Journal of the Senate

THURSDAY, MAY 8, 2014

The Senate was called to order by the President.

Devotional Exercises

A moment of silence was observed in lieu of devotions.

Message from the House No. 78

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

Mr. President:

I am directed to inform the Senate that:

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

S. 316. An act relating to child care providers.

And has passed the same in concurrence.

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

H. 681. An act relating to the professional regulation for veterans, military service members, and military spouses .

H. 882. An act relating to compensation for certain State employees.

And has severally concurred therein.

Senate Resolution Referred

S.R. 14.

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

Senate resolution relating to bad faith patent assertion.

By Senator Mullin, Baruth, Bray, Collins, and Doyle,

S.R. 14. Senate resolution relating to bad faith patent assertion.

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

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

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

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

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

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

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

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

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

Resolved by the Senate:

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

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

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. 19.

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

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

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

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

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

Whereas, the Springfield Vermont Fire Department responded and subsequently requested and received mutual aid assistance from the Town of Charlestown and the Cornish Rescue Squad, both New Hampshire entities; and the Cornish Rescue Squad responded with its airboat to transport the patient to a landing for transfer to an ambulance, and

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

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

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

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

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

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

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

Resolved by the Senate and House of Representatives:

That the General Assembly respectfully requests the New Hampshire Legislature to amend New Hampshire statutes necessary to offer the same protections to Vermont emergency service entities responding in New Hampshire as those offered to New Hampshire entities, and be it further

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

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

Thereupon, in the discretion of the President, under Rule 51, the joint resolution was treated as a bill and referred to the Committee on Judiciary.

Bill Passed in Concurrence with Proposal of Amendment

H. 695.

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

An act relating to establishing a product stewardship program for primary batteries.

Bills Passed in Concurrence

House bills of the following titles were severally read the third time and passed in concurrence:

H. 870. An act relating to the merger of the Town of Pittsford and the Pittsford Fire District No. 1.

H. 892. An act relating to approval of the adoption and the codification of the charter of the Central Vermont Public Safety Authority.

H. 893. An act relating to approval of the adoption and the codification of the charter of the North Branch Fire District No. 1.

H. 894. An act relating to approval of amendments to the charter of the City of Montpelier and to merging the Montpelier Fire District No. 1 into the City of Montpelier.

House Proposal of Amendment Concurred In with Amendment

S. 184.

House proposal of amendment to Senate bill entitled:

An act relating to eyewitness identification policy.

Was taken up.

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

Sec. 1. 13 V.S.A. chapter 182, subchapter 3 is added to read:

Subchapter 3. Law Enforcement Practices

§ 5581. EYEWITNESS IDENTIFICATION POLICY

(a) On or before January 1, 2015, every State, county, and municipal law enforcement agency and every constable who exercises law enforcement authority pursuant to 24 V.S.A. § 1936a and who is trained in compliance with 20 V.S.A. § 2358 shall adopt an eyewitness identification policy.

(b) The written policy shall contain, at a minimum, the following essential elements as identified by the Law Enforcement Advisory Board:

(1) Protocols guiding the use of a show-up identification procedure.

(2) The photo or live lineup shall be conducted by a blind administrator who does not know the suspect's identity. For law enforcement agencies with limited staff, this can be accomplished through a procedure in which photographs are placed in folders, randomly numbered and shuffled, and then presented to an eyewitness such that the administrator cannot see or track

which photograph is being presented to the witness until after the procedure is completed.

(3) Instructions to the eyewitness, including that the perpetrator may or may not be among the persons in the identification procedure.

(4) In a photo or live lineup, fillers shall possess the following characteristics:

(A) All fillers selected shall resemble the eyewitness's description of the perpetrator in significant features such as face, weight, build, or skin tone, including any unique or unusual features such as a scar or tattoo.

(B) At least five fillers shall be included in a photo lineup, in addition to the suspect.

(C) At least four fillers shall be included in a live lineup, in addition to the suspect.

(5) If the eyewitness makes an identification, the administrator shall seek and document a clear statement from the eyewitness, at the time of the identification and in the eyewitness's own words, as to the eyewitness's confidence level that the person identified in a given identification procedure is the perpetrator.

(c) The model policy issued by the Law Enforcement Advisory Board shall encourage ongoing law enforcement training in eyewitness identification procedures for State, county, and municipal law enforcement agencies and constables who exercise law enforcement authority pursuant to 24 V.S.A. § 1936a and are trained in compliance with 20 V.S.A. § 2358.

