

Journal of the House

Wednesday, May 8, 2013

At nine o'clock and thirty minutes in the forenoon the Speaker called the House to order.

Devotional Exercises

Devotional exercises were conducted by the Speaker.

Message from the Senate No. 61

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

Mr. Speaker:

I am directed to inform the House that:

The Senate has considered bills originating in the House of the following titles:

H. 26. An act relating to technical corrections.

H. 522. An act relating to strengthening Vermont's response to opioid addiction and methamphetamine abuse.

And has passed the same in concurrence with proposals of amendment in the adoption of which the concurrence of the House is requested.

The Senate has considered House proposal of amendment to Senate bill of the following title:

S. 31. An act relating to prohibiting a court from consideration of interests in revocable trusts or wills when making a property settlement in a divorce proceeding.

And has passed the same in concurrence with proposal of amendment in the adoption of which the concurrence of the House is requested.

The Senate has on its part adopted joint resolution of the following title:

J.R.S. 30. Joint resolution relating to weekend adjournment.

In the adoption of which the concurrence of the House is requested.

The Governor has informed the Senate that on the sixth day of May, 2013, he approved and signed bills originating in the Senate of the following titles:

S. 47. An act relating to protection orders and second degree domestic assault.

S. 161. An act relating to mitigation of traffic fines and approval of a DLS Diversion Program contract.

Message from Governor

A message was received from His Excellency, the Governor, by Mr. Louis Porter, Secretary of Civil and Military Affairs, as follows:

Mr. Speaker:

I am directed by the Governor to inform the House that on the seventh day of May, 2013, he approved and signed bills originating in the House of the following titles:

H. 2 An act relating to the Governor's Snowmobile Council

H. 527 An act relating to approval of the adoption and the codification of the charter of the town of Northfield

H. 529 An act relating to approval of an amendment to the charter of the Winooski Incorporated School District related to the term of district treasurer

Message from the Senate No. 62

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

Mr. Speaker:

I am directed to inform the House that:

The Senate has considered bills originating in the House of the following titles:

H. 299. An act relating to enhancing consumer protection provisions for propane refunds, unsolicited demands for payment, and failure to comply with civil investigations.

H. 395. An act relating to the establishment of the Vermont Clean Energy Loan Fund.

H. 405. An act relating to manure management and anaerobic digesters.

And has passed the same in concurrence with proposals of amendment in the adoption of which the concurrence of the House is requested.

The Senate has considered bills originating in the House of the following titles:

H. 54. An act relating to Public Records Act exemptions.

H. 403. An act relating to community supports for persons with serious functional impairments.

H. 512. An act relating to approval of amendments to the charter of the City of Barre.

And has passed the same in concurrence.

The Senate has considered House proposal of amendment to Senate bill of the following title:

S. 85. An act relating to workers' compensation for firefighters and rescue or ambulance workers.

And has concurred therein.

The Senate has considered House proposal of amendment to Senate proposal of amendment to House bill of the following title:

H. 101. An act relating to hunting, fishing, and trapping.

And has concurred therein.

Joint Resolution Placed on Calendar

J.R.H. 12

Joint resolution expressing concern regarding the public policy implications of the proposed Trans-Pacific Partnership Agreement

Offered by: Representatives Keenan of St. Albans City, Yantachka of Charlotte, Botzow of Pownal, Christie of Hartford, Connor of Fairfield, Dakin of Chester, Emmons of Springfield, Evans of Essex, Gallivan of Chittenden, Head of South Burlington, Hooper of Montpelier, Jerman of Essex, Jewett of Ripton, Krowinski of Burlington, Lenex of Shelburne, Macaig of Williston, Manwaring of Wilmington, Marcotte of Coventry, Martin of Springfield, Martin of Wolcott, Masland of Thetford, McCarthy of St. Albans City, McCormack of Burlington, McCullough of Williston, Michelsen of Hardwick, Miller of Shaftsbury, Peltz of Woodbury, Potter of Clarendon, Rachelson of Burlington, Ram of Burlington, Spengler of Colchester, Stevens of Shoreham, Sweaney of Windsor, Till of Jericho, Toll of Danville, Townsend of South Burlington, and Zagar of Barnard

Whereas, the Trans-Pacific Partnership Agreement (TPPA) is a proposed multinational agreement which if implemented will be the largest trading bloc in the world, and

Whereas, the countries currently involved in the TPPA negotiations include Australia, Brunei Darussalam, Canada, Chile, Malaysia, Mexico, New Zealand, Peru, Singapore, Vietnam, and the United States, and

Whereas, on April 24, 2013, President Obama notified Congress of his administration's intent to include Japan in the TPPA negotiations, and China and Korea could enter the TPPA at a later date, and

Whereas, the ability of Vermont and other states to regulate the environment, tobacco products, pharmaceuticals, and the government procurement process, and to control the use of a state's name in consumer products could be inhibited under the TPPA, and

Whereas, in 1992, Congress amended the Natural Gas Act, Pub.L. 102-486, including 15 U.S.C. § 717b(c), and

Whereas, subsection 717b(c) provides, with respect to natural gas imports from, and exports to, a nation with which the United States has a free trade agreement, that applications for importation or exportation are to be granted "without modification or delay," and

Whereas, two of the TPPA's prospective members, Chile and Singapore, are importers of natural gas, and were Japan to join the TPPA, the amount of natural gas exported from the United States could rise significantly, and

Whereas, this new policy on exporting natural gas might result in increased fracking in this country to meet the TPPA nations' increased demand for natural gas, and

Whereas, according to a TPPA analysis from Georgetown Law's Harrison Institute for Public Law (Harrison Institute), if the TPPA follows the model of other free trade agreements, the threats to domestic control of tobacco regulations would include: (1) increased rights for foreign investors to challenge regulations outside domestic courts; (2) new rights to use elements of a tobacco product's trademarks; (3) expansion of the use of trade rules that limit regulation of tobacco-related services such as advertising, distribution, and display of products; and (4) new obligations to involve tobacco companies in policy-making, and

Whereas, the Office of the United States Trade Representative (USTR) is proposing that language be included in the general exceptions chapter of the TPPA that would permit health regulatory authorities in TPPA member nations to adopt tobacco regulations that are scientifically based and may be applied regardless of a tobacco product's country of origin, and

Whereas, the Harrison Institute's analysis finds that the USTR proposal is problematic because the proposed TPPA exception for health-related tobacco

regulations would not cover: (1) statutory provisions; (2) enforcement of regulations adopted before the TPPA takes effect; (3) regulations that nonhealth regulatory authorities adopt; and (4) investment and trade rules that are currently being used to challenge tobacco controls, and

Whereas, potential clauses on pharmaceutical pricing could be problematic for the enforcement of the cost-containment provisions of Medicare, Medicaid, and the U.S. veterans' governmental health programs, and

Whereas, the TPPA could potentially restrict the ability of states to favor in-state producers or vendors in their procurement policies and limit the inclusion of environmental protection provisions as part of those policies, and

Whereas, the State of Vermont has placed great emphasis on protecting the use of the name Vermont on the State's products, including maple syrup, and

Whereas, the proposed Article 2:22 of the TPPA's intellectual property chapter would expand the right of product manufacturers to use place names, even if the product does not originate in that place, a policy that could be detrimental to the Vermont Attorney General's Statement of Origin Rule which has great importance for the national marketing of Vermont-produced products, and

Whereas, the USTR intends to complete TPPA negotiations as early as October 2013, which means Vermont and other states must express their concerns about the TPPA's public policy implications as soon as possible, now therefore be it

Resolved by the Senate and House of Representatives:

That the General Assembly requests the USTR to be cognizant of the concerns of the individual states and to promote positions in TPPA negotiations that would enable the states to retain their existing flexibility in matters pertaining to the regulation of the environment, tobacco, pharmaceutical pricing, and the use of place names in products, and be it further

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

Which was read and, in the Speaker's discretion, placed on the Calendar for action tomorrow under Rule 52.

Motion to Reconsider Disagreed to

S. 82

Senate bill, entitled

An act relating to campaign finance law;

Rep. Davis of Washington, assuring the Chair that she voted with the prevailing side the previous Legislative day when the House adopted the report of the committee on Government Operations, moved that the House reconsider its vote, which was disagreed to on a Division vote. Yeas, 9. Nays, 113.

Committee Appointed

The Speaker appointed the following named members to the committee on Government Accountability:

Rep. Toleno of Brattleboro

Rep. Evans of Essex

Rep. Sharpe of Bristol

Rep. O'Brien of Richmond

Third Reading; Bill Passed in Concurrence With Proposal of Amendment

S. 7

Senate bill, entitled

An act relating to social networking privacy protection

Was taken up and read the third time.

Pending the question, Shall the bill pass in concurrence with proposal of amendment? **Rep. Ralston of Middlebury** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the bill pass in concurrence with proposal of amendment? was decided in the affirmative. Yeas, 144. Nays, 0.

Those who voted in the affirmative are:

Ancel of Calais	Christie of Hartford	Dickinson of St. Albans
Bartholomew of Hartland	Clarkson of Woodstock	Town
Batchelor of Derby	Cole of Burlington	Donaghy of Poultney
Beyor of Highgate	Condon of Colchester	Donahue of Northfield
Bissonnette of Winooski	Connor of Fairfield	Donovan of Burlington
Botzow of Pownal	Conquest of Newbury	Ellis of Waterbury
Bouchard of Colchester	Consejo of Sheldon	Emmons of Springfield
Branagan of Georgia	Copeland-Hanzas of	Evans of Essex
Brennan of Colchester	Bradford	Fagan of Rutland City
Browning of Arlington	Corcoran of Bennington	Fay of St. Johnsbury
Burditt of West Rutland	Cross of Winooski	Feltus of Lyndon
Burke of Brattleboro	Cupoli of Rutland City	Fisher of Lincoln
Buxton of Tunbridge	Dakin of Chester	Frank of Underhill
Campion of Bennington	Davis of Washington	French of Randolph
Canfield of Fair Haven	Deen of Westminster	Gage of Rutland City
Carr of Brandon	Devereux of Mount Holly	Gallivan of Chittenden

Goodwin of Weston	Marek of Newfane	Shaw of Pittsford
Grad of Moretown	Martin of Springfield	Shaw of Derby
Greshin of Warren	Martin of Wolcott	Smith of New Haven
Haas of Rochester	Masland of Thetford	South of St. Johnsbury
Head of South Burlington	McCarthy of St. Albans City	Spengler of Colchester
Heath of Westford	McCormack of Burlington	Stevens of Waterbury
Hebert of Vernon	McCullough of Williston	Stevens of Shoreham
Higley of Lowell	McFaun of Barre Town	Strong of Albany
Hooper of Montpelier	Michelsen of Hardwick	Stuart of Brattleboro
Hubert of Milton	Miller of Shaftsbury	Sweaney of Windsor
Huntley of Cavendish	Mitchell of Fairfax	Taylor of Barre City
Jerman of Essex	Mook of Bennington	Terenzini of Rutland Town
Johnson of South Hero	Moran of Wardsboro	Till of Jericho
Johnson of Canaan	Morrissey of Bennington	Toleno of Brattleboro
Juskiewicz of Cambridge	Mrowicki of Putney	Toll of Danville
Keenan of St. Albans City	Myers of Essex	Townsend of Randolph
Kilmartin of Newport City	Nuovo of Middlebury	Townsend of South
Kitzmiller of Montpelier	O'Brien of Richmond	Burlington
Koch of Barre Town	O'Sullivan of Burlington	Trieber of Rockingham
Komline of Dorset	Partridge of Windham	Turner of Milton
Krebs of South Hero	Pearce of Richford	Van Wyck of Ferrisburgh
Krowinski of Burlington	Pearson of Burlington	Vowinkel of Hartford
Kupersmith of South	Peltz of Woodbury	Waite-Simpson of Essex
Burlington	Poirier of Barre City	Webb of Shelburne
Lanpher of Vergennes	Potter of Clarendon	Weed of Enosburgh
Larocque of Barnet	Pugh of South Burlington	Wilson of Manchester
Lawrence of Lyndon	Quimby of Concord	Wizowaty of Burlington
Lenes of Shelburne	Rachelson of Burlington	Woodward of Johnson
Lewis of Berlin	Ralston of Middlebury	Wright of Burlington
Lippert of Hinesburg	Ram of Burlington	Yantachka of Charlotte
Macaig of Williston	Russell of Rutland City	Young of Glover
Malcolm of Pawlet	Savage of Swanton	Zagar of Barnard
Manwaring of Wilmington	Scheuermann of Stowe	
Marcotte of Coventry	Sharpe of Bristol	

Those who voted in the negative are: none

Those members absent with leave of the House and not voting are:

Cheney of Norwich	Klein of East Montpelier	Winters of Williamstown
Helm of Fair Haven	Smith of Morristown	

**Third Reading; Bill Passed in Concurrence
With Proposal of Amendment**

S. 81

Senate bill, entitled

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

Was taken up and read the third time.

Pending the question, Shall the bill pass in concurrence with proposal of amendment? **Rep. Jewett of Ripton** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the bill pass in concurrence with proposal of amendment? was decided in the affirmative. Yeas, 141. Nays, 0.

