Senate Calendar

FRIDAY, MAY 10, 2013

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H. 107.

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H. 521.

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

Senator Collins moves that the Senate propose to the House to amend the bill as follows:

First: In Sec. 16, in subsection (a), by striking out subdivisions (1) through (12) in their entirety and inserting in lieu thereof seven new subdivisions to be subdivisions (1) through (7) to read:

(1) the Executive Director of the Vermont Independent Schools Association or designee;

(2) one trustee of an approved independent school in Vermont that receives publicly funded tuition, selected by the Vermont Independent Schools Association;

(3) the Executive Director of the Vermont School Boards Association or designee;

(4) the Executive Director of the Vermont Principals' Association or designee;

(5) the Executive Director of the Vermont Council of Special Education Administrators or designee;

(6) the Secretary of Education or designee; and

(7) the chair of the State Board of Education or designee, who shall serve as the committee's chair and convene the first meeting of the committee on or before July 1, 2013.

Second: In Sec. 16, in subsection (b), subdivision (2), before the word "examine" by inserting the following:

consider whether the decision to close a public school and reopen it as an approved independent school raises issues addressed by the Vermont Constitution or by the U.S. Constitution or other federal law; and

(3)

Second Reading

Favorable

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.)

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. 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, for what purpose, and:

(A) if the expenditure was a related campaign expenditure made on a candidate's behalf:

(i) the name of the candidate or candidates on whose behalf the expenditure was made; and

(ii) the name of any other candidate or candidates who were otherwise supported or opposed by the expenditure; or

(B) if the expenditure was not a related campaign expenditure made on a candidate's behalf but was made to support or oppose a candidate or candidates, the name of the candidate or candidates;

(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. 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.

NOTICE CALENDAR

Second Reading

Favorable

H. 534.

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

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

(Committee vote: 5-0-0)

(For House amendments, see House Journal of May 7, 2013, page 1317.)

Reported favorably by Senator Lyons for the Committee on Finance.

(Committee vote: 4-1-2)

Favorable with Proposal of Amendment

H. 270.

An act relating to providing access to publicly funded prekindergarten education .

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

The Committee recommends that the Senate propose to the House to amend the bill by inserting a new section to be Sec. 3b to read:

Sec. 3b. PREKINDERGARTEN REGIONS; PROCESS AND CRITERIA

The Agencies of Education and of Human Services, in consultation with the Vermont Superintendents Association, the Vermont School Boards Association, the Vermont Principals' Association, the Vermont-NEA, and the Vermont Early Childhood Alliance, shall develop a detailed proposal outlining the process and criteria by which the Agencies will determine the prekindergarten region of a school district if requested to do so pursuant to Sec. 1, 16 V.S.A. § 829(h)(2), of this act. The Agencies shall present the proposal to the House and Senate Committees on Education on or before January 15, 2014. The Agencies shall also present any recommendations for amendments to statute, including repeal of or amendments to subsection (h).

(Committee vote: 5-0-0)

(For House amendments, see House Journal for April 30, 2013, pages 1002 and 1003, and May 1, 2013, page 1043.)

Reported favorably by Senator Mullin for the Committee on Finance when amended as recommended by the Committee on Education.

(Committee vote: 6-0-1)

H. 295.

An act relating to technical tax changes.

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

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

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

Sec. 12. [Deleted.]

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

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

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

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

(i) income from United States government obligations;

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

* * *

Fourth: By adding a Sec. 18a to read as follows:

Sec. 18a. 32 V.S.A. § 5825a(a) is amended to read:

(a) A taxpayer of this ~~state~~ State, including each spouse filing a joint return, shall be eligible for a nonrefundable credit against the tax imposed under section 5822 of this title of 10 percent of the first $2,500.00 per beneficiary, contributed by the taxpayer during the taxable year to a ~~Vermont~~ higher

education investment plan account under ~~subchapter 7 of~~ 16 V.S.A. chapter 87, subchapter 7 ~~of Title 16~~.

Fifth: In Sec. 31, in subsection (b), after "Commissioner may reasonably require for the proper administration of this chapter." by inserting

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

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

Sec. 34a. 2012 Acts and Resolves No. 143, Sec. 52 is amended to read:

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

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

(b) Notwithstanding the imposition of sales and use tax on prewritten computer software by 32 V.S.A. chapter 233, the ~~department of taxes~~ Department of Taxes shall not assess tax on charges for remotely accessed software made after December 31, 2006 and before July 1, ~~2013~~ 2016, and taxes paid on such charges shall be refunded upon request if within the statute of limitations and documented to the satisfaction of the ~~commissioner~~ Commissioner. "Charges for remotely accessed software" means charges for the right to access and use prewritten software run on underlying infrastructure that is not managed or controlled by the consumer or a related company. Enforcement of the sales and use tax imposed on the purchase of specified digital products pursuant to 32 V.S.A. § 9771(8) is not affected by this section.

(c) Beginning on July 1, 2013, the moratorium in subsection (b) of this section shall not apply to charges by a vendor for the right to access and use

prewritten software if any vendor offers for sale, in a storage medium or by an electronic download to the user's computer or server, either directly or through wholesale or retail channels that same computer software or comparable computer software that performs the same functions. The software shall be considered the same or comparable if the seller provides the customer with the use of software that functions with little or no personal intervention by the seller or seller's employees other than "help desk" assistance for customers having difficulty using the software.

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

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

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

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

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

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

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

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

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

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

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

Seventh: By inserting Secs. 35 and 36 to read:

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

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

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

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

Eighth: By inserting Secs. 37–43 to read:

* * * Health Insurance Claims Tax * * *

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

CHAPTER 243. HEALTH CARE CLAIMS TAX

§ 10401. DEFINITIONS

As used in this section:

(1) "Health insurance" means any group or individual health care benefit policy, contract, or other health benefit plan offered, issued, renewed,

or administered by any health insurer, including any health care benefit plan offered, issued, renewed, or administered by any health insurance company, any nonprofit hospital and medical service corporation, any dental service corporation, or any managed care organization as defined in 18 V.S.A. § 9402. The term includes comprehensive major medical policies, contracts, or plans and Medicare supplemental policies, contracts, or plans, but does not include Medicaid or any other state health care assistance program in which claims are financed in whole or in part through a federal program unless authorized by federal law and approved by the General Assembly. The term does not include policies issued for specified disease, accident, injury, hospital indemnity, long-term care, disability income, or other limited benefit health insurance policies, except that any policy providing coverage for dental services shall be included.

