

Senate Calendar

FRIDAY, MAY 09, 2014

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ACTION CALENDAR

UNFINISHED BUSINESS OF THURSDAY, MAY 8, 2014

House Proposal of Amendment

S. 269

An act relating to business consumer protection and data security breaches.

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

In Sec. 1, in 9 V.S.A. § 2435(b)(4), in subdivision (B), by striking out “phone” and inserting in lieu thereof telephone and by inserting a new Sec. 2 to read:

Sec. 2. 8 V.S.A. § 3666 is added to read:

§ 3666. RULES; METHODS OF NOTICE

Notwithstanding the requirements under sections 3883, 4226, and 4714 of this title, the Commissioner of Financial Regulation shall adopt rules specifying the methods by which a notice to a party required under section 3880, 3881, 4224, 4225, 4712, or 4713 of this title shall be given.

And by renumbering the remaining section to be numerically correct.

NEW BUSINESS

Third Reading

H. 876.

An act relating to making miscellaneous amendments and technical corrections to education laws.

**Amendment to Senate proposal of amendment to H. 876 to be offered by
Senator Collins before Third Reading**

Senator Collins moves to amend the Senate proposal of amendment by striking out Sec. 58 (extension of RED program; 50% incentives) in its entirety and inserting in lieu thereof the following: [Deleted.]

**Amendment to Senate proposal of amendment to H. 876 to be offered by
Senators Cummings, Doyle, Pollina and Collins before Third Reading**

Senators Cummings, Doyle, Pollina and Collins move to amend the Senate proposal of amendment by adding a new section to be Sec.65a and a related reader assistance heading to read:

* * * Education; Statewide Public Engagement Dialogue * * *

Sec. 65a. EDUCATION; STATEWIDE PUBLIC ENGAGEMENT DIALOGUE; REPORT

(a) Facilitator; appropriation. The sum of up to \$250,000.00 is transferred in fiscal year 2014 to the Joint Fiscal Office from the Supplemental Property Tax Relief Fund created by 32 V.S.A. § 6075 to enter into a contract with the Vermont Council on Rural Development, a neutral facilitator with deep experience in public policy at the community and State levels, to conduct a statewide dialogue about the future of education in Vermont as set forth more fully in this section.

(b) Community meetings. The facilitator shall convene no fewer than 25 community meetings throughout the State, designed to elicit thoughtful testimony on the strengths and weaknesses of, and opportunities for, Vermont's education system and the impacts of rising school costs. At the community meetings, the facilitator shall:

(1) present key points from the 2009 report of the Education Transformation Policy Commission and a situational analysis of the current state of prekindergarten–grade 12 educational opportunity in Vermont; and

(2) solicit public comments that identify individual and community visions, values, and goals relating to Vermont's education system.

(c) Targeted meetings. The facilitator shall conduct additional, targeted meetings of identified stakeholders, including youths; parents of students; teachers; principals; school board members; superintendents and administrative staff; municipal boards and staff; business leaders; social service and nonprofit leaders; ethnically diverse Vermonters; economically diverse Vermonters; arts and cultural leaders; representatives of higher education; the Agency of Education and other State employees; alternative and independent school leaders, parents, and youths; and experts in technology, curriculum, and innovation in education.

(d) The facilitator shall convene a Process Team of 15 to 20 community leaders representing the regions, demographics, and diversity of Vermont. The team shall represent the people of Vermont and shall be solely responsible for the proposed recommendations required by this section. The facilitator shall meet with the Team at least monthly to report on work completed to date and plans for future activity and to receive comments and suggestions from the Team.

(e) Analysis and recommendations.

(1) With leadership from the facilitator, the Process Team shall:

(A) reflect upon public comments;

(B) identify excellent practices, programs, and models that are already occurring in the State and consider how best to replicate them;

(C) identify and evaluate pertinent educational research and related models;

(D) identify themes; and

(E) develop a proposed description of the State's vision for the characteristics and delivery of education in Vermont and recommendations for achieving the vision.

(2) In performing their respective responsibilities, the facilitator and Process Team shall consider how best:

(A) to use existing resources to prepare students to be engaged global citizens;

(B) to contain costs without compromising quality; and

(C) to encourage local communities to work toward the identified State goals for educational opportunities and strengthened outcomes for every Vermont child.

