

Senate Calendar

THURSDAY, MAY 09, 2013

SENATE CONVENES AT: 9:00 A.M.

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ACTION CALENDAR

UNFINISHED BUSINESS OF WEDNESDAY, MAY 8, 2013

Second Reading

Favorable with Proposal of Amendment

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 Commissioner; 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
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.

**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.

**PROPOSALS OF AMENDMENT TO H. 521 TO BE OFFERED BY
SENATORS KITCHEL, AYER, NITKA, SNELLING, AND WESTMAN**

Senators Kitchel, Ayer, Nitka, Snelling, and Westman move that the Senate propose to the House that the bill be amended as follows:

First: In Sec. 31, 33 V.S.A. § 3602, by striking out subdivision (2) and inserting in lieu thereof a new subdivision (2) to read as follows:

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

Second: In Sec. 31, 33 V.S.A. § 3603, in subsection (b), by adding a sentence at the end to read as follows: Quality standards and payment schedules associated with the Step Ahead Recognition system shall not be subjects of bargaining under this chapter.

Third: In Sec. 31, 33 V.S.A. § 3606, by striking out subsection (a) and inserting in lieu thereof a new subsection (a) to read as follows:

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

NEW BUSINESS

Third Reading

H. 240.

An act relating to Executive Branch fees.

H. 450.

An act relating to expanding the powers of regional planning commissions.

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.

~~(e)~~ 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 ~~(e)~~(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 ~~134~~ 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. 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. 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)

NOTICE CALENDAR

Second Reading

Favorable

H. 517.

An act relating to approval of the adoption and the codification of the charter of the Town of St. Albans.

Reported favorably by Senator Bray for the Committee on Finance.

(Committee vote: 5-1-1)

(For House amendments, see House Journal of April 23, 2013, 2013, page 812.)

H. 535.

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

Reported favorably by Senator White for the Committee on Government Operations.

(Committee vote: 5-0-0)

(For House amendments, see House Journal of May 1, 2013, page 1042.)

Favorable with Proposal of Amendment

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 (e) 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)

Reported favorably by Senator Starr for the Committee on Appropriations.

(Committee vote: 7-0-0)

House Proposal of Amendment

S. 4.

An act relating to concussions and school athletic activities.

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. 16 V.S.A. § 1431 is amended to read:

§ 1431. CONCUSSIONS AND OTHER HEAD INJURIES

(a) Definitions. For purposes of this subchapter:

(1) "School athletic team" means an interscholastic athletic team or club sponsored by a public or approved independent school for elementary or secondary students.

(2) "Coach" means a person who instructs or trains students on a school athletic team.

(3) "Health care provider" means an athletic trainer, or other health care provider, licensed pursuant to Title 26, who has within the preceding five years been specifically trained in the evaluation and management of concussions and other head injuries. Training pursuant to this subdivision shall include training materials and guidelines for practicing physicians provided by the Centers for Disease Control and Prevention, if available.

(4) "Youth athlete" means an elementary or secondary student who is a member of a school athletic team.

(b) Guidelines and other information. ~~The commissioner of education~~ Secretary of Education or designee, assisted by members of the Vermont Principals' Association selected by that association, members of the Vermont School Boards Insurance Trust, and others as the Secretary deems appropriate, shall develop statewide guidelines, forms, and other materials, and update them when necessary, that are designed to educate coaches, youth athletes, and the parents and guardians of youth athletes regarding:

(1) the nature and risks of concussions and other head injuries;

(2) the risks of premature participation in athletic activities after receiving a concussion or other head injury; ~~and~~

(3) the importance of obtaining a medical evaluation of a suspected concussion or other head injury and receiving treatment when necessary;

(4) effective methods to reduce the risk of concussions occurring during athletic activities; and

(5) protocols and standards for clearing a youth athlete to return to play following a concussion or other head injury, including treatment plans for such athletes.

(c) Notice and training. The principal or headmaster of each public and approved independent school in the ~~state~~ State, or a designee, shall ensure that:

(1) the information developed pursuant to subsection (b) of this section is provided annually to each youth athlete and the athlete's parents or guardians;

(2) each youth athlete and a parent or guardian of the athlete annually sign a form acknowledging receipt of the information provided pursuant to subdivision (1) of this subsection and return it to the school prior to the athlete's participation in training or competition associated with a school athletic team;

(3)(A) each coach of a school athletic team receive training no less frequently than every two years on how to recognize the symptoms of a concussion or other head injury, how to reduce the risk of concussions during athletic activities, and how to teach athletes the proper techniques for avoiding concussions; and

(B) each coach who is new to coaching at the school receive training prior to beginning his or her first coaching assignment for the school; and

(4) each referee of a contest involving a high school athletic team participating in a collision sport receive training not less than every two years on how to recognize concussions when they occur during athletic activities.