(d) If a law enforcement agency does not adopt a policy by January 1, 2015 in accordance with this section, the model policy issued by the Law Enforcement Advisory Board shall become the policy of that law enforcement agency or constable.

Sec. 2. REPORTING EYEWITNESS IDENTIFICATION POLICIES

The Vermont Criminal Justice Training Council shall report to the General Assembly on or before April 15, 2015 regarding law enforcement's compliance with Sec. 1 of this act.

Sec. 3. 20 V.S.A. § 2366 is amended to read:

§ 2366. LAW ENFORCEMENT AGENCIES; BIAS-FREE POLICING POLICY; RACE DATA COLLECTION

(a) ~~No later than January 1, 2013~~ On or before September 1, 2014, every State, local, county, and municipal law enforcement agency ~~that employs one or more certified law enforcement officers~~, and every law enforcement officer

who exercises law enforcement authority pursuant to 24 V.S.A. § 1936a and who is trained in compliance with section 2358 of this title, shall adopt a bias-free policing policy. The policy shall contain ~~the following essential~~ substantially the same elements of ~~such a policy as determined by the Law Enforcement Advisory Board after its review of~~ either the current Vermont State Police ~~Policy and~~ bias-free policing policy or the most current model policy issued by the Office of the Attorney General.

(b) ~~The policy shall encourage ongoing bias-free law enforcement training for State, local, county, and municipal law enforcement agencies~~ If a law enforcement agency or officer that is required to adopt a policy pursuant to subsection (a) of this section fails to do so on or before September 1, 2014, that agency or officer shall be deemed to have adopted, and shall follow and enforce, the model policy issued by the Office of the Attorney General.

(c) On or before September 7, 2014, and annually thereafter as part of their annual training report to the Council, every State, local, county, and municipal law enforcement agency, and every law enforcement officer who exercises law enforcement authority pursuant to 24 V.S.A. § 1936a and who is trained in compliance with section 2358 of this title, shall report to the Council whether the agency or officer has adopted a bias-free policing policy in accordance with subsections (a) and (b) of this section and which policy has been adopted. The Criminal Justice Training Council shall determine, as part of the Council's annual certification of training requirements, if current officers have received training on bias-free policing.

(d) On or before October 15, 2014, and annually thereafter on April 1, the Criminal Justice Training Council shall report to the House and Senate Committees on Judiciary which departments and officers have adopted a bias-free policing policy, which policy has been adopted, and whether officers have received training on bias-free policing.

(e) On or before September 1, 2014, every State, local, county, and municipal law enforcement ~~agencies that employ one or more certified law enforcement officers are encouraged to work with the Vermont Association of Chiefs of Police to extend the collection of roadside-stop race data uniformly throughout state law enforcement agencies, with the goal of obtaining uniform roadside-stop race data for analysis~~ agency shall collect roadside stop data consisting of the following: the age, gender, and race of the driver; the reason for the stop; the type of search conducted, if any; the evidence located, if any; and the outcome of the stop. Law enforcement agencies shall work with the Vermont Criminal Justice Training Council with the goals of collecting uniform data, adopting uniform storage methods and periods, and ensuring that data can be analyzed. Roadside stop data, as well as reports and analysis of roadside stop data, shall be public.

Sec. 4. 13 V.S.A. chapter 182, subchapter 3 of is added to read:

Subchapter 3. Law Enforcement Practices

§ 5581. ELECTRONIC RECORDING OF A CUSTODIAL INTERROGATION

(a) As used in this section:

(1) "Custodial interrogation" means any interrogation:

(A) involving questioning by a law enforcement officer that is reasonably likely to elicit an incriminating response from the subject; and

(B) in which a reasonable person in the subject's position would consider himself or herself to be in custody, starting from the moment a person should have been advised of his or her Miranda rights and ending when the questioning has concluded.

(2) "Electronic recording" or "electronically recorded" means an audio and visual recording that is an authentic, accurate, unaltered record of a custodial interrogation, or if law enforcement does not have the current capacity to create a visual recording, an audio recording of the interrogation.

(3) "Place of detention" means a building or a police station that is a place of operation for the State police, a municipal police department, county sheriff department, or other law enforcement agency that is owned or operated by a law enforcement agency at which persons are or may be questioned in connection with criminal offenses or detained temporarily in connection with criminal charges pending a potential arrest or citation.