Those who voted in the affirmative are:

Ancel of Calais	Fisher of Lincoln	Martin of Springfield
Bartholomew of Hartland	Frank of Underhill	Martin of Wolcott
Batchelor of Derby	French of Randolph	Masland of Thetford
Beyor of Highgate	Gage of Rutland City	McCarthy of St. Albans City
Bissonnette of Winooski	Gallivan of Chittenden	McCormack of Burlington
Botzow of Pownal	Goodwin of Weston	McCullough of Williston
Bouchar of Colchester	Grad of Moretown	McFaun of Barre Town
Branagan of Georgia	Greshin of Warren	Michelsen of Hardwick
Brennan of Colchester	Haas of Rochester	Miller of Shaftsbury
Browning of Arlington	Head of South Burlington	Mitchell of Fairfax
Burditt of West Rutland	Heath of Westford	Mook of Bennington
Burke of Brattleboro	Hebert of Vernon	Moran of Wardsboro
Buxton of Tunbridge	Higley of Lowell	Morrissey of Bennington
Campion of Bennington	Hooper of Montpelier	Mrowicki of Putney
Canfield of Fair Haven	Hubert of Milton	Myers of Essex
Carr of Brandon	Huntley of Cavendish	Nuovo of Middlebury
Christie of Hartford	Jerman of Essex	O'Brien of Richmond
Clarkson of Woodstock	Jewett of Ripton	O'Sullivan of Burlington
Cole of Burlington	Johnson of South Hero	Partridge of Windham
Connor of Fairfield	Johnson of Canaan	Pearce of Richford
Conquest of Newbury	Juskiewicz of Cambridge	Pearson of Burlington
Consejo of Sheldon	Keenan of St. Albans City	Peltz of Woodbury
Copeland-Hanzas of Bradford	Kilmartin of Newport City	Poirier of Barre City
Corcoran of Bennington	Kitzmiller of Montpelier	Potter of Clarendon
Cross of Winooski	Koch of Barre Town	Pugh of South Burlington
Cupoli of Rutland City	Komline of Dorset	Quimby of Concord
Dakin of Chester	Krebs of South Hero	Rachelson of Burlington
Davis of Washington	Krowinski of Burlington	Ralston of Middlebury
Deen of Westminster	Kupersmith of South Burlington	Ram of Burlington
Devereux of Mount Holly	Lanpher of Vergennes	Russell of Rutland City
Dickinson of St. Albans Town	Larocque of Barnet	Savage of Swanton
Donaghy of Poultney	Lawrence of Lyndon	Scheuermann of Stowe
Donahue of Northfield	Lenes of Shelburne	Sharpe of Bristol
Donovan of Burlington	Lewis of Berlin	Shaw of Pittsford
Emmons of Springfield	Lippert of Hinesburg	Shaw of Derby
Evans of Essex	Macaig of Williston	Smith of New Haven
Fagan of Rutland City	Malcolm of Pawlet	South of St. Johnsbury
Fay of St. Johnsbury	Manwaring of Wilmington	Spengler of Colchester
Feltus of Lyndon	Marcotte of Coventry	Stevens of Waterbury
	Marek of Newfane	Stevens of Shoreham
		Strong of Albany

Stuart of Brattleboro	Townsend of South	Wizowaty of Burlington
Sweaney of Windsor	Burlington	Woodward of Johnson
Taylor of Barre City	Trieber of Rockingham	Wright of Burlington
Terenzini of Rutland Town	Vowinkel of Hartford	Yantachka of Charlotte
Till of Jericho	Waite-Simpson of Essex	Young of Glover
Toleno of Brattleboro	Webb of Shelburne	Zagar of Barnard
Toll of Danville	Weed of Enosburgh	
Townsend of Randolph	Wilson of Manchester	

Those who voted in the negative are: none

Those members absent with leave of the House and not voting are:

Cheney of Norwich	Klein of East Montpelier	Van Wyck of Ferrisburgh
Condon of Colchester	Smith of Morristown	Winters of Williamstown
Helm of Fair Haven	Turner of Milton	

Third Reading; Bills Passed in Concurrence With Proposal of Amendment

S. 99

Senate bill, entitled

An act relating to the standard measure of recidivism

Was taken up, read the third time and passed in concurrence with proposal of amendment.

S. 132

Senate bill, entitled

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

Was taken up, read the third time and passed in concurrence with proposal of amendment.

Bill Read Third Time and Passed in Concurrence with Proposal of Amendment

S. 148

Senate bill, entitled

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

Was taken up and pending third reading of the bill, **Rep. Grad of Moretown** moved the House propose to the Senate to amend the bill as follows:

By adding a new Sec. 2 to read as follows:

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.

and by renumbering the remaining section to be numerically correct

Which was agreed to. Thereupon, the bill was read the third time and passed in concurrence with proposal of amendment.

Bill Read Second Time; Third Reading Ordered

H. 543

Rep. Cole of Burlington spoke for the committee on Government Operations.

House bill entitled

An act relating to records and reports of the Auditor of Accounts

Having appeared on the Calendar one day for notice, was taken up, read the second time and third reading ordered.

Proposals of Amendment Agreed to; Consideration Interrupted by Recess

S. 82

Senate bill, entitled

An act relating to campaign finance law;

Pending third reading of the bill, **Reps. Stevens of Shoreham, Goodwin of**

Weston, and Greshin of Warren moved to amend the House proposal of amendment as follows:

First: In Sec. 3, in section 2941 (limitations of contributions), by striking out subdivision (1)(A)(i) in its entirety and inserting in lieu thereof the following:

(i) \$1,000.00 from a single source, except that an independent candidate may accept unlimited contributions from a single source; or

Second: In Sec. 3, in section 2941 (limitations of contributions), by striking out subdivision (2)(A)(i) in its entirety and inserting in lieu thereof the following:

(i) \$1,500.00 from a single source, except that an independent candidate may accept unlimited contributions from a single source; or

Third: In Sec. 3, in section 2941 (limitations of contributions), by striking out subdivision (3)(A)(i) in its entirety and inserting in lieu thereof the following:

(i) \$4,000.00 from a single source, except that an independent candidate may accept unlimited contributions from a single source; or

Which was disagreed to.

Pending third reading of the bill, **Rep. Koch of Barre Town** moved to amend the House proposal of amendment as follows:

In Sec. 3, in section 2963 (campaign reports; Secretary of State; forms; filing), in subsection (a), by striking out subdivisions (2)–(5) in their entirety and inserting in lieu thereof the following:

(2) the cash balance carried over from the previous report or last campaign;

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

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

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

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

(7) the cash balance remaining at the end of the reporting period.

Thereupon, **Rep. Koch of Barre Town** asked and was granted leave of the House to withdraw his amendment.

Pending third reading of the bill, **Rep. Koch of Barre Town** moved to amend the House proposal of amendment as follows:

In Sec. 3 by striking out section 2973 (specific identification requirements for radio or television communications) in its entirety and inserting in lieu thereof the following:

§ 2973. SPECIFIC IDENTIFICATION REQUIREMENTS FOR RADIO OR TELEVISION 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 or television, 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.

Thereupon, **Rep. Koch of Barre Town** asked and was granted leave of the House to withdraw his amendment.

Pending third reading of the bill, **Rep. Shaw of Pittsford** moved to amend the House proposal of amendment as follows:

In Sec. 3, in 17 V.S.A. § 2945 (accepting contributions), in subsection (b), by striking out “\$100.00” and inserting in lieu thereof “200.00”

Which was disagreed to.

Pending third reading of the bill, **Rep. Townsend of South Burlington** moved to amend the House proposal of amendment as follows:

First: In Sec. 3, in section 2921 (candidates; registration; checking account; treasurer), in subsection (a) in the first sentence after “shall register with the Secretary of State” by inserting “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.”

Second: In Sec. 3, in section 2921 (candidates; registration; checking account; treasurer), at the end of subsection (b), by adding the following: “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.”

Third: In Sec. 3, in section 2922 (political committees; registration; checking account; treasurer), at the end of subsection (b), by adding the following: “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.”

Fourth: In Sec. 3, in section 2923 (political parties; registration; checking accounts; treasurer), in subsection (b), by inserting “, subsidiary, branch, or local unit” after “the political party” in the three places in which that term appears, and at the end of the subsection, by adding the following: “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.”

Which was agreed to.

Pending third reading of the bill, **Rep. Poirier of Barre City** moved to amend the House proposal of amendment as follows:

In Sec. 3, in section 2963 (campaign reports; Secretary of State; forms; filing), by striking out subdivision (a)(3) in its entirety and inserting in lieu thereof the following:

(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:

Which was agreed to.

Pending third reading of the bill, **Rep. Wright of Burlington** moved to amend the House proposal of amendment as follows:

First: In Sec. 3, in section 2941 (limitations of contributions), by striking out subdivision (4) in its entirety and inserting in lieu thereof the following:

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

- (i) \$5,000.00 from a single source;
- (ii) \$5,000.00 from a political committee; or
- (iii) \$5,000.00 from a political party

(B) The provisions of this subdivision (4) shall not apply to independent expenditure-only political committees, which may accept unlimited contributions from a single source, political committee, or political party.

Pending the question, Shall the House proposal of amendment be amended as recommended by Rep. Wright of Burlington? **Rep. Wright of Burlington** demanded the Yeas and Nays, which demand was sustained by the Constitutional number.

Recess

At twelve o'clock noon, the Speaker declared a recess until two o'clock in the afternoon.

At two o'clock in the afternoon, the Speaker called the House to order.

Consideration Resumed; Proposal of Amendment Agreed to; Bill Read the Third Time and Passed in Concurrence with Proposal of Amendment

S. 82

Consideration resumed on Senate bill, entitled

An act relating to campaign finance law;

The recurring question, Shall the House proposal of amendment be amended as recommended by Rep. Wright of Burlington? The Clerk proceeded to call the roll and the question, Shall the House proposal of amendment be amended as recommended by Rep. Wright of Burlington? was decided in the negative. Yeas, 49. Nays, 95.

Those who voted in the affirmative are:

Batchelor of Derby	Dickinson of St. Albans	Hebert of Vernon
Beyor of Highgate	Town	Helm of Fair Haven
Bouchard of Colchester	Donaghy of Poultney	Higley of Lowell
Branagan of Georgia	Donahue of Northfield	Hubert of Milton
Brennan of Colchester	Fagan of Rutland City	Johnson of Canaan
Burditt of West Rutland	Feltus of Lyndon	Juskiewicz of Cambridge
Canfield of Fair Haven	Gage of Rutland City *	Kilmartin of Newport City
Cupoli of Rutland City	Goodwin of Weston	Koch of Barre Town *
Devereux of Mount Holly	Greshin of Warren	Komline of Dorset

Krebs of South Hero
Larocque of Barnet
Lawrence of Lyndon
Lewis of Berlin
Marcotte of Coventry
McFaun of Barre Town
Mitchell of Fairfax
Morrisey of Bennington

Myers of Essex
Pearce of Richford
Poirier of Barre City
Quimby of Concord
Savage of Swanton
Scheuermann of Stowe
Shaw of Pittsford
Shaw of Derby

Smith of New Haven
Strong of Albany
Terenzini of Rutland Town
Townsend of Randolph
Turner of Milton
Van Wyck of Ferrisburgh
Wright of Burlington *

Those who voted in the negative are:

Ancel of Calais
Bartholomew of Hartland
Bissonnette of Winooski
Botzow of Pownal
Browning of Arlington
Burke of Brattleboro
Buxton of Tunbridge
Campion of Bennington
Carr of Brandon
Cheney of Norwich
Christie of Hartford
Clarkson of Woodstock
Cole of Burlington
Connor of Fairfield
Conquest of Newbury
Consejo of Sheldon
Copeland-Hanzas of
Bradford
Corcoran of Bennington
Cross of Winooski
Dakin of Chester
Davis of Washington
Deen of Westminster
Donovan of Burlington
Ellis of Waterbury
Emmons of Springfield
Evans of Essex
Fay of St. Johnsbury
Fisher of Lincoln
Frank of Underhill
French of Randolph
Gallivan of Chittenden
Grad of Moretown

Haas of Rochester
Head of South Burlington
Heath of Westford
Hooper of Montpelier
Huntley of Cavendish
Jerman of Essex
Jewett of Ripton
Johnson of South Hero
Keenan of St. Albans City
Kitzmiller of Montpelier
Krowinski of Burlington
Kupersmith of South
Burlington
Lanpher of Vergennes
Lenes of Shelburne
Lippert of Hinesburg
Macaig of Williston
Malcolm of Pawlet
Manwaring of Wilmington
Marek of Newfane
Martin of Springfield
Martin of Wolcott
Masland of Thetford
McCarthy of St. Albans City
McCormack of Burlington
McCullough of Williston
Michelsen of Hardwick
Miller of Shaftsbury
Mook of Bennington
Moran of Wardsboro
Mrowicki of Putney
Nuovo of Middlebury
O'Brien of Richmond

O'Sullivan of Burlington
Partridge of Windham
Pearson of Burlington
Peltz of Woodbury
Potter of Clarendon
Pugh of South Burlington
Rachelson of Burlington
Ralston of Middlebury
Ram of Burlington
Russell of Rutland City
Sharpe of Bristol
South of St. Johnsbury
Spengler of Colchester
Stevens of Waterbury
Stevens of Shoreham
Sweaney of Windsor
Taylor of Barre City
Till of Jericho
Toleno of Brattleboro
Toll of Danville
Townsend of South
Burlington
Trieber of Rockingham
Vowinkel of Hartford
Waite-Simpson of Essex
Webb of Shelburne
Weed of Enosburgh
Wilson of Manchester
Woodward of Johnson
Yantachka of Charlotte
Young of Glover
Zagar of Barnard

Those members absent with leave of the House and not voting are:

Condon of Colchester
Klein of East Montpelier

Stuart of Brattleboro
Winters of Williamstown

Wizowaty of Burlington

Rep. Gage of Rutland City explained his vote as follows:

“Mr. Speaker:

I voted for this amendment because Vermonters should not have to pay for litigation in connection with S.82 when much larger states have chosen not to go down this road, given that litigation estimates are between 6-11 million dollars if we lose this case; it could cost this average working family in Vermont about \$55.00.”