(d) Participation in athletic activity.

(1) ~~A~~ Neither a coach nor a health care provider shall ~~not~~ permit a youth athlete to continue to participate in any training session or competition associated with a school athletic team if the coach ~~has reason to believe or health care provider knows or should know~~ that the athlete has sustained a concussion or other head injury during the training session or competition.

(2) ~~A~~ Neither a coach nor health care provider shall ~~not~~ permit a youth athlete who has been prohibited from training or competing pursuant to subdivision (1) of this subsection to train or compete with a school athletic team until the athlete has been examined by and received written permission to

participate in athletic activities from a health care provider ~~licensed pursuant to Title 26 and trained in the evaluation and management of concussions and other head injuries.~~

(e) Action plan.

(1) The principal or headmaster of each public and approved independent school in the State or a designee shall ensure that each school has a concussion management action plan that describes the procedures the school shall take when a student athlete suffers a concussion. The action plan shall include policies on:

(A) who makes the initial decision to remove a student athlete from play when it is suspected that the athlete has suffered a concussion;

(B) what steps the student athlete must take in order to return to any athletic or learning activity;

(C) who makes the final decision that a student athlete may return to athletic activity; and

(D) who has the responsibility to inform a parent or guardian when a student on that school's athletic team suffers a concussion.

(2) The action plan required by subdivision (1) of this subsection shall be provided annually to each youth athlete and the athlete's parents or guardians.

(3) Each youth athlete and a parent or guardian of the athlete shall annually sign a form acknowledging receipt of the information provided pursuant to subdivision (2) of this subsection and return it to the school prior to the athlete's participation in training or competition associated with a school athletic team.

Sec. 2. 16 V.S.A. § 1388 is added to read:

§ 1388. STOCK SUPPLY AND EMERGENCY ADMINISTRATION OF EPINEPHRINE AUTO-INJECTORS

(a) As used in this section:

(1) "Designated personnel" means a school employee, agent, or volunteer who has been authorized by the school administrator to provide and administer epinephrine auto-injectors under this section and who has completed the training required by the State Board by rule.

(2) "Epinephrine auto-injector" means a single-use device that delivers a premeasured dose of epinephrine.

(3) “Health care professional” means a physician licensed pursuant to 26 V.S.A. chapter 23 or 33, an advanced practice registered nurse licensed to prescribe drugs and medical devices pursuant to 26 V.S.A. chapter 28, or a physician assistant licensed to prescribe drugs and medical devices pursuant to 26 V.S.A. chapter 31.

(4) “School” means a public or approved independent school and extends to school grounds, school-sponsored activities, school-provided transportation, and school-related programs.

(5) “School administrator” means a school’s principal or headmaster.

(b)(1) A health care professional may prescribe an epinephrine auto-injector in a school’s name, which may be maintained by the school for use as described in subsection (d) of this section. The health care professional shall issue to the school a standing order for the use of an epinephrine auto-injector prescribed under this section, including protocols for:

(A) assessing whether an individual is experiencing a potentially life-threatening allergic reaction;

(B) administering an epinephrine auto-injector to an individual experiencing a potentially life-threatening allergic reaction;

(C) caring for an individual after administering an epinephrine auto-injector to him or her, including contacting emergency services personnel and documenting the incident; and

(D) disposing of used or expired epinephrine auto-injectors.

(2) A pharmacist licensed pursuant to 26 V.S.A. chapter 36 or a health care professional may dispense epinephrine auto-injectors prescribed to a school.

(c) A school may maintain a stock supply of epinephrine auto-injectors. A school may enter into arrangements with epinephrine auto-injector manufacturers or suppliers to acquire epinephrine auto-injectors for free or at reduced or fair market prices.

(d) The school administrator may authorize a school nurse or designated personnel or both to:

(1) provide an epinephrine auto-injector to a student for self-administration according to a plan of action for managing the student’s life-threatening allergy maintained in the student’s school health records pursuant to section 1387 of this title;

(2) administer a prescribed epinephrine auto-injector to a student according to a plan of action maintained in the student's school health records; and

(3) administer an epinephrine auto-injector, in accordance with the protocol issued under subsection (b) of this section, to a student or other individual at a school if the nurse or designated personnel believe in good faith that the student or individual is experiencing anaphylaxis, regardless of whether the student or individual has a prescription for an epinephrine auto-injector.