(3) The Process Team's recommendations shall include:

(A) strategies to enhance educational opportunities for all Vermont students; and

(B) any necessary related changes to Vermont's education funding and governance systems.

(f) The facilitator shall seek additional funding sources as necessary to complete the work required by this section.

(g) On or before January 15, 2016, the Process Team and the facilitator shall deliver a report to the General Assembly that is representative of the testimony received and that identifies the vision, values, goals, and strategies for enhancing student opportunities pursuant to subsection (d) of this section.

**Amendment to Senate proposal of amendment to H. 876 to be offered
by Senators Sears and Hartwell before Third Reading**

Senators Sears and Hartwell move that the Senate proposal of amendment be amended as follows: By striking out Sec. 39 (privatization; moratorium) in its entirety and inserting in lieu thereof the following: [Deleted.]

**Amendment to Senate proposal of amendment to H. 876 to be offered by
Senator Rodgers before Third Reading**

Senator Rodgers moves that the Senate proposal of amendment be amended by adding two new sections to be numbered Secs. 65 and 66 and a related reader assistance heading to read as follows:

* * * Public High School Choice; Tuition * * *

Sec. 65. 16 V.S.A. § 822a is amended to read:

§ 822a. PUBLIC HIGH SCHOOL CHOICE

* * *

(g) Tuition and other costs.

(1) Unless the sending and receiving schools agree to a different arrangement, ~~no tuition or other cost shall be charged by the receiving district or paid by the sending district~~ shall pay tuition to the receiving district pursuant to section 824 of this title for a student transferring to a different high school under this section; ~~provided, however, a.~~ A sending high school district shall also pay special education and technical education costs for resident students pursuant to the provisions of this title.

(2) A student transferring to a different high school under this section shall pay no tuition, fee, or other cost that is not also paid by students residing in the receiving district.

(3) A district of residence shall include within its average daily membership any student who transfers to another high school under this section; a receiving school district shall not include any student who transfers to it under this section.

Sec. 66. IMPLEMENTATION

Sec. 65 of this act shall apply to enrollments in the 2015–2016 academic year and after.

And by renumbering the remaining section to be numerically correct.

House Proposal of Amendment

S. 264

An act relating to technical corrections to civil and criminal procedure statutes.

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

Sec. 1. 1 V.S.A. § 317(c)(41) is amended to read:

(41) documents reviewed by the Victim's Compensation Board for purposes of approving an application for compensation pursuant to 13 V.S.A. chapter 167, except as provided by 13 V.S.A. §§ ~~5360~~ 5358a(b) and 7043(c).

Sec. 2. 4 V.S.A. § 601 is amended to read:

§ 601. JUDICIAL NOMINATING BOARD CREATED; COMPOSITION

* * *

(d) The Judicial Nominating Board shall adopt rules under 3 V.S.A. chapter 25 which shall establish criteria and standards for the nomination of ~~qualified~~ candidates for ~~justices~~ Justices of the ~~Supreme court, superior~~ Court, Superior judges, magistrates, the Chair of the Public Service Board, and members of the Public Service Board. The criteria and standards shall include such factors as integrity, legal knowledge and ability, judicial temperament, impartiality, health, experience, diligence, administrative and communicative skills, social consciousness, and public service. The application form shall not be included in the rules and may be developed and periodically revised at the discretion of the Board.

(e) A quorum of the Board shall consist of eight members.

(f) The ~~board~~ Board is authorized to use the staff and services of appropriate ~~state~~ State agencies and departments as necessary to conduct investigations of applicants. The Office of Legislative Council shall assist the Board for the purpose of rulemaking.

Sec. 3. 9 V.S.A. § 2292 is amended to read:

§ 2292. DEFENSES; LIABILITY AND PROTECTION OF TRANSFEREE

* * *

(e) A transfer is not voidable under subdivision 2288(a)(2) or section 2289 of this title if the transfer results from:

(1) termination of a lease upon default by the debtor when the termination is pursuant to the lease and applicable law;

(2) enforcement of a security interest in compliance with 9A V.S.A. Article 9 ~~of Title 9A~~; or

(3) foreclosure of a mortgage in compliance with 12 V.S.A. subchapter 6 of chapter 163 ~~or subchapter 1 of chapter 172 of Title 12.~~

* * *

Sec. 4. 12 V.S.A. § 2794 is amended to read:

§ 2794. EXECUTION UPON REAL ESTATE; HOMESTEAD A PART

When an execution is levied upon real estate of which the debtor's homestead is a part or upon that part of a homestead in excess of ~~\$75,000.00~~ \$125,000.00 in value, the location and boundaries of the homestead shall be ascertained before the sale and set out in the manner provided for the levy of execution upon real estate whereof a homestead forms a part.