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

§ 10402. HEALTH CARE CLAIMS TAX

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

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

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

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

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

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

§ 10403. ADMINISTRATION OF TAX

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

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

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

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

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

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

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

(e) The ~~commissioner~~ Commissioner may, in his or her discretion and subject to such conditions and requirements as he or she may provide,

including any confidentiality requirements of the Internal Revenue Service, disclose a return or return information:

* * *

(14) to the ~~office of the state treasurer~~ Office of the State Treasurer, only in the form of mailing labels, with only the last address known to the ~~department of taxes~~ Department of Taxes of any person identified to the ~~department~~ Department by the ~~treasurer~~ Treasurer by name and Social Security number, for the ~~treasurer's~~ Treasurer's use in notifying owners of unclaimed property; ~~and~~

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

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

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

§ 10301. HEALTH IT-FUND

* * *

(c) Into the fund shall be deposited:

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

* * *

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

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

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

§ 10301. HEALTH IT-FUND

* * *

(c) Into the fund shall be deposited:

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

* * *

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

§ 10402. HEALTH CARE CLAIMS TAX

(a) There is imposed on every health insurer an annual tax in an amount equal to ~~0.999~~ 0.8 of one percent of all health insurance claims paid by the health insurer for its Vermont members in the previous fiscal year ending June 30. The annual fee shall be paid to the Commissioner of Taxes in one installment due by January 1.

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

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

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

* * *

Sec. 43. REPEAL

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

Ninth: By inserting Secs. 44 and 45 to read:

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

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

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

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

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

assessment required under 23 V.S.A. § 3106(a)(1)(B)(ii) shall be $0.067 per gallon.

And by renumbering the remaining section to be numerically correct

Tenth: In the renumbered Sec. 46 (effective dates), by adding subsections (8) and (9) to read:

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

(9) Sec. 18a (Vermont higher education investment tax credit) of this act shall take effect on January 1, 2013 and apply to taxable year 2013 and after.

(Committee vote: 6-0-1)

(No House amendments.)

H. 523.

An act relating to jury questionnaires, the filing of foreign child custody determinations, court fees, and judicial record keeping.

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

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

Sec. 1. 4 V.S.A. § 955 is amended to read:

§ 955. QUESTIONNAIRE

The clerk shall send a jury questionnaire prepared by the ~~court administrator~~ Court Administrator to each person selected. When returned, it shall be retained in the ~~superior court clerk's office~~ Office of the Superior Court Clerk. ~~The questionnaire shall at all times during business hours be open to inspection by the court and attorneys of record of the state of Vermont.~~ Pursuant to section 952 of this title, the Court Administrator shall promulgate rules governing the inspection and availability of the juror questionnaires and the information contained in them.

Sec. 2. 15 V.S.A. § 1085 is amended to read:

§ 1085. REGISTRATION OF CHILD CUSTODY DETERMINATION

* * *

(b) On receipt of the documents required by subsection (a) of this section, the ~~court administrator~~ Family Division shall:

(1) ~~cause the determination to be filed~~ send the certified copy of the determination to the Court Administrator who shall file it as a foreign judgment~~, together with one copy of any accompanying documents and information, regardless of their form~~; and

* * *

Sec. 3. 32 V.S.A. § 1431 is amended to read:

§ 1431. FEES IN SUPREME AND SUPERIOR COURTS

* * *

(2) Prior to the entry of any divorce or annulment proceeding in the ~~superior court~~ Superior Court, there shall be paid to the ~~clerk of the court~~ Clerk of the Court for the benefit of the state a fee of $250.00 in lieu of all other fees not otherwise set forth in this section. If the divorce or annulment complaint is filed with a stipulation for a final order ~~acceptable to the court~~, the fee shall be $75.00 if one or both of the parties are residents, and $150.00 if neither party is a resident, except that if the stipulation is not acceptable to the Court or if a matter previously agreed to becomes contested, the difference between the full fee and the reduced fee shall be paid to the Court prior to the issuance of a final order.

(3) Prior to the entry of any parentage or desertion and support proceeding brought under 15 V.S.A. chapter 5 ~~of Title 15~~ in the ~~superior court~~ Superior Court, there shall be paid to the ~~clerk of the court~~ Clerk of the Court for the benefit of the ~~state~~ State a fee of $100.00 in lieu of all other fees not otherwise set forth in this section~~; however, if~~. If the parentage or desertion and support complaint is filed with a stipulation for a final order acceptable to the ~~court~~ Court, the fee shall be $25.00 except that if the stipulation is not acceptable to the Court or if a matter previously agreed to becomes contested, the difference between the full fee and the reduced fee shall be paid to the Court prior to the issuance of a final order.

(4) Prior to the entry of any motion or petition to enforce ~~an~~ a final order for parental rights and responsibilities, parent-child contact, property division, or maintenance in the ~~superior court~~ Superior Court, there shall be paid to the ~~clerk of the court~~ Clerk of the Court for the benefit of the ~~state~~ State a fee of $75.00 in lieu of all other fees not otherwise set forth in this section. Prior to the entry of any motion or petition to vacate or modify ~~an~~ a final order for parental rights and responsibilities, parent-child contact, or maintenance in the ~~superior court~~ Superior Court, there shall be paid to the ~~clerk of the court~~ Clerk

of the Court for the benefit of the ~~state~~ State a fee of $100.00 in lieu of all other fees not otherwise set forth in this section. However, if the motion or petition is filed with a stipulation for an order ~~acceptable to the court~~, the fee shall be $25.00~~. All motions or petitions filed by one party at one time shall be assessed one fee~~ except that if the stipulation is not acceptable to the Court or if a matter previously agreed to becomes contested, the difference between the full fee and the reduced fee shall be paid to the Court prior to the issuance of a final order. All motions or petitions filed by one party under this subsection at one time shall be assessed one fee equal to the highest of the filing fees associated with the motions or petitions involved. There are no filing fees for prejudgment motions or petitions filed before a final divorce, legal separation, dissolution of civil union, parentage, desertion, or nonsupport judgment issued.