Rep. Koch of Barre Town explained his vote as follows:

“Mr. Speaker:

As an attorney, I am not afraid to battle for what I think is right in court. But before I do so, I take care to assess my chances of success.

In this case, I believe the Supreme Court of the United States will find that the bill’s effort to restrict contributions to what have come to be known as ‘super PACS’ violates the First Amendment right of free speech.

We are assured that a court challenge to this provision will be filed, and a loss by the State of Vermont will result in payment of ‘loser fees,’ probably in excess of \$5 million.

I think we have better uses for the taxpayers’ money.”

Rep. Wright of Burlington explained his vote as follows:

“Mr. Speaker:

By opposing this amendment, this body just took a good bill and made it into a costly multi-million dollar law suit that we are likely to lose. When we do not learn from history we are doomed to repeat history. Clearly, at least in the House, we have not learned from history. The language from the 2nd Circuit Court of Appeals makes clear why this is a mistake. May the Senate save us.”

Pending third reading of the bill, **Rep. Koch of Barre Town** moved to amend the House proposal of amendment as follows:

In Sec. 3 by striking out section 2973 (specific identification requirements for radio or television communications) in its entirety and inserting in lieu thereof the following:

§ 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.

Which was agreed to and the bill was read the third time.

Pending the question, Shall the bill pass in concurrence with proposal of amendment? **Rep. Pearson of Burlington** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the bill pass in concurrence with proposal of amendment? was decided in the affirmative. Yeas, 96. Nays, 49.

Those who voted in the affirmative are:

Ancel of Calais	Frank of Underhill	McCarthy of St. Albans City
Bartholomew of Hartland	French of Randolph	McCullough of Williston
Bissonnette of Winooski	Gallivan of Chittenden	Michelsen of Hardwick
Botzow of Pownal	Grad of Moretown	Miller of Shaftsbury
Browning of Arlington	Haas of Rochester	Mook of Bennington
Burke of Brattleboro	Head of South Burlington	Moran of Wardsboro
Buxton of Tunbridge	Heath of Westford	Mrowicki of Putney
Campion of Bennington	Higley of Lowell	Nuovo of Middlebury
Carr of Brandon	Hooper of Montpelier	O'Brien of Richmond
Cheney of Norwich	Huntley of Cavendish	O'Sullivan of Burlington
Christie of Hartford	Jerman of Essex	Partridge of Windham
Clarkson of Woodstock	Jewett of Ripton	Pearce of Richford
Cole of Burlington	Johnson of South Hero	Peltz of Woodbury
Condon of Colchester	Juskiewicz of Cambridge	Potter of Clarendon
Connor of Fairfield	Keenan of St. Albans City	Pugh of South Burlington
Consejo of Sheldon	Kitzmiller of Montpelier	Rachelson of Burlington
Copeland-Hanzas of Bradford	Krowinski of Burlington	Ralston of Middlebury
Corcoran of Bennington	Kupersmith of South Burlington	Ram of Burlington
Cross of Winooski	Lanpher of Vergennes	Russell of Rutland City
Dakin of Chester	Lenes of Shelburne	Sharpe of Bristol
Deen of Westminster	Lippert of Hinesburg	South of St. Johnsbury
Donovan of Burlington	Macaig of Williston	Spengler of Colchester
Ellis of Waterbury	Malcolm of Pawlet	Stevens of Waterbury
Emmons of Springfield	Manwaring of Wilmington	Sweaney of Windsor
Evans of Essex	Marek of Newfane	Taylor of Barre City
Fagan of Rutland City	Martin of Springfield	Till of Jericho
Fay of St. Johnsbury	Martin of Wolcott	Toleno of Brattleboro
Fisher of Lincoln	Masland of Thetford	Toll of Danville
		Townsend of Randolph

Townsend of South	Waite-Simpson of Essex	Woodward of Johnson
Burlington	Webb of Shelburne	Yantachka of Charlotte
Trieber of Rockingham	Wilson of Manchester	Young of Glover
Vowinkel of Hartford	Wizowaty of Burlington	Zagar of Barnard

Those who voted in the negative are:

Batchelor of Derby	Goodwin of Weston	Myers of Essex
Beyor of Highgate	Greshin of Warren	Pearson of Burlington *
Bouchard of Colchester	Hebert of Vernon	Poirier of Barre City *
Branagan of Georgia	Helm of Fair Haven	Quimby of Concord
Brennan of Colchester	Hubert of Milton	Savage of Swanton
Burditt of West Rutland	Johnson of Canaan	Scheuermann of Stowe
Canfield of Fair Haven	Kilmartin of Newport City *	Shaw of Pittsford
Conquest of Newbury	Koch of Barre Town *	Shaw of Derby
Cupoli of Rutland City	Komline of Dorset	Smith of New Haven
Davis of Washington	Krebs of South Hero	Stevens of Shoreham
Devereux of Mount Holly	Larocque of Barnet	Strong of Albany
Dickinson of St. Albans	Lewis of Berlin	Terenzini of Rutland Town
Town	Marcotte of Coventry	Turner of Milton
Donaghy of Poultney	McCormack of Burlington	Van Wyck of Ferrisburgh
Donahue of Northfield	McFaun of Barre Town	Weed of Enosburgh
Feltus of Lyndon	Mitchell of Fairfax	Wright of Burlington
Gage of Rutland City	Morrissey of Bennington	

Those members absent with leave of the House and not voting are:

Klein of East Montpelier	Stuart of Brattleboro
Lawrence of Lyndon	Winters of Williamstown

Rep. Kilmartin of Newport City explained his vote as follows:

“Mr. Speaker:

I vote ‘no’. We are not being ‘first again in the nation’, as so proudly claimed. Fool us once, shame on you. Fool us twice, shame on us, the Vermont House of Representatives.

We fooled ourselves once, at a taxpayer cost of over \$7 million to have the Supreme Court laugh at us. We have been warned by many credible voices, including those who do not like super-Pacs. We show ourselves not merely fools twice. We show ourselves small minded actors in the theatre of the absurd for all the world to see. To this absurd theatre we will pay the price of admission to the tune of millions of dollars of Vermont taxpayers’ money.

Instead of protecting the public treasury, we squander it on a form of death with no dignity, only derision and ridicule as the House hearse passes by the streets lined with Vermont taxpayers.

The ultimate absurdity will be heard from the lips of a Supreme Court Justice: ‘Mr. Attorney General, did that super-Pac win one election.’ Attorney General: ‘No.’”

Rep. Koch of Barre Town explained his vote as follows:

“Mr. Speaker:

I wish the committee had produced a bill that we could all vote for, and indeed, they came very close. Overall, this is a very good bill.

A few sections are troublesome, however, notably the attempt to restrict the First Amendment rights relative to ‘super-PACS.’ I simply cannot vote to commit millions of dollars of the taxpayers’ money to what I believe will be a losing court case.”

Rep. Pearson of Burlington explained his vote as follows:

“Mr. Speaker:

I voted no. It seems to me we had an opportunity to pass a strong campaign finance bill. We could have protected the grassroots nature of Vermont’s politics as we tried to do several times under the previous administration. Instead we have opened our doors to big money’s influence and welcomed the damaging impact that comes with it.”

Rep. Poirier of Barre City explained his vote as follows:

“Mr. Speaker:

I voted no because this bill allows unlimited contributions to major party candidates, and thus makes independent candidates an endangered species. And furthermore, I do not believe wealthy people should lose their First Amendment Rights.”

Proposal of Amendment Agreed to; Third Reading Ordered

S. 152

Rep. Fisher of Lincoln, for the committee on Health Care, to which had been referred Senate bill, entitled

An act relating to the Green Mountain Care Board’s rate review authority

Reported in favor of its passage in concurrence with proposal of amendment as follows:

By striking all after the enacting clause and inserting in lieu thereof the following:

* * * Health Insurance Rate Review * * *

Sec. 1. 8 V.S.A. § 4062 is amended to read:

§ 4062. FILING AND APPROVAL OF POLICY FORMS AND PREMIUMS

(a)(1) No policy of health insurance or certificate under a policy filed by an insurer offering health insurance as defined in subdivision 3301(a)(2) of this title, a nonprofit hospital or medical service corporation, health maintenance organization, or a managed care organization and not exempted by subdivision 3368(a)(4) of this title shall be delivered or issued for delivery in this ~~state~~ State, nor shall any endorsement, rider, or application which becomes a part of any such policy be used, until:

~~(A)~~ a copy of the form, and of the rules for the classification of risks has been filed with the Department of Financial Regulation and a copy of the premium rates, and rules for the classification of risks pertaining thereto has been filed with the commissioner of financial regulation Green Mountain Care Board; and

~~(B)~~ a decision by the Green Mountain Care board Board has been applied by the commissioner as provided in subdivision (2) of this subsection issued a decision approving, modifying, or disapproving the proposed rate.

~~(2)(A) Prior to approving a rate pursuant to this subsection, the commissioner shall seek approval for such rate from the Green Mountain Care board established in 18 V.S.A. chapter 220. The commissioner shall make a recommendation to the Green Mountain Care board about whether to approve, modify, or disapprove the rate within 30 days of receipt of a completed application from an insurer. In the event that the commissioner does not make a recommendation to the board within the 30-day period, the commissioner shall be deemed to have recommended approval of the rate, and the Green Mountain Care board shall review the rate request pursuant to subdivision (B) of this subdivision (2).~~

~~(B)~~ The Green Mountain Care board Board shall review rate requests forwarded by the commissioner pursuant to subdivision (A) of this subdivision (2) and shall approve, modify, or disapprove a rate request within ~~30~~ 90 calendar days of receipt of the commissioner's recommendation or, in the absence of a recommendation from the commissioner, the expiration of the 30-day period following the department's receipt of the completed application. In the event that the board does not approve or disapprove a rate within 30 days, the board shall be deemed to have approved the rate request after receipt of an initial rate filing from an insurer. If an insurer fails to provide necessary materials or other information to the Board in a timely manner, the Board may extend its review for a reasonable additional period of time, not to exceed 30 calendar days.

~~(C) The commissioner shall apply the decision of the Green Mountain Care board as to rates referred to the board within five business days of the board's decision.~~

(B) Prior to the Board's decision on a rate request, the Department of Financial Regulation shall provide the Board with an analysis and opinion on the impact of the proposed rate on the insurer's solvency and reserves.

~~(3) The commissioner Board shall review policies and rates to determine whether a policy or rate is affordable, promotes quality care, promotes access to health care, protects insurer solvency, and is not unjust, unfair, inequitable, misleading, or contrary to the laws of this state State. The commissioner shall notify in writing the insurer which has filed any such form, premium rate, or rule if it contains any provision which does not meet the standards expressed in this section. In such notice, the commissioner shall state that a hearing will be granted within 20 days upon written request of the insurer. In making this determination, the Board shall consider the analysis and opinion provided by the Department of Financial Regulation pursuant to subdivision (2)(B) of this subsection.~~

~~(b) The commissioner may, after a hearing of which at least 20 days' written notice has been given to the insurer using such form, premium rate, or rule, withdraw approval on any of the grounds stated in this section. For premium rates, such withdrawal may occur at any time after applying the decision of the Green Mountain Care board pursuant to subdivision (a)(2)(C) of this section. Disapproval pursuant to this subsection shall be effected by written order of the commissioner which shall state the ground for disapproval and the date, not less than 30 days after such hearing when the withdrawal of approval shall become effective.~~

~~(e) In conjunction with a rate filing required by subsection (a) of this section, an insurer shall file a plain language summary of any requested rate increase of five percent or greater. If, during the plan year, the insurer files for rate increases that are cumulatively five percent or greater, the insurer shall file a summary applicable to the cumulative rate increase the proposed rate. All summaries shall include a brief justification of any rate increase requested, the information that the Secretary of the U.S. Department of Health and Human Services (HHS) requires for rate increases over 10 percent, and any other information required by the commissioner Board. The plain language summary shall be in the format required by the Secretary of HHS pursuant to the Patient Protection and Affordable Care Act of 2010, Public Law 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Public Law 111-152, and shall include notification of the public comment~~

period established in subsection ~~(d)~~(c) of this section. In addition, the insurer shall post the summaries on its website.

~~(d)~~(c)(1) The ~~commissioner~~ Board shall provide information to the public on the ~~department's~~ Board's website about the public availability of the filings and summaries required under this section.

(2)(A) Beginning no later than January 1, ~~2012~~ 2014, the ~~commissioner~~ Board shall post the rate filings pursuant to subsection (a) of this section and summaries pursuant to subsection ~~(e)~~(b) of this section on the ~~department's~~ Board's website within five calendar days of filing. The Board shall also establish a mechanism by which members of the public may request to be notified automatically each time a proposed rate is filed with the Board.