Sec. 5. 18 V.S.A. § 4474(b) is amended to read:

(b) Prior to acting on an application, the ~~department~~ Department shall obtain from the Vermont ~~criminal information center~~ Crime Information Center a Vermont criminal record, an out-of-state criminal record, and a criminal record from the Federal Bureau of Investigation for the applicant. ~~For purposes of this subdivision~~ As used in this subsection, "criminal record" means a record of whether the person has ever been convicted of a drug-related crime. Each applicant shall consent to release of criminal records to the ~~department~~ Department on forms ~~substantially similar to the release forms developed by the center pursuant to 20 V.S.A. § 2056e~~ Center. The ~~department~~ Department shall comply with all laws regulating the release of criminal history records and the protection of individual privacy. The Vermont ~~criminal information center~~ Crime Information Center shall send to the requester any record received pursuant to this section or inform the ~~department~~ Department of Public Safety that no record exists. If the ~~department~~ Department disapproves an application, the ~~department~~ Department shall promptly provide a copy of any record of convictions and pending criminal charges to the applicant and shall inform the applicant of the right to appeal the accuracy and completeness of the record pursuant to rules adopted by the Vermont ~~criminal information center~~ Crime Information Center. No person shall confirm the existence or nonexistence of criminal record information to any person who would not be eligible to receive the information pursuant to this subchapter.

Sec. 6. 18 V.S.A. § 4474g(b) is amended to read:

(b) Prior to acting on an application for a registry identification card, the ~~department of public safety~~ Department of Public Safety shall obtain with

respect to the applicant a Vermont criminal history record, an out-of-state criminal history record, and a criminal history record from the Federal Bureau of Investigation. Each applicant shall consent to the release of criminal history records to the ~~department~~ Department on forms ~~substantially similar to the release forms developed in accordance with 20 V.S.A. § 2056e~~ by the Vermont Crime Information Center.

Sec. 7. 20 V.S.A. § 2056e(a) is amended to read:

(a) The ~~department of buildings and general services~~ Department of Buildings and General Services shall obtain from the Vermont ~~criminal information center~~ Crime Information Center a Vermont criminal record, an out-of-state criminal record, and a record from the Federal Bureau of Investigation for any applicant for a ~~state~~ State security personnel position who has given written authorization, on a release form prescribed ~~under section 2056e of this chapter~~ by the Center, pursuant to the provisions of this subchapter and the user's agreement filed by the ~~commissioner of buildings and general services~~ Commissioner of Buildings and General Services with the ~~center~~ Center. The user's agreement shall require the ~~department~~ Department to comply with all federal and ~~state~~ State statutes, rules, regulations, and policies regulating the release of criminal history records and the protection of individual privacy. The user's agreement shall be signed and kept current by the ~~commissioner~~ Commissioner. Release of interstate and Federal Bureau of Investigation criminal history records is subject to the rules and regulations of the Federal Bureau of Investigation's National Crime Information Center.

Sec. 8. 20 V.S.A. § 2056h is amended to read:

§ 2056h. DISSEMINATION OF CRIMINAL HISTORY RECORDS TO THE DEPARTMENT OF FINANCIAL REGULATION

(a) The Department of Financial Regulation shall obtain from the Vermont ~~Criminal~~ Crime Information Center a Vermont criminal record, an out-of-state criminal record, and a record from the Federal Bureau of Investigation (FBI) for any applicant for a banking division examiner position who has given written authorization, on a release form prescribed ~~under section 2056e of this chapter~~ by the Center, pursuant to the provisions of this subchapter and the user's agreement filed by the Commissioner of Financial Regulation with the ~~center~~ Center. The user's agreement shall require the Department to comply with all federal and State statutes, rules, regulations, and policies regulating the release of criminal history records, and the protection of individual privacy. The user's agreement shall be signed and kept current by the Commissioner. Release of interstate and ~~F.B.I.~~ FBI criminal history records is subject to the rules and regulations of the ~~F.B.I.'s~~ FBI's National Crime Information Center.