(5) Prior to the entry of any motion or petition to vacate or modify an order for child support in the ~~superior court~~ Superior Court, there shall be paid to the ~~clerk of the court~~ Clerk of the Court for the benefit of the ~~state~~ State a fee of $35.00 in lieu of all other fees not otherwise set forth in this section~~; however, if~~. If the motion or petition is filed with a stipulation for an order ~~acceptable to the court~~, there shall be no fee except that if the stipulation is not acceptable to the Court or if a matter previously agreed to becomes contested, the difference between the full fee and the reduced fee shall be paid to the Court prior to the issuance of a final order. A motion or petition to enforce an order for child support shall require no fee. All motions or petitions filed by one party at one time shall be assessed one fee; if a simultaneous motion is filed by a party under subdivision (4) of this subsection, the fee under subdivision (4) shall be the only fee assessed. There are no filing fees for prejudgment motions or petitions filed before a final divorce, legal separation, dissolution of civil union, parentage, desertion, or nonsupport judgment has issued.

(6) Prior to the registration in Vermont of a child custody determination issued by a court of another state, there shall be paid to the Clerk of the Court for the benefit of the State a fee of $75.00 unless the request for registration is filed with a simultaneous motion for enforcement, in which event the fee for registration shall be $30.00 in addition to the fee for the motion as provided in subdivision (4) of this subsection.

* * *

(d) Prior to the entry of any subsequent pleading which sets forth a claim for relief in the supreme court or the superior court, there shall be paid to the clerk of the court for the benefit of the state a fee of $100.00 for every appeal, cross-claim, or third-party claim and a fee of $75.00 for every counterclaim in the superior court in lieu of all other fees not otherwise set forth in this section.

The fee for an appeal of a magistrate's decision in the superior court shall be $100.00. The filing fee for civil suspension proceedings filed pursuant to 23 V.S.A § 1205 shall be $75.00, which shall be taxed in the bill of costs in accordance with sections 1433 and 1471 of this title. This subsection does not apply to filing fees in the Family Division, except with respect to the fee for an appeal of a magistrate's decision.

(e) Prior to the filing of any postjudgment motion in the ~~superior court~~ Civil, Criminal, or Environmental Division of the Superior Court, including motions to reopen civil suspensions and motions for sealing or expungement in the criminal division pursuant to 13 V.S.A. § 7602, there shall be paid to the ~~clerk of the court~~ Clerk of the Court for the benefit of the ~~state~~ State a fee of $75.00 except for small claims actions.

* * *

(h) Pursuant to Vermont Rules of Civil Procedure 3.1 or Vermont Rules of Appellate Procedure 24(a), part or all of the filing fee may be waived if the ~~court~~ Court finds that the applicant is unable to pay it. The ~~clerk of the court~~ Clerk of the Court or the clerk's designee shall establish the in forma pauperis fee in accordance with procedures and guidelines established by administrative order of the ~~supreme court~~ Supreme Court. If, during the course of the proceeding and prior to a final judgment, the Court determines that the applicant has the ability to pay all or a part of the waived fee, the Court shall require that payment be made prior to issuing a final judgment. If the applicant fails to pay the fee within a reasonable time, the Court may dismiss the proceeding.

Sec. 4. 32 V.S.A. § 1434 is amended to read:

§ 1434. PROBATE CASES

* * *

(b) ~~For economic cause, the probate judge may waive this fee.~~ Pursuant to Rule 3.1 of the Vermont Rules of Civil Procedure, part of the filing fee may be waived if the Court finds the applicant is unable to pay it. The Court shall use procedures established in subsection 1431(h) of this title to determine the fee. No fee shall be charged for necessary documents pertaining to the opening of estates, trusts, and guardianships, including the issuance of two certificates of appointment and respective letters. No fee shall be charged for the issuance of two certified copies of adoption decree and two certified copies of instrument changing name.

* * *

Sec. 5. 4 V.S.A. § 657 is amended to read:

§ 657. TRANSCRIBING DAMAGED RECORDS

When records in the ~~court clerk's office~~ Office of the Superior Court Clerk become faded, defaced, torn, or otherwise injured, so as to endanger the permanent legibility or proper preservation of the same, ~~by an order in writing recorded in the court clerk's office, the court administrator shall~~ the Court Administrator may direct the ~~court clerk~~ Court Clerk to provide suitable books and transcribe such records therein. At the end of a transcript of record so made, the ~~clerk~~ Clerk shall certify under official signature and the seal of the ~~court~~ Court that the same is a true transcript of the original record. Such transcript or a duly certified copy thereof shall be entitled to the same faith and credit and have the same force as the original record. The expense of making such transcript shall be paid by the ~~state~~ State.

Sec. 6. 4 V.S.A. § 659 is amended to read:

§ 659. PRESERVATION OF COURT RECORDS

(a) The ~~supreme court~~ Supreme Court by administrative order may provide for permanent preservation of all court records by any photographic or electronic or comparable process ~~which will provide compact records in reduced size,~~ in accordance with standards ~~established by the secretary of state which~~ that shall be no less protective of the records than the standards established by the state archives and records administration programs that take into account the quality and security of the records, and ready access to the record of any cause so recorded.

(b) After preservation in accordance with subsection (a) of this section, the ~~supreme court~~ Supreme Court by administrative order may provide for the disposition of original court records by destruction or in cases where the original court record may have historical or intrinsic value by transfer to the archives of the ~~secretary of state, the Vermont historical society, or the University of Vermont~~ Secretary of State.

Sec. 7. 4 V.S.A. § 732 is amended to read:

§ 732. LOST ~~WRIT OR COMPLAINT FILING OF NEW PAPERS~~ DOCUMENT OR RECORD

When ~~the writ or complaint~~ a court document, record, or file in an action pending in court is lost, mislaid, or destroyed, the court~~, on written motion for that purpose,~~ may order a ~~writ or a complaint for the same cause of action~~ duplicate document, record, or file to be filed under such ~~regulations~~ conditions as the court prescribes~~, and the same proceedings shall be had thereon as though it were the original writ or complaint. If the plaintiff refuses~~

~~to file such writ or complaint, the court shall direct a nonsuit in the action, and tax costs for the defendant~~. A duplicate document or record shall have the same validity and may be used in evidence in the same manner as the original document, record, or file.