(e) Designated personnel, a school, and a health care professional prescribing an epinephrine auto-injector to a school shall be immune from any civil or criminal liability arising from the administration or self-administration of an epinephrine auto-injector under this section unless the person's conduct constituted intentional misconduct. Providing or administering an epinephrine auto-injector under this section does not constitute the practice of medicine.

(f) On or before January 1, 2014, the State Board, in consultation with the Department of Health, shall adopt rules pursuant to 3 V.S.A. chapter 25 for managing students with life-threatening allergies and other individuals with life-threatening allergies who may be present at a school. The rules shall:

(1) establish protocols to prevent exposure to allergens in schools;

(2) establish procedures for responding to life-threatening allergic reactions in schools, including post-emergency procedures;

(3) implement a process for schools and the parents or guardians of students with a life-threatening allergy to jointly develop a written individualized allergy management plan of action that:

(A) incorporates instructions from a student's physician regarding the student's life-threatening allergy and prescribed treatment;

(B) includes the requirements of section 1387 of this title, if a student is authorized to possess and self-administer emergency medication at school;

(C) becomes part of the student's health records maintained by the school; and

(D) is updated each school year;

(4) require education and training for school nurses and designated personnel, including training related to storing and administering an epinephrine auto-injector and recognizing and responding to a life-threatening allergic reaction;

(5) require each school to make publicly available protocols and procedures developed in accordance with the rules adopted by the State Board under this section; and

(6) require each school to submit to the Agency a standardized report of each incident at the school involving a life-threatening allergic reaction or administration or self-administration of an epinephrine auto-injector.

(g) Annually on or before January 15, the Secretary shall submit a report to the House and Senate Committees on Education that summarizes and analyzes the incident reports submitted by schools in accordance with the rules adopted by the State Board and that makes recommendations to improve schools' responses to life-threatening allergic reactions.

Sec. 3. CONCUSSION TASK FORCE

(a) Creation. There is created a Concussion Task Force to study concussions resulting from school athletic activities and to provide recommendations for further action.

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

(1) the Secretary of Education or designee;

(2) the Commissioner of Health or designee;

(3) a representative of the Vermont Principals' Association;

(4) a representative of the Vermont Athletic Trainers' Association;

(5) a representative of the Vermont Traumatic Brain Injury Advisory Board;

(6) a representative of the School Nurses Division of the Department of Health;

(7) a student athlete appointed by the Vermont Principals' Association; and

(8) a representative of the Vermont School Boards Insurance Trust.

(c) Powers and duties. The Concussion Task Force shall study issues related to concussions resulting from school athletic activities and make recommendations, including:

(1) what sports necessitate on-site trained medical personnel at athletic events based on data from public high schools and independent schools participating in interscholastic sports;

(2) the availability of trained medical personnel and whether school athletic events could be adequately covered; and

(3) the financial impact on schools of requiring medical personnel to be present at some athletic activities.

(d) Assistance. The Concussion Task Force shall have the administrative and technical assistance of the Agency of Education.

(e) Report. On or before December 15, the Concussion Task Force shall report to the House and Senate Committees on Education, the House Committee on Health Care, the Senate Committee on Health and Welfare, and the House and Senate Committees on Judiciary its findings and any recommendations for legislative action.

(f) Meetings.

(1) The Secretary of Education or designee shall call the first meeting of the Concussion Task Force to occur on or before July 15, 2013.

(2) The Secretary of Education or designee shall be the chair.

(3) A majority of the members of the Concussion Task Force shall be physically present at the same location to constitute a quorum.

(4) Action shall be taken only if there is both a quorum and a majority vote of all members of the Concussion Task Force.

(5) The Concussion task Force shall cease to exist on December 31, 2013.

Sec. 4. REPORT

To the extent permitted by applicable state and federal law, the Vermont Traumatic Brain Injury Advisory Board (the Board) shall obtain information necessary to create an annual report on the incidences of concussions sustained by student athletes in Vermont in the previous school year. To the extent such information is available, the report shall include the number of concussions sustained by student athletes in Vermont, the sport the student athlete was playing when he or she sustained the concussion, the number of Vermont student athletes treated in emergency rooms for concussions received while participating in school athletics, and who made the decision that a student athlete was able to return to play. For purposes of the report, the Board shall consult with the Vermont Principals' Association and the Vermont Association of Athletic Trainers. If the Board obtains information sufficient to create the report, it shall report on or before December 15 of each year starting in 2014 to the Senate and House Committees on Judiciary and on Education.

Sec. 5. SCHOOL-BASED MENTAL HEALTH SERVICES

(a) It is estimated that 10 percent of children need mental health services nationally, but that only 20 percent of this 10 percent receive treatment.

