~as may be~~ made available to the ~~state of Vermont by the Congress of the United States, or administrative ruling pursuant thereto,~~ State for any educational purposes, including technical education and adult education and literacy. ~~It~~ The Agency shall also be the agency to accept and administer federal funds ~~which federal legislation requires~~ that require administration by a state education agency having jurisdiction of elementary and secondary education ~~to administe~~r.

(b) Subject to the approval of the ~~governor~~ Governor, the ~~board~~ Agency may accept and ~~utilize such~~ use federal funds. It may establish criteria and procedures to conform with any requirements established for the use of ~~such~~ the funds and may take such other action as may be required to comply with any condition for receipt of ~~such~~ federal aid.

Sec. 18. 16 V.S.A. § 169 is amended to read:

§ ~~169~~ 42. ACCEPTANCE, DISTRIBUTION AND ACCOUNTING OF FEDERAL FUNDS

(a) The ~~state treasurer~~ State Treasurer, acting upon the order of the ~~commissioner or his or her authorized representative~~ Secretary, shall accept, distribute, and account for federal funds available for use by the ~~state board~~ Agency. Funds shall be distributed and accounted for by the ~~state treasurer~~ State Treasurer in accordance with the laws of ~~this state~~ Vermont, but if there is a conflict between those laws~~,~~ and the laws or regulations of the United States, then federal law shall apply. The ~~commissioner~~ Secretary shall ~~cause to be submitted to the United States such detailed statements of the amounts so~~ prepare and submit federally required statements of funds received and disbursed ~~as shall be required by the United States~~. The ~~commissioner~~ Secretary shall cause an audit to be made of ~~such~~ the federal funds and shall submit a copy ~~thereof to a properly authorized official of the United States~~ of the audit as required by ~~the laws or regulations of the United States~~ federal law. ~~Such~~ The audit shall be supported by any reports from the supervisory union, local school districts, or other recipients of federal funds as may be required by the ~~commissioner or the United States~~ Secretary or the federal government.

(b) The ~~state treasurer may deliver to the superintendent or~~ State Treasurer may directly deposit checks payable to a supervisory union or ~~to~~ any school district within ~~that supervisory union~~ it or may deliver checks to the superintendent of the supervisory union.

* * *

Sec. 19. 16 V.S.A. § 144b is amended to read:

§ ~~144b~~ 43. FEDERAL EDUCATION AID FUNDS; ADMINISTRATION; LOCAL EDUCATION AGENCY

(a) The ~~state board of education~~ Agency, as sole state agency, may administer ~~such~~ federal funds ~~as may be~~ made available to the ~~state~~ State under ~~Public Law 89-10, known as~~ the Elementary and Secondary Education Act of 1965, Public L. No. 89–10, as amended, and ~~Public Law 107-110, known as~~ the No Child Left Behind Act of 2001, Public L. No 107–110. Those funds may be accepted and shall be distributed and accounted for by the ~~state treasurer~~ State Treasurer in accordance with that law and rules and regulations of the United States issued under it if there is conflict between that law or those rules and regulations and the laws of this ~~state~~ State.

(b) For purposes of distribution of funds under this section, a supervisory union ~~or supervisory district~~ shall be a local education agency as that term is defined in 20 U.S.C. § 7801(26).

(c) For purposes of determining pupil performance and application of consequences for failure to meet standards and for provision of compensatory

and remedial services pursuant to 20 U.S.C. §§ 6311-6318, a school district shall be a local education agency.

Sec. 20. [Deleted.]

Sec. 21. 16 V.S.A. § 172 is amended to read:

§ ~~172~~ 44. FEDERAL FUNDS; SCHOOL FOOD PROGRAMS

The ~~state board~~ Agency is authorized to accept and use federal funds made available ~~by legislation of the congress to the several states~~ to the State for school food programs under the National School Lunch Act, ~~The~~ the Child Nutrition Act, and any amendments ~~thereto~~ to those laws.

