

Journal of the Senate

FRIDAY, MAY 10, 2013

The Senate was called to order by the President.

Devotional Exercises

A moment of silence was observed in lieu of devotions.

Committee of Conference Appointed

S. 4.

An act relating to concussions and school athletic activities.

Was taken up. Pursuant to the request of the Senate, the President announced the appointment of

Senator Sears
Senator Benning
Senator McCormack

as members of the Committee of Conference on the part of the Senate to consider the disagreeing votes of the two Houses.

Joint Resolution Referred

J.R.S. 31.

Joint Senate resolution of the following title was offered, read the first time and is as follows:

By Senators Lyons, Ashe, Mullin, and Starr,

J.R.S. 31. Joint resolution expressing concern regarding the public policy implications of the proposed Trans-Pacific Partnership Agreement.

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, 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. No. 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.

Thereupon, the President, in his discretion, treated the joint resolution as a bill and referred it to the Committee on Economic Development, Housing and General Affairs.

Joint Resolution Referred

J.R.H. 12.

Joint resolution originating in the House of the following title was read the first time and is as follows:

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

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.

Thereupon, in the discretion of the President, under Rule 51, the joint resolution was treated as a bill and referred to the Committee on Economic Development, Housing and General Affairs.

Bill Passed in Concurrence with Proposal of Amendment**H. 515.**

House bill of the following title was read the third time and passed in concurrence with proposal of amendment:

An act relating to miscellaneous agricultural subjects.

Further Proposal of Amendment; Bill Passed in Concurrence with Proposal of Amendment**H. 521.**

House bill entitled:

An act relating to making miscellaneous amendments to education law.

Was taken up.

Thereupon, pending third reading of the bill, Senator Collins, moved that the Senate further propose to the House to amend the bill as follows:

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

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

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

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

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

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

(6) the Secretary of Education or designee; and

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

Second: In Sec. 16 subsection (b) by adding a new subdivision (2) to read as follows:

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

And by renumbering the remaining subdivision to be numerically correct.

Which was agreed to.

Thereupon, pending third reading of the bill, Senators White and Collins, moved that the Senate further propose to the House to amend the bill by inserting a new section to be numbered Sec. 34 to read as follows:

* * * Data Collection * * *

Sec. 34. INSTRUCTIONAL HOURS; DATA COLLECTION

The Agency of Education shall design the Statewide Longitudinal Data System ("System") to include the ability to collect, manage, and analyze data, to the extent possible, from each public school and approved independent school in Vermont that receives public tuition dollars relating to:

(1) the total number of instructional hours per year in distinct subjects or groups of subjects for each elementary student enrolled in the school;

(2) the annual budgeted cost of providing distinct subjects or groups of subjects per elementary student enrolled in the school, including the costs of materials and the salaries and benefits for necessary employees;

(3) the specific Advanced Placement courses offered in each secondary school;

(4) the total number of courses, exclusive of Advanced Placement courses, offered in each discipline in each secondary school;

(5) the total annual budgeted cost of materials for each discipline in each secondary school;

(6) the total number of faculty employed to provide instruction in each discipline in each secondary school;

(7) the total annual salary and benefits for all faculty employed to provide instruction in each discipline in each secondary school; and

(8) the annual budgeted cost of providing categories of learning experiences that occur outside the classroom or after school hours.

Thereupon, pending the question, Shall the Senate propose to the House to amend the bill as proposed by Senators White and Collins?, Senator White requested and was granted leave to withdraw the amendment.

Thereupon, the bill was read the third time and passed in concurrence with proposals of amendment.

**House Proposal of Amendment Not Concurred In; Committee of
Conference Requested**

S. 82.

House proposal of amendment to Senate bill entitled:

An act relating to campaign finance law.

Was taken up.

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

Sec. 1. FINDINGS

The General Assembly finds that:

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

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

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

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

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

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

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

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

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

(10) Exempting certain activities of political parties from the definition of what constitutes a contribution is important so as to not overly burden collective political activity. These activities, such as using the assistance of volunteers, preparing party candidate listings, and hosting certain campaign events, are part of a party's traditional role in assisting candidates to run for office. Moreover, these exemptions help protect the right to associate in a political party.

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

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

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

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

(15) In order to provide the electorate with information regarding who seeks to influence their votes through campaign advertising; to make campaign financing more transparent; to aid voters in evaluating those seeking office; to deter actual corruption and avoid its appearance by exposing contributions and expenditures to the light of publicity; and to gather data necessary to detect violations of contributions limits, it is imperative that Vermont increase the frequency of campaign finance reports and include more information in electioneering communications.

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

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

(18) This act is necessary in order to implement more fully the provisions of Article 8 of Chapter I of the Constitution of the State of Vermont.

which declares “That all elections ought to be free and without corruption, and that all voters, having a sufficient, evident, common interest with, and attachment to the community, have a right to elect officers, and be elected into office, agreeably to the regulations made in this constitution.”

Sec. 2. REPEAL

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

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

CHAPTER 61. CAMPAIGN FINANCE

Subchapter 1. General Provisions

§ 2901. DEFINITIONS

As used in this chapter:

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

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

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

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

(2) “Candidate’s committee” means the candidate’s campaign staff, whether paid or unpaid.

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

(A) the name of the candidate appears;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(D) is limited to:

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

(ii) the offices sought;

(iii) the offices currently held by the candidates;

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

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

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

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

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

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

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

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

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

§ 2902. EXCEPTIONS

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

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

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

§ 2903. PENALTIES

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

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

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

§ 2904. CIVIL INVESTIGATION

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

any nature bearing upon each alleged violation and may demand written responses under oath to questions bearing upon each alleged violation.

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

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

(4) Any book, record, paper, memorandum, or other information produced by any person pursuant to this section shall not, unless otherwise ordered by a court of this State for good cause shown, be disclosed to any person other than the authorized agent or representative of the Attorney General or a state's attorney or another law enforcement officer engaged in legitimate law enforcement activities unless with the consent of the person producing the same, except that any transcript of oral testimony, written responses, documents, or other information produced pursuant to this section may be used in the enforcement of this chapter, including in connection with any civil action brought under section 2903 of this subchapter or subsection (c) of this section.

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

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

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

(2) Any person who, with intent to avoid, evade, or prevent compliance, in whole or in part, with any civil investigation under this section, removes

from any place; conceals, withholds, or destroys; or mutilates, alters, or by any other means falsifies any documentary material in the possession, custody, or control of any person subject to such notice or mistakes or conceals any information shall be fined not more than \$5,000.00.

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

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

(d) Any person aggrieved by a civil investigation conducted under this section may seek relief from Washington Superior Court or the superior court in the county in which the aggrieved person resides. Except for cases the court considers to be of greater importance, proceedings before superior court as authorized by this section shall take precedence on the docket over all other cases.

§ 2905. ADJUSTMENTS FOR INFLATION

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

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

§ 2906. CAMPAIGN DATABASE; CANDIDATE INFORMATION WEB PAGE

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

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

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

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

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

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

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

(b) Candidate information web page.

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

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

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

§ 2907. ADMINISTRATION

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

Subchapter 2. Registration and Maintenance Requirements§ 2921. CANDIDATES; REGISTRATION; CHECKING ACCOUNT; TREASURER

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

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

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

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

(b) All expenditures by a political committee shall be paid by either a credit card or a debit card, check, or other electronic transfer from the single campaign checking account in the bank designated by the political committee under subsection (a) of this section, or, if under \$250.00, the political committee may make the expenditure from cash from that campaign checking

account if accompanied by a receipt, a copy of which shall be maintained by the political committee for at least two years from the end of the two-year general election cycle in which the expenditure was made. Nothing in this subsection shall be construed to prohibit the payment of fees required to be made from a separately held online account designated solely to collect campaign contributions made to the political committee.