(b) Children who need mental health services are at a higher risk of dropping out of school than those who do not have mental health needs.

(c) Untreated mental health conditions have been linked to higher rates of juvenile incarceration, drug abuse, and unemployment.

(d) Early intervention decreases subsequent expenditures for special education and increases the likelihood of academic success.

(e) School-based mental health services increase access to and use of mental health services and improve coordination of services.

(f) School-based mental health services increase student and parental awareness of available services.

Sec. 6. SCHOOL-BASED MENTAL HEALTH SERVICES; STUDY

(a) The Secretaries of Education and of Human Services, in consultation with the Green Mountain Care Board, the Department of State's Attorneys, the Juvenile Division of the Office of the Defender General, and other interested parties, shall:

(1) catalogue the type and scope of mental health and substance abuse services provided in or in collaboration with Vermont public schools;

(2) determine the number of students who are currently receiving mental health or substance abuse services through Vermont public schools and identify the sources of payment for these services;

(3) estimate the number of students enrolled in Vermont public schools who are not receiving the mental health or substance abuse services they need and, in particular, the number of students who were referred for services but are not receiving them, identifying whenever possible the barriers to the receipt of services;

(4) identify successful programs and practices related to providing mental health and substance abuse services in Vermont public schools and nationally, and determine which, if any, could be replicated in other areas of the State;

(5) determine how the provision of health insurance in Vermont may affect the availability of mental health or substance abuse services to Vermont students;

(6) detail the costs and sources of funding for mental health and substance abuse services provided by or through Vermont public schools during the two most recent fiscal years for which data is available; and

(7) develop a proposal based on the information collected pursuant to this subsection to ensure that clinically-appropriate and sufficient school-based mental health and substance abuse services are available to students in Vermont public schools.

(b) On or before January 15, 2014, the Secretaries shall present their research, findings, and proposals to the House Committees on Education and on Human Services and the Senate Committees on Education and on Health and Welfare.

Sec. 7. EFFECTIVE DATE

This act shall take effect on July 1, 2013, except that the reporting requirement under Sec. 2, 16 V.S.A. § 1388(g), shall take effect on July 1, 2014.

and that after passage the title of the bill be amended to read: “An act relating to health and schools”

House Proposal of Amendment

S. 7.

An act relating to social networking privacy protection.

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

* * * Social Networking Privacy Protection Study * * *

Sec. 1. SOCIAL NETWORKING PRIVACY PROTECTION STUDY
COMMITTEE

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

(b) The Committee shall examine:

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

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

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

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

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

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

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

(3) the Attorney General or designee;

(4) the Commissioner of Labor or designee;

(5) the Commissioner of Financial Regulation or designee;

(6) the Commissioner of Human Resources or designee;

(7) the Commissioner of Public Safety or designee;

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

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

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

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

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

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

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

CHAPTER 120. BAD FAITH ASSERTIONS
OF PATENT INFRINGEMENT

§ 4195. LEGISLATIVE FINDINGS AND STATEMENT OF PURPOSE

(a) The General Assembly finds that:

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

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

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

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

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

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

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

(b) Through this narrowly focused act, the General Assembly seeks to facilitate the efficient and prompt resolution of patent infringement claims, protect Vermont businesses from abusive and bad faith assertions of patent infringement, and build Vermont's economy, while at the same time respecting

federal law and being careful to not interfere with legitimate patent enforcement actions.

§ 4196. DEFINITIONS

In this chapter:

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

(2) “Target” means a Vermont person:

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

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

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

§ 4197. BAD FAITH ASSERTIONS OF PATENT INFRINGEMENT

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

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

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

(A) the patent number;

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

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

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

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

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

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

(6) The claim or assertion of patent infringement is meritless, and the person knew, or should have known, that the claim or assertion is meritless.

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

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

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

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

(9) Any other factor the court finds relevant.

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

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

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

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

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

(5) The person is:

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

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

(6) The person has:

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

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

(7) Any other factor the court finds relevant.

§ 4198. BOND

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

§ 4199. ENFORCEMENT; REMEDIES; DAMAGES

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

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

(1) equitable relief;

(2) damages;

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

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

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

* * * Effective Date * * *

Sec. 3. EFFECTIVE DATE

This act shall take effect on passage.

House Proposal of Amendment

S. 11.

An act relating to the Austine School.