Sec. 8. 4 V.S.A. § 740 is amended to read:

§ 740. COURT RECORDS; DOCKETS; CERTIFIED COPIES

The ~~supreme court~~ Supreme Court by administrative order or directive shall provide for the preparation, maintenance, recording, indexing, docketing, preservation, and storage of all court records and the provision, subject to confidentiality requirements of law or court rules, of certified copies of those records to persons requesting them.

Sec. 9. 12 V.S.A. § 5 is amended to read:

§ 5. DISSEMINATION OF ELECTRONIC CASE RECORDS

(a) The court shall not permit public access via the Internet to criminal or family case records. The court may permit criminal justice agencies, as defined in 20 V.S.A. § 2056a, Internet access to criminal case records for criminal justice purposes, as defined in section 2056a.

(b) This section shall not be construed to prohibit the court from providing electronic access to:

(1) court schedules of the superior court, or opinions of the criminal division of the superior court; ~~or~~

(2) state agencies in accordance with data dissemination contracts entered into under Rule 6 of the Vermont Rules of Electronic Access to Court Records; or

(3) decisions, recordings of oral arguments, briefs, and printed cases of the Supreme Court.

Sec. 10. 4 V.S.A. § 908 is amended to read:

§ 908. ATTORNEYS' ADMISSION, LICENSING, AND PROFESSIONAL RESPONSIBILITY SPECIAL FUND

There is established the attorneys' admission, licensing, and professional responsibility special fund which shall be managed in accordance with 32 V.S.A. chapter 7, subchapter 5. Fees collected for licensing of attorneys, administration of the bar examination, admitting attorneys to practice in Vermont, and administration of mandatory continuing legal education shall be deposited and credited to this fund. This fund shall be available to the ~~judicial branch~~ Judicial Branch to offset the cost of operating the ~~professional~~

~~responsibility board~~ Professional Responsibility Board, the ~~board of bar examiners~~ Board of Bar Examiners, the ~~judicial conduct board~~ Judicial Conduct Board, the ~~committee on character and fitness~~ Committee on Character and Fitness, the mandatory continuing legal education program for attorneys and, at the discretion of the ~~supreme court~~ Supreme Court, to make grants for access to justice programs or to the Vermont ~~bar foundation~~ Bar Foundation to be used to support legal services for the disadvantaged.

Sec. 11. 13 V.S.A. § 7030 is amended to read:

§ 7030. SENTENCING ALTERNATIVES

(a)(1) In determining which of the following should be ordered, the court shall consider the nature and circumstances of the crime, the history and character of the defendant, the need for treatment, and the risk to self, others, and the community at large presented by the defendant:

~~(1)~~(A) ~~A~~ a deferred sentence pursuant to section 7041 of this title~~.~~;

~~(2)~~(B) ~~Referral~~ referral to a community reparative board pursuant to 28 V.S.A. chapter 12 in the case of an offender who has pled guilty to a nonviolent felony, a nonviolent misdemeanor, or a misdemeanor that does not involve the subject areas prohibited for referral to a community justice center under 24 V.S.A. § 1967. Referral to a community reparative board pursuant to this subdivision does not require the court to place the offender on probation. The offender shall return to court for further sentencing if the reparative board does not accept the case or if the offender fails to complete the reparative board program to the satisfaction of the board in a time deemed reasonable by the board~~.~~;

~~(3)~~(C) ~~Probation~~ probation pursuant to 28 V.S.A. § 205~~.~~;

~~(4)~~(D) ~~Supervised~~ supervised community sentence pursuant to 28 V.S.A. § 352~~.~~; or

~~(5)~~(E) ~~Sentence~~ sentence of imprisonment.

(2)(A) In determining a sentence upon conviction for a nonviolent misdemeanor or a nonviolent felony, in addition to the factors identified in subdivision (1) of this subsection, the court shall consider the approximate financial cost of available sentences.

(B) The Department of Corrections shall develop and maintain a database on the approximate costs of sentences, including incarceration, probation, deferred sentence, supervised community sentence, participation in the Restorative Justice Program, and any other possible sentence. The database information shall be made available to the courts for the purposes of this subdivision (2).

(b) When ordering a sentence of probation, the court may require participation in the ~~restorative justice program~~ Restorative Justice Program established by 28 V.S.A. chapter 12 as a condition of the sentence.

Sec. 12. 13 V.S.A. § 15 is added to read:

§ 15. NONVIOLENT MISDEMEANOR AND NONVIOLENT FELONY DEFINED

As used in this title:

(1) "Nonviolent felony" means a felony offense which is not a listed crime as defined in section 5301 of this title or an offense listed in chapter 64 of this title (sexual exploitation of children).

(2) "Nonviolent misdemeanor" means a misdemeanor offense which is not a listed crime as defined in section 5301 of this title or an offense listed in chapter 64 of this title (sexual exploitation of children) or section 1030 of this title (violation of a protection order).

Sec. 13. 13 V.S.A. § 353 is amended to read:

§ 353. DEGREE OF OFFENSE; SENTENCING UPON CONVICTION

(a) Penalties.

* * *

(4)(A) Except as provided in subdivision (B) of this subdivision (4), a person found in violation of subdivision 352(3), (4), or (9) of this title pursuant to this subdivision shall be imprisoned not more than one year or fined not more than $2,000.00, or both. Second and subsequent convictions shall be punishable by a sentence of imprisonment of not more than two years or a fine of not more than $5,000.00, or both.

(B) ~~A~~ In lieu of a criminal citation or arrest, a law enforcement officer ~~shall~~ may issue a civil citation to a person who violates subdivision 352(3), (4), or (9) of this title if the person has not been previously adjudicated in violation of this chapter. A person adjudicated in violation of subdivision 352(3), (4), or (9) of this title pursuant to this subdivision shall be assessed a civil penalty of not more than $500.00. At any time prior to the person admitting the violation and paying the assessed penalty, the state's attorney may withdraw the complaint filed with the ~~judicial bureau~~ Judicial Bureau and file an information charging a violation of subdivision 352(3), (4), or (9) of this title in the ~~criminal division of the superior court~~ Criminal Division of the Superior Court.

(C) Nothing in this subdivision shall be construed to require that a civil citation be issued prior to a criminal charge of violating subdivision 352(3), (4), or (9) of this title.

* * *

Sec. 14. 13 V.S.A. § 354 is amended to read:

§ 354. ENFORCEMENT; POSSESSION OF ABUSED ANIMAL; SEARCHES AND SEIZURES; FORFEITURE

* * *

(a) The ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets shall be consulted prior to any enforcement action brought pursuant to this chapter which involves livestock and poultry.