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

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

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

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

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

account designated solely to collect campaign contributions made to the political party, subsidiary, branch, or local unit.

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

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

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

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

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

(2) contributed to a charity;

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

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

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

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

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

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

§ 2925. POLITICAL COMMITTEES; SURPLUS CAMPAIGN FUNDS

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

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

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

(2) contributed to a charity;

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

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

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

Subchapter 3. Contribution Limitations

§ 2941. LIMITATIONS OF CONTRIBUTIONS

In any two-year general election cycle:

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

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

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

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

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

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

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

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

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

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

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

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

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

- (A) \$5,000.00 from a single source;
- (B) \$5,000.00 from a political committee; or
- (C) \$5,000.00 from a political party.

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

- (A) \$5,000.00 from a single source;
- (B) \$5,000.00 from a political committee; or
- (C) \$30,000.00 from a political party.

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

§ 2942. EXCEPTIONS

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

§ 2943. LIMITATIONS ADJUSTED FOR INFLATION

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

§ 2944. ACCOUNTABILITY FOR RELATED EXPENDITURES

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

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

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

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

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

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

(B) the expenditure was made for:

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

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

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

(2) For the purposes of this subsection:

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

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

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

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

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

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

§ 2945. ACCEPTING CONTRIBUTIONS

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

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

§ 2946. CANDIDATE'S ATTRIBUTION TO PREVIOUS CYCLE

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

§ 2947. CONTRIBUTIONS FROM A CANDIDATE OR IMMEDIATE FAMILY

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

§ 2948. PROHIBITION ON TRANSFERRING CONTRIBUTIONS

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

§ 2949. USE OF TERM "CANDIDATE"

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

Subchapter 4. Reporting Requirements; Disclosures

§ 2961. SUBMISSION OF REPORTS TO THE SECRETARY OF STATE

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

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

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

§ 2962. REPORTS; GENERAL PROVISIONS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) Contributions and expenditures for the reporting period and for the campaign to date also shall be totaled in an appropriate place on the form. The total of contributions shall include a subtotal of nonmonetary contributions and a subtotal of all monetary contributions.

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

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

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

(a)(1) Each candidate for state office, the General Assembly, and a two-year-term county office who has made expenditures or accepted contributions of \$500.00 or more during a two-year general election cycle and, except as provided in subsection (b) of this section, each political committee that has made expenditures or accepted contributions of \$500.00 or more in the

current two-year general election cycle and each political party required to register under section 2923 of this chapter shall file with the Secretary of State campaign finance reports as follows:

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

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

(i) on March 15;

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

(iii) on September 1;

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

(v) two weeks after the general election.

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

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

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

(I) on March 15;

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

(III) on September 1;

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

(V) two weeks after the general election.

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

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

(b) A political committee or a political party which has accepted contributions or made expenditures of \$1,000.00 or more in any two-year general election cycle for the purpose of influencing a local election or supporting or opposing one or more candidates in a local election shall file

with the Secretary of State campaign finance reports regarding that election 30 days before, 10 days before, and two weeks after the local election.

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

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

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

§ 2966. REPORTS BY CANDIDATES NOT REACHING MONETARY REPORTING THRESHOLD

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

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

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

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

general election shall report the contribution to the Secretary of State within 24 hours of receiving the contribution.

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

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

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

§ 2968. CAMPAIGN REPORTS; LOCAL CANDIDATES

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

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

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

§ 2969. REPORTING OF SURPLUS

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

§ 2970. CAMPAIGN REPORTS; OTHER ENTITIES; PUBLIC QUESTIONS

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

before, 10 days before, and two weeks after the election with the Secretary of State.

§ 2971. REPORT OF MASS MEDIA ACTIVITIES

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

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

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

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

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

§ 2972. IDENTIFICATION IN ELECTIONEERING COMMUNICATIONS

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

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

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

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

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

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

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

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

Subchapter 5. Public Financing Option

§ 2981. DEFINITIONS

As used in this subchapter:

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

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

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

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

§ 2982. FILING OF VERMONT CAMPAIGN FINANCE AFFIDAVIT

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

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

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

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

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

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

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

§ 2983. VERMONT CAMPAIGN FINANCE GRANTS; CONDITIONS

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

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

(1) not solicit, accept, or expend any contributions except qualifying contributions, Vermont campaign finance grants, and contributions authorized under section 2985 of this chapter, which contributions may be solicited,

accepted, or expended only in accordance with the provisions of this subchapter;

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

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

§ 2984. QUALIFYING CONTRIBUTIONS

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

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

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

(b) A candidate shall not accept more than one qualifying contribution from the same contributor and a contributor shall not make more than one qualifying contribution to the same candidate in any Vermont campaign finance qualification period. For the purpose of this section, a qualified individual contributor means an individual who is registered to vote in Vermont. No more than 25 percent of the total number of qualified individual contributors may be residents of the same county.

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

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

§ 2985. VERMONT CAMPAIGN FINANCE GRANTS; AMOUNTS; TIMING

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

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

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

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

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

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

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

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

(f) If the Secretary of State Services Fund contains insufficient revenues to provide Vermont campaign finance grants to all candidates under this section, the available funds shall be distributed proportionately among all qualifying

candidates. If grants are reduced under this subsection, a candidate may solicit and accept additional contributions equal to the amount of the difference between the amount of the Vermont campaign finance grants authorized and the amount received under this section. Additional contributions authorized under this subsection shall be governed by the provisions of sections 2941 and 2983 of this chapter.

§ 2986. MONETARY AMOUNTS ADJUSTED FOR INFLATION

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

Sec. 4. EVALUATION OF 2014 PRIMARY AND GENERAL ELECTIONS

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

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

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

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

Sec. 6. INTERIM REPORTING; METHOD OF REPORTING

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

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

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

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

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

Sec. 7. EFFECTIVE DATES; TRANSITIONAL PROVISIONS

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

Thereupon, pending the question, Shall the Senate concur in the House proposal of amendment?, Senator White, moved to refuse to concur in the House proposal of amendment and request a Committee of Conference?

Thereupon, pending the question, Shall the Senate refuse to concur in the House proposal of amendment and request a Committee of Conference, Senator Baruth raised a *point of order* under Sec. 121 of Mason's Manual of Legislative Procedure on the grounds that the debate was beside the question, superfluous or tedious.

The President *overruled* the point of order and reminded the Senate the pending question was, Shall the Senate refuse to concur in the House proposal of amendment and request a Committee of Conference?

Which was agreed to on a roll call, Yeas 27, Nays 1.

Senator French having demanded the yeas and nays, they were taken and are as follows:

Roll Call

Those Senators who voted in the affirmative were: Ashe, Ayer, Baruth, Benning, Collins, Cummings, Doyle, Flory, Fox, French, Hartwell, Kitchel, Lyons, MacDonald, Mazza, McAllister, McCormack, Mullin, Nitka, Pollina, Rodgers, Sears, Snelling, Starr, Westman, White, Zuckerman.

The Senator who voted in the negative was: Galbraith.

Those Senators absent and not voting were: Bray, Campbell.

Message from the House No. 67

A message was received from the House of Representatives by Ms. H. Gwynn Zakov, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has passed a House bill of the following title:

H. 543. An act relating to records and reports of the Auditor of Accounts.

In the passage of which the concurrence of the Senate is requested.

The House has considered a bill originating in the Senate of the following title:

S. 130. An act relating to encouraging flexible pathways to secondary school completion.

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

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

H. 240. An act relating to Executive Branch fees.

And has severally concurred therein with a further proposal of amendment thereto, in the adoption of which the concurrence of the Senate is requested.

Rules Suspended; Consideration Postponed

H. 534.

Appearing on entry on the Calendar for notice, on motion of Senator Baruth, the rules were suspended and House bill entitled:

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

Was taken up for immediate consideration.