* * *

Sec. 9. 27 V.S.A. § 145 is amended to read:

§ 145. EFFECT OF SPOUSE JOINING IN MORTGAGE

If the homestead or lands included therein are mortgaged by the joint deed of husband and wife, the joining of the wife or husband in the mortgage shall have no other effect than to bar her or his claim to the homestead as against the mortgage. If the mortgage includes lands other than the homestead, and the owner thereof dies, the other lands shall be first sold by the executor or administrator and applied on the mortgage and the residue only shall rest on the homestead. When the ~~probate division of the superior court~~ Probate Division of the Superior Court orders the whole to be sold, the balance of the proceeds after the payment of the mortgage, not exceeding ~~\$75,000.00~~ \$125,000.00 shall be under the control of the ~~court~~ Court as in case of the sale of a homestead under this chapter.

Sec. 10. 27 V.S.A. § 182 is amended to read:

§ 182. APPLICATION TO SUPERIOR COURT FOR RELIEF

When a dwelling house, outbuildings, and lands in which a homestead right exists, exceed in value ~~\$75,000.00,~~ \$125,000.00 and a severance of the homestead would greatly depreciate the value of the residue of the premises or be of great inconvenience to the parties interested either in the residue or in the homestead, either party may apply for relief to the ~~superior court~~ Superior Court by a complaint setting forth the facts.

Sec. 11. 27 V.S.A. § 183 is amended to read:

§ 183. TRANSFER OR SALE IN LIEU OF SEVERANCE

When it appears upon hearing that such homestead cannot be occupied in severalty without great inconvenience to the parties interested therein or in such residue, the ~~court~~ Court may order such homestead to be transferred to such other parties and the payment of ~~\$75,000.00~~ \$125,000.00 to the owner thereof, or, at the option of the owner, ~~such court~~ the Court may order the parties to transfer such residue to him or her and order him or her thereupon to pay such other parties the value thereof to be fixed by the ~~court~~ Court. If the case requires, the ~~court~~ Court may order a sale of the whole premises and apportion the proceeds between the parties, and the ~~court~~ Court may make such orders in the premises as are equitable. If such homestead is sold, the ~~court~~ Court may control the investment of the proceeds of the sale in a new homestead or make such disposition thereof as equity requires.

Sec. 12. 4 V.S.A. § 1111 is added to read:

§ 1111. CIVIL VIOLATION; FAILURE TO PRODUCE IDENTIFICATION

(a) A law enforcement officer is authorized to detain a person if:

(1) the officer has reasonable grounds to believe the person has committed a civil violation of Title 7, 10, 13, 18, or 23; and

(2) the person refuses to identify himself or herself satisfactorily to the officer when requested by the officer.

(b) The person may be detained under this section only until the person identifies himself or herself satisfactorily to the officer or is properly identified. If the officer is unable to obtain the identification information, the person shall forthwith be brought before a judge in the Criminal Division of the Superior Court for that purpose. A person who refuses to identify himself or herself to the Court on request shall immediately and without service of an order on the person be subject to civil contempt proceedings pursuant to 12 V.S.A. § 122.

Sec. 13. 18 V.S.A. § 4230a(e) is amended to read:

~~(e)(1) Upon request by a law enforcement officer who reasonably suspects that a person has committed or is committing a violation of this section, the person shall give his or her name and address to the law enforcement officer and shall produce a motor vehicle operator's license, an identification card, a passport, or another suitable form of identification.~~

~~(2)~~ A law enforcement officer is authorized to detain a person if:

(A) the officer has reasonable grounds to believe the person has violated this section; and

(B) the person refuses to identify himself or herself satisfactorily to the officer when requested by the officer.

~~(3)~~(2) The person may be detained only until the person identifies himself or herself satisfactorily to the officer or is properly identified. If the officer is unable to obtain the identification information, the person shall forthwith be brought before a judge in the Criminal Division of the Superior Court for that purpose. A person who refuses to identify himself or herself to the Court on request shall immediately and without service of an order on the person be subject to civil contempt proceedings pursuant to 12 V.S.A. § 122.