(4) "Statement" means an oral, written, sign language, or nonverbal communication.

(b)(1) A custodial interrogation that occurs in a place of detention concerning the investigation of a felony violation of chapter 53 (homicide) or 72 (sexual assault) of this title shall be electronically recorded in its entirety.

(2) In consideration of best practices, law enforcement shall strive to record simultaneously both the interrogator and the person being interrogated.

(c)(1) The following are exceptions to the recording requirement in subsection (b) of this section:

(A) exigent circumstances;

(B) a person's refusal to be electronically recorded;

(C) interrogations conducted by other jurisdictions;

(D) a reasonable belief that the person being interrogated did not commit a felony violation of chapter 53 (homicide) or 72 (sexual assault) of this title and, therefore, an electronic recording of the interrogation was not required;

(E) the safety of a person or protection of his or her identity; and

(F) equipment malfunction.

(2) If law enforcement does not make an electronic recording of a custodial interrogation as required by this section, the prosecution shall prove by a preponderance of the evidence that one of the exceptions identified in subdivision (1) of this subsection applies. If the prosecution does not meet the burden of proof, the evidence is still admissible, but the Court shall provide cautionary instructions to the jury regarding the failure to record the interrogation.

Sec. 5. LAW ENFORCEMENT ADVISORY BOARD

(a) The Law Enforcement Advisory Board (LEAB) shall develop a plan for the implementation of Sec. 1 of this act, 13 V.S.A. § 5581 (electronic recording of a custodial interrogation).

(b) The LEAB, in consultation with practitioners and experts in recording interrogations, including the Innocence Project, shall:

(1) assess the scope and location of the current inventory of recording equipment in Vermont;

(2) develop recommendations, including funding options, regarding how to equip adequately law enforcement with the recording devices necessary to carry out Sec. 1 of this act, 13 V.S.A. § 5581 (electronic recording of a custodial interrogation); and

(3) develop recommendations for expansion of recordings to questioning by a law enforcement officer that is reasonably likely to elicit an incriminating response from the subject regarding any felony offense.

(c) On or before October 1, 2014, the LEAB shall submit a written report to the Senate and House Committees on Judiciary with its recommendations for the implementation of Sec. 1 of this act, 13 V.S.A. § 5581 (electronic recording of a custodial interrogation).

Sec. 6. EFFECTIVE DATES

This act shall take effect on passage except for Sec. 4 which shall take effect on October 1, 2015.

And that after passage the title of the bill be amended to read:

An act relating to law enforcement policies on eyewitness identification and bias-free policing and on recording of custodial interrogations in homicide and sexual assault cases.

Thereupon, pending the question, Shall the Senate concur in the House proposal of amendment?, Senator Sears moved that the Senate concur in the House proposal of amendment with an amendment as follows:

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

Sec. 3. 20 V.S.A. § 2366 is amended to read:

§ 2366. LAW ENFORCEMENT AGENCIES; ~~BIAS-FREE~~ FAIR AND IMPARTIAL POLICING POLICY; RACE DATA COLLECTION

(a)(1) ~~No later than January 1, 2013~~ Except as provided in subdivision (2) of this subsection, on or before September 1, 2014, every State, local, county, and municipal law enforcement agency ~~that employs one or more certified law enforcement officers~~, and every constable who exercises law enforcement authority pursuant to 24 V.S.A. § 1936a and who is trained in compliance with section 2358 of this title, shall adopt a ~~bias-free~~ fair and impartial policing policy. The policy shall contain ~~the following essential~~ substantially the same elements of ~~such a policy as determined by the Law Enforcement Advisory Board after its review of~~ either the current Vermont State Police ~~Policy and~~ fair and impartial policing policy or the most current model policy issued by the Office of the Attorney General.

(2) On or before January 1, 2016, the Criminal Justice Training Council, in consultation with stakeholders, including the Vermont League of Cities and Towns, the Vermont Human Rights Commission, and Migrant Justice, shall adopt a model fair and impartial policing policy. On or before July 1, 2016, every State, local, county, and municipal law enforcement agency, and every constable who exercises law enforcement authority pursuant to 24 V.S.A. § 1936a and who is trained in compliance with section 2358 of this title, shall adopt a fair and impartial policing policy that includes, at a minimum, the elements of the Criminal Justice Training Council policy.