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

By inserting a new Sec. 2, after Sec. 1, to read as follows:

Sec. 2. SERVICE PLAN; AUSTINE SCHOOL

On or before January 15, 2014, the Secretary of Education, in consultation with the President and Board of Trustees of the Austine School, shall develop and present to the House Committees on Corrections and Institutions and on Education and the Senate Committees on Institutions and on Education a service plan to meet the needs of Vermont students served by the Austine School.

And by renumbering the remaining section to be numerically correct

House Proposal of Amendment

S. 81.

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

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. 9 V.S.A. chapter 80 is amended to read:

CHAPTER 80. FLAME RETARDANTS

§ 2971. ~~BROMINATED FLAME RETARDANTS~~

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

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

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

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

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

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

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

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

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

~~(9) “PBDE” means polybrominated diphenyl ether.~~

~~(10) “Technical mixture” means a PBDE mixture that is sold to a manufacturer. A technical mixture is named for the predominant congener in the mixture, but is not exclusively made up of that congener.~~

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

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

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

~~(2) Upholstered furniture.~~

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

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

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

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

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

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

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

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

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

~~(h) A violation of this section shall be deemed a violation of the Consumer Protection Act, chapter 63 of this title. The attorney general has the same authority to make rules, conduct civil investigations, enter into assurances of discontinuance, and bring civil actions, and private parties have the same rights and remedies as provided under subchapter 1 of chapter 63 of this title.~~

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

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

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

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

§ 2972. DEFINITIONS

(a) As used in this chapter:

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

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

(3) “Children’s product” means a consumer product:

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

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

(4) “Commissioner” means the Commissioner of Health of the Vermont Department of Health.

(5) “Congener” means a specific PBDE molecule.

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

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

(8) “Manufacturer” means any person:

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

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

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

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

(11) “PBDE” means polybrominated diphenyl ether.

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

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

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

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

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

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

§ 2973. BROMINATED FLAME RETARDANTS; PROHIBITION

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

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

- (1) a mattress or mattress pad; or
- (2) upholstered furniture.

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

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

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

- (A) plastic shipping pallets manufactured prior to January 1, 2011; or
- (B) plastic shipping pallets manufactured from recycled shipping pallets that contain decaBDE in a concentration that is no greater than the concentration of decaBDE in the recycled pallets from which the plastic pallets were manufactured.

§ 2974. CHLORINATED FLAME RETARDANTS

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

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

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

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

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

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

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

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

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

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

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

§ 2976. REPLACEMENT OF REGULATED FLAME RETARDANTS

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

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

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

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

§ 2977. EXEMPTIONS

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

(1) the sale or resale of used products;

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

(3) building insulation materials.

§ 2978. VIOLATIONS; ENFORCEMENT

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

§ 2979. PRODUCTION OF INFORMATION

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

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

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

§ 2980. DEPARTMENT OF HEALTH RULEMAKING; TCPP

(a) The Commissioner may adopt by rule a prohibition on the manufacture, offer for sale, distribution for sale, or knowing sale at retail in or into the State of the flame retardant TCPP in children's products and residential upholstered furniture if the Commissioner determines, based on the weight of available, scientific studies, that the toxicity of TCPP and its potential exposure pathways in those products pose a significant public health risk as that term is defined in 18 V.S.A. § 2(12).

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

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

(d) In addition to the public participation requirements of 3 V.S.A. chapter 25 and prior to submitting a rule authorized under this section to the Secretary of State under 3 V.S.A. § 838, the Commissioner shall make reasonable efforts to consult with interested parties within the State regarding a proposed

prohibition on the manufacture, offer for sale, distribution for sale, or knowing sale at retail in the State of the flame retardant TCPP. The Commissioner may satisfy the consultation requirement of this section through the use of one or more workshops, focused work groups, dockets, meetings, or other forms of communication.

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

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

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

Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2013.

House Proposal of Amendment

S. 82.

An act relating to campaign finance law.

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

The General Assembly finds that:

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

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

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

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

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

(6) When a person is able to make unduly large contributions to a candidate, there is a risk of voters losing confidence in our system of representative government because voters may believe that a candidate will be more likely to represent the views of persons who make those contributions and less likely to represent views of their constituents and Vermont citizens in general. This loss of confidence may lead to increased voter cynicism and a lack of participation in the electoral process among both candidates and voters.

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

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

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

(10) Exempting certain activities of political parties from the definition of what constitutes a contribution is important so as to not overly burden collective political activity. These activities, such as using the assistance of

volunteers, preparing party candidate listings, and hosting certain campaign events, are part of a party's traditional role in assisting candidates to run for office. Moreover, these exemptions help protect the right to associate in a political party.