Sec. 14. 24 V.S.A. § 1983(b) is amended to read as follows:

(b) The person may be detained only until the person identifies himself or herself satisfactorily to the officer or is properly identified. If the officer is unable to obtain the identification information, the person shall forthwith be brought before a Criminal Division of the Superior Court judge for that

purpose. A person who refuses to identify himself or herself to the Court on request shall immediately and without service of an order on the person be subject to civil contempt proceedings pursuant to 12 V.S.A. § 122.

Sec. 15. 2008 Acts and Resolves No. 179, Sec. 22(a), as amended by 2010 Acts and Resolves No. 157, Sec. 14, by 2012 Acts and Resolves No. 104, Sec. 38, and by 2013 Acts and Resolves No. 41, Sec. 1a, is further amended to read:

(a) Secs. 11 and 12 of ~~this act~~ shall take effect on July 1, ~~2014~~ 2017.

Sec. 15. EFFECTIVE DATE

This act shall take effect on passage.

NOTICE CALENDAR

Second Reading

Favorable

J.R.H. 19.

Joint resolution relating to encouraging New Hampshire to enact laws protecting emergency responders from across state lines.

Reported favorably by Senator Nitka for the Committee on Judiciary.

(Committee vote: 4-0-1)

(No House amendments)

Text of Resolution is as follows:

Whereas, pre-hospital care is reliant on the thorough cooperation of medical care providers from many jurisdictions and from volunteers who make up a large portion of the staffing of emergency medical service units, and

Whereas, mutual aid agreements exist between Vermont and New Hampshire Fire Departments and rescue squads to promote that cooperation across state borders for that pre-hospital medical care as well as fire protection and response to all emergencies, and

Whereas, on August 22, 2006, the Springfield Vermont Fire Department responded to a 911 call for help for a woman who had fallen from a dock on the Connecticut River; the woman, having suffered minor injuries, was not able to walk, pull herself up onto the dock, or climb the riverbank, and therefore required assistance, and

Whereas, the Springfield Vermont Fire Department responded and subsequently requested and received mutual aid assistance from the Town of Charlestown and the Cornish Rescue Squad, both New Hampshire entities; and

the Cornish Rescue Squad responded with its airboat to transport the patient to a landing for transfer to an ambulance, and

Whereas, the patient was transferred to a Stokes basket rescue litter, immobilized for carrying, and secured to the airboat for transport to the boat landing in Springfield, Vermont, and, as the Cornish Rescue Squad attempted to transport the patient to the landing, the airboat sank in a portion of the river within the jurisdiction of Charlestown, New Hampshire, and the patient drowned, and

Whereas, the decedent's estate filed suit in New Hampshire Superior Court against various parties including the Town of Springfield and a number of New Hampshire entities, and

Whereas, because Springfield is outside the State of New Hampshire and the rescue boat sank within the jurisdiction of New Hampshire, the New Hampshire Superior Court denied to the Town of Springfield both the immunity protections provided by Vermont law and those liability protections provided to New Hampshire towns by New Hampshire law, thereby causing Springfield to be exposed to unlimited liability while the New Hampshire entities received the full protections provided under New Hampshire law, and

Whereas, the New Hampshire Supreme Court denied Springfield, Vermont's motion for reconsideration or to hear an interlocutory appeal of the case, and

Whereas, the Town of Springfield, Vermont, and its coverage provider, the VLCT Property and Casualty Intermunicipal Fund self-insured risk pool, had to pay approximately \$700,000.00 as a result of a settlement necessitated by the lack of legal protections, and

Whereas, failure to address the Vermont emergency responders' exposure to liability that resulted from these New Hampshire court decisions detrimentally affects the willingness of Vermont municipalities in border areas to cooperate with New Hampshire authorities in providing emergency services in the future, and

Whereas, there is a possible remedy to this injustice in statute if the New Hampshire Legislature were to review and amend several statutes, including: RSA 153-A:2, RSA 153-A:19, RSA 154:1-d, RSA 508:12, RSA 508:12-b, and RSA 508:17, now therefore be it

Resolved by the Senate and House of Representatives:

That the General Assembly respectfully requests the New Hampshire Legislature to amend New Hampshire statutes necessary to offer the same

protections to Vermont emergency service entities responding in New Hampshire as those offered to New Hampshire entities, and be it further

Resolved: That the General Assembly affirms its support for cooperation between Vermont and New Hampshire emergency response entities and for protection from liability that is afforded equitably to both Vermont and New Hampshire entities, and be it further

Resolved: That the Secretary of State be directed to send a copy of this resolution to the New Hampshire Speaker of the House, Terie Norelli, and the President of the Senate, Chuck Morse, and to the Governor of New Hampshire, Maggie Hassan.