(B) The ~~department~~ Board shall provide an electronic mechanism for the public to comment on ~~proposed rate increases over five percent~~ all rate filings. The public shall have 21 days from the posting of the summaries and filings to provide Board shall accept public comment on each rate filing from the date on which the Board posts the rate filing on its website pursuant to subdivision (A) of this subdivision (2) until 15 calendar days after the Board posts on its website the analyses and opinions of the Department of Financial Regulation and of the Board's consulting actuary, if any, as required by subsection (d) of this section. The ~~department~~ Board shall review and consider the public comments prior to submitting the policy or rate for the Green Mountain Care board's approval pursuant to subsection (a) of this section. The ~~department~~ shall provide the Green Mountain Care board with the public comments for its consideration in approving any rates issuing its decision.

(3)(A) In addition to the public comment provisions set forth in this subsection, the Office of the Health Care Advocate established in 18 V.S.A. chapter 229 may, within 30 calendar days after the Board receives an insurer's rate request pursuant to this section, submit questions regarding the filing to the insurer and to the Board's contracting actuary, if any.

(B) The Office of the Health Care Advocate may also submit to the Board written comments on an insurer's rate request. The Board shall post the comments on its website and shall consider the comments prior to issuing its decision.

~~(e)~~(d)(1) No later than 60 calendar days after receiving an insurer's rate request pursuant to this section, the Green Mountain Care Board shall make available to the public the insurer's rate filing, the Department's analysis and opinion of the effect of the proposed rate on the insurer's solvency, and the analysis and opinion of the rate filing by the Board's contracting actuary, if any.

(2) The Board shall post on its website, after redacting any confidential or proprietary information relating to the insurer or to the insurer's rate filing:

(A) all questions the Board poses to its contracting actuary, if any, and the actuary's responses to the Board's questions;

(B) all questions the Office of the Health Care Advocate poses to the Board's contracting actuary, if any, and the actuary's responses to the Office's questions; and

(C) all questions the Board, the Board's contracting actuary, if any, the Department, or the Office of the Health Care Advocate poses to the insurer and the insurer's responses to those questions.

(e) Within 30 calendar days after making the rate filing and analysis available to the public pursuant to subsection (d) of this section, the Board shall:

(1) conduct a public hearing, at which the Board shall:

(A) call as witnesses the Commissioner of Financial Regulation or designee and the Board's contracting actuary, if any, unless all parties agree to waive such testimony; and

(B) provide an opportunity for testimony from the insurer, the Office of the Health Care Advocate, and members of the public;

(2) at a public hearing, announce the Board's decision of whether to approve, modify, or disapprove the proposed rate; and

(3) issue its decision in writing.

(f)(1) The insurer shall notify its policyholders of the Board's decision in a timely manner, as defined by the Board by rule.

(2) Rates shall take effect on the date specified in the insurer's rate filing.

(3) If the Board has not issued its decision by the effective date specified in the insurer's rate filing, the insurer shall notify its policyholders of its pending rate request and of the effective date proposed by the insurer in its rate filing.

(g) An insurer, the Office of the Health Care Advocate, and any member of the public with party status, as defined by the Board by rule, may appeal a decision of the Board approving, modifying, or disapproving the insurer's proposed rate to the Vermont Supreme Court.

(h)(1) The following provisions of this This section shall apply only to policies for major medical insurance coverage and shall not apply to policies

for specific disease, accident, injury, hospital indemnity, dental care, vision care, disability income, long-term care, or other limited benefit coverage; to Medicare supplemental insurance; or

~~(A) the requirement in subdivisions (a)(1) and (2) of this section for the Green Mountain Care board's approval on rate requests;~~

~~(B) the review standards in subdivision (a)(3) of this section as to whether a policy or rate is affordable, promotes quality care, and promotes access to health care; and~~

~~(C) subsections (c) and (d) of this section.~~

~~(2) The exemptions from the provisions described in subdivisions (1)(A) through (C) of this subsection shall also apply to benefit plans that are paid directly to an individual insured or to his or her assigns and for which the amount of the benefit is not based on potential medical costs or actual costs incurred.~~

~~(3) Medicare supplemental insurance policies shall be exempt only from the requirement in subdivisions (a)(1) and (2) of this section for the Green Mountain Care board's approval on rate requests and shall be subject to the remaining provisions of this section.~~

(i) Notwithstanding the procedures and timelines set forth in subsections (a) through (e) of this section, the Board may establish, by rule, a streamlined rate review process for certain rate decisions, including proposed rates affecting fewer than a minimum number of covered lives and proposed rates for which a de minimis increase, as defined by the Board by rule, is sought.

Sec. 2. 8 V.S.A. § 4062a is amended to read:

§ 4062a. FILING FEES

Each filing of a policy, contract, or document form or premium rates or rules, submitted pursuant to section 4062 of this title, shall be accompanied by payment to the ~~commissioner~~ Commissioner or the Green Mountain Care Board, as appropriate, of a nonrefundable fee of ~~\$50.00~~ \$150.00.

Sec. 3. 8 V.S.A. § 4089b(d)(1)(A) is amended to read:

(d)(1)(A) A health insurance plan that does not otherwise provide for management of care under the plan, or that does not provide for the same degree of management of care for all health conditions, may provide coverage for treatment of mental health conditions through a managed care organization provided that the managed care organization is in compliance with the rules adopted by the ~~commissioner~~ Commissioner that assure that the system for delivery of treatment for mental health conditions does not diminish or negate

the purpose of this section. In reviewing rates and forms pursuant to section 4062 of this title, the ~~commissioner~~ Commissioner or the Green Mountain Care Board established in 18 V.S.A. chapter 220, as appropriate, shall consider the compliance of the policy with the provisions of this section.

Sec. 4. 8 V.S.A. § 4512(b) is amended to read:

(b) Subject to the approval of the ~~commissioner~~ Commissioner or the Green Mountain Care Board established in 18 V.S.A. chapter 220, as appropriate, a hospital service corporation may establish, maintain, and operate a medical service plan as defined in section 4583 of this title. The ~~commissioner~~ Commissioner or the Board may refuse approval if the ~~commissioner~~ Commissioner or the Board finds that the rates submitted are excessive, inadequate, or unfairly discriminatory, fail to protect the hospital service corporation's solvency, or fail to meet the standards of affordability, promotion of quality care, and promotion of access pursuant to section 4062 of this title. The contracts of a hospital service corporation which operates a medical service plan under this subsection shall be governed by chapter 125 of this title to the extent that they provide for medical service benefits, and by this chapter to the extent that the contracts provide for hospital service benefits.

Sec. 5. 8 V.S.A. § 4513(c) is amended to read:

(c) In connection with a rate decision, the ~~commissioner~~ Green Mountain Care Board may also make reasonable supplemental orders to the corporation and may attach reasonable conditions and limitations to such orders as ~~he~~ the Board finds, on the basis of competent and substantial evidence, necessary to ~~insure~~ ensure that benefits and services are provided at minimum cost under efficient and economical management of the corporation. The ~~commissioner~~ Commissioner and, except as otherwise provided by 18 V.S.A. §§ 9375 and 9376, the Green Mountain Care Board, shall not set the rate of payment or reimbursement made by the corporation to any physician, hospital, or other health care provider.

Sec. 6. 8 V.S.A. § 4515a is amended to read:

§ 4515a. FORM AND RATE FILING; FILING FEES

Every contract or certificate form, or amendment thereof, including the rates charged therefor by the corporation shall be filed with the ~~commissioner~~ Commissioner or the Green Mountain Care Board established in 18 V.S.A. chapter 220, as appropriate, for ~~his or her~~ the Commissioner's or the Board's approval prior to issuance or use. Prior to approval, there shall be a public comment period pursuant to section 4062 of this title. In addition, each such filing shall be accompanied by payment to the ~~commissioner~~ Commissioner or

the Board, as appropriate, of a nonrefundable fee of ~~\$50.00~~ \$150.00 and the plain language summary of rate increases pursuant to section 4062 of this title.

Sec. 7. 8 V.S.A. § 4584(c) is amended to read:

(c) In connection with a rate decision, the ~~commissioner~~ Green Mountain Care Board may also make reasonable supplemental orders to the corporation and may attach reasonable conditions and limitations to such orders as ~~he or she~~ the Board finds, on the basis of competent and substantial evidence, necessary to ~~insure~~ ensure that benefits and services are provided at minimum cost under efficient and economical management of the corporation. The ~~commissioner~~ Commissioner and, except as otherwise provided by 18 V.S.A. §§ 9375 and 9376, the Green Mountain Care Board, shall not set the rate of payment or reimbursement made by the corporation to any physician, hospital, or other health care provider.

Sec. 8. 8 V.S.A. § 4587 is amended to read:

§ 4587. FILING AND APPROVAL OF CONTRACTS

A medical service corporation which has received a permit from the ~~commissioner of financial regulation~~ Commissioner of Financial Regulation under section 4584 of this title shall not thereafter issue a contract to a subscriber or charge a rate therefor which is different from copies of contracts and rates originally filed with such ~~commissioner~~ Commissioner and approved by him or her at the time of the issuance to such medical service corporation of its permit, until it has filed copies of such contracts which it proposes to issue and the rates it proposes to charge therefor and the same have been approved by ~~such commissioner~~ the Commissioner or the Green Mountain Care Board established in 18 V.S.A. chapter 220, as appropriate. Prior to approval, there shall be a public comment period pursuant to section 4062 of this title. Each such filing of a contract or the rate therefor shall be accompanied by payment to the ~~commissioner~~ Commissioner or the Board, as appropriate, of a nonrefundable fee of ~~\$50.00~~ \$150.00. A medical service corporation shall file a plain language summary of rate increases pursuant to section 4062 of this title.

Sec. 9. 8 V.S.A. § 5104 is amended to read:

§ 5104. FILING AND APPROVAL OF RATES AND FORMS;

SUPPLEMENTAL ORDERS

(a)(1) A health maintenance organization which has received a certificate of authority under section 5102 of this title shall file and obtain approval of all policy forms and rates as provided in sections 4062 and 4062a of this title. This requirement shall include the filing of administrative retentions for any

business in which the organization acts as a third party administrator or in any other administrative processing capacity. The ~~commissioner~~ Commissioner or the Green Mountain Care Board, as appropriate, may request and shall receive any information that the ~~commissioner~~ Commissioner or the Board deems necessary to evaluate the filing. In addition to any other information requested, the ~~commissioner~~ Commissioner or the Board shall require the filing of information on costs for providing services to the organization's Vermont members affected by the policy form or rate, including Vermont claims experience, and administrative and overhead costs allocated to the service of Vermont members. Prior to approval, there shall be a public comment period pursuant to section 4062 of this title. A health maintenance organization shall file a summary of rate filings pursuant to section 4062 of this title.

(2) The ~~commissioner~~ Commissioner or the Board shall refuse to approve, ~~or to seek the Green Mountain Care board's approval of,~~ the form of evidence of coverage, filing, or rate if it contains any provision which is unjust, unfair, inequitable, misleading, or contrary to the law of the ~~state~~ State or plan of operation, or if the rates are excessive, inadequate or unfairly discriminatory, ~~fail to protect the organization's solvency,~~ or fail to meet the standards of affordability, promotion of quality care, and promotion of access pursuant to section 4062 of this title. No evidence of coverage shall be offered to any potential member unless the person making the offer has first been licensed as an insurance agent in accordance with chapter 131 of this title.

(b) In connection with a rate decision, the ~~commissioner~~ Board may also, ~~with the prior approval of the Green Mountain Care board established in 18 V.S.A. chapter 220,~~ make reasonable supplemental orders and may attach reasonable conditions and limitations to such orders as the ~~commissioner~~ Board finds, on the basis of competent and substantial evidence, necessary to ~~insure~~ ensure that benefits and services are provided at reasonable cost under efficient and economical management of the organization. The ~~commissioner~~ Commissioner and, except as otherwise provided by 18 V.S.A. §§ 9375 and 9376, the Green Mountain Care Board, shall not set the rate of payment or reimbursement made by the organization to any physician, hospital, or health care provider.

Sec. 10. 18 V.S.A. § 9375(b) is amended to read:

(b) The ~~board~~ Board shall have the following duties:

* * *

(6) Approve, modify, or disapprove requests for health insurance rates pursuant to 8 V.S.A. § 4062 ~~within 30 days of receipt of a request for approval from the commissioner of financial regulation,~~ taking into consideration the

requirements in the underlying statutes, changes in health care delivery, changes in payment methods and amounts, protecting insurer solvency, and other issues at the discretion of the ~~board~~ Board;

* * *

Sec. 11. 18 V.S.A. § 9381 is amended to read:

§ 9381. APPEALS

(a)(1) The Green Mountain Care ~~board~~ Board shall adopt procedures for administrative appeals of its actions, orders, or other determinations. Such procedures shall provide for the issuance of a final order and the creation of a record sufficient to serve as the basis for judicial review pursuant to subsection (b) of this section.

~~(2) Only decisions by the board shall be appealable under this subsection. Recommendations to the board by the commissioner of financial regulation pursuant to 8 V.S.A. § 4062(a) shall not be subject to appeal.~~

(b) Any person aggrieved by a final action, order, or other determination of the Green Mountain Care ~~board~~ Board may, upon exhaustion of all administrative appeals available pursuant to subsection (a) of this section, appeal to the ~~supreme court~~ Supreme Court pursuant to the Vermont Rules of Appellate Procedure.