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

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

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

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

(15) In order to provide the electorate with information regarding who seeks to influence their votes through campaign advertising; to make campaign financing more transparent; to aid voters in evaluating those seeking office; to deter actual corruption and avoid its appearance by exposing contributions and

expenditures to the light of publicity; and to gather data necessary to detect violations of contributions limits, it is imperative that Vermont increase the frequency of campaign finance reports and include more information in electioneering communications.

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

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

(18) This act is necessary in order to implement more fully the provisions of Article 8 of Chapter I of the Constitution of the State of Vermont, which declares "That all elections ought to be free and without corruption, and that all voters, having a sufficient, evident, common interest with, and attachment to the community, have a right to elect officers, and be elected into office, agreeably to the regulations made in this constitution."

Sec. 2. REPEAL

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

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

CHAPTER 61. CAMPAIGN FINANCE

Subchapter 1. General Provisions

§ 2901. DEFINITIONS

As used in this chapter:

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

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

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

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

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

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

(A) the name of the candidate appears;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(D) is limited to:

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

(ii) the offices sought;

(iii) the offices currently held by the candidates;

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

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

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

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

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

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

(15) “Single source” means an individual, partnership, corporation, association, labor organization, or any other organization or group of persons which is not a political committee or political party.

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

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

§ 2902. EXCEPTIONS

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

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

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

§ 2903. PENALTIES

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

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

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

§ 2904. CIVIL INVESTIGATION

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

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

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

(4) Any book, record, paper, memorandum, or other information produced by any person pursuant to this section shall not, unless otherwise ordered by a court of this State for good cause shown, be disclosed to any person other than the authorized agent or representative of the Attorney

General or a state's attorney or another law enforcement officer engaged in legitimate law enforcement activities unless with the consent of the person producing the same, except that any transcript of oral testimony, written responses, documents, or other information produced pursuant to this section may be used in the enforcement of this chapter, including in connection with any civil action brought under section 2903 of this subchapter or subsection (c) of this section.

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

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

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

(2) Any person who, with intent to avoid, evade, or prevent compliance, in whole or in part, with any civil investigation under this section, removes from any place; conceals, withholds, or destroys; or mutilates, alters, or by any other means falsifies any documentary material in the possession, custody, or control of any person subject to such notice or mistakes or conceals any information shall be fined not more than \$5,000.00.

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

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

(d) Any person aggrieved by a civil investigation conducted under this section may seek relief from Washington Superior Court or the superior court in the county in which the aggrieved person resides. Except for cases the court

considers to be of greater importance, proceedings before superior court as authorized by this section shall take precedence on the docket over all other cases.

§ 2905. ADJUSTMENTS FOR INFLATION

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

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

§ 2906. CAMPAIGN DATABASE; CANDIDATE INFORMATION WEB PAGE

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

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

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

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

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

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

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

(b) Candidate information web page.

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

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

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

§ 2907. ADMINISTRATION

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

Subchapter 2. Registration and Maintenance Requirements

§ 2921. CANDIDATES; REGISTRATION; CHECKING ACCOUNT; TREASURER

(a) Each candidate who has made expenditures or accepted contributions of \$500.00 or more in a two-year general election cycle shall register with the Secretary of State within 10 days of reaching the \$500.00 threshold or on the date that the next report is required of the candidate under this chapter, whichever occurs first, stating his or her full name and address; the office the candidate is seeking; the name and address of the bank in which the candidate maintains his or her campaign checking account; and the name and address of the treasurer responsible for maintaining the checking account. A candidate's treasurer may be the candidate or his or her spouse.

(b) All expenditures by a candidate shall be paid by either a credit card or a debit card, check, or other electronic transfer from the single campaign checking account in the bank designated by the candidate under subsection (a)

of this section, or, if under \$250.00, the candidate may make the expenditure from cash from that campaign checking account if accompanied by a receipt, a copy of which shall be maintained by the candidate for at least two years from the end of the two-year general election cycle in which the expenditure was made. Nothing in this subsection shall be construed to prohibit the payment of fees required to be made from a separately held online account designated solely to collect campaign contributions made to the candidate.

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

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

(b) All expenditures by a political committee shall be paid by either a credit card or a debit card, check, or other electronic transfer from the single campaign checking account in the bank designated by the political committee under subsection (a) of this section, or, if under \$250.00, the political committee may make the expenditure from cash from that campaign checking account if accompanied by a receipt, a copy of which shall be maintained by the political committee for at least two years from the end of the two-year general election cycle in which the expenditure was made. Nothing in this subsection shall be construed to prohibit the payment of fees required to be made from a separately held online account designated solely to collect campaign contributions made to the political committee.

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

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

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

account, and the name and address of the treasurer responsible for maintaining the checking account.