Sec. 22. REDESIGNATION; ADDITION OF SUBCHAPTER

16 V.S.A. chapter 3, subchapter 2, which shall include §§ 175–178, is added to read:

Subchapter 2. Postsecondary Schools

* * *

Second: In Sec. 113, 16 V.S.A. § 1071, by striking out subsection (e) in its entirety and inserting in lieu thereof a new subsection (e) to read:

(e) Regional calendar. Before April 1 of each year, the superintendents of schools and the headmasters of public schools not managed by school boards in an area shall meet, and by majority vote, establish a uniform calendar within that area for the following school year. The calendar shall include student attendance days, periods of vacation, holidays, and teacher in-service education days and shall comply with subsection (a) of this section. Unless permitted by the ~~commissioner~~ Secretary, no area served by a regional technical center shall be divided into two or more calendar regions.

Third: By striking out Sec. 303 (effective date) in its entirety, and inserting seven new sections to be Secs. 303 through 309 and a reader assistance heading to read:

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

Sec. 303. 2010 Acts and Resolves No. 153, Sec. 18, as amended by 2011 Acts and Resolves No. 58, Sec. 18, is further amended to read:

Sec. 18. TRANSITION

(a) Each supervisory union shall provide for any transition of employment of special education and transportation ~~staff~~ employees by member districts to

employment by the supervisory union, pursuant to Sec. 9 of this act, 16 V.S.A. § 261a(a)(6), and (8)(E) by:

(1) providing that the supervisory union assumes all obligations of each existing collective bargaining agreement in effect between the member districts and their special education employees and their transportation employees until the agreement's expiration, subject to employee compliance with performance standards and any lawful reduction in force, layoff, nonrenewal, or dismissal;

(2) providing, in the absence of an existing recognized representative of its employees, for the immediate and voluntary recognition by the supervisory union of the recognized representatives of the employees of the member districts as the recognized representatives of the employees of the supervisory union;

(3) ensuring that an employee of a member district who is not a probationary employee shall not be considered a probationary employee upon transition to the supervisory union; and

(4) ~~containing an agreement~~ negotiating a collective bargaining agreement, addressing special education employees, with the recognized representatives of the employees of the member districts ~~that is effective on the day the supervisory union assumes obligations of existing agreements regarding how the supervisory union, prior to reaching its first collective bargaining agreement with its special education employees and with its transportation employees, will address issues of seniority, reduction in force, layoff, and recall~~ , which, for the purposes of this section, shall be: the exclusive representative of special education teachers; the exclusive representative of the special education administrators; and the exclusive bargaining agent for special education paraeducators if the supervisory union has elected to employ special education paraeducators pursuant to subdivision (b)(3) of this section. The supervisory union shall become the employer of these employees on the date specified in the ratified agreement.

(b) For purposes of this section and Sec. 9 of this act, "special education employee" shall include a special education teacher, a special education administrator, and a special education paraeducator, which means a teacher, administrator, or paraeducator whose job assignment consists of providing special education services directly related to students' individualized education programs or to the administration of those services. Provided, however, that "special education employee" shall include a "special education paraeducator" only if the supervisory union board elects to employ some or all special education paraeducators because it determines that doing so will lead to more effective and efficient delivery of special education services to students. If the supervisory union board does not elect to employ all special education

paraeducators, it must use objective, nondiscriminatory criteria and identify specific duties to be performed when determining which categories of special education paraeducators to employ.

(c) Education-related parties to negotiations under either Title 16 or 21 shall incorporate in their current or next negotiations matters addressing the terms and conditions of special education employees.

(d) If a supervisory union has not entered into a collective bargaining agreement with the representative of its prospective special education employees by August 15, 2015, it shall provide the Secretary of Education with a report identifying the reasons for not meeting the deadline and an estimated date by which it expects to ratify the agreement.

Sec. 304. 16 V.S.A. § 1981(8) is amended to read:

(8) "School board negotiations council" means, for a supervisory district, its school board, and, for school districts within a supervisory union, the body comprising representatives designated by each school board within the supervisory union and by the supervisory union board to engage in professional negotiations with a teachers' or administrators' organization.

Sec. 305. 21 V.S.A. § 1722(18) is amended to read:

(18) "School board negotiations council" means, for a supervisory district, its school board, and, for school districts within a supervisory union, the body comprising representatives designated by each school board within the supervisory union and by the supervisory union board to engage in collective bargaining with their school employees' negotiations council.