J.R.H. 21.

Joint resolution urging Congress to enact the Blue Water Navy Vietnam Veterans Act of 2013.

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

(Committee vote: 5-0-0)

(For House amendments, see House Journal of April 23, 2014, page 1244)

Text of Resolution is as follows:

Whereas, during the Vietnam War, the U.S. military sprayed millions of gallons of Agent Orange and other herbicides over combat areas to reduce the forest and crop covers that shielded enemy forces, and

Whereas, these herbicides contained dioxin, now identified as carcinogenic, linked to disabling illnesses affecting thousands of veterans, and

Whereas, Congress enacted the Agent Orange Act of 1991 to address the plight of Vietnam veterans exposed to these herbicides, and this act has provided the legal authority for federal compensation based on a presumption that herbicide exposure caused these veterans' illnesses, and

Whereas, in 2002, the U.S. Department of Veterans Affairs directed that Agent Orange Act compensation be limited to Vietnam Veterans who can document on-the-ground military service or having been stationed on a ship operating on the country's inland waterways, and

Whereas, these service criteria exclude U.S. Navy personnel who only served on the ocean waters (blue water) off the Vietnamese coast, except if they are diagnosed with non-Hodgkin lymphoma, and

Whereas, an Australian study found the possible presence of dioxin in the distilled water of Royal Australian Naval vessels that served in coastal

Vietnamese waters, and the Australian Navy Vietnam Veterans are covered under a government policy similar to the Agent Orange Act of 1991, and

Whereas, U.S. Representative Chris Gibson of New York introduced the Blue Water Navy Vietnam Veterans Act of 2013 (H.R.543) to provide full Agent Orange Act of 1991 compensation benefits to Blue Water Navy Vietnam Veterans, with over 180 cosponsors, including U.S. Representative Peter Welch, and with the support of many veterans service organizations, and

Whereas, Congress should reaffirm its commitment to the well-being of all our nation's veterans, especially those exposed to carcinogenic herbicides during the Vietnam War, now therefore be it

Resolved by the Senate and House of Representatives:

That the General Assembly urges Congress to enact the Blue Water Navy Vietnam Veterans Act of 2013, and be it further

Resolved: That the Secretary of State be directed to send a copy of this resolution to the Blue Water Navy Vietnam Veterans Association, the Department of Vermont Veterans of Foreign Wars, the Vermont Office of Veterans Affairs, and the Vermont Congressional Delegation.

S.R. 14.

Senate resolution relating to bad faith patent assertion.

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

(Committee vote: 5-0-0)

Text of Resolution is as follows:

Whereas, instances of bad faith patent assertion result in unfair demands for patent use payments, and

Whereas, in 2011, bad faith patent infringement actions cost American companies \$80 billion, including \$29 billion in direct payouts, and

Whereas, in 2012, bad faith patent infringement actions constituted more than over-half of the patent infringement suits filed in the United States, and

Whereas, in June 2013, President Obama issued several executive orders intended to curtail this practice, including directing the U.S. Patent and Trademark Office to tighten scrutiny of overly broad patents, and

Whereas, several large and small Vermont businesses have received demand letters for patent use payments, and

Whereas, in September 2013, Vermont business leaders met to discuss bad faith patent assertion and acknowledged the serious problem it poses to commerce in this State, and

Whereas, in 2013, the General Assembly enacted 9 V.S.A. chapter 120, providing a State judicial forum for parties facing bad faith assertions of patent infringement, and

Whereas, while all of these federal and State actions are useful, bad faith patent assertion will only be curtailed through the enactment of strong federal legislation, and

Whereas, U.S. Senator Patrick Leahy has introduced S.1720, the Patent Transparency and Improvements Act of 2013, to put a stop to this abuse of the U.S. patent system, *now therefore be it*

Resolved by the Senate:

That the Senate of the State of Vermont supports congressional efforts to eliminate patent abuse in the form of bad faith patent assertion and the need for strong federal legislation, including fee shifting, more stringent pleading standards, and limitations on the initial discovery process, *and be it further*

Resolved: That the Secretary of the Senate be directed to send a copy of this resolution to the Vermont Congressional Delegation.