Senator Pollina, for the Committee on Government Operations, to which the bill was referred, reported that the bill ought to pass in concurrence.

Senator Lyons, for the Committee on Finance, to which the bill was referred, reported that the bill ought to pass in concurrence.

Thereupon, the bill was read the second time by title only pursuant to Rule 43.

Thereupon, pending the question, Shall the bill be read a third time?, Senator Sears moved that consideration of the bill be postponed until later in the day.

Third Reading Ordered**H. 535.**

Senator White, for the Committee on Government Operations, to which was referred House bill entitled:

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

Reported that the bill ought to pass in concurrence.

Thereupon, the bill was read the second time by title only pursuant to Rule 43.

Thereupon, pending the question, Shall the bill be read a third time?, Senators Sears and Hartwell moved that the Senate propose to the House to amend the bill as follows:

First: In Sec. 2, in section 9 (duties of elected officers), in subdivision (d)(1), in subdivision (C), after the following: "maintain all town records" by inserting the following: under his or her control

Second: In Sec. 2, in section 9 (duties of elected officers), in subdivision (d)(1), in subdivision (F), in the second sentence, after the following: "While the polls are open, the Town Clerk" by inserting the following: and Board of Civil Authority

Thereupon, pending the question, Shall the Senate propose to the House to amend the bill as proposed by Senators Sears and Hartwell?, Senator Sears requested and was granted leave to withdraw the motion.

Thereupon, third reading of the bill was ordered.

House Proposals of Amendment Concurred In**S. 7.**

House proposal of amendment to Senate bill entitled:

An act relating to social networking privacy protection.

Was taken up.

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

* * * Social Networking Privacy Protection Study * * *

Sec. 1. SOCIAL NETWORKING PRIVACY PROTECTION STUDY COMMITTEE

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

(b) The Committee shall examine:

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

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

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

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

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

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

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

(3) the Attorney General or designee;

(4) the Commissioner of Labor or designee;

(5) the Commissioner of Financial Regulation or designee;

(6) the Commissioner of Human Resources or designee;

(7) the Commissioner of Public Safety or designee;

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

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

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

(f) The Committee shall report its findings and recommendations on or before January 15, 2014 to the House Committee on General, Housing and

Military Affairs and the Senate Committee on Economic Development,
Housing and General Affairs.

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

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

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

CHAPTER 120. BAD FAITH ASSERTIONS OF PATENT
INFRINGEMENT

§ 4195. LEGISLATIVE FINDINGS AND STATEMENT OF PURPOSE

(a) The General Assembly finds that:

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

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

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

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

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

(6) Abusive patent litigation, and especially the assertion of bad faith infringement claims, can harm Vermont companies. A business that receives

a letter asserting such claims faces the threat of expensive and protracted litigation and may feel that it has no choice but to settle and to pay a licensing fee, even if the claim is meritless. This is especially so for small and medium sized companies and nonprofits that lack the resources to investigate and defend themselves against infringement claims.

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

(b) Through this narrowly focused act, the General Assembly seeks to facilitate the efficient and prompt resolution of patent infringement claims, protect Vermont businesses from abusive and bad faith assertions of patent infringement, and build Vermont's economy, while at the same time respecting federal law and being careful to not interfere with legitimate patent enforcement actions.

§ 4196. DEFINITIONS

In this chapter:

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

(2) "Target" means a Vermont person:

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

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

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

§ 4197. BAD FAITH ASSERTIONS OF PATENT INFRINGEMENT

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

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

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

(A) the patent number;

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

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

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

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

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

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

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

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

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

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

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

(9) Any other factor the court finds relevant.

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

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

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

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

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

(5) The person is:

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

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

(6) The person has:

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

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

(7) Any other factor the court finds relevant.

§ 4198. BOND

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

§ 4199. ENFORCEMENT; REMEDIES; DAMAGES

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

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

- (1) equitable relief;
- (2) damages;
- (3) costs and fees, including reasonable attorney's fees; and
- (4) exemplary damages in an amount equal to \$50,000.00 or three times the total of damages, costs, and fees, whichever is greater.

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

* * * Effective Date * * *

Sec. 3. EFFECTIVE DATE

This act shall take effect on passage.

Thereupon, the question, Shall the Senate concur in the House proposal of amendment?, was decided in the affirmative.

S. 132.

House proposal of amendment to Senate bill entitled:

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

Was taken up.

The House proposes to the Senate to amend the bill by striking out Sec. 6 (amending 24 V.S.A. § 367) in its entirety and inserting in lieu thereof the following:

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

§ 367. DEPARTMENT OF STATE'S ATTORNEYS AND SHERIFFS

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

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

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

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

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

(e) [Repealed.]

Thereupon, the question, Shall the Senate concur in the House proposal of amendment?, was decided in the affirmative.

**House Proposal of Amendment Not Concurred In; Committee of
Conference Requested**

S. 148.

House proposal of amendment to Senate bill entitled:

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

Was taken up.

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

Sec. 1. 1 V.S.A. § 317 is amended to read:

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

* * *

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

* * *

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

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

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

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

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

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

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

(B) provided, however, that Notwithstanding subdivision (A) of this subdivision (5), records relating to management and direction of a law enforcement agency; records reflecting the initial arrest of a person, including any ticket, citation, or complaint issued for a traffic violation, as that term is

defined in 23 V.S.A. § 2302; and records reflecting the charge of a person shall be public;

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

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

* * *

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

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

Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2013.

Thereupon, pending the question, Shall the Senate concur in the House proposal of amendment?, on motion of Senator Sears, the Senate refused to

concur in the House proposal of amendment and requested a Committee of Conference.

Bill Ordered to Lie

S. 165.

Senate bill entitled:

An act relating to collective bargaining for deputy state's attorneys.

Was taken up.

Thereupon, pending third reading of the bill, on motion of Senator Baruth, the bill was ordered to lie.

Pages Honored

In appreciation of their many services to the members of the General Assembly, the President recognized the following-named pages who are completing their services today and presented them with letters of appreciation.

Emma Curchin of East Montpelier
Antonia Farrell of Norwich
Margret Joos of Monkton
Ian Louras of Rutland City
Isabella McCallum of Cabot
Lauren Morse of East Montpelier
Laughlin Neuert of Richmond
Elizabeth O'Hara of Ferrisburgh
Emma Pearson of North Hero
Hannah Ruhl of Wilmington

Adjournment

On motion of Senator Baruth, the Senate adjourned until one o'clock and thirty minutes in the afternoon.

Called to Order

The Senate was called to order by the President.

Committee of Conference Appointed

S. 148.

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

Was taken up. Pursuant to the request of the House, the President announced the appointment of

Senator White
Senator Benning
Senator Sears

as members of the Committee of Conference on the part of the Senate to consider the disagreeing votes of the two Houses.

Bill Referred to Committee on Appropriations

H. 270.

House bill of the following title, appearing on the Calendar for notice and carrying an appropriation or requiring the expenditure of funds, under the rule was referred to the Committee on Appropriations:

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

Bill Referred

House bill of the following title was read the first time and referred:

H. 543.

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

To the Committee on Rules.

House Proposal of Amendment Not Concurred In; Committee of Conference Requested

S. 61.

House proposal of amendment to Senate bill entitled:

An act relating to alcoholic beverages.

Was taken up.

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

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

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

§ 2. DEFINITIONS

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

* * *

(19) "Second class license": a license granted by the ~~control commissioners~~ Control Commissioners permitting the licensee to export malt

or vinous beverages and to sell malt or vinous beverages to the public for consumption off the premises for which the license is granted.

* * *

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

* * *

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

* * *

(34) “Limited first class license”: A license granted by the Control Commissioners permitting the licensee to serve malt or vinous beverages to the

public for consumption only on the licensed premises and in accord with the requirements of section 222a of this title.