Sec. 306. EXCESS SPENDING; TRANSITION

For purposes of calculating excess spending pursuant to 32 V.S.A. § 5401(12) in fiscal years 2014 through 2017, "education spending" shall not include the portion of a district's proposed budget that is directly attributable to assessments from the supervisory union for special education services that exceeds the portion of the district's proposed budget in the year prior to transition for special education services provided by the district.

Sec. 307. APPLICABILITY

Only school districts and supervisory unions that have not completed the transition of special education employees to employment by the supervisory union or have not negotiated transition provisions into current master agreements as of the effective dates of Secs. 24 through 27 of this act are subject to the employment transition provisions of those sections.

Sec. 308. REPORT

On or before January 1, 2017, the Secretary of Education shall report to the House and Senate Committees on Education regarding the decisions of supervisory unions to exercise or not to exercise the flexibility regarding employment of special education paraeducators provided in Sec. 24 of this act and may propose amendments to Sec. 24 or to related statutes as he or she deems appropriate.

Sec. 309. EFFECTIVE DATE

This act shall take effect on passage.

(Committee vote: 5-0-0)

(No House amendments.)

H. 536.

An act relating to the Adjutant and Inspector General and the Vermont National Guard.

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

The Committee recommends that the Senate propose to the House to amend the bill by striking out Secs. 1, 2, 3, 4, and 6 in their entirety, and by striking out Sec. 8 in its entirety and inserting in lieu thereof a new Sec. 8 to read as follows:

Sec. 8. EFFECTIVE DATE

This act shall take effect on passage.

And by renumbering the remaining sections to be numerically correct.

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

An act relating to the National Guard.

(Committee vote: 5-0-0)

(For House amendments, see House Journal for April 17, 2013, page 785 and April 19, 2013, page 791.)

Reported favorably by Senator Kitchel for the Committee on Appropriations.

(Committee vote: 4-0-3)

House Proposal of Amendment

S. 155.

An act relating to creating a strategic workforce development needs assessment and strategic plan.

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

Sec. 1. FINDINGS AND PURPOSE

(a) Over the years, significant resources have been devoted in Vermont to supporting many workforce development, training, and education opportunities that prepare individuals for employment. Among them are private and public education, social service programs focusing on work readiness, internships, apprenticeships, training programs, and other forms of government support.

(b) Despite these investments, there is a gap between the readiness of individuals for employment and the needs of employers in the State. Graduates, underemployed, and unemployed workers express that they cannot find work, they do not possess adequate work skills and experience, or that jobs for which they are qualified are unavailable. At the same time, employers report difficulty in filling current and projected job openings due in part to the insufficient skills, training, or experience of the available workforce. Consequently, individuals are not advancing their employment interests and businesses are impeded in their success. The combination of these factors negatively impacts the revenues of the State and the well-being of our citizenry.

(c) There is broad agreement in the General Assembly that individuals should have adequate opportunities to engage in the workforce in the way that best suits their needs and wishes. There is also agreement that the workforce needs of our employers must be met in order for our businesses and economy to thrive.

(d) Administrators and policy makers acknowledge that there are both gaps and overlaps among the many workforce development, training, and education activities in the State. There is broad consensus on the need for significantly improved coordination and strategic focus.

(e) In adopting this act, it is the goal of the General Assembly to create a process that will result in a comprehensive compendium of information about the workforce education and training activities that are taking place in the State. This information, which is not currently compiled in a way that is sufficiently useful to policy makers and administrators, will serve as the basis for the more effective and strategic use of both public and private dollars.

Sec. 2. WORKFORCE DEVELOPMENT WORK GROUP

(a) Creation. There is created a Workforce Development Work Group composed of the following members:

(1) two members of the Senate appointed by the President Pro Tempore of the Senate;

(2) two members of the House of Representatives appointed by the Speaker of the House;

(3) the Secretary of Commerce and Community Development or designee; and

(4) the Commissioner of Labor or designee.