House Proposal of Amendment

S. 237

An act relating to civil forfeiture proceedings in cases of animal cruelty.

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

First: In Sec. 1, 13 V.S.A. § 354, in subsection (d), in the second sentence, after the words “motion for forfeiture” by adding, if a criminal charge has been filed, or a petition for forfeiture if no criminal charge has been filed

Second: In Sec. 1, 13V.S.A. § 354, in subdivision (f)(2), after the second sentence by adding Upon request of the other party or the Court, the party offering an affidavit shall make the affiant available by telephone at the hearing.

Report of Committee of Conference

S. 234.

An act relating to Medicaid coverage for home telemonitoring services.

To the Senate and House of Representatives:

The Committee of Conference to which were referred the disagreeing votes of the two Houses upon House Bill entitled:

S.234. An act relating to Medicaid coverage for home telemonitoring services.

Respectfully reports that it has met and considered the same and recommends that the House recede from its proposals of amendment and that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 33 V.S.A. § 1901g is added to read:

§ 1901g. MEDICAID COVERAGE FOR HOME TELEMONITORING SERVICES

(a) The Agency of Human Services shall provide Medicaid coverage for home telemonitoring services performed by home health agencies or other qualified providers as defined by the Agency of Human Services for Medicaid beneficiaries who have serious or chronic medical conditions that can result in frequent or recurrent hospitalizations and emergency room admissions. Beginning on July 1, 2014, the Agency shall provide coverage for home telemonitoring for one or more conditions or risk factors for which it determines, using reliable data, that home telemonitoring services are appropriate and that coverage will be budget-neutral. The Agency may expand coverage to include additional conditions or risk factors identified using evidence-based best practices if the expanded coverage will remain budget-neutral or as funds become available.

(b) A home health agency or other qualified provider shall ensure that clinical information gathered by the home health agency or other qualified provider while providing home telemonitoring services is shared with the patient's treating health care professionals. The Agency of Human Services may impose other reasonable requirements on the use of home telemonitoring services.

(c) As used in this section:

(1) "Home health agency" means an entity that has received a certificate of need from the State to provide home health services and is certified to provide services pursuant to 42 U.S.C. § 1395x(o).

(2) “Home telemonitoring service” means a health service that requires scheduled remote monitoring of data related to a patient’s health, in conjunction with a home health plan of care, and access to the data by a home health agency or other qualified provider as defined by the Agency of Human Services.

Sec. 2. GRANT FUNDING

The Department of Vermont Health Access and home health agencies shall seek to maximize opportunities for grant funding to offset start-up, equipment, technology, maintenance, and other costs related to home telemonitoring in order to minimize the expense to the Medicaid program.

Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2014.

*ANTHONY POLLINA
VIRGINIA V. LYONS
CLAIRE D. AYER*

Committee on the part of the Senate

*CHRISTOPHER A. PEARSON
DOUGLAS A. GAGE
ANNE T. O'BRIEN*

Committee on the part of the House

ORDERED TO LIE

H. 661.

An act relating to exhumation requirements and notice.

PENDING QUESTION: Shall the Senate proposal of amendment be amended as moved by Sen. Benning?

(For text of proposed amendment, see Senate Journal for May 6, 2014, page 1506)

CONCURRENT RESOLUTIONS FOR ACTION

S.C.R. 57-63 (For text of Resolutions, see Addendum to Senate Calendar for May 8, 2014)

H.C.R. 356-382 (For text of Resolutions, see Addendum to House Calendar for May 8, 2014)

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.

Samuel Hoar, Jr. of South Burlington – Superior Court Judge – By Sen. Ashe for the Committee on Judiciary. (4/25/14)

Geoffrey W. Crawford of Burlington – Associate Justice, Vermont Supreme Court - By Sen. Nitka for the Committee on Judiciary. (5/8/14)