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

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

§ 222a. LIMITED FIRST CLASS LICENSE

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

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

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

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

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

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

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

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

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

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

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

§ 231. FEES FOR LICENSES; DISPOSITION OF FEES

(a) The following fees shall be paid:

* * *

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

* * *

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

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

* * *

(b) As an alternative to and in lieu of the authority to suspend or revoke any permit or license, the ~~liquor control board~~ Liquor Control Board shall also have the power to impose an administrative penalty of up to \$2,500.00 per violation against a holder of a wholesale dealer's license or a holder of a first, second or third class license for a violation of the conditions under which the license was issued or of this title or of any rule or regulation adopted by the ~~board~~ Board. The administrative penalty may be imposed after a hearing before the ~~board~~ Board or after the licensee has been convicted by a court of competent jurisdiction of violating the provisions of this title. The ~~board~~ Board may also impose an administrative penalty under this subsection against a holder of a tobacco license for up to \$100.00 for a first violation and up to \$1,000.00 for subsequent violations. For the first violation during a tobacco or alcohol compliance check during any three-year period, a licensee shall receive a warning and be required to attend a department server training class. The Board may also impose an administrative penalty against the holder of a limited first class license of up to \$5,000.00 for an initial violation and \$10,000.00 for a second and subsequent violation.

* * *

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

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

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

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

* * *

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

* * *

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

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

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

* * *

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

Fifth: By adding Sec. 6a to read:

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

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

(a) ~~The director of the enforcement division of the department of liquor control~~ Director of the Enforcement Division of the Department of Liquor Control and investigators employed by the ~~liquor control board~~ Liquor Control Board or by the ~~department of liquor control~~ Department of Liquor Control shall be certified as full-time law enforcement officers by the Vermont Criminal Justice Training Council and shall have the same powers and

immunities as those conferred on the ~~state police~~ State Police by 20 V.S.A. § 1914.

* * *

Thereupon, pending the question, Shall the Senate concur in the House proposal of amendment?, on motion of Senator Baruth, the Senate refused to concur in the House proposal of amendment and requested a Committee of Conference.

Rules Suspended; Bills Messaged

On motion of Senator Campbell, the rules were suspended, and the following bills were severally ordered messaged to the House forthwith:

S. 148, H. 515, H. 521.

Rules Suspended; Proposals of Amendment; Third Reading Ordered

H. 295.

Appearing on the Calendar for notice, on motion of Senator Campbell, the rules were suspended and House bill entitled:

An act relating to technical tax changes.

Was taken up for immediate consideration.

Senator Mullin, for the Committee on Finance, to which the bill was referred, reported recommending that the Senate propose to the House to amend the bill as follows:

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

Sec. 12. [Deleted.]

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

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

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

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

(i) income from United States government obligations;

(ii) with respect to adjusted net capital gain income as defined in Section 1(h) of the Internal Revenue Code reduced by the total amount of any qualified dividend income: either the first \$5,000.00 of such adjusted net capital gain income; or 40 percent of adjusted net capital gain income from the

sale of assets held by the taxpayer for more than three years, except not adjusted net capital gain income from:

* * *

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

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

(a) A taxpayer of this ~~state~~ State, including each spouse filing a joint return, shall be eligible for a nonrefundable credit against the tax imposed under section 5822 of this title of 10 percent of the first \$2,500.00 per beneficiary, contributed by the taxpayer during the taxable year to a ~~Vermont~~ higher education investment plan account under ~~subchapter 7 of 16 V.S.A.~~ chapter 87, subchapter 7 of Title 16.

Fifth: In Sec. 31, in subsection (b), after the following: “Commissioner may reasonably require for the proper administration of this chapter.” by inserting the following: The return shall include notice that the property may be subject to regulations governing potable water supplies and wastewater systems under 10 V.S.A. chapter 64 and to building, zoning, and subdivision regulations; and that the parties have an obligation under law to investigate and disclose his or her knowledge regarding flood regulation, if any, affecting the property.

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

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

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

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

(b) Notwithstanding the imposition of sales and use tax on prewritten computer software by 32 V.S.A. chapter 233, the ~~department of taxes~~ Department of Taxes shall not assess tax on charges for remotely accessed

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

(c) Beginning on July 1, 2013, the moratorium in subsection (b) of this section shall not apply to charges by a vendor for the right to access and use prewritten software if any vendor offers for sale, in a storage medium or by an electronic download to the user’s computer or server, either directly or through wholesale or retail channels that same computer software or comparable computer software that performs the same functions. The software shall be considered the same or comparable if the seller provides the customer with the use of software that functions with little or no personal intervention by the seller or seller’s employees other than “help desk” assistance for customers having difficulty using the software.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

* * * Health Insurance Claims Tax * * *

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

CHAPTER 243. HEALTH CARE CLAIMS TAX

§ 10401. DEFINITIONS

As used in this section:

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

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

§ 10402. HEALTH CARE CLAIMS TAX

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

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

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

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

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

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

§ 10403. ADMINISTRATION OF TAX

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

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

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

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

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

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

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

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

* * *

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

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

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

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

§ 10301. HEALTH IT-FUND

* * *

(c) Into the fund shall be deposited:

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

* * *

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

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

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

§ 10301. HEALTH IT-FUND

* * *

(c) Into the fund shall be deposited:

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

* * *

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

§ 10402. HEALTH CARE CLAIMS TAX

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

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

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

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

* * *

Sec. 43. REPEAL

8 V.S.A. § 40891 (health care claims assessment) is repealed on July 1, 2013.

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

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

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

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

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

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

And by renumbering the remaining section to be numerically correct

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

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

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

Thereupon, the bill was read the second time by title only pursuant to Rule 43.

Thereupon, pending the question, Shall the Senate propose to the House to amend the bill as recommended by the Committee on Finance, Senator White requested that the *fourth* proposal of amendment be voted on separately. Thereupon, the *fourth* proposal of amendment, was disagreed to.

Thereupon, pending the question, Shall the Senate propose to the House to amend the bill as recommended by the Committee on Finance, Senator Campbell requested that the *sixth* proposal of amendment be voted on separately. Thereupon, pending the question, Shall the *sixth* proposal of amendment be agreed to?, Senator Campbell, requested and was granted leave to withdraw his motion.

Thereupon, the question, Shall the Senate propose to the House to amend the bill in the *first* and *second* and *fourth* through *tenth* proposals of amendments, was agreed to on a roll call, Yeas 29, Nays 0.

Senator Mullin having demanded the yeas and nays, they were taken and are as follows:

Roll Call

Those Senators who voted in the affirmative were: Ashe, Ayer, Baruth, Benning, Bray, Collins, Cummings, Doyle, Flory, Fox, French, Galbraith,

Hartwell, Kitchel, Lyons, MacDonald, Mazza, McAllister, McCormack, Mullin, Nitka, Pollina, Rodgers, Sears, Snelling, Starr, Westman, White, Zuckerman.

Those Senators who voted in the negative were: None.

The Senator absent and not voting was: Campbell.

Thereupon, Senator Ayer, moved that the Senate propose to the House that the bill be amended by adding Sec. 18b to read as follows:

Sec. 18b. H-2A PAYMENTS

The Department of Taxes shall not enforce the provisions of 32 V.S.A. chapter 151, including any associated penalties or interest, for any person who received payments while working under an H-2A temporary agricultural visa for any return period prior to December 31, 2011. The Department of Taxes shall also not enforce the provisions of 32 V.S.A. chapter 151, subchapter 4, including any associated penalties or interest, for any person who fails to withhold taxes for payments made to an employee under an H-2A temporary agricultural visa for any return period prior to December 31, 2011. Any liability, interest, or penalty imposed for a return period specified in this section shall be refunded upon request, provided the person provides documentation of his or her claim to the satisfaction of the Commissioner of Taxes.