(c) If an appeal or other petition for judicial review of a final order is not filed in connection with an order of the Green Mountain Care ~~board~~ Board pursuant to subsection (b) of this section, the ~~chair~~ Chair may file a certified copy of the final order with the clerk of a court of competent jurisdiction. The order so filed has the same effect as a judgment of the court and may be recorded, enforced, or satisfied in the same manner as a judgment of the court.

(d) A decision of the Board approving, modifying, or disapproving a health insurer's proposed rate pursuant to 8 V.S.A. § 4062 shall be considered a final action of the Board and may be appealed to the Supreme Court pursuant to subsection (b) of this section.

Sec. 12. 33 V.S.A. § 1811(j) is amended to read:

(j) The ~~commissioner~~ Commissioner or the Green Mountain Care Board established in 18 V.S.A. chapter 220, as appropriate, shall disapprove any rates filed by any registered carrier, whether initial or revised, for insurance policies unless the anticipated medical loss ratios for the entire period for which rates are computed are at least 80 percent, as required by the ~~Patient Protection and Affordable Care Act (Public Law 111-148)~~.

* * * Office of the Health Care Advocate * * *

Sec. 13. 18 V.S.A. chapter 229 is added to read:

CHAPTER 229. OFFICE OF THE HEALTH CARE ADVOCATE

§ 9601. DEFINITIONS

As used in this chapter:

(1) “Green Mountain Care Board” or “Board” means the Board established in chapter 220 of this title.

(2) “Health insurance plan” means a policy, service contract, or other health benefit plan offered or issued by a health insurer and includes beneficiaries covered by the Medicaid program unless they are otherwise provided with similar services.

(3) “Health insurer” shall have the same meaning as in section 9402 of this title.

§ 9602. OFFICE OF THE HEALTH CARE ADVOCATE; COMPOSITION

(a) The Agency of Administration shall establish the Office of the Health Care Advocate by contract with any nonprofit organization.

(b) The Office shall be administered by the Chief Health Care Advocate, who shall be an individual with expertise and experience in the fields of health care and advocacy. The Advocate may employ legal counsel, administrative staff, and other employees and contractors as needed to carry out the duties of the Office.

§ 9603. DUTIES AND AUTHORITY

(a) The Office of the Health Care Advocate shall:

(1) Assist health insurance consumers with health insurance plan selection by providing information, referrals, and assistance to individuals and employers with not more than 10 full-time equivalent employees about means of obtaining health insurance coverage and services. The Office shall accept referrals from the Vermont Health Benefit Exchange and Exchange navigators created pursuant to 33 V.S.A. chapter 18, subchapter 1, to assist consumers experiencing problems related to the Exchange.

(2) Assist health insurance consumers to understand their rights and responsibilities under health insurance plans.

(3) Provide information to the public, agencies, members of the General Assembly, and others regarding problems and concerns of health insurance consumers as well as recommendations for resolving those problems and concerns.

(4) Identify, investigate, and resolve complaints on behalf of individual health insurance consumers and employers with not more than 10 full-time equivalent employees who purchase insurance for their employees, and assist those consumers with filing and pursuit of complaints and appeals.

(5) Provide information to individuals and employers regarding their obligations and responsibilities under the Patient Protection and Affordable Care Act (Public Law 111-148).

(6) Analyze and monitor the development and implementation of federal, state, and local laws, rules, and policies relating to patients and health insurance consumers.

(7) Facilitate public comment on laws, rules, and policies, including policies and actions of health insurers.

(8) Suggest policies, procedures, or rules to the Green Mountain Care Board in order to protect patients' and consumers' interests.

(9) Promote the development of citizen and consumer organizations.

(10) Ensure that patients and health insurance consumers have timely access to the services provided by the Office.

(11) Submit to the General Assembly and the Governor on or before January 1 of each year a report on the activities, performance, and fiscal accounts of the Office during the preceding calendar year.

(b) The Office of the Health Care Advocate may:

(1) Review the health insurance records of a consumer who has provided written consent. Based on the written consent of the consumer or his or her guardian or legal representative, a health insurer shall provide the Office with access to records relating to that consumer.

(2) Pursue administrative, judicial, and other remedies on behalf of any individual health insurance consumer or group of consumers.

(3) Represent the interests of the people of the State in cases requiring a hearing before the Green Mountain Care Board established in chapter 220 of this title.

(4) Adopt policies and procedures necessary to carry out the provisions of this chapter.

(5) Take any other action necessary to fulfill the purposes of this chapter.

(c) The Office of the Health Care Advocate shall be able to speak on behalf of the interests of health care and health insurance consumers and to carry out

all duties prescribed in this chapter without being subject to any disciplinary or retaliatory action; provided, however, that nothing in this subsection shall limit the authority of the Agency of Administration to enforce the terms of the contract.

§ 9604. DUTIES OF STATE AGENCIES

All state agencies shall comply with reasonable requests from the Office of the Health Care Advocate for information and assistance. The Agency of Administration may adopt rules necessary to ensure the cooperation of state agencies under this section.

§ 9605. CONFIDENTIALITY

In the absence of written consent by a complainant or an individual using the services of the Office or by his or her guardian or legal representative or the absence of a court order, the Office of the Health Care Advocate, its employees, and its contractors shall not disclose the identity of the complainant or individual.

§ 9606. CONFLICTS OF INTEREST

The Office of the Health Care Advocate, its employees, and its contractors shall not have any conflict of interest relating to the performance of their responsibilities under this chapter. For the purposes of this chapter, a conflict of interest exists whenever the Office of the Health Care Advocate, its employees, or its contractors or a person affiliated with the Office, its employees, or its contractors:

(1) have a direct involvement in the licensing, certification, or accreditation of a health care facility, health insurer, or health care provider;

(2) have a direct ownership interest or investment interest in a health care facility, health insurer, or health care provider;

(3) are employed by or participating in the management of a health care facility, health insurer, or health care provider; or

(4) receive or have the right to receive, directly or indirectly, remuneration under a compensation arrangement with a health care facility, health insurer, or health care provider.

§ 9607. CONSUMER ASSISTANCE ASSESSMENT

(a) The premium for each health insurance policy issued in this state shall include a monthly consumer assistance assessment of \$0.22 per covered life to fund the activities of the Office of the Health Care Advocate. Each health insurer shall remit the assessments collected during the preceding calendar

quarter to the Commissioner of Financial Regulation by January 15, April 15, July 15, and October 15 of each year.

(b) There is established pursuant to 32 V.S.A. chapter 7, subchapter 5 a special fund called the “Consumer Assistance Assessment Fund” into which shall be deposited the funds collected under this section. The fund shall be administered by the Secretary of Administration and disbursements are authorized to fund the activities of the Office of the Health Care Advocate as appropriated by the General Assembly.

(c) Health insurers and the Vermont Health Benefit Exchange shall clearly communicate to all applicants and enrollees on materials such as enrollment forms, member handbooks, and the Exchange website information regarding the consumer assistance assessment established by this section and contact information for the Office of the Health Care Advocate.

(d) 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, or any managed care organization as defined in section 9402 of this title. The term includes comprehensive major medical policies, contracts, or plans but does not include Medicaid or any other state health care assistance program financed in whole or in part through a federal program. The term does not include policies issued for specified disease, accident, injury, hospital indemnity, dental care, long-term care, disability income, or other limited benefit health insurance policies.

(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 collected and remitted the surcharges which would otherwise be imposed on the covered lives attributed to the third-party administrator or pharmacy benefit manager. The term also does not include a health insurer with a monthly average of fewer than 200 Vermont insured lives.

Sec. 14. 18 V.S.A. § 9374(f) is amended to read:

(f) In carrying out its duties pursuant to this chapter, the ~~board~~ Board shall seek the advice of the state health care ombudsman established in 8 V.S.A. § 4089w from the Office of the Health Care Advocate. The state health care

~~ombudsman~~ Office shall advise the ~~board~~ Board regarding the policies, procedures, and rules established pursuant to this chapter. The ~~ombudsman~~ Office shall represent the interests of Vermont patients and Vermont consumers of health insurance and may suggest policies, procedures, or rules to the ~~board~~ Board in order to protect patients' and consumers' interests.

Sec. 15. 18 V.S.A. § 9377(e) is amended to read:

(e) The ~~board~~ Board or designee shall convene a broad-based group of stakeholders, including health care professionals who provide health services, health insurers, professional organizations, community and nonprofit groups, consumers, businesses, school districts, the ~~state health care ombudsman~~ Office of the Health Care Advocate, and state and local governments, to advise the ~~board~~ Board in developing and implementing the pilot projects and to advise the Green Mountain Care ~~board~~ Board in setting overall policy goals.

Sec. 16. 18 V.S.A. § 9410(a)(2) is amended to read:

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

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

* * *

Sec. 17. 18 V.S.A. § 9440(c) is amended to read:

(c) The application process shall be as follows:

* * *

(9) The ~~health care ombudsman's office~~ Office of the Health Care Advocate established under 8 V.S.A. ~~chapter 107, subchapter 1A~~ chapter 229 of this title or, in the case of nursing homes, the ~~long-term care ombudsman's office~~ Long-Term Care Ombudsman's Office established under 33 V.S.A.

§ 7502; is authorized but not required to participate in any administrative or judicial review of an application under this subchapter and shall be considered an interested party in such proceedings upon filing a notice of intervention with the ~~board~~ Board.

Sec. 18. 18 V.S.A. § 9445(b) is amended to read:

(b) In addition to all other sanctions, if any person offers or develops any new health care project without first having been issued a certificate of need or certificate of exemption ~~therefore~~ for the project, or violates any other provision of this subchapter or any lawful rule ~~or regulation promulgated thereunder~~ adopted pursuant to this subchapter, the ~~board~~ Board, the ~~commissioner~~ Commissioner, the ~~state health care ombudsman~~ Office of the Health Care Advocate, the ~~state long-term care ombudsman~~ State Long-Term Care Ombudsman, and health care providers and consumers located in the ~~state~~ State shall have standing to maintain a civil action in the ~~superior court~~ Superior Court of the county ~~wherein~~ in which such alleged violation has occurred, or ~~wherein~~ in which such person may be found, to enjoin, restrain, or prevent such violation. Upon written request by the ~~board~~ Board, it shall be the duty of the ~~attorney general of the state~~ Vermont Attorney General to furnish appropriate legal services and to prosecute an action for injunctive relief to an appropriate conclusion, which shall not be reimbursed under subdivision (a)(2) of this ~~subsection~~ section.

Sec. 19. 33 V.S.A. § 1805 is amended to read:

§ 1805. DUTIES AND RESPONSIBILITIES

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

* * *

(16) Referring consumers to the ~~office of health care ombudsman~~ Office of the Health Care Advocate for assistance with grievances, appeals, and other issues involving the Vermont ~~health benefit exchange~~ Health Benefit Exchange.

* * *

Sec. 20. 33 V.S.A. § 1807(b) is amended to read:

(b) Navigators shall have the following duties:

* * *

(4) Provide referrals to the ~~office of health care ombudsman~~ Office of the Health Care Advocate and any other appropriate agency for any enrollee

with a grievance, complaint, or question regarding his or her health benefit plan, coverage, or a determination under that plan or coverage;

* * *

* * * Allocation of Expenses * * *

Sec. 21. 18 V.S.A. § 9374(h) is amended to read:

(h)(1) Expenses Except as otherwise provided in subdivision (2) of this subsection, expenses incurred to obtain information, analyze expenditures, review hospital budgets, and for any other contracts authorized by the ~~board~~ Board shall be borne as follows:

(A) 40 percent by the ~~state~~ State from state monies;

(B) 15 percent by the hospitals;

(C) 15 percent by nonprofit hospital and medical service corporations licensed under 8 V.S.A. chapter 123 or 125;

(D) 15 percent by health insurance companies licensed under 8 V.S.A. chapter 101; and

(E) 15 percent by health maintenance organizations licensed under 8 V.S.A. chapter 139.

(2) The Board may determine the scope of the incurred expenses to be allocated pursuant to the formula set forth in subdivision (1) of this subsection if, in the Board's discretion, the expenses to be allocated are in the best interests of the regulated entities and of the State.

(3) Expenses under subdivision (1) of this subsection shall be billed to persons licensed under Title 8 based on premiums paid for health care coverage, which for the purposes of this section shall include major medical, comprehensive medical, hospital or surgical coverage, and comprehensive health care services plans, but shall not include long-term care or limited benefits, disability, credit or stop loss, or excess loss insurance coverage.

Sec. 22. 18 V.S.A. § 9415 is amended to read:

§ 9415. ALLOCATION OF EXPENSES

(a) Expenses Except as otherwise provided in subsection (b) of this section, expenses incurred to obtain information and to analyze expenditures, review hospital budgets, and for any other related contracts authorized by the ~~commissioner~~ Commissioner shall be borne as follows:

(1) 40 percent by the ~~state~~ State from state monies;

(2) 15 percent by the hospitals;

(3) 15 percent by nonprofit hospital and medical service corporations licensed under 8 V.S.A. chapter 123 or 125;

(4) 15 percent by health insurance companies licensed under 8 V.S.A. chapter 101; and

(5) 15 percent by health maintenance organizations licensed under 8 V.S.A. chapter 139.

(b) The Commissioner may determine the scope of the incurred expenses to be allocated pursuant to the formula set forth in subsection (a) of this section if, in the Commissioner's discretion, the expenses to be allocated are in the best interests of the regulated entities and of the State.