(b) Any humane officer as defined in section 351 of this title may enforce this chapter. As part of an enforcement action, a humane officer may seize an animal being cruelly treated in violation of this chapter.

(1) Voluntary surrender. A humane officer may accept animals voluntarily surrendered by the owner anytime during the cruelty investigation. The humane officer shall have a surrendered animal examined and assessed within 72 hours by a veterinarian licensed to practice in the ~~state~~ State of Vermont.

(2) Search and seizure using a search warrant. A humane officer having probable cause to believe an animal is being subjected to cruel treatment in violation of this subchapter may apply for a search warrant pursuant to the Rules of Criminal Procedure to authorize the officer to enter the premises where the animal is kept and seize the animal. The application and affidavit for the search warrant shall be reviewed and authorized by an attorney for the ~~state~~ State when sought by an officer other than an enforcement officer defined in 23 V.S.A. § 4(11). A veterinarian licensed to practice in Vermont must accompany the humane officer during the execution of the search warrant.

(3) Seizure without a search warrant. If the humane officer witnesses a situation in which the humane officer determines that an animal's life is in jeopardy and immediate action is required to protect the animal's health or safety, the officer may seize the animal without a warrant. The humane officer shall immediately take an animal seized under this subdivision to a licensed veterinarian for medical attention to stabilize the animal's condition and to assess the health of the animal.

(c) A humane officer shall provide suitable care at a reasonable cost for an animal seized under this section, and have a lien on the animal for all expenses incurred. A humane officer may arrange for the euthanasia of a severely

injured, diseased, or suffering animal upon the recommendation of a licensed veterinarian. A humane officer may arrange for euthanasia of an animal seized under this section when the owner is unwilling or unable to provide necessary medical attention required while the animal is in custodial care or when the animal cannot be safely confined under standard housing conditions. An animal not destroyed by euthanasia shall be kept in custodial care until final disposition of the criminal charges except as provided in subsections (d) through (h) of this section. The custodial caregiver shall be responsible for maintaining the records applicable to all animals seized, including identification, residence, location, medical treatment, and disposition of the animals.

(d) If an animal is seized under this section, the ~~state may~~ State shall institute a civil proceeding for forfeiture of the animal in the territorial unit of the ~~criminal division of the superior court~~ Criminal Division of the Superior Court where the offense is alleged to have occurred. The proceeding shall be instituted by a motion for forfeiture, which shall be filed with the ~~court~~ Court and served upon the animal's owner.

(e) ~~The court shall set a hearing to be held within 21 days after institution of a forfeiture proceeding under this section~~ A preliminary hearing shall be held within 21 days of institution of the civil forfeiture proceeding. If the defendant requests a hearing on the merits, the Court shall schedule a final hearing on the merits to be held within 21 days of the date of the preliminary hearing. In no event shall a final hearing occur more than 42 days after the date of the commencement of the civil forfeiture proceeding. Time limits under this subsection shall not be construed as jurisdictional.

(f)(1) At the hearing on the motion for forfeiture, the ~~state~~ State shall have the burden of establishing by ~~clear and convincing evidence~~ a preponderance of the evidence that the animal was subjected to cruelty, neglect, or abandonment in violation of section 352 or 352a of this title. The ~~court~~ Court shall make findings of fact and conclusions of law and shall issue a final order. ~~If the state meets its burden of proof, the motion shall be granted and the court shall order the immediate forfeiture of the animal in accordance with the provisions of subsection 353(c) of this title~~ If the Court finds for the petitioner by a preponderance of the evidence, the Court shall order immediate forfeiture of the animal to the petitioner.

(2) No testimony or other information presented by the defendant in connection with a forfeiture proceeding under this section or any information directly or indirectly derived from such testimony or other information may be used for any purpose, including impeachment and cross-examination, against

the defendant in any criminal case, except a prosecution for perjury or giving a false statement.

(g)(1) If the defendant is convicted of criminal charges under this chapter or if an order of forfeiture is entered against an owner under this section, the defendant or owner shall be required to repay all reasonable costs incurred by the custodial caregiver for caring for the animal, including veterinary expenses.

(2)(A) If the defendant is acquitted of criminal charges under this chapter and a civil forfeiture proceeding under this section is not pending, an animal that has been taken into custodial care shall be returned to the defendant unless the ~~state~~ State institutes a civil forfeiture proceeding under this section within seven days of the acquittal.

(B) If the ~~court~~ Court rules in favor of the owner in a civil forfeiture proceeding under this section and criminal charges against the owner under this chapter are not pending, an animal that has been taken into custodial care shall be returned to the owner unless the ~~state~~ State files criminal charges under this section within seven days after the entry of final judgment.

(C) If an animal is returned to a defendant or owner under this subdivision, the defendant or owner shall not be responsible for the costs of caring for the animal.

(h) An order of the ~~criminal division of the superior court~~ Criminal Division of the Superior Court under this section may be appealed as a matter of right to the ~~supreme court~~ Supreme Court. The order shall not be stayed pending appeal.

(i) The provisions of this section are in addition to and not in lieu of the provisions of section 353 of this title.

(j) It is unlawful for a person to interfere with a humane officer or the ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets engaged in official duties under this chapter. A person who violates this subsection shall be prosecuted under section 3001 of this title.

Sec. 15. INCIDENT REPORTS OF ANIMAL CRUELTY

(a) The Commissioner of Public Safety, in consultation with the Vermont Center for Justice Research, shall collect data on:

(1) the number and nature of complaints or incident reports to law enforcement based on a suspected violation of 13 V.S.A. chapter 8 (humane and proper treatment of animals); and

(2) how such complaints or incidents are generally addressed, such as referral to others, investigation, civil penalties, or criminal charges.

(b) Based upon examination of the data requested in subsection (a) of this section, the Commissioner shall make recommendations to the Senate and House Committees on Judiciary on or before November 15, 2013 for improving the statewide response to complaints of animal cruelty.

Sec. 16. 4 V.S.A. § 36 is amended to read:

§ 36. COMPOSITION OF THE COURT

(a) Unless otherwise specified by law, when in session, a ~~superior court~~ Superior Court shall consist of:

(1) For cases in the ~~civil~~ Civil or ~~family division~~ Family Division, one presiding superior judge and two assistant judges, if available.