Thereupon, pending the question, Shall the Senate propose to the House to amend the bill as moved by Senator Ayer? Senator Galbraith raised a *point of order* under Sec. 402 of Mason's Manual of Legislative Procedure on the grounds that the proposal of amendment offered by Senator Ayer was *not germane* to the bill and therefore could not be considered by the Senate.

The President *overruled* the point of order and ruled that the proposal of amendment was *germane* to the Senate Proposal of Amendment to the House. The original bill purpose was technical tax corrections. The bill as it passed the House contained a number of substantive tax changes. The Senate Proposal of Amendment to the bill contains a multitude of substantive tax changes which expanded the scope of the bill into a broad tax bill to which the proposed amendment is germane.

Thereupon, the recurring question, Shall the Senate propose to the House to amend the bill as recommended by Senator Ayer?, was decided in the affirmative on a roll call, Yeas 28, Nays 2.

Senator Campbell having demanded the yeas and nays, they were taken and are as follows:

Roll Call

Those Senators who voted in the affirmative were: Ayer, Baruth, Benning, Bray, Campbell, Collins, Cummings, Doyle, Flory, Fox, French, Hartwell, Kitchel, Lyons, MacDonald, Mazza, McAllister, McCormack, Mullin, Nitka, Pollina, Rodgers, Sears, Snelling, Starr, Westman, White, Zuckerman.

Those Senators who voted in the negative were: Ashe, Galbraith.

Thereupon, Senators Cumming Doyle and Pollina, moved that the Senate propose to the House that the bill be amended by adding Sec. 45a to read as follows:

Sec. 45a. 32 V.S.A. § 5884(a) is amended to read:

(a) At any time within three years after the date a return is required to be filed under this chapter; ~~or~~ six months after a refund was received from the United States with respect to an income tax liability, or an amount of taxable income, under the laws of the United States, reported in a return filed under the laws of the United States for the taxable year, with respect to which that return was filed under this chapter; or three years after the date when real or personal property was seized by the Department as remedy for outstanding tax liability; whichever is ~~later~~ latest, a taxpayer may petition the ~~commissioner~~ Commissioner for the refund of all or any part of the amount of tax paid with respect to the return. Unless the period is extended by agreement of the ~~commissioner~~ Commissioner and the taxpayer, the ~~commissioner~~ Commissioner shall thereafter, upon notice to the taxpayer, hold a hearing on the claim and shall notify the taxpayer of his or her determination of the claim within 30 days of the hearing. The failure of the ~~commissioner~~ Commissioner to refund the amount claimed by a taxpayer within six months of the date of the petition for the refund, under this subsection, shall be considered to be a notification to the taxpayer of the ~~commissioner's~~ Commissioner's determination concerning the claim. The notification shall be considered to have been given on the date of the expiration of the six-month period.

Which was agreed to on a roll call, Yeas 16, Nays 12.

Senator Galbraith having demanded the yeas and nays, they were taken and are as follows:

Roll Call

Those Senators who voted in the affirmative were: Baruth, Benning, Cummings, Doyle, Fox, French, MacDonald, McAllister, McCormack, Nitka, Pollina, Rodgers, Starr, Westman, White, Zuckerman.

Those Senators who voted in the negative were: Ashe, Bray, Collins, Flory, Galbraith, Hartwell, Kitchel, Lyons, Mazza, Mullin, Sears, Snelling.

Those Senators absent and not voting were: Ayer, Campbell.

Thereupon, Senator Zuckerman, moved that the Senate propose to the House that the bill be amended as follows:

First: By adding Secs. 7a–7c to read as follows:

* * * Cigarette and Snuff Taxes * * *

Sec. 7a. 32 V.S.A. § 7771 is amended to read:

§ 7771. RATE OF TAX

* * *

(d) The tax imposed under this section shall be at the rate of ~~134~~ 171 mills per cigarette or little cigar and for each 0.0325 ounces of roll-your-own tobacco. The interest and penalty provisions of section 3202 of this title shall apply to liabilities under this section.

Sec. 7b. 32 V.S.A. § 7811 is amended to read:

§ 7811. IMPOSITION OF TOBACCO PRODUCTS TAX

There is hereby imposed and shall be paid a tax on all other tobacco products, snuff, and new smokeless tobacco possessed in the State of Vermont by any person for sale on and after July 1, 1959 which were imported into the State or manufactured in the State after that date, except that no tax shall be imposed on tobacco products sold under such circumstances that this State is without power to impose such tax, or sold to the United States, or sold to or by a voluntary unincorporated organization of the Armed Forces of the United States operating a place for the sale of goods pursuant to regulations promulgated by the appropriate executive agency of the United States. The tax is intended to be imposed only once upon the wholesale sale of any other tobacco product and shall be at the rate of 92 percent of the wholesale price for all tobacco products except snuff, which shall be taxed at ~~\$1.87~~ \$2.85 per ounce, or fractional part thereof, new smokeless tobacco, which shall be taxed at the greater of ~~\$1.87~~ \$2.85 per ounce or, if packaged for sale to a consumer in

a package that contains less than 1.2 ounces of the new smokeless tobacco, at the rate of ~~\$2.24~~ \$3.42 per package, and cigars with a wholesale price greater than \$2.17, which shall be taxed at the rate of \$2.00 per cigar if the wholesale price of the cigar is greater than \$2.17 and less than \$10.00, and at the rate of \$4.00 per cigar if the wholesale price of the cigar is \$10.00 or more. Provided, however, that upon payment of the tax within 10 days, the distributor or dealer may deduct from the tax two percent of the tax due. It shall be presumed that all other tobacco products, snuff, and new smokeless tobacco within the State are subject to tax until the contrary is established and the burden of proof that any other tobacco products, snuff, and new smokeless tobacco are not taxable hereunder shall be upon the person in possession thereof. Licensed wholesalers of other tobacco products, snuff, and new smokeless tobacco shall state on the invoice whether the price includes the Vermont tobacco products tax.

Sec. 7c. 32 V.S.A. § 7814 is amended to read:

§ 7814. FLOOR STOCK TAX

(a) Snuff. A floor stock tax is hereby imposed upon every retailer of snuff in this ~~state~~ State in the amount by which the new tax exceeds the amount of the tax already paid on the snuff. The tax shall apply to snuff in the possession or control of the retailer at 12:01 a.m. ~~o'clock~~ on July 1, ~~2006~~ 2013, but shall not apply to retailers who hold less than \$500.00 in wholesale value of such snuff. Each retailer subject to the tax shall, on or before July 25, ~~2006~~ 2013 file a report to the ~~commissioner~~ Commissioner in such form as the ~~commissioner~~ Commissioner may prescribe showing the snuff on hand at 12:01 a.m. ~~o'clock~~ on July 1, ~~2006~~ 2013, and the amount of tax due thereon. The tax imposed by this section shall be due and payable on or before ~~August 25, 2006~~ July 25, 2013, and thereafter shall bear interest at the rate established under section 3108 of this title. In case of timely payment of the tax, the retailer may deduct from the tax due two percent of the tax. Any snuff with respect to which a floor stock tax has been imposed and paid under this section shall not again be subject to tax under section 7811 of this title.