(c) Expenses under subsection (a) of this section shall be billed to persons licensed under Title 8 based on premiums paid for health care coverage, which for the purposes of this section include major medical, comprehensive medical, hospital or surgical coverage, and any comprehensive health care services plan, but ~~does~~ shall not include long-term care, limited benefits, disability, credit or stop loss or excess loss insurance coverage

Sec. 23. BILL-BACK REPORT

(a) Annually on or before September 15, the Green Mountain Care Board and the Department of Financial Regulation shall report to the House Committee on Health Care, the Senate Committees on Health and Welfare and on Finance, and the House and Senate Committees on Appropriations the total amount of all expenses eligible for allocation pursuant to 18 V.S.A. §§ 9374(h) and 9415 during the preceding state fiscal year and the total amount actually billed back to the regulated entities during the same period.

(b) The Board and the Department shall also present the information required by subsection (a) of this section to the Joint Fiscal Committee annually at its September meeting.

* * * Prior Authorizations * * *

Sec. 24. 18 V.S.A. § 9377a is added to read:

§ 9377a. PRIOR AUTHORIZATION PILOT PROGRAM

(a) The Green Mountain Care Board shall develop and implement a pilot program or programs for the purpose of measuring the change in system costs within primary care associated with eliminating prior authorization requirements for imaging, medical procedures, prescription drugs, and home care. The program shall be designed to measure the effects of eliminating prior authorizations on provider satisfaction and on the number of requests for and expenditures on imaging, medical procedures, prescription drugs, and

home care. In developing the pilot program proposal, the Board shall collaborate with health care professionals and health insurers throughout the State or regionally.

(b) The Board shall submit an update regarding implementation of prior authorization pilot programs as part of its annual report under subsection 9375(d) of this title.

Sec. 25. 18 V.S.A. § 9375(d) is amended to read:

(d) Annually on or before January 15, the ~~board~~ Board shall submit a report of its activities for the preceding ~~state fiscal~~ calendar year to the ~~house committee~~ House Committee on health care Health Care and the ~~senate committee~~ Senate Committee on health and welfare Health and Welfare. The report shall include any changes to the payment rates for health care professionals pursuant to section 9376 of this title, any new developments with respect to health information technology, the evaluation criteria adopted pursuant to subdivision (b)(8) of this section and any related modifications, the results of the systemwide performance and quality evaluations required by subdivision (b)(8) of this section and any resulting recommendations, the process and outcome measures used in the evaluation, an update regarding implementation of any prior authorization pilot programs under section 9377a of this title, any recommendations for modifications to Vermont statutes, and any actual or anticipated impacts on the work of the ~~board~~ Board as a result of modifications to federal laws, regulations, or programs. The report shall identify how the work of the ~~board~~ Board comports with the principles expressed in section 9371 of this title.

Sec. 26. 18 V.S.A. § 9414b is added to read:

§ 9414b. ANNUAL REPORTING BY THE DEPARTMENT OF VERMONT HEALTH ACCESS

(a) The Department of Vermont Health Access shall annually report the following information, in plain language, to the House Committee on Health Care and the Senate Committee on Health and Welfare, as well as posting the information on its website:

- (1) the total number of Vermont lives covered by Medicaid;
- (2) the total number of claims submitted to the Department for services provided to Medicaid beneficiaries;
- (3) the total number of claims denied by the Department;
- (4) the total number of denials of service by the Department at the preauthorization level, the total number of denials that were appealed, and of those, the total number overturned;

(5) the total number of adverse determinations made by the Department;

(6) the total number of claims denied by the Department because the service was experimental, investigational, or an off-label use of a drug; was not medically necessary; or involved access to a provider that is inconsistent with the limitations imposed by Medicaid;

(7) the total number of claims denied by the Department as duplicate claims, as coding errors, or for services or providers not covered;

(8) the Department's legal expenses related to claims or service denials during the preceding year; and

(9) the effects of the Department's policy of allowing automatic approval of certain prior authorizations on the number of requests for imaging, medical procedures, prescription drugs, and home care.

(b) The Department may indicate the extent of overlap or duplication in reporting the information described in subsection (a) of this section.

(c) To the extent practicable, the Department shall model its report on the standardized form created by the Department of Financial Regulation for use by health insurers under subsection 9414a(c) of this title.

(d) The Department of Financial Regulation shall post on its website, in the same location as the forms posted under subdivision 9414a(d)(1) of this title, a link to the information reported by the Department of Vermont Health Access under subsection (a) of this section.

Sec. 27. 18 V.S.A. § 9414a(a)(5) is amended to read:

(5) data regarding the number of denials of service by the health insurer at the preauthorization level, including:

(A) the total number of denials of service by the health insurer at the preauthorization level, including;

~~(A)~~(B) the total number of denials of service at the preauthorization level appealed to the health insurer at the first-level grievance and, of those, the total number overturned;

~~(B)~~(C) the total number of denials of service at the preauthorization level appealed to the health insurer at any second-level grievance and, of those, the total number overturned;

~~(C)~~(D) the total number of denials of service at the preauthorization level for which external review was sought and, of those, the total number overturned;

* * * Additional Provisions * * *

Sec. 28. RATE FILINGS FOR 2014

In reviewing health insurance rate filings to take effect in calendar year 2014 pursuant to 8 V.S.A. § 4062, the Department of Financial Regulation and the Green Mountain Care Board shall take into account the consumer assistance assessment established by this act in 18 V.S.A. § 9607.

Sec. 29. REPEAL

8 V.S.A. § 4089w (Health Care Ombudsman) is repealed.

Sec. 30. APPROPRIATION

The sum of \$250,000.00 is appropriated from the Consumer Assistance Assessment Fund established by 18 V.S.A. § 9607 to the Agency of Administration in fiscal year 2014 for the purposes of a contract with Vermont Legal Aid to carry out the duties of the Office of the Health Care Advocate established in 18 V.S.A. chapter 229.

Sec. 31. APPLICABILITY AND EFFECTIVE DATES

(a) Secs. 1–12 (rate review) of this act shall take effect on January 1, 2014 and shall apply to all insurers filing rates and forms for major medical insurance plans on and after January 1, 2014, except that the Green Mountain Care Board and the Department of Financial Regulation may amend their rules and take such other actions before that date as are necessary to ensure that the revised rate review process will be operational on January 1, 2014.

(b) Secs. 13–20 (Office of the Health Care Advocate) shall take effect on January 1, 2014.

(c) Sec. 28 (2014 rate filings) of this act and this section shall take effect on passage.

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

Rep. Sharpe of Bristol, for the committee on Ways and Means, reported that it has considered the same and recommended that the report of the Committee on Health Care be amended as follows:

First: In Sec. 13, 18 V.S.A. chapter 229, in subsection 9603(c), preceding the word “retaliatory”, by striking out the words “disciplinary or”

Second: In Sec. 13, 18 V.S.A. chapter 229, by striking out § 9607 in its entirety

Third: In Sec. 21, 18 V.S.A. § 9374(h), by adding a subdivision (4) to read:

(4) Financial support for the Office of the Health Care Advocate established pursuant to chapter 229 of this title for services related to the Board’s regulatory and supervisory duties shall be considered expenses

incurred by the Board under this subsection and shall be an acceptable use of the funds realized pursuant to this subsection.

Fourth: In Sec. 22, 18 V.S.A. § 9415, by adding a subsection (d) to read:

(d) Financial support for the Office of the Health Care Advocate established pursuant to chapter 229 of this title for services related to the Department's regulatory and supervisory duties shall be considered expenses incurred by the Department under this subsection and shall be an acceptable use of the funds realized pursuant to this subsection.

Fifth: By striking out Sec. 28, Rate filings for 2014, in its entirety and inserting in lieu thereof a new Sec. 28 to read:

Sec. 28. OFFICE OF THE HEALTH CARE ADVOCATE BUDGET;
INTENT

(a) Beginning in fiscal year 2015, the Governor's budget submitted to the General Assembly in accordance with 32 V.S.A. § 306 shall include a separate line item within the Agency of Administration for the Office of the Health Care Advocate program and related program costs and shall specify the sums appropriated for the program's actuarial services.

(b) It is the intent of the General Assembly that the Office of the Health Care Advocate shall maximize the amount of federal and grant funds available to support the activities of the Office.

Fifth: By striking out Sec. 30, Appropriation, in its entirety

Sixth: By renumbering Sec. 31, Applicability and Effective Dates, to be Sec. 30 and by striking subsections (b)–(d) in their entirety and inserting in lieu thereof the following:

(b) Secs. 13–20 (Office of the Health Care Advocate) and 28 (budget) of this act shall take effect on January 1, 2014.

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

Rep. Keenan of St. Albans City, for the committee on Appropriations, recommended that the report of the committee on Health Care be amended, as recommended by the committee on Ways and Means, and that it be further amended as follows:

In Sec. 28 by striking out subsection (a) in its entirety and inserting in lieu thereof a new subsection (a) to read as follows:

(a) Beginning with the 2014 annual report filed pursuant to 18 V.S.A. § 9603(a)(11), the Office of the Health Care Advocate shall specify the sums expended by the Office in carrying out its duties, including identifying the specific amount expended for actuarial services.

The bill, having appeared on the Calendar one day for notice, was taken up and read the second time and the report of the committees on Health Care, Ways and Means and Appropriations agreed to.

Pending the question, Shall the House propose to the Senate to amend the bill as recommended by the committee on Health Care, as amended? **Rep. Fisher of Lincoln** moved to amend the report of the committee on Health Care, as amended, as follows:

In Sec. 13, in 18 V.S.A. § 9603, as follows:

First: In subdivision (a)(1), following “individuals”, by striking out “and employers with not more than 10 full-time equivalent employees”

Second: In subdivision (a)(4), following “consumers”, by striking out “and employers with not more than 10 full-time equivalent employees who purchase insurance for their employees”

Third: In subdivision (a)(5), following “individuals”, by striking out “and employers”

Which was agreed to.

Thereupon, the recommendation of proposal of amendment offered by the committee on Health Care, as amended, was agreed to and third reading ordered.

Rules Suspended; Bills Messaged to Senate Forthwith

On motion of **Rep. Turner of Milton**, the rules were suspended and the following bills were ordered messaged to the Senate forthwith:

S. 7

Senate bill, entitled

An act relating to social networking privacy protection

S. 81

Senate bill, entitled

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

S. 82

Senate bill, entitled

An act relating to campaign finance law

S. 99

Seante bill, entitled

An act relating to the standard measure of recidivism

S. 132

Senate bill, entitled

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

S. 148

Senate bill, entitled

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

**Rules Suspended; Proposal of Amendment Agreed to;
Third Reading Ordered**

S. 130

On motion of **Rep. Turner of Milton**, the rules were suspended and Senate bill, entitled

An act relating to encouraging flexible pathways to secondary school completion

Appearing on the Calendar for notice, was taken up for immediate consideration.

Rep. Peltz of Woodbury, for the committee on Education, to which had been referred the bill reported in favor of its passage in concurrence with proposal of amendment as follows:

By striking all after the enacting clause and inserting in lieu thereof the following:

* * * Flexible Pathways Initiative; Dual Enrollment * * *

Sec. 1. 16 V.S.A. chapter 23, subchapter 2 is added to read:

Subchapter 2. Flexible Pathways to Secondary
School Completion

§ 941. FLEXIBLE PATHWAYS INITIATIVE

(a) There is created within the Agency a Flexible Pathways Initiative:

(1) to encourage and support the creativity of school districts as they develop and expand high-quality educational experiences that are an integral part of secondary education in the evolving 21st Century classroom;

(2) to promote opportunities for Vermont students to achieve postsecondary readiness through high-quality educational experiences that acknowledge individual goals, learning styles, and abilities; and

(3) to increase the rates of secondary school completion and postsecondary continuation in Vermont.

(b) The Secretary shall develop, publish, and regularly update guidance, in the form of technical assistance, sharing of best practices and model documents, legal interpretations, and other support designed to assist school districts:

(1) to identify and support secondary students who require additional assistance to succeed in school and to identify ways in which individual students would benefit from flexible pathways to graduation;

(2) to work with every student in grade seven through grade 12 in an ongoing personalized learning planning process that:

(A) identifies the student's emerging abilities, aptitude, and disposition;

(B) includes participation by families and other engaged adults;

(C) guides decisions regarding course offerings and other high-quality educational experiences; and

(D) is documented by a personalized learning plan;

(3) to create opportunities for secondary students to pursue flexible pathways to graduation that:

(A) increase aspiration and encourage postsecondary continuation of training and education;

(B) are an integral component of a student's personalized learning plan; and

(C) include:

(i) applied or work-based learning opportunities, including career and technical education and internships;

(ii) virtual learning and blended learning;

(iii) dual enrollment opportunities as set forth in section 944 of this title;

(iv) early college programs as set forth in subsection 4011(e) of this title;

(v) the High School Completion Program as set forth in section 943 of this title; and

(vi) the Adult Diploma Program and General Educational Development Program as set forth in section 946 of this title; and

(4) to provide students, beginning no later than in the seventh grade, with career development and postsecondary planning resources to ensure that they are able to take full advantage of the opportunities available within the flexible pathways to graduation and to achieve their career and postsecondary education and training goals.

(c) Nothing in this subchapter shall be construed as discouraging or limiting the authority of any school district to develop or continue to provide educational opportunities for its students that are otherwise permitted, including the provision of Advanced Placement courses.

(d) An individual entitlement or private right of action shall not arise from creation of a personalized learning plan.