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

(b) All expenditures by a political party or its subsidiary, branch, or local unit shall be paid by either a credit card or a debit card, check, or other electronic transfer from the single campaign checking account in the bank designated by the political party, subsidiary, branch, or local unit under subsection (a) of this section, or if under \$250.00, the political party, subsidiary, branch, or local unit may make the expenditure from cash from that campaign checking account if accompanied by a receipt, a copy of which shall be maintained by the political party, subsidiary, branch, or local unit for at least two years from the end of the two-year general election cycle in which the expenditure was made. Nothing in this subsection shall be construed to prohibit the payment of fees required to be made from a separately held online account designated solely to collect campaign contributions made to the political party, subsidiary, branch, or local unit.

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

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

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

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

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

(2) contributed to a charity;

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

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

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

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

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

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

§ 2925. POLITICAL COMMITTEES; SURPLUS CAMPAIGN FUNDS

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

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

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

(2) contributed to a charity;

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

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

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

Subchapter 3. Contribution Limitations

§ 2941. LIMITATIONS OF CONTRIBUTIONS

In any two-year general election cycle:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(6) A single source, political committee, or political party shall not contribute more to a candidate, political committee, or political party than the candidate, political committee, or political party is permitted to accept under subdivisions (1) through (5) of this section.

§ 2942. EXCEPTIONS

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

§ 2943. LIMITATIONS ADJUSTED FOR INFLATION

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

§ 2944. ACCOUNTABILITY FOR RELATED EXPENDITURES

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

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

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

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

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

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

(B) the expenditure was made for:

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

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

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

(2) For the purposes of this subsection:

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

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

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

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

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

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

§ 2945. ACCEPTING CONTRIBUTIONS

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

(b) A candidate, political committee, or political party shall not accept a monetary contribution in excess of \$100.00 unless made by check, credit or debit card, or other electronic transfer.

§ 2946. CANDIDATE’S ATTRIBUTION TO PREVIOUS CYCLE

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

§ 2947. CONTRIBUTIONS FROM A CANDIDATE OR IMMEDIATE FAMILY

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

§ 2948. PROHIBITION ON TRANSFERRING CONTRIBUTIONS

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

§ 2949. USE OF TERM “CANDIDATE”

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

Subchapter 4. Reporting Requirements; Disclosures

§ 2961. SUBMISSION OF REPORTS TO THE SECRETARY OF STATE

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

(2) The Secretary shall maintain on the online database reports that have been filed for each two-year general election cycle so that any person may have direct machine-readable electronic access to the individual data elements in each report and the ability to search those data elements as soon as a report is filed.

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

§ 2962. REPORTS; GENERAL PROVISIONS

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

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

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

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

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

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

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

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

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

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

(b)(1) The form shall require the reporting of all contributions and expenditures accepted or spent during the reporting period and during the campaign to date and shall require full disclosure of the manner in which any indebtedness is discharged or forgiven.

(2) Contributions and expenditures for the reporting period and for the campaign to date also shall be totaled in an appropriate place on the form. The

total of contributions shall include a subtotal of nonmonetary contributions and a subtotal of all monetary contributions.

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

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

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

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

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

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

(i) on March 15;

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

(iii) on September 1;

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

(v) two weeks after the general election.

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

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

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

(I) on March 15;

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

(III) on September 1;

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

(V) two weeks after the general election.

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

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

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

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

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

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

§ 2966. REPORTS BY CANDIDATES NOT REACHING MONETARY REPORTING THRESHOLD

(a) Each candidate for state office, the General Assembly, and a two-year-term county office who has made expenditures or accepted contributions of less than \$500.00 during a two-year general election cycle shall file with the Secretary of State 10 days following the general election a

statement that the candidate has not made expenditures or accepted contributions of \$500.00 or more during the two-year general election cycle.

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

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

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

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

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

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

§ 2968. CAMPAIGN REPORTS; LOCAL CANDIDATES

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

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

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

§ 2969. REPORTING OF SURPLUS

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

§ 2970. CAMPAIGN REPORTS; OTHER ENTITIES; PUBLIC QUESTIONS

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

§ 2971. REPORT OF MASS MEDIA ACTIVITIES

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

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

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

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

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

§ 2972. IDENTIFICATION IN ELECTIONEERING COMMUNICATIONS

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

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

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

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

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

§ 2973. SPECIFIC IDENTIFICATION REQUIREMENTS FOR RADIO, TELEVISION, OR INTERNET COMMUNICATIONS

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

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

Subchapter 5. Public Financing Option

§ 2981. DEFINITIONS

As used in this subchapter:

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

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

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

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

§ 2982. FILING OF VERMONT CAMPAIGN FINANCE AFFIDAVIT

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

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

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

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

(3) The affidavit shall also contain a list of all the candidate’s qualifying contributions together with the name and town of residence of the contributor and the date each contribution was made.