(b) Cigarettes, little cigars, or roll-your-own tobacco. Notwithstanding the prohibition against further tax on stamped cigarettes, little cigars, or roll-your-own tobacco under section 7771 of this title, a floor stock tax is hereby imposed upon every dealer of cigarettes, little cigars, or roll-your-own tobacco in this ~~state~~ State who is either a wholesaler, or a retailer who at 12:01 a.m. on July 1, ~~2011~~, 2013 has more than 10,000 cigarettes or little cigars or who has \$500.00 or more of wholesale value of roll-your-own tobacco, for retail sale in his or her possession or control. The amount of the tax shall be the amount by which the new tax exceeds the amount of the tax

already paid for each cigarette, little cigar, or roll-your-own tobacco in the possession or control of the wholesaler or retailer at 12:01 a.m. on July 1, ~~2011~~ 2013, and on which cigarette stamps have been affixed before July 1, ~~2011~~ 2013. A floor stock tax is also imposed on each Vermont cigarette stamp in the possession or control of the wholesaler at 12:01 a.m. on July 1, ~~2011~~ 2013, and not yet affixed to a cigarette package, and the tax shall be at the rate of ~~\$0.38~~ \$0.80 per stamp. Each wholesaler and retailer subject to the tax shall, on or before July 25, ~~2011~~ 2013, file a report to the ~~commissioner~~ Commissioner in such form as the ~~commissioner~~ Commissioner may prescribe showing the cigarettes, little cigars, or roll-your-own tobacco and stamps on hand at 12:01 a.m. on July 1, ~~2011~~ 2013, and the amount of tax due thereon. The tax imposed by this section shall be due and payable on or before July 25, ~~2011~~ 2013 and thereafter shall bear interest at the rate established under section 3108 of this title. In case of timely payment of the tax, the wholesaler or retailer may deduct from the tax due two and three-tenths of one percent of the tax. Any cigarettes, little cigars, or roll-your-own tobacco with respect to which a floor stock tax has been imposed under this section shall not again be subject to tax under section 7771 of this title.

Second: By adding a Sec. 7d to read as follows:

Sec. 7d. 33 V.S.A. § 1812 is added to read:

§ 1812. FINANCIAL ASSISTANCE TO INDIVIDUALS

(a)(1) An individual or family eligible for federal premium tax credits under 26 U.S.C. § 36B with income less than or equal to 300 percent of federal poverty level shall be eligible for premium assistance from the State of Vermont.

(2) The Department of Vermont Health Access shall establish a premium schedule on a sliding scale based on modified adjusted gross income for the individuals and families described in subdivision (1) of this subsection. The Department shall reduce the premium contribution for these individuals and families by 1.5 percent below the premium amount established in 26 U.S.C. § 36B.

(3) Premium assistance shall be available for the same qualified health benefit plans for which federal premium tax credits are available.

(b)(1) An individual or family with income at or below 300 percent of the federal poverty guideline shall be eligible for cost-sharing assistance, including a reduction in the out-of-pocket maximums established under Section 1402 of the Affordable Care Act.

(2) The Department of Vermont Health Access shall establish cost-sharing assistance on a sliding scale based on modified adjusted gross

income for the individuals and families described in subdivision (1) of this subsection. Cost-sharing assistance shall be established as follows:

(A) for households with income at or below 150 percent of the federal poverty level (FPL): 94 percent actuarial value;

(B) for households with income above 150 percent FPL and at or below 200 percent FPL: 87 percent actuarial value;

(C) for households with income above 200 percent FPL and at or below 250 percent FPL: 87 percent actuarial value;

(D) for households with income above 250 percent FPL and at or below 300 percent FPL: 78 percent actuarial value.

(3) Cost-sharing assistance shall be available for the same qualified health benefit plans for which federal cost-sharing assistance is available and administered using the same methods as set forth in Section 1402 of the Affordable Care Act.

(c) To the extent feasible, the Department shall use the same mechanisms provided in the Affordable Care Act to establish financial assistance under this section in order to minimize confusion and complication for individuals, families, and health insurers.

Third: In Sec. 46 (effective dates), by adding a subsection (10) to read as follows:

(10) Sec. 7a through 7d shall take effect July 1, 2013.

Thereupon, pending the question, Shall the Senate propose to the House to amend the bill as moved by Senator Zuckerman? Senator Galbraith raised a *point of order* under Sec. 402 of Mason's Manual of Legislative Procedure on the grounds that the proposal of amendment offered by Senator Zuckerman in the *second* proposal of amendment was *not germane* to the bill and therefore could not be considered by the Senate.

Thereupon, the President *sustained* the point of order and ruled that the proposal of amendment offered by Senator Zuckerman in the *second* proposal of amendment was *not germane* to the bill as it was not a tax provision but rather an expenditure of funds provision.

The President thereupon declared that the *second* proposal of amendment offered by Senator Zuckerman could *not* be considered by the Senate and the proposal of amendment was ordered stricken.

Thereupon, Senator Sears, moved the bill be ordered to lie.

Which was disagreed to.

Thereupon, pending the question, Shall the Senate propose to the House that the bill be amended as moved by Senator Zuckerman?, Senator Zuckerman requested and was granted leave to withdraw the proposed amendment.

Thereupon, Senators Kitchel and MacDonald, moved that the Senate propose to the House that the bill be amended by adding a Sec. 30a to read as follows:

Sec. 30a. 32 V.S.A. § 3802(18) is added to read:

(18) Any parcel of land that provides public access to public waters, as defined in 10 V.S.A. § 1422(6), and that is also:

(A) owned by the Town of Hardwick and located in Greensboro, Vermont; or

(B) owned by the Town of Thetford and located in Fairlee, Vermont, and West Fairlee, Vermont.

And in Sec. 46 by adding a subsection (10) to read:

(10) Sec. 30a (water access) of this act shall take effect on January 1, 2014.

Which was agreed to.

Thereupon, Senator Rodgers, moved that the Senate propose to the House that the bill be amended by adding Sec. 43a to read as follows:

Sec.43a. 32 V.S.A. § 3201(8) is added to read:

§ 3201. ADMINISTRATION OF TAXES

(a) In the administration of taxes, the ~~commissioner~~ Commissioner may:

* * *

(9) When the Commissioner determines that a class of taxpayers has a common compliance problem or a common question about compliance with this title, the Commissioner shall exercise his or her discretion under this section to waive any past liability, penalty, or interest for taxpayers within that class. The Commissioner's decision to grant or deny relief under this subsection is final and not subject to subsequent review.

Thereupon, the question, Shall the Senate propose to the House to amend the bill as recommended by Senator Rodgers?, Senator Rodgers requested and was granted leave to withdraw the proposal of amendment.

Thereupon, third reading of the bill was ordered.

Committees of Conference Appointed**S. 61.**

An act relating to alcoholic beverages.

Was taken up. Pursuant to the request of the Senate, the President announced the appointment of

Senator Mullin
Senator Baruth
Senator Cummings

as members of the Committee of Conference on the part of the Senate to consider the disagreeing votes of the two Houses.

S. 82.

An act relating to campaign finance law.

Was taken up. Pursuant to the request of the Senate, the President announced the appointment of

Senator White
Senator French
Senator Westman

as members of the Committee of Conference on the part of the Senate to consider the disagreeing votes of the two Houses.

Rules Suspended; Bills Messaged

On motion of Senator Baruth, the rules were suspended, and the following bills were severally ordered messaged to the House forthwith:

S. 4, S. 7, S. 61, S. 82, S. 132.

Recess

On motion of Senator Baruth the Senate recessed until 4:45 P.M..

Called to Order

The Senate was called to order by the President.

Recess

On motion of Senator Baruth the Senate recessed until 5:15 P.M.

Called to Order

The Senate was called to order by the President.

Message from the House No. 68

A message was received from the House of Representatives by Ms. H. Gwynn Zakov, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

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

S. 20. An act relating to increasing the statute of limitations for certain sex offenses against children.

S. 129. An act relating to workers' compensation liens.

S. 156. An act relating to home visiting standards.

S. 157. An act relating to modifying the requirements for hemp production in the State of Vermont.

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

Pursuant to the request of the Senate for a Committee of Conference upon the disagreeing votes of the two Houses on Senate bill of the following title:

S. 148. An act relating to criminal investigation records and the Vermont Public Records Act.

The Speaker has appointed as members of such committee on the part of the House:

Rep. Lippert of Hinesburg

Rep. Grad of Moretown

Rep. Koch of Barre Town

Appointments Confirmed

The following Gubernatorial appointments were confirmed separately by the Senate, upon full reports given by the Committees to which they were referred:

Spaulding, George (Jeb) of Montpelier - Secretary, Administration, Agency of - 3/1/2013, to 2/28/2015.