(b) ~~The policy shall encourage ongoing bias-free law enforcement training for State, local, county, and municipal law enforcement agencies~~ If a law enforcement agency or constable that is required to adopt a policy pursuant to subsection (a) of this section fails to do so on or before September 1, 2014, that agency or constable shall be deemed to have adopted, and shall follow and enforce, the model policy issued by the Office of the Attorney General.

(c) On or before September 15, 2014, and annually thereafter as part of their annual training report to the Council, every State, local, county, and

municipal law enforcement agency, and every constable who exercises law enforcement authority pursuant to 24 V.S.A. § 1936a and who is trained in compliance with section 2358 of this title, shall report to the Council whether the agency or officer has adopted a fair and impartial policing policy in accordance with subsections (a) and (b) of this section and which policy has been adopted. The Criminal Justice Training Council shall determine, as part of the Council's annual certification of training requirements, if current officers have received training on fair and impartial policing.

(d) On or before October 15, 2014, and annually thereafter on April 1, the Criminal Justice Training Council shall report to the House and Senate Committees on Judiciary which departments and officers have adopted a fair and impartial policing policy, which policy has been adopted, and whether officers have received training on fair and impartial policing.

(e)(1) On or before September 1, 2014, every State, local, county, and municipal law enforcement ~~agencies that employ one or more certified law enforcement officers are encouraged to work with the Vermont Association of Chiefs of Police to extend the collection of roadside stop race data uniformly throughout state law enforcement agencies, with the goal of obtaining uniform roadside stop race data for analysis~~ agency shall collect roadside stop data consisting of the following:

(A) the age, gender, and race of the driver;

(B) the reason for the stop;

(C) the type of search conducted, if any;

(D) the evidence located, if any; and

(E) the outcome of the stop, including whether:

(i) a written warning was issued;

(ii) a citation for a civil violation was issued;

(iii) a citation or arrest for a misdemeanor or a felony occurred; or

(iv) no subsequent action was taken.

(2) Law enforcement agencies shall work with the Criminal Justice Training Council with the goals of collecting uniform data, adopting uniform storage methods and periods, and ensuring that data can be analyzed. Roadside stop data, as well as reports and analysis of roadside stop data, shall be public.

Which was agreed to.

Rules Suspended; Proposals of Amendment; Third Reading Ordered

H. 869.

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

An act relating to miscellaneous agricultural subjects.

Was taken up for immediate consideration.

Thereupon, Senator McAllister, for the Committee on Agriculture, to which the bill was referred respectfully reported that it has considered the same and recommends that the Senate propose to the House to amend the bill as follows:

First: In Sec. 3, 6 V.S.A. § 1085(b), in the last sentence, before "may be eligible" by striking out "also".

Second: By striking out Sec. 12 in its entirety and inserting in lieu thereof new Secs. 12–17 to read as follows:

* * * Emergency Authority * * *

Sec. 12. 6 V.S.A. § 21 is added to read:

§ 21. AUTHORITY TO ADDRESS PUBLIC HEALTH HAZARDS AND FOOD SAFETY ISSUES

(a) As used in this section:

(1) "Adulterated" shall have the same meaning as in 18 V.S.A. § 4059 and shall include adulteration under rules adopted under 18 V.S.A. chapter 82.

(2) "Emergency" means any natural disaster, weather-related incident, health- or disease-related incident, resource shortage, plant pest outbreak, accident, or fire that poses a threat or may pose a threat, as determined by the Secretary, to health, safety, the environment, or property in Vermont.

(3) "Farm" means a site or parcel on which farming is conducted.

(4) "Farming" shall have the same meaning as in 10 V.S.A. § 6001(22).

(5) "Public health hazard" means the potential harm to the public health by virtue of any condition or any biological, chemical, or physical agent. In determining whether a health hazard is public or private, the Secretary shall consider at least the following factors:

(A) the number of persons at risk;

(B) the characteristics of the person or persons at risk;

(C) the characteristics of the condition or agent that is the source of potential harm;

(D) the availability of private remedies;

(E) the geographical area and characteristics thereof where the condition or agent that is the source of the potential harm or the receptors exists; and

(F) the policy of the Agency of Agriculture, Food and Markets as established by rule or procedure.

(6) "Raw agricultural commodity" means any food in its raw or natural state, including all fruits or vegetables that are washed, colored, or otherwise treated in their unpeeled natural form prior to marketing.