(b) Duties. The Work Group shall:

(1) coordinate with the Workforce Development Council in the performance of the Council's duties under 10 V.S.A. § 541(i);

(2) research, compile, and inventory all workforce education and training programs and activities taking place in Vermont;

(3) identify the number of individuals served by each of the programs and activities, and estimate the number of individuals in the State who could benefit from these programs and activities;

(4) identify the amount and source of financial support for these programs and activities, including financial support that goes directly to the individuals, and, to the extent practicable, the allocation of resources to the direct benefits, management, and overhead costs of each program and activity;

(5) identify the mechanics by which these programs and activities are evaluated for effectiveness and outcomes;

(6) provide a summary for each program or activity of its delivery model, including how the program or activity aligns with employment opportunities located in Vermont;

(7) identify current statutory provisions concerning coordination, integration, and improvement of workforce education and training programs, including identification of the entities responsible for performing those duties;

(8) identify overlaps in existing workforce development programs and activities; and

(9)(A) research and inventory all programs and activities taking place in the State, both public and private, that identify and evaluate employers' needs

for employees, including the skills, education, and experience required for available and projected jobs;

(B) indicate who is responsible for these activities and how they are funded;

(C) specify the data collection activities that are taking place; and

(D) identify overlaps in programs, activities, and data collection that identify and evaluate employers' needs for employees.

(c) The Work Group shall meet not more than eight times, and shall have the administrative, legal, and fiscal support of the Office of Legislative Council and the Legislative Joint Fiscal Office.

(d) In order to perform its duties pursuant to this act, the Work Group shall have the authority to request and gather data and information as it determines is necessary from entities that conduct workforce education and training programs and activities, including agencies, departments, and programs within the Executive Branch and from nongovernmental entities that receive state-controlled funding. Unless otherwise exempt from public disclosure pursuant to state or federal law, a workforce education and training provider shall provide the data and information requested by the Work Group within a reasonable time period.

(e) On or before January 15, 2014, the Work Group shall submit its findings and recommendations to the House Committees on Commerce and Economic Development and on Education, and to the Senate Committees on Economic Development, Housing and General Affairs and on Education.

(f) Members of the Work Group shall be eligible for per diem compensation, mileage reimbursement, and other necessary expenses as provided in 2 V.S.A. § 406.

House Proposal of Amendment to Senate Proposal of Amendment

H. 101

An act relating to hunting, fishing, and trapping

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

First: 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 psychiatric facility with a long-term care unit required to be licensed under 18 V.S.A. chapter 43.

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

(H) additional deer archery tag	$23.00

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

(H) additional deer archery tag	$38.00

House Proposal of Amendment to Senate Proposal of Amendment

H. 169

An act relating to relieving employers' experience-rating records

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

By striking out Secs. 4 and 5 in their entirety and inserting Secs. 4, 5, and 6 to read:

Sec. 4. DEPARTMENT OF LABOR; ENFORCEMENT OF UNEMPLOYMENT INSURANCE COVERAGE RULE

The Department of Labor shall not implement proposed rule 12P044, unemployment insurance coverage for newspaper carriers, until July 1, 2014.

Sec. 5. STUDY

(a) The Department of Labor shall study the issue of exempting newspaper carriers from unemployment compensation coverage, including its appropriateness and the potential impact of the exemption on the unemployment trust fund.

(b) The study shall include an analysis of:

(1) the average earnings of newspaper carriers and whether based on those earnings they would be eligible for unemployment compensation benefits;

(2) the frequency of layoffs of newspaper carriers;

(3) the history of how newspaper carriers have been treated for purposes of unemployment compensation in Vermont and the history and rationale behind the 2006 Department of Labor bulletin treating newspaper carriers as direct sellers;

(4) the amount of savings realized by newspaper publishers as a result of the 2006 bulletin;

(5) whether newspaper carriers are required to be covered by workers' compensation insurance;

(6) the impact of a newspaper carrier exemption on other public assistance programs;

(7) the approaches taken by other states regarding unemployment compensation for newspaper carriers;

(8) how the unemployment compensation statutes should apply to individuals who do not earn enough wages to qualify for unemployment benefits; and

(9) any other issues relating to unemployment compensation coverage for newspaper carriers and other similar occupations.

(c) The Department shall report its findings to the House Committee on Commerce and Economic Development and the Senate Committee on Finance on or before December 15, 2013.

Sec. 6. EFFECTIVE DATE

This act shall take effect on passage.

ORDERED TO LIE

S. 55.

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

PENDING ACTION: Second reading of the bill.

S. 165.

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

PENDING ACTION: Third reading of the bill.

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.

Mary Marzec-Gerrior of Pittsford – Member of the Human Rights Commission – By Sen. Benning for the Committee on Judiciary. (5/9/13)