Boes, Richard of Montpelier - Commissioner, Information and Innovation, Department of - 3/1/2013, to 2/28/2015.

Reardon, James of Essex Junction - Commissioner, Finance and Management, Department of - 3/1/2013, to 2/28/2015.

Appointments Confirmed

Under suspension of the rules (and particularly, Senate Rule 93), as moved by Senator White, the following Gubernatorial appointments were confirmed together as a group by the Senate, without reports given by the Committees to which they were referred and without debate:

Marzec-Gerrior, Mary of Pittsford - Member, Human Rights Commission - 4/18/2013, to 2/28/2018.

Fraser, Richard of South Ryegate - Member, Community High School of Vermont Board - 7/2/2010, to 2/28/2013.

Perrin, Mark of Middlebury - Member, Education, State Board of - 4/18/2013, to 2/28/2019.

Consideration Resumed; Bill Amended; Third Reading Ordered**H. 534.**

Consideration was resumed on House bill entitled:

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

Thereupon, the recurring question, Shall the bill be read the third time?, was decided in the affirmative.

Appointments Confirmed

The following Gubernatorial appointments were confirmed separately by the Senate, upon full reports given by the Committees to which they were referred:

Pallito, Andrew of Jericho - Commissioner, Corrections, Department of - 3/1/2013, to 1/15/2015.

Duffy, Kate of Williston - Commissioner, Human Resources, Department of - 3/1/2013, to 2/28/2015.

Message from the House No. 69

A message was received from the House of Representatives by Ms. H. Gwynn Zakov, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

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

H. 26. An act relating to technical corrections.

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

And has severally concurred therein.

The House has considered a bill originating in the Senate of the following title:

S. 152. An act relating to the Green Mountain Care Board's rate review authority.

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

The House has considered Senate proposal of amendment to 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 concurred therein.

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

H. 515. An act relating to miscellaneous agricultural subjects.

And has severally concurred therein with a further proposal of amendment thereto, in the adoption of which the concurrence of the Senate is requested.

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

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

And has severally concurred therein with a further proposal of amendment thereto, in the adoption of which the concurrence of the Senate is requested.

Pursuant to the request of the Senate for a Committee of Conference upon the disagreeing votes of the two Houses on Senate bill of the following title:

S. 4. An act relating to concussions and school athletic activities.

The Speaker has appointed as members of such committee on the part of the House:

Rep. Donovan of Burlington
Rep. Christie of Hartford
Rep. Rachelson of Burlington.

Pursuant to the request of the Senate for a Committee of Conference upon the disagreeing votes of the two Houses on Senate bill of the following title:

S. 61. An act relating to alcoholic beverages.

The Speaker has appointed as members of such committee on the part of the House:

Rep. Head of South Burlington
Rep. Stevens of Waterbury
Rep. O'Sullivan of Burlington.

Pursuant to the request of the Senate for a Committee of Conference upon the disagreeing votes of the two Houses on Senate bill of the following title:

S. 82. An act relating to campaign finance law.

The Speaker has appointed as members of such committee on the part of the House:

Rep. Evans of Essex
Rep. Martin of Wolcott
Rep. Consejo of Sheldon.

The House has considered Senate proposal of amendment to House proposal of amendment to Senate bill entitled:

S. 150. An act relating to miscellaneous amendments to laws related to motor vehicles.

And has refused to concur therein and asks for a Committee of Conference upon the disagreeing votes of the two Houses.

The Speaker appointed as members of such Committee on the part of the House:

Rep. Brennan of Colchester
Rep. Potter of Clarendon
Rep. Koch of Barre Town.

The House has adopted House concurrent resolutions of the following titles:

H.C.R. 141. House concurrent resolution honoring Dr. Kevin Daniel Crowley.

H.C.R. 142. House concurrent resolution honoring Bennington College President Elizabeth Coleman for her visionary academic leadership and scholarship.

H.C.R. 143. House concurrent resolution congratulating the Brattleboro Museum & Art Center on its 40th anniversary.

H.C.R. 144. House concurrent resolution honoring the military valor of the Shores brothers in defending the Union during the Civil War.

H.C.R. 145. House concurrent resolution recognizing the importance for U.S. military personnel of the award-winning documentary film *The Invisible War*.

H.C.R. 146. House concurrent resolution honoring Dianne Jaquith for her exemplary career at the Barstow Memorial School in Chittenden.

H.C.R. 147. House concurrent resolution honoring Stafford Technical Center Director Lyle Jepson on being named the 2013 Technical Director of the Year.

H.C.R. 148. House concurrent resolution commemorating the opening of the new Adult Intensive Unit at the Brattleboro Retreat in partnership with the Department of Mental Health.

H.C.R. 149. House concurrent resolution in memory of retired Vermont State Police Sgt. Harold Ackerman.

H.C.R. 150. House concurrent resolution congratulating Mikaela Shiffrin on her international alpine ski racing achievements.

H.C.R. 151. House concurrent resolution congratulating the Bennington Rural Fire Department on its 60th anniversary.

H.C.R. 152. House concurrent resolution congratulating the Green Street School 2012 Vermont State Spelling Bee championship team.

H.C.R. 153. House concurrent resolution congratulating the Bennington Children's Chorus on its silver anniversary.

H.C.R. 154. House concurrent resolution congratulating the 2013 South Burlington High School Rebels Division I championship boys' ice hockey team .

H.C.R. 155. House concurrent resolution congratulating the Vermont Shamrocks on winning the New England and National 2013 USA Hockey Tier II-U16 championships.

H.C.R. 156. House concurrent resolution congratulating the Lake Champlain Committee on its 50th anniversary.

H.C.R. 157. House concurrent resolution commemorating the bicentennial anniversary of the birth of Stephen A. Douglas, Brandon's most famous native son.

H.C.R. 158. House concurrent resolution designating the week of May 5–11 as Vermont Organ Donor Awareness Week in honor of Jason Perry and Christian Stromberg.

H.C.R. 159. House concurrent resolution congratulating the Puffer United Methodist Church of Morrisville on its bicentennial anniversary.

H.C.R. 160. House concurrent resolution honoring John Hasen on his outstanding career as an attorney dedicated to serving the public.

H.C.R. 161. House concurrent resolution honoring the civic and community leadership of the Montagne family of St. Albans.

H.C.R. 162. House concurrent resolution designating May 13–19, 2013 as American Craft Beer Week in Vermont and celebrating Gregfest.

H.C.R. 163. House concurrent resolution honoring Patricia Rocheleau Harper for her outstanding work on the restoration of the House committee rooms.

H.C.R. 164. House concurrent resolution congratulating the Plainfield Fire Department on its centennial anniversary.

H.C.R. 165. House concurrent resolution honoring the retiring educators and support staff in the Southwest Vermont Supervisory Union.

H.C.R. 166. House concurrent resolution honoring the Civil War-era musical drama *Ransom* on its professional premiere as the opening production of Lost Nation Theater’s 25th anniversary season.

H.C.R. 167. House concurrent resolution honoring Robert Stannard on his retirement as a legislative lobbyist.

H.C.R. 168. House concurrent resolution commemorating the placement of an historic marker at the Rutland fairgrounds honoring aviation pioneer George Schmitt.

H.C.R. 169. House concurrent resolution congratulating the Pittsford Fire Department on its 65th anniversary.

H.C.R. 170. House concurrent resolution honoring the Giancola family for their foresight in the transformation of the Howe Scale Company to the Howe Center.

H.C.R. 171. House concurrent resolution congratulating Windsor High School boys’ Basketball Coach Harry Ladue on his induction into the New England Basketball Hall of Fame.