§ 942. DEFINITIONS

As used in this title:

(1) “Accredited postsecondary institution” means a postsecondary institution that has been accredited by the New England Association of Schools and Colleges or another regional accrediting agency recognized by the U.S. Department of Education.

(2) “Approved provider” means an entity approved by the Secretary to provide educational services that may be awarded credits or used to determine proficiency necessary for a high school diploma.

(3) “Blended learning” means a formal education program in which content and instruction are delivered both in a traditional classroom setting and through virtual learning.

(4) “Career development” means the identification of student interests and aptitudes and the ability to link these to potential career paths and the training and education necessary to succeed on these paths.

(5) “Carnegie unit” means 125 hours of class or contact time with a teacher over the course of one year at the secondary level.

(6) “Contracting agency” means an entity that enters into a contract with the Agency to provide “flexible pathways to graduation” services itself or in conjunction with one or more approved providers in Vermont.

(7) “Dual enrollment” means enrollment by a secondary student in a course offered by an accredited postsecondary institution and for which, upon successful completion of the course, the student will receive:

(A) secondary credit toward graduation from the secondary school in which the student is enrolled; and

(B) postsecondary credit from the institution that offered the course if the course is a credit-bearing course at that institution.

(8) “Early college” means full-time enrollment, pursuant to subsection 4011(e) of this title, by a 12th grade Vermont student for one academic year in a program offered by a postsecondary institution in which the credits earned apply to secondary school graduation requirements.

(9) “Flexible pathways to graduation” means any combination of high-quality academic and experiential components leading to secondary school completion and postsecondary readiness, which may include assessments that allow the student to apply his or her knowledge and skills to tasks that are of interest to that student.

(10) “Personalized learning plan” and “PLP” mean documentation of an evolving plan developed on behalf of a student in an ongoing process involving a secondary student, a representative of the school, and, if the student is a minor, the student’s parents or legal guardian and updated at least annually by November 30; provided, however, that a home study student and the student’s parent or guardian shall be solely responsible for developing a plan. The plan shall be developmentally appropriate and shall reflect the student’s emerging abilities, aptitude, and disposition. The plan shall define the scope and rigor of academic and experiential opportunities necessary for a secondary student to complete secondary school successfully, attain postsecondary readiness, and be prepared to engage actively in civic life. While often less formalized, personalized learning and personalized instructional approaches are critical to students in kindergarten through grade 6 as well.

(11) “Postsecondary planning” means the identification of education and training programs after high school that meet a student’s academic, vocational, financial, and social needs and the identification of financial assistance available for those programs.

(12) “Postsecondary readiness” means the ability to enter the workforce or to pursue postsecondary education or training without the need for remediation.

(13) “Virtual learning” means learning in which the teacher and student communicate concurrently through real-time telecommunication. “Virtual learning” also means online learning in which communication between the teacher and student does not occur concurrently and the student works according to his or her own schedule.

§ 943. [RESERVED.]

§ 944. DUAL ENROLLMENT PROGRAM

(a) Program creation. There is created a statewide Dual Enrollment Program to be a potential component of a student's flexible pathway. The Program shall include college courses offered on the campus of an accredited postsecondary institution and college courses offered by an accredited postsecondary institution on the campus of a secondary school. The Program may include online college courses or components.

(b) Students.

(1) A Vermont resident who has completed grade 10 but has not received a high school diploma is eligible to participate in the Program if:

(A) the student:

(i) is enrolled in:

(I) a Vermont public school, including a Vermont career technical center;

(II) a public school in another state or an approved independent school that is designated as the public secondary school for the student's district of residence; or

(III) an approved independent school in Vermont to which the student's district of residence pays publicly funded tuition on behalf of the student;

(ii) is assigned to a public school through the High School Completion Program; or

(iii) is a home study student;

(B) dual enrollment is an element included within the student's personalized learning plan; and

(C) the secondary school and the postsecondary institution have determined that the student is sufficiently prepared to succeed in a dual enrollment course, which can be determined in part by the assessment tool or tools identified by the participating postsecondary institution.

(2) An eligible student may enroll in up to two dual enrollment courses prior to completion of secondary school for which neither the student nor the student's parent or guardian shall be required to pay tuition. A student may enroll in courses offered while secondary school is in session and during the summer.

(c) Public postsecondary institutions. The Vermont State Colleges and the University of Vermont shall work together to provide dual enrollment opportunities throughout the State.

(1) When a dual enrollment course is offered on a secondary school campus, the public postsecondary institution shall:

(A) retain authority to determine course content; and

(B) work with the secondary school to select, monitor, support, and evaluate instructors.

(2) The public postsecondary institution shall maintain the postsecondary academic record of each participating student and provide transcripts on request.

(3) To the extent permitted under the Family Educational Rights and Privacy Act, the public postsecondary institution shall collect and send data related to student participation and success to the student's secondary school and the Secretary and shall send data to the Vermont Student Assistance Corporation necessary for the Corporation's federal reporting requirements.

(4) The public postsecondary institution shall accept as full payment the tuition set forth in subsection (f) of this section.

(d) Secondary schools. Each school identified in subdivision (b)(1) of this section that is located in Vermont shall:

(1) provide access for eligible students to participate in any dual enrollment courses that may be offered on the campus of the secondary school;

(2) accept postsecondary credit awarded for dual enrollment courses offered by a Vermont public postsecondary institution under this section as meeting secondary school graduation requirements;

(3) collect enrollment data as prescribed by the Secretary for longitudinal review and evaluation;

(4) identify and provide necessary support for participating students and continue to provide services for students with disabilities; and

(5) provide support for a seamless transition to postsecondary enrollment upon graduation.

(e) Program management. The Agency shall manage or may contract for the management of the Dual Enrollment Program in Vermont by:

(1) marketing the Dual Enrollment Program to Vermont students and their families;

(2) assisting secondary and postsecondary partners to develop memoranda of understanding, when requested;

(3) coordinating with secondary and postsecondary partners to understand and define student academic readiness;

(4) convening regular meetings of interested parties to explore and develop improved student support services;

(5) coordinating the use of technology to ensure access and coordination of the Program;

(6) reviewing program costs;

(7) evaluating all aspects of the Dual Enrollment Program and ensuring overall quality and accountability; and

(8) performing other necessary or related duties.

(f) Tuition and funding.

(1) Tuition shall be paid to public postsecondary institutions in Vermont as follows:

(A) For any course for which the postsecondary institution pays the instructor, the student's school district of residence shall pay tuition to the postsecondary institution in an amount equal to the tuition rate charged by the Community College of Vermont (CCV) at the time the dual enrollment course is offered; provided however, that tuition paid to CCV under this subdivision (A) shall be in an amount equal to 90 percent of the CCV rate.

(B) For any course that is taught by an instructor who is paid as part of employment by a secondary school, the student's school district of residence shall pay tuition to the postsecondary institution in an amount equal to 20 percent of the tuition rate charged by the Community College of Vermont at the time the dual enrollment course is offered.

(2) Notwithstanding subdivision (1) of this subsection requiring the district of residence to pay tuition, the State shall pay 50 percent of the tuition owed to public postsecondary institutions under subdivision (1)(A) of this subsection from the Next Generation Initiative Fund created in section 2887 of this title; provided, however, that the total amount paid by the State in any fiscal year shall not exceed the total amount of General Fund dollars the General Assembly appropriated from the Fund in that year for dual enrollment purposes plus any balance carried forward from the previous fiscal year.

(3) If it agrees to the terms of subsection (c) of this section, an accredited private postsecondary institution in Vermont approved pursuant to section 176 of this title shall receive tuition pursuant to subdivisions (1) and (2) of this subsection (f) for each eligible student it enrolls in a college-level course under this section.

(g) Private and out-of-state postsecondary institutions. Nothing in this section shall be construed to limit a school district's authority to enter into a

contract for dual enrollment courses with an accredited private or public postsecondary institution not identified in subsection (c) of this section located in or outside Vermont. The school district may negotiate terms different from those set forth in this section, including the amount of tuition to be paid. The school district may determine whether enrollment by an eligible student in a course offered under this subsection shall constitute one of the two courses authorized by subdivision (b)(2) of this section.

(h) Number of courses. Nothing in this section shall be construed to limit a school district's authority to pay for more than the two courses per eligible student authorized by subdivision (b)(2) of this section; provided, however, that payment under subdivision (f)(2) of this section shall not be made for more than two courses per eligible student.

(i) Other postsecondary courses. Nothing in this section shall be construed to limit a school district's authority to award credit toward graduation requirements to a student who receives prior approval from the school and successfully completes a course offered by an accredited postsecondary institution that was not paid for by the district pursuant to this section. The school district shall determine the number and nature of credits it will award to the student for successful completion of the course, including whether the course will satisfy one or more graduation requirements, and shall inform the student prior to enrollment. Credits awarded shall be based on performance and not solely on Carnegie units; provided, however, that unless the school district determines otherwise, a three-credit postsecondary course shall be presumed to equal one-half of a Carnegie unit. A school district shall not withhold approval or credit without reasonable justification. A student may request that the superintendent review the district's determination regarding course approval or credits. The superintendent's decision shall be final.

(j) Reports. Notwithstanding 2 V.S.A. § 20(d), the Secretary shall report to the House and Senate Committees on Education annually in January regarding the Dual Enrollment Program, including data relating to student demographics, levels of participation, marketing, and program success.

§ 945. [RESERVED.]

Sec. 2. DUAL ENROLLMENT; TRANSITION; FUNDING;
NONOPERATING DISTRICTS

(a) Notwithstanding any provision of Sec. 1, 16 V.S.A. § 944(f), to the contrary, the State shall pay 100 percent of the tuition owed to postsecondary institutions under subdivision (f)(1) for courses offered in fiscal years 2014 and 2015; provided, however, that the total amount paid by the State in either fiscal year shall not exceed the total amount of General Fund dollars the General Assembly appropriated from the Fund in that year for dual enrollment purposes

plus any balance carried forward from the previous fiscal year. Any balance carried forward from fiscal year 2015 shall be used to satisfy the financial obligations of school districts under subsection (f) in fiscal year 2016.

(b)(1) The Secretary shall analyze issues relating to providing dual enrollment opportunities pursuant to Sec. 1 of this act to publicly funded students enrolled in Vermont approved independent schools. Specifically, the analysis shall include:

(A) the anticipated utilization of dual enrollment opportunities;

(B) the anticipated financial impact on sending school districts;

(C) the ways in which sending school districts will ensure student participation in a personalized learning planning process and inclusion of dual enrollment in the student's plan; and

(D) other financial and programmatic issues related to dual enrollment access by publicly funded students enrolled in approved independent schools.

(2) On or before February 1, 2014, the Secretary shall report the results of the analysis to the House and Senate Committees on Education together with any recommendations for amendment to statutes or rules, including whether it would be advisable to amend or repeal Sec. 1, 16 V.S.A. § 944(b)(1)(A)(i)(III) (eligibility of publicly funded student enrolled in Vermont approved independent school).

Sec. 3. REPEAL

16 V.S.A. § 913 (secondary credit; postsecondary course) is repealed.

* * * Flexible Pathways: High School Completion Program * * *

Sec. 4. 16 V.S.A. § 1049a is redesignated to read:

§ ~~1049a~~ 943. HIGH SCHOOL COMPLETION PROGRAM

Sec. 5. 16 V.S.A. § 943 is amended to read:

§ 943. HIGH SCHOOL COMPLETION PROGRAM

(a) ~~In this section:~~

~~(1) "Graduation education plan" means a written plan leading to a high school diploma for a person who is 16 to 22 years of age and has not received a high school diploma, who may or may not be enrolled in a public or approved independent school. The plan shall define the scope and rigor of services necessary for the student to attain a high school diploma, and may describe educational services to be provided by a public high school, an approved independent high school, an approved provider, or a combination of these.~~

(2) ~~“Approved provider” means an entity approved by the commissioner to provide educational services which may be counted for credit toward a high school diploma.~~

(3) ~~“Contracting agency” means an agency that has entered into a contract with the department of education to provide adult education services in Vermont.~~

There is created a High School Completion Program to be a potential component of a flexible pathway for any Vermont student who is at least 16 years old, who has not received a high school diploma, and who may or may not be enrolled in a public or approved independent school.

(b) If a person who wishes to work on a ~~graduation education plan~~ personalized learning plan leading to graduation through the High School Completion Program is not enrolled in a public or approved independent school, then the ~~commissioner~~ Secretary shall assign the prospective student to a high school district, which shall be the district of residence whenever possible. The school district in which a student is enrolled or to which a non-enrolled student is assigned shall work with the contracting agency and the student to develop a ~~graduation education~~ personalized learning plan. The school district shall award a high school diploma upon successful completion of the plan.

(c) The ~~commissioner~~ Secretary shall reimburse, and net cash payments where possible, a school district that has agreed to a ~~graduation education~~ personalized learning plan developed under this section in an amount:

(1) established by the ~~commissioner~~ Secretary for the development and ongoing evaluation and revision of the ~~graduation education~~ personalized learning plan and for other educational services typically provided by the assigned district or an approved independent school pursuant to the plan, such as counseling, health services, participation in cocurricular activities, and participation in academic or other courses; provided, however, that this amount shall not be available to a school district that provides services under this section to an enrolled student; and

(2) negotiated by the ~~commissioner~~ Secretary and the contracting agency, with the approved provider, for services and outcomes purchased from the approved provider on behalf of the student pursuant to the ~~graduation education~~ personalized learning plan.