(2)(A) For cases in the ~~family division~~ Family Division, except as provided in subdivision (B) of this subdivision (2), one presiding ~~superior judge~~ judicial officer and two assistant judges, if available.

(B) The ~~family court~~ Family Division shall consist of one presiding ~~superior judge~~ judicial officer sitting alone in the following proceedings:

(i) All juvenile proceedings filed pursuant to 33 V.S.A. chapters 51, 52, and 53 ~~of Title 33~~, including proceedings involving "youthful offenders" pursuant to 33 V.S.A. § 5281, whether the matter originated in the criminal or family division of the superior court.

(ii) All protective services for developmentally disabled persons proceedings filed pursuant to 18 V.S.A. chapter 215 ~~of Title 18~~.

(iii) All mental health proceedings filed pursuant to 18 V.S.A. chapters 179, 181, and 185 ~~of Title 18~~.

(iv) All involuntary sterilization proceedings filed pursuant to 18 V.S.A. chapter 204 ~~of Title 18~~.

(v) All care for mentally retarded persons proceedings filed pursuant to 18 V.S.A. chapter 206 ~~of Title 18~~.

(vi) All proceedings specifically within the jurisdiction of the office of magistrate except child support contempt proceedings pursuant to subdivision 461(a)(1) of this title.

* * *

Sec. 17. 23 V.S.A. § 1607 is added to read:

§ 1607. AUTOMATED LICENSE PLATE RECOGNITION SYSTEMS

(a) Definitions. As used in this section:

(1) "Active data" is distinct from historical data as defined in subdivision (3) of this subsection and means data uploaded to individual automated license plate recognition system units before operation as well as data gathered during the operation of an ALPR system. Any data collected by an ALPR system shall be considered collected for a legitimate law enforcement purpose.

(2) "Automated license plate recognition system" (ALPR) means a system of one or more mobile or fixed high-speed cameras combined with computer algorithms to convert images of registration plates into computer-readable data.

(3) "Historical data" means any data collected by an ALPR system and stored on the statewide ALPR server operated by the Vermont Justice Information Sharing System of the Department of Public Safety. Any data collected by an ALPR system shall be considered collected for a legitimate law enforcement purpose. Entry of any data into the system other than data collected by the ALPR system itself must be approved by a supervisor and shall have a legitimate law enforcement purpose.

(4) "Law enforcement officer" means a state police officer, municipal police officer, motor vehicle inspector, capitol police officer, constable, sheriff, or deputy sheriff certified by the Vermont Criminal Justice Training Council as having satisfactorily completed the approved training programs required to meet the minimum training standards applicable to that person under 20 V.S.A. § 2358.

(5) "Legitimate law enforcement purpose" applies to access to active or historical data and means crime investigation, detection, and analysis or operation of AMBER alerts or missing or endangered person searches.

(6) "Vermont Information and Analysis Center Analyst" means any sworn or civilian employee who through his or her employment with the Vermont Information and Analysis Center (VTIAC) has access to secure databases that support law enforcement investigations.

(b) Operation. A Vermont law enforcement officer shall be certified in ALPR operation by the Vermont Criminal Justice Training Council in order to operate an ALPR system.

(c) Confidentiality and access to ALPR data.

(1)(A) Active ALPR data may only be accessed by a law enforcement officer operating the ALPR system who has a legitimate law enforcement purpose for the data. Entry of any data into the system other than data

collected by the ALPR system itself must be approved by a supervisor and shall have a legitimate law enforcement purpose.

(B) Deployment of ALPR equipment is intended to provide access to stolen and wanted files and to further legitimate law enforcement purposes. Use of ALPR systems and access to active data are restricted to these purposes.

(C)(i) Requests to review active data shall be in writing and include the name of the requester, the law enforcement agency the requester is employed by, and the law enforcement agency's Originating Agency Identifier (ORI) number. The request shall describe the legitimate law enforcement purpose. The written request and the outcome of the request shall be transmitted to VTIAC and retained for not less than three years.

(ii) In each department operating an ALPR system, access to active data shall be limited to designated personnel who have been provided account access by the department to conduct authorized ALPR stored data queries. Access to active data shall be restricted to data collected within the past seven days.

(2) Requests for historical data, whether from Vermont or out-of-state law enforcement officers, shall be made in writing to an analyst at VTIAC. The request shall include the name of the requester, the law enforcement agency the requester is employed by, and the law enforcement agency's ORI number. The request shall describe the legitimate law enforcement purpose. VTIAC shall retain all requests as well as the outcome of the request and shall record in writing any information that was provided to the requester or why the request was denied or not fulfilled. ALPR requests shall be retained by VTIAC for not less than three years.

(d) Retention.

(1) Any ALPR information gathered by a Vermont law enforcement agency shall be sent to the Department of Public Safety to be retained pursuant to the requirements of subdivision (2) of this subsection. The Department of Public Safety shall maintain the ALPR storage system for Vermont law enforcement agencies.

(2) Except as provided in section 1608 of this title, information gathered through use of an ALPR system shall only be retained for 18 months after the date it was obtained. When the permitted 18-month period for retention of the information has expired, the Department of Public Safety and any local law enforcement agency with custody of the information shall destroy it and cause to have destroyed any copies or back-ups made of the original data. Data may be retained beyond the 18-month period pursuant to a preservation request made or disclosure order issued under section 1608 of this title, or pursuant to

a warrant issued under Rule 41 of the Vermont or Federal Rules of Criminal Procedure.

(e) Oversight; rulemaking.

(1) The Department of Public Safety shall establish a review process to ensure that information obtained through the use of ALPR systems is used only for the purposes permitted by this section. The Department shall report the results of this review annually on or before January 15 to the Senate and House Committees on Judiciary and on Transportation. The report shall contain the following information based on prior calendar year data:

(A) the total number of ALPR units being operated in the State and the number of units submitting data to the statewide ALPR database;

(B) the total number of ALPR reads each agency submitted to the statewide ALPR database;

(C) the 18-month accumulative number of ALPR reads being housed on the statewide ALPR database;

(D) the total number of requests made to VTIAC for ALPR data;

(E) the total number of requests that resulted in the release of information from the statewide ALPR database;

(F) the total number of out-of-state requests; and

(G) the total number of out-of-state requests that resulted in the release of information from the statewide ALPR database.