H.C.R. 172. House concurrent resolution honoring the Joslin Memorial Library in Waitsfield on the occasion of its 100th anniversary.

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

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

S.C.R. 25. Senate concurrent resolution designating May 7, 2013 as Senior Center Awareness Day.

S.C.R. 26. Senate concurrent resolution honoring Charles Browne for his extraordinary leadership of the Fairbanks Museum & Planetarium..

S.C.R. 27. Senate concurrent resolution honoring Hanford Biron for exemplary public service in the town of Norton.

And has adopted the same in concurrence.

Senate Concurrent Resolutions

The following joint concurrent resolutions, having been placed on the consent calendar on the preceding legislative day, and no Senator having requested floor consideration as provided by the Joint Rules of the Senate and House of Representatives, were severally adopted on the part of the Senate:

By Senators Collins and McAllister,

By Representative Consejo,

S.C.R. 25.

Senate concurrent resolution designating May 7, 2013 as Senior Center Awareness Day.

By Senators Kitchel and Benning,

By Representative Fay and others,

S.C.R. 26.

Senate concurrent resolution honoring Charles Browne for his extraordinary leadership of the Fairbanks Museum & Planetarium..

By Senators Rodgers and Starr,

By Representative Johnson,

S.C.R. 27.

Senate concurrent resolution honoring Hanford Biron for exemplary public service in the town of Norton.

House Concurrent Resolutions

The following joint concurrent resolutions having been placed on the consent calendar on the preceding legislative day, and no Senator having

requested floor consideration as provided by the Joint Rules of the Senate and House of Representatives, were severally adopted in concurrence:

By Representatives Donahue and Lewis,

By Senators Doyle, Cummings and Pollina,

H.C.R. 141.

House concurrent resolution honoring Dr. Kevin Daniel Crowley.

By Representative Campion and others,

By Senators Hartwell and Sears,

H.C.R. 142.

House concurrent resolution honoring Bennington College President Elizabeth Coleman for her visionary academic leadership and scholarship.

By Representative Stuart and others,

H.C.R. 143.

House concurrent resolution congratulating the Brattleboro Museum & Art Center on its 40th anniversary.

By Representative Quimby and others,

By Senators Benning, Kitchel, Rodgers and Starr,

H.C.R. 144.

House concurrent resolution honoring the military valor of the Shores brothers in defending the Union during the Civil War.

By Representative O'Sullivan and others,

H.C.R. 145.

House concurrent resolution recognizing the importance for U.S. military personnel of the award-winning documentary film *The Invisible War*.

By Representative Gallivan,

H.C.R. 146.

House concurrent resolution honoring Dianne Jaquith for her exemplary career at the Barstow Memorial School in Chittenden.

By Representative Cupoli and others,
By Senators Flory, French and Mullin,

H.C.R. 147.

House concurrent resolution honoring Stafford Technical Center Director Lyle Jepson on being named the 2013 Technical Director of the Year.

By Representative Stuart and others,

H.C.R. 148.

House concurrent resolution commemorating the opening of the new Adult Intensive Unit at the Brattleboro Retreat in partnership with the Department of Mental Health.

By Representative Quimby and others,
By Senators Benning, Kitchel, Rodgers and Starr,

H.C.R. 149.

House concurrent resolution in memory of retired Vermont State Police Sgt. Harold Ackerman.

By All Members of the House,

H.C.R. 150.

House concurrent resolution congratulating Mikaela Shiffrin on her international alpine ski racing achievements.

By Representative Morrissey and others,
By Senators Hartwell and Sears,

H.C.R. 151.

House concurrent resolution congratulating the Bennington Rural Fire Department on its 60th anniversary.

By Representative Toleno and others,

H.C.R. 152.

House concurrent resolution congratulating the Green Street School 2012 Vermont State Spelling Bee championship team.

By Representative Morrissey and others,

By Senators Hartwell and Sears,

H.C.R. 153.

House concurrent resolution congratulating the Bennington Children's Chorus on its silver anniversary.

By Representative Pugh and others,

H.C.R. 154.

House concurrent resolution congratulating the 2013 South Burlington High School Rebels Division I championship boys' ice hockey team .

By Representative Till and others,

H.C.R. 155.

House concurrent resolution congratulating the Vermont Shamrocks on winning the New England and National 2013 USA Hockey Tier II-U16 championships.

By Representative Webb and others,

By Senators Lyons, Ashe, Ayer, Baruth, Benning, Bray, Doyle, Fox, French, Galbraith, Hartwell, MacDonald, Mazza, McAllister, Pollina, Rodgers, Snelling, Westman and Zuckerman,

H.C.R. 156.

House concurrent resolution congratulating the Lake Champlain Committee on its 50th anniversary.

By Representatives Carr and Shaw,

By Senators Flory, French and Mullin,

H.C.R. 157.

House concurrent resolution commemorating the bicentennial anniversary of the birth of Stephen A. Douglas, Brandon's most famous native son.

By Representatives Partridge and Trieber,

H.C.R. 158.

House concurrent resolution designating the week of May 5–11 as Vermont Organ Donor Awareness Week in honor of Jason Perry and Christian Stromberg.

By Representative Martin and others,

H.C.R. 159.

House concurrent resolution congratulating the Puffer United Methodist Church of Morrisville on its bicentennial anniversary.

By Representative Deen and others,

By Senators Hartwell and Lyons,

H.C.R. 160.

House concurrent resolution honoring John Hasen on his outstanding career as an attorney dedicated to serving the public.

By Representative Dickinson,

H.C.R. 161.

House concurrent resolution honoring the civic and community leadership of the Montagne family of St. Albans.

By Representative Martin and others,

By Senators Campbell, McCormack and Nitka,

H.C.R. 162.

House concurrent resolution designating May 13–19, 2013 as American Craft Beer Week in Vermont and celebrating Gregfest.

By Committee on Corrections and Institutions,

H.C.R. 163.

House concurrent resolution honoring Patricia Rocheleau Harper for her outstanding work on the restoration of the House committee rooms.

By Representative Ancel,

H.C.R. 164.

House concurrent resolution congratulating the Plainfield Fire Department on its centennial anniversary.

By Representative Mook and others,

By Senators Hartwell and Sears,

H.C.R. 165.

House concurrent resolution honoring the retiring educators and support staff in the Southwest Vermont Supervisory Union.

By Representative Jewett and others,

H.C.R. 166.

House concurrent resolution honoring the Civil War-era musical drama *Ransom* on its professional premiere as the opening production of Lost Nation Theater's 25th anniversary season.

By Representatives Jewett and Taylor,

H.C.R. 167.

House concurrent resolution honoring Robert Stannard on his retirement as a legislative lobbyist.

By Representative Russell,

H.C.R. 168.

House concurrent resolution commemorating the placement of an historic marker at the Rutland fairgrounds honoring aviation pioneer George Schmitt.

By Representatives Shaw and Carr,

By Senators Flory, French and Mullin,

H.C.R. 169.

House concurrent resolution congratulating the Pittsford Fire Department on its 65th anniversary.

By Representative Russell,

H.C.R. 170.

House concurrent resolution honoring the Giancola family for their foresight in the transformation of the Howe Scale Company to the Howe Center.

By Representatives Sweaney and Bartholomew,

By Senators Campbell, McCormack and Nitka,

H.C.R. 171.

House concurrent resolution congratulating Windsor High School boys' Basketball Coach Harry Ladue on his induction into the New England Basketball Hall of Fame.

By Representatives Greshin and Grad,

By Senators Cummings, Doyle and Pollina,

H.C.R. 172.

House concurrent resolution honoring the Joslin Memorial Library in Waitsfield on the occasion of its 100th anniversary.

Adjournment

On motion of Senator Campbell, the Senate adjourned, to reconvene on Monday, May 13, 2013, at ten o'clock in the forenoon.