* * * Flexible Pathways: Adult Diploma Program; GED * * *

Sec. 6. 16 V.S.A. § 1049 is redesignated to read:

~~§ 1049. PROGRAMS~~ § 945. ADULT DIPLOMA PROGRAM; GENERAL EDUCATIONAL DEVELOPMENT PROGRAM

Sec. 7. 16 V.S.A. § 945 is amended to read:

§ 945. ADULT DIPLOMA PROGRAM; GENERAL EDUCATIONAL DEVELOPMENT PROGRAM

~~(a) The commissioner of education may provide programs designed to fit the individual needs and circumstances of adult students. Programs authorized under this section shall give priority to those adult persons with the lowest levels of literacy skills.~~

~~(b)(1) Fees for general educational development shall be \$3.00 for a transcript.~~

~~(2) The Secretary shall maintain an adult diploma program (ADP) means, which shall be an assessment process administered by the Vermont department of education Agency through which an adult individual who is at least 20 years old can receive a local high school diploma granted by one of the program's participating high schools.~~

~~(3) General (b) The Secretary shall maintain a general educational development (GED) means a testing program administered jointly by the Vermont department of education, program, which it shall administer jointly with the GED testing service, and approved local testing centers and through which an adult individual who is at least 16 years old and who is not enrolled in secondary school can receive a secondary school equivalency certificate based on successful completion of the GED tests of general educational development.~~

~~(c) Fees collected under this section shall be credited to a special fund established and managed pursuant to chapter 7, subchapter 5 of Title 32, and shall be available to the department to offset the costs of providing those services. The Secretary may provide additional programs designed to address the individual needs and circumstances of adult students, particularly students with the lowest levels of literacy skills.~~

* * * Flexible Pathways: Early College * * *

Sec. 8. 16 V.S.A. § 4011(e) is amended to read:

(e) Early college.

(1) The commissioner For each 12th grade Vermont student enrolled, the Secretary shall pay an amount equal to 87 percent of the base education amount to:

(A) the Vermont Academy of Science and Technology for each Vermont resident, 12th grade student enrolled (VAST); and

(B) an early college program other than the VAST program that is developed and operated or overseen by one of the Vermont State Colleges, by the University of Vermont, or by an accredited private postsecondary school located in Vermont and that is approved for operation by the Secretary; provided, however, when making a payment under this subdivision (B), the Secretary shall not pay more than the tuition charged by the institution.

(2) The Secretary shall make the payment pursuant to subdivision (1) of this subsection directly to the postsecondary institution, which shall accept the amount as full payment of the student's tuition.

(3) A student on whose behalf the Secretary makes a payment pursuant to subdivision (1) of this subsection:

(A) shall be enrolled as a full-time student in the institution receiving the payment for the academic year for which payment is made;

(B) shall not be enrolled concurrently in a secondary school operated by the student's district of residence or to which the district pays tuition on the student's behalf; and

(C) shall not be included in the average daily membership of any school district for the academic year for which payment is made; provided, however, that if more than five percent of the 12th grade students residing in a district enroll in an early college program, then the district may include the number of students in excess of five percent in its average daily membership; but further provided that a 12th grade student enrolled in a college program shall be included in the percentage calculation only if, for the previous academic year, the student was enrolled in a school maintained by the district or was a student for whom the district paid tuition to a public or approved independent school.

(4) A postsecondary institution shall not accept a student into an early college program unless enrollment in an early college program was an element of the student's personalized learning plan.

Sec. 9. 16 V.S.A. § 1545(c) is amended to read:

(c) For any resident 12th grade student attending the Vermont academy for science and technology enrolled in the Vermont Academy of Science and Technology pursuant to subsection 4011(e) of this title or in another early college program pursuant to that subsection, the credits and grades earned shall, upon request of the student or the student's parent or guardian, be applied toward graduation requirements at the Vermont high school which

secondary school that the student attended prior to enrolling in the ~~academy~~ early college program.

Sec. 10. 16 V.S.A. § 4011a is added to read:

§ 4011a. EARLY COLLEGE PROGRAM; REPORT

Notwithstanding 2 V.S.A. § 20(d), any postsecondary institution receiving funds pursuant to subsection 4011(e) of this title shall report annually in January to the Senate and House Committees on Education regarding the level of participation in the institution's early college program, the success in achieving the stated goals of the program to enhance secondary students' educational experiences and prepare them for success in college and beyond, and the specific outcomes for participating students relating to programmatic goals.

Sec. 11. EARLY COLLEGE; ENROLLMENT; CAPS; REPORTS; SUNSET

(a) A postsecondary institution receiving funds in connection with an early college program pursuant to Sec. 8, 16 V.S.A. § 4011(e), of this act shall not enroll more than 18 Vermont students in the program in one academic year; provided, however, that:

(1) the Vermont Academy of Science and Technology shall not enroll more than 60 Vermont students in one academic year; and

(2) there shall be no limitations on enrollment in any early college programs offered by the Community College of Vermont.

(b) Annually in January of 2014 through 2017, the Vermont State Colleges and the University of Vermont shall report to the House and Senate Committees on Education regarding the expansion of the early college program in public and private postsecondary institutions as provided in Sec. 2 of this act, including data regarding actual enrollment, expected enrollment, unmet demand, if any, and marketing efforts for the purpose of considering whether it would be advisable to consider legislation repealing or amending the limit on the total number of students who may enroll.

(c) This section is repealed on July 1, 2017.

* * * Implementation and Transitional Provisions;
Effective Dates * * *

Sec. 12. FLEXIBLE PATHWAYS IMPLEMENTATION PROJECT ON
POSTSECONDARY PLANNING

To assist implementation of the Flexible Pathways Initiative established in Sec. 1 of this act, the Secretary of Education is authorized to enter into an agreement with the Vermont Student Assistance Corporation and one or more

elementary or secondary schools to design and implement demonstration projects related to career planning and planning for postsecondary education and training.

Sec. 13. PERSONALIZED LEARNING PLAN PROCESS;
IMPLEMENTATION; WORKING GROUP

(a) The process of developing and updating a personalized learning plan reflects the discussions and collaboration of a student and involved adults. When students engage in the personalized learning plan process, they assume an active role in the planning, assessment, and reflection required to identify developmentally appropriate academic, social, and career goals.

(b) On or before July 15, 2013, the Secretary of Education shall convene a working group to consist of teachers and principals of elementary and secondary schools, superintendents, and other interested parties to support implementation of the personalized learning plan process, particularly in those schools that do not already have a process in place. The working group shall consider ways in which effective personalized learning plan processes enhance development of the evolving academic, career, social, transitional, and family engagement elements of a student's plan and shall identify best practices that can be replicated in other schools. The working group also shall consider ways in which the personalized learning that should occur in kindergarten through grade six can be used to reinforce and enhance the personalized learning plan process in grade seven through grade 12.

(c) By January 20, 2014, the working group shall develop and the Secretary shall publish on the Agency website guiding principles and practical tools for the personalized learning plan process and for developing personalized learning plans. The Secretary shall provide clarity regarding the differences in form, purpose, and function of personalized learning plans, educational support teams, plans created pursuant to section 504 of the federal Rehabilitation Act of 1973, and individualized education programs (IEPs). The Agency shall provide further guidance and support to schools as requested.

Sec. 14. EFFECTIVE DATE; IMPLEMENTATION DATES

(a) This act shall take effect on July 1, 2013.

(b)(1) By November 30, 2015, a school district shall ensure development of a personalized learning plan for:

(A) each student then in grade seven or nine; and

(B) for each student then in grade 11 or 12 who wishes to enroll in a dual enrollment pursuant to Sec. 1 of this act.

(2) By November 30, 2016, a school district:

- (A) shall ensure development of a personalized learning plan for:
- (i) each student then in grade seven or nine; and
 - (ii) each student then in grade 11 or 12 who wishes to enroll in a dual enrollment course; and
- (B) shall ensure that the personalized learning plan process continues for enrolled students for whom plans were developed in previous years.
- (3) By November 30, 2017 and by that date in each subsequent year, a school district:
- (A) shall ensure development of a personalized learning plan for:
- (i) each student then in grade seven; and
 - (ii) each student then in grade 11 or 12 who wishes to enroll in a dual enrollment course for whom a plan was not previously developed; and
- (B) shall ensure that the personalized learning plan process continues for enrolled students for whom plans were developed in previous years.
- (4) During academic years 2013–14 and 2014–15, a student who has not developed a personalized learning plan may enroll in a dual enrollment course pursuant to Sec. 1 of this act or an early college program pursuant to Sec. 8 of this act upon receiving prior approval of participation from the postsecondary institution and the principal or headmaster of the secondary school in which the student is enrolled. The principal or headmaster shall not withhold approval without reasonable justification. A student may request that the superintendent review a decision of the principal or headmaster to withhold approval. The superintendent’s decision shall be final.
- (5) Upon the recommendation of the working group created in Sec. 13 of this act, the Secretary of Education may extend by one year any of the implementation dates required under this subsection (b).
- (c) Funds for new early college programs pursuant to Sec. 8, 16 V.S.A. § 4011(e)(1)(B), of this act shall be available to students beginning in the 2014–2015 academic year.

Rep. Ram of Burlington, for the committee on Ways and Means, recommended that the report of the committee on Education be amended as follows:

First: In Sec. 1, in 16 V.S.A. § 944, in subsection (f) (tuition and funding), in subdivision (2), before the period, by inserting the following: “; and further provided that, notwithstanding subdivision (b)(2) of this section, the cumulative amount to be paid by school districts under subdivision (1)(A) in

any fiscal year shall not exceed the amount available to be paid by General Fund dollars in that year.

Second: In Sec. 10, 16 V.S.A. § 4011a, in the designation, after the word “REPORT” by adding the following “; APPROPRIATION” and also in § 4011a, by designating the existing language as subsection “(a)” and adding a new subsection to be subsection (b) to read:

(b) In the budget submitted annually to the General Assembly pursuant to 32 V.S.A. chapter 5, the Governor shall include the recommended appropriation for all early college programs to be funded pursuant to subsection 4011(e) of this title, including the VAST program, as a distinct amount.

Rep. Manwaring of Wilmington, for the committee on Appropriations, recommended that the bill ought to pass in concurrence with proposal of amendment as recommended by the committees on Education and Ways and Means.

Thereupon, the bill was read the second time and report of the committees on Education, Ways and Means and Appropriations agreed to and third reading ordered.

Rules Suspended; Favorable Report; Third Reading Ordered

H. 537

On motion of **Rep. Turner of Milton**, the rules were suspended and House bill, entitled

An act relating to approval of amendments to the charter of the Town of Brattleboro

Appearing on the Calendar for notice, was taken up for immediate consideration.

Rep. Higley of Lowell, for the committee on Government Operations, to which had been referred the bill, reported in favor of its passage.

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time and third reading ordered.

Rules Suspended; Favorable Report; Third Reading Ordered

H. 541

On motion of **Rep. Turner of Milton**, the rules were suspended and House bill, entitled

An act relating to approval of amendments to the charter of the Village of Essex Junction

Appearing on the Calendar for notice, was taken up for immediate consideration.

Rep. Evans of Essex, for the committee on Government Operations, to which had been referred the bill reported in favor of its passage.

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time and third reading ordered.

Rules Suspended; Bill Read Third Time and Passed; Rules Suspended and the Bill was Ordered Messaged to the Senate Forthwith

H. 537

House bill, entitled

An act relating to approval of amendments to the charter of the town of Brattleboro;

On motion of **Rep. Turner of Milton**, the rules were suspended and the bill placed on all remaining stages of passage. The bill was read the third time and passed and, on motion of **Rep. Turner of Milton** the rules were suspended and the bill was ordered messaged to the Senate forthwith.

Rules Suspended; Bill Read Third Time and Passed; Rules Suspended and the Bill was Ordered Messaged to the Senate Forthwith

H. 541

House bill, entitled

An act relating to approval of amendments to the charter of the village of Essex;

On motion of **Rep. Turner of Milton**, the rules were suspended and the bill placed on all remaining stages of passage. The bill was read the third time and passed and, on motion of **Rep. Turner of Milton** the rules were suspended and the bill was ordered messaged to the Senate forthwith.

Recess

At four o'clock and forty-five minutes in the afternoon, the Speaker declared a recess until five o'clock and forty-five minutes in the afternoon.

At five o'clock and forty-five minutes in the afternoon, the Speaker called the House to order.

Message from the Senate No. 63

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

Mr. Speaker:

I am directed to inform the House that:

The Senate has considered House proposals of amendment to Senate proposals of amendment to House bills of the following titles:

H. 95. An act relating to unclaimed life insurance benefits.

H. 533. An act relating to capital construction and state bonding.

And has concurred therein.

The Senate has considered House proposal of amendment to Joint Senate Resolution of the following title:

J.R.S. 14. Joint resolution supporting the Agency of Agriculture, Food and Markets' proposal to adopt an administrative rule to implement international maple grading standards in Vermont.

And has concurred therein.

The Governor has informed the Senate that on the seventh day of May, 2013, he approved and signed a bill originating in the Senate of the following title:

S. 151. An act relating to miscellaneous changes to the laws governing commercial motor vehicle licensing and operation.

Adjournment

At five o'clock and fifty minutes in the afternoon, on motion of **Rep. Turner of Milton**, the House adjourned until tomorrow at nine o'clock and thirty minutes in the forenoon.