(2) The Department of Public Safety may adopt rules to implement this section.

Sec. 18. 23 V.S.A. § 1608 is added to read:

§ 1608. PRESERVATION OF DATA

(a) Preservation request.

(1) A law enforcement agency or the Department of Motor Vehicles may apply to the Criminal Division of the Superior Court for an extension of up to 90 days of the 18-month retention period established under subdivision 1607(d)(2) of this title if the agency or Department offers specific and articulable facts showing that there are reasonable grounds to believe that the captured plate data are relevant and material to an ongoing criminal or missing persons investigation, or to a pending proceeding in the Judicial Bureau. Requests for additional 90-day extensions or for longer periods may be made to the Superior Court subject to the same standards applicable to an initial extension request under this subdivision.

(2) A governmental entity making a preservation request under this section shall submit an affidavit stating:

(A) the particular camera or cameras for which captured plate data must be preserved, or the particular license plate for which captured plate data must be preserved; and

(B) the date or dates and time frames for which captured plate data must be preserved.

(b) Captured plate data shall be destroyed on the schedule specified in section 1607 of this title if the preservation request is denied, or 14 days after the denial of the application for disclosure, whichever is later.

Sec. 19. 12 V.S.A. § 5784 is added to read:

§ 5784. VOLUNTEER ATHLETIC OFFICIALS

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

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

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

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

Sec. 20. 23 V.S.A. § 800 is amended to read:

§ 800. MAINTENANCE OF FINANCIAL RESPONSIBILITY

(a) No owner of a motor vehicle required to be registered, or operator required to be licensed or issued a learner's permit, shall operate or permit the operation of the vehicle upon the highways of the ~~state~~ State without having in effect an automobile liability policy or bond in the amounts of at least $25,000.00 for one person and $50,000.00 for two or more persons killed or injured and $10,000.00 for damages to property in any one accident. In lieu

thereof, evidence of self-insurance in the amount of $115,000.00 must be filed with the ~~commissioner of motor vehicles~~ Commissioner of Motor Vehicles, and shall be maintained and evidenced in a form prescribed by the ~~commissioner~~ Commissioner. The ~~commissioner~~ Commissioner may require that evidence of financial responsibility be produced before motor vehicle inspections are performed pursuant to the requirements of section 1222 of this title.

(b) A person who violates this section shall be assessed a civil penalty of ~~not less than $250.00 and~~ not more than $500.00, and such violation shall be a traffic violation within the meaning of chapter 24 of this title.

Sec. 21. CHIEF DEPUTY STATE'S ATTORNEY; DESIGNATION

The designation of chief deputy state's attorney is created. A state's attorney may appoint a deputy state's attorney as the chief deputy in any state's attorney's office where there are three or more full-time deputies. A chief deputy shall be compensated at his or her existing step level or at step 9, whichever is greater.

Sec. 22. REPEAL

4 V.S.A. §§ 652 (records of judgments and other proceedings; dockets; certified copies), 655 (court accounts), 656 (index of records), 658 (Supreme Court records), 695 (accounts of court officer and reporter), 734 (copy of lost petition), 735 (record of proceedings), 736 (lost records or judgment files; recording of copy), 737 (appeal or exception), and 738 (costs for recording); 2009 Acts and Resolves No. 4, Sec. 121 (transitional provisions for merger of Bennington and Manchester probate courts); and 2009 Acts and Resolves No. 4, Sec. 125 (transitional provisions of the consolidated probate court system) are repealed.

Sec. 23. EFFECTIVE DATES

(a) This section and Secs. 2 (registration of child custody determination) and 16 (limitations of prosecutions for certain crimes) of this act shall take effect on passage.

(b) Secs. 11 (sentencing alternatives) and 12 (definition of nonviolent misdemeanor and nonviolent felony) of this act shall take effect on March 1, 2014.

(c) The rest of this act shall take effect on July 1, 2013.

And that after passage the title of the bill be amended to read: "An act relating to court administration and procedure"

(Committee vote: 5-0-0)

(No House amendments.)

Reported favorably by Senator Ashe for the Committee on Finance when amended as recommended by the Committee on Judiciary.

(Committee vote: 5-0-2)

House Proposal of Amendment

S. 61.

An act relating to alcoholic beverages.

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

First: By striking Sec. 1 in its entirety and inserting in lieu thereof a new Sec. 1 to read:

Sec. 1. 7 V.S.A. § 2 is amended to read:

§ 2. DEFINITIONS

The following words as used in this title, unless a contrary meaning is required by the context, shall have the following meaning:

* * *

(19) "Second class license": a license granted by the ~~control commissioners~~ Control Commissioners permitting the licensee to export malt or vinous beverages and to sell malt or vinous beverages to the public for consumption off the premises for which the license is granted.

* * *

(28) "Fourth class license" or "farmers' market license": the license granted by the ~~liquor control board~~ Liquor Control Board permitting a manufacturer or rectifier of malt or vinous beverages or spirits to sell by the unopened container and distribute, by the glass with or without charge, beverages manufactured by the licensee. No more than a combined total of ten fourth class and farmers' market licenses may be granted to a licensed manufacturer or rectifier. At only one fourth class license location, a manufacturer or rectifier of vinous beverages, malt beverages, or spirits may sell by the unopened container and distribute by the glass, with or without charge, vinous beverages, malt beverages, or spirits produced by no more than five additional manufacturers or rectifiers, provided these beverages are purchased on invoice from the manufacturer or rectifier. A manufacturer or rectifier of vinous beverages, malt beverages, or spirits may sell its product to no more than five additional manufacturers or rectifiers. A fourth class licensee may distribute by the glass no more than two ounces of malt or vinous beverage with a total of eight ounces to each retail customer and no more than one-quarter ounce of spirits with a total of one ounce to each retail customer

for consumption on the manufacturer's premises or at a farmers' market. A farmers' market license is valid for all dates of operation for a specific farmers' market location.

* * *

(32) "Art gallery or bookstore permit": a permit granted by the liquor control board permitting an art gallery or bookstore to conduct an event at which malt or vinous beverages or both are served by the glass to the public, provided that the event is approved by the local licensing authority. A permit holder may purchase malt or vinous beverages directly from a licensed retailer. A permit holder shall be subject to the provisions of this title and the rules of the board regarding the service of alcoholic beverages. A request for a permit shall be submitted to the department in a form required by the ~~department~~ Department at least five days prior to the event and shall be accompanied by the permit fee required by subdivision 231(a)(22) of this title. As used in this section, "art gallery" means a fixed establishment whose primary purpose is to exhibit or offer for sale works of art; and "bookstore" means a fixed establishment whose primary purpose is to offer books for sale.