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

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

§ 2983. VERMONT CAMPAIGN FINANCE GRANTS; CONDITIONS

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

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

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

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

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

§ 2984. QUALIFYING CONTRIBUTIONS

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

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

(2) for Lieutenant Governor, a total amount of no less than \$17,500.00 collected from no fewer than 750 qualified individual contributors making a contribution of no more than \$50.00 each.

(b) A candidate shall not accept more than one qualifying contribution from the same contributor and a contributor shall not make more than one qualifying contribution to the same candidate in any Vermont campaign finance qualification period. For the purpose of this section, a qualified individual contributor means an individual who is registered to vote in

Vermont. No more than 25 percent of the total number of qualified individual contributors may be residents of the same county.

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

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

§ 2985. VERMONT CAMPAIGN FINANCE GRANTS; AMOUNTS;
TIMING

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

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

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

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

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

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

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

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

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

§ 2986. MONETARY AMOUNTS ADJUSTED FOR INFLATION

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

Sec. 4. EVALUATION OF 2014 PRIMARY AND GENERAL ELECTIONS

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

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

(a) By December 15, 2013, the Secretary of State shall report to the Senate and House Committees on Government Operations regarding any impact on his or her office and on corporations and labor unions if corporations and labor unions were required to establish separate segregated funds in order to make contributions to candidates, political committees, and political parties as provided in 2 U.S.C. § 441b and related federal law.

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

Sec. 6. INTERIM REPORTING; METHOD OF REPORTING

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

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

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

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

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

Sec. 7. EFFECTIVE DATES; TRANSITIONAL PROVISIONS

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

House Proposal of Amendment

S. 99.

An act relating to the standard measure of recidivism.

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

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

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

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

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

Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.

House Proposal of Amendment

S. 132.

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

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

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

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

§ 367. DEPARTMENT OF STATE'S ATTORNEYS AND SHERIFFS

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

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

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

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

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

(e) [Repealed.]

House Proposal of Amendment

S. 148.

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

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. 1 V.S.A. § 317 is amended to read:

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

* * *

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

* * *

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

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

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

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

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

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

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

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

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

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

* * *

Sec. 2. Rule 6(f) of the Vermont Rules of Criminal Procedure is amended to read:

(f) Secrecy of Proceedings and Disclosure. – Disclosure of matters occurring before the grand jury other than its deliberations and the vote of any juror may be made to the prosecuting attorneys for use in the performance of their duties. Otherwise, a juror, attorney, interpreter, court reporter, operator of

a recording device, or any typist who transcribes recorded testimony may disclose matters occurring before the grand jury only when do directed by the court preliminarily to or in connection with a judicial proceeding, or as provided in Rule 16(a)(2). No obligation of secrecy may be imposed upon any person except in accordance with this rule. The court may direct that an indictment shall be kept secret until the defendant is in custody or has given bail, and in that event the clerk shall seal the indictment and no person shall disclose the finding of the indictment except when necessary for the issuance and execution of a warrant or summons. Notwithstanding any provision of this rule or any other provision of law, the Attorney General or a State's Attorney may disclose the decision of a grand jury not to return a true bill in a matter involving actions committed by a law enforcement officer while acting within the scope of employment or while on duty as a law enforcement officer.

Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2013.

House Proposal of Amendment to Senate Proposal of Amendment

H. 377.

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

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

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

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

coordinator under subsection (f) of this section in order to obtain the benefits granted to neighborhood development areas.

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

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.

CONCURRENT RESOLUTIONS FOR NOTICE

H.C.R. 141-172 (For text of Resolutions, see Addendum to House Calendar for May 9, 2013)

S.C.R. 25-27 (For text of Resolutions, see Addendum to Senate Calendar for May 9, 2013)

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)

James Reardon of Essex Junction – Commissioner, Department of Finance and Management – By Sen. French for the Committee on Government Operations. (5/10/13)

Richard Boes of Montpelier – Chief Information Officer and Commissioner, Department of Information & Innovation – By Sen. Pollina for the Committee on Government Operations. (5/10/13)

Jeb Spaulding of Montpelier – Secretary of Administration – By Sen. Pollina for the Committee on Government Operations. (5/10/13)

Andrew Pallito of Jericho – Commissioner, Department of Corrections – By Sen. Sears for the Committee on Institutions. (5/10/13)