* * *

(34) "Limited first class license": A license granted by the Control Commissioners permitting the licensee to serve malt or vinous beverages to the public for consumption only on the licensed premises and in accord with the requirements of section 222a of this title.

Second: By adding Secs. 3a, 3b, and 3c to read:

Sec. 3a. 7 V.S.A. § 222a is added to read:

§ 222a. LIMITED FIRST CLASS LICENSE

(a) Upon the approval of the Board and payment of the license fee, the Control Commissioners may grant to a person for the premises where the person carries on a retail sales business unrelated to food or beverage service a limited first class license authorizing the person to dispense malt or vinous beverages free of charge for consumption on the licensed premises, provided:

(1) the premises are owned or leased by the person and the premises are used primarily by the person for the production and retail sale and service of handmade artisan products;

(2) the premises have secure, adequate, and sanitary space for storing and serving malt or vinous beverages;

(3) the premises have adequate and sanitary space for storage and service of food;

(4) the premises have a designated, distinct, secure interior space of at least 50 square feet which is not generally accessible by the public and only within which malt or vinous beverages may be served to customers designing or purchasing handmade artisan products;

(5) malt or vinous will only be served to customers of the underlying business and no more than five customers may be served simultaneously in the designated space;

(6) no person under the age of 18 shall dispense malt or vinous beverages;

(7) malt or vinous beverages shall not be served to a minor; and

(8) any customer offered malt or vinous beverages shall also be offered food.

(b) As used in this section, "Artisan product" means any product fashioned primarily by hand with the final form and its characteristics shaped by hand by the artisan or craftperson in a skilled or artistic process rather than an assembly line technique.

Sec. 3b. 7 V.S.A. § 231 is amended to read:

§ 231. FEES FOR LICENSES; DISPOSITION OF FEES

(a) The following fees shall be paid:

* * *

(23) For a limited first class license, $1,000.00.

* * *

Sec. 3c. 7 V.S.A. § 236 is amended to read:

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

* * *

(b) As an alternative to and in lieu of the authority to suspend or revoke any permit or license, the ~~liquor control board~~ Liquor Control Board shall also have the power to impose an administrative penalty of up to $2,500.00 per violation against a holder of a wholesale dealer's license or a holder of a first, second or third class license for a violation of the conditions under which the license was issued or of this title or of any rule or regulation adopted by the ~~board~~ Board. The administrative penalty may be imposed after a hearing before the ~~board~~ Board or after the licensee has been convicted by a court of competent jurisdiction of violating the provisions of this title. The ~~board~~

Board may also impose an administrative penalty under this subsection against a holder of a tobacco license for up to $100.00 for a first violation and up to $1,000.00 for subsequent violations. For the first violation during a tobacco or alcohol compliance check during any three-year period, a licensee shall receive a warning and be required to attend a department server training class. The Board may also impose an administrative penalty against the holder of a limited first class license of up to $5,000.00 for an initial violation and $10,000.00 for a second and subsequent violation.

* * *

Third: By adding Sec. 2a to read:

Sec. 2a. 7 V.S.A. § 222 is amended to read:

§ 222. FIRST AND SECOND CLASS LICENSES, GRANTING OF; SALE TO MINORS; CONTRACTING FOR FOOD SERVICE

With the approval of the ~~liquor control board, the control commissioners~~ Liquor Control Board, the Control Commissioners may grant to a retail dealer for the premises where the dealer carries on business the following:

* * *

(2) Upon making application and paying the license fee provided in section 231 of this title, a second class license for the premises where such dealer shall carry on the business which shall authorize such dealer to export malt and vinous beverages and to sell malt and vinous beverages to the public from such premises for consumption off the premises and upon satisfying the ~~liquor control board~~ Board that such premises are leased, rented, or owned by such retail dealers and are safe, sanitary, and a proper place from which to sell malt and vinous beverages. A retail dealer carrying on business in more than one place shall be required to acquire a second class license for each place where he or she ~~hall~~ shall so sell malt and vinous beverages. No malt or vinous beverages shall be sold by a second class licensee to a minor.

* * *

Fourth: By striking out Sec. 3 in its entirety and inserting in lieu thereof a new Sec. 3 to read:

Sec. 3. 7 V.S.A. § 230 is amended to read:

§ 230. RESTRICTIONS; FINANCIAL INTERESTS; DISPLAY OF LICENSE; EMPLOYEES

* * *

(b) An individual who is an employee of a wholesale dealer that does not hold a solicitor's permit may also be employed by a first or second class licensee on a paid or voluntary basis, provided that the employee does not exercise any control over, or participate in, the management of the first or second class licensee's business or business decisions, and that either employment relationship does not result in the exclusion of any competitor wholesale dealer or any brand of alcoholic beverages of a competitor wholesale dealer.

Fifth: By adding Sec. 6a to read:

Sec. 6a. 7 V.S.A. § 561 is amended to read:

§ 561. AUTHORITY OF LIQUOR CONTROL INVESTIGATORS; ARREST FOR UNLAWFULLY MANUFACTURING, POSSESSING, OR TRANSPORTING ALCOHOLIC BEVERAGES; SEIZURE OF PROPERTY

(a) The ~~director of the enforcement division of the department of liquor control~~ Director of the Enforcement Division of the Department of Liquor Control and investigators employed by the ~~liquor control board~~ Liquor Control Board or by the ~~department of liquor control~~ Department of Liquor Control shall be certified as full-time law enforcement officers by the Vermont Criminal Justice Training Council and shall have the same powers and immunities as those conferred on the ~~state police~~ State Police by 20 V.S.A. § 1914.

* * *

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.

CONCURRENT RESOLUTIONS FOR ACTION

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

H.C.R. 141-172 (For text of Resolutions, see Addendum to House 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)

Richard Fraser of South Ryegate – Member, Community High School of Vermont Board – By Sen. Collins for the Committee on Education. (5/11/13)

Mark Perrin of Middlebury – Member, State Board of Education – By Sen. Zuckerman for the Committee on Education. (5/11/13)