(7) "Secretary" means the Secretary of Agriculture, Food and Markets.

(b) The Secretary shall have the authority to:

(1) respond to and remediate incidences of mass animal death, agricultural structure fires, or other emergencies on a farm in order to prevent a public health hazard;

(2) condemn, confiscate, or establish restrictions on the use, sale, or distribution of adulterated raw agricultural commodities or animal feed; and

(3) cooperate with the Department of Health and other State and federal agencies regarding:

(A) the prevention or remediation of the adulteration of raw agricultural commodities, food, or animal feed on farms; and

(B) application of the FDA Food Safety Modernization Act, 21 U.S.C. §§ 2201–2252, to farms, farm products, or value-added products produced in the State.

* * * Testing of Captive Deer * * *

Sec. 13. 6 V.S.A. § 1165 is amended to read:

§ 1165. TESTING OF CAPTIVE DEER

(a) Definitions. As used in this section:

(1) "Captive deer operation" means a place where deer are privately or publicly maintained or held for economic or other purposes within a perimeter fence or confined space.

(2) "Chronic wasting disease" or "CWD" means a transmissible spongiform encephalopathy.

(b) Testing. A person operating a captive deer operation under the jurisdiction of the Secretary of Agriculture, Food and Markets shall inform the Secretary when a captive deer in his or her control dies or is sent to slaughter.

The person operating the captive deer operation shall make the carcass of a deceased or slaughtered animal available to the Secretary for testing for CWD.

(c) Cost. The cost of CWD testing required under this section shall be paid by the Secretary, and shall not be assessed to the person operating the captive deer operation from which a tested captive deer originated.

* * * Agricultural Water Quality* * *

Sec. 14. 6 V.S.A. § 4812 is amended to read:

§ 4812. CORRECTIVE ACTIONS

(a) When the ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets determines that a person engaged in farming is managing a farm using practices which are inconsistent with the ~~practices defined by~~ requirements of this chapter or rules adopted under this subchapter, the ~~secretary~~ Secretary may issue a written warning which shall be served in person or by certified mail, return receipt requested. The warning shall include a brief description of the alleged violation, identification of this statute and applicable rules, a recommendation for corrective actions that may be taken by the person, along with a summary of federal and ~~state~~ State assistance programs which may be utilized by the person to remedy the violation ~~and a request for an abatement schedule from the person according to which the practice shall be altered~~. The person shall have 30 days to respond to the written warning and shall provide an abatement schedule for curing the violation and a description of the corrective action to be taken to cure the violation. If the person fails to respond to the written warning within this period or to take corrective action to change the practices ~~in order to protect water quality~~, the ~~secretary~~ Secretary may act pursuant to subsection (b) of this section in order to protect water quality.

(b) ~~After an opportunity for a hearing, the secretary~~ The Secretary may:

(1) issue cease and desist orders and administrative penalties in accordance with the requirements of sections 15, 16, and 17 of this title; and

(2) institute appropriate proceedings on behalf of the ~~agency~~ Agency to enforce this subchapter.

(c) Whenever the ~~secretary~~ Secretary believes that any person engaged in farming is in violation of this subchapter or rules adopted thereunder, an action may be brought in the name of the ~~agency~~ Agency in a court of competent jurisdiction to restrain by temporary or permanent injunction the continuation or repetition of the violation. The court may issue temporary or permanent injunctions, and other relief as may be necessary and appropriate to curtail any violations.

(d) ~~The secretary may assess administrative penalties in accordance with sections 15, 16, and 17 of this title against any farmer who violates a cease and desist order or other order issued under subsection (b) of this section.~~ [Repealed.]

(e) Any person subject to an enforcement order or an administrative penalty who is aggrieved by the final decision of the ~~secretary~~ Secretary may appeal to the ~~superior court~~ Superior Court within 30 days of the decision. The administrative judge may specially assign an ~~environmental~~ Environmental judge to ~~superior court~~ Superior Court for the purpose of hearing an appeal.

Sec. 15. 6 V.S.A. § 4816 is added to read:

§ 4816. SEASONAL APPLICATION OF MANURE

(a) Prohibition on application. A person shall not apply manure to land in the State between December 15 and April 1 of any calendar year unless authorized by this section.

(b) Extension of prohibition. The Secretary of Agriculture, Food and Markets shall amend the accepted agricultural practices by rule in order to establish a process under which the Secretary may prohibit the application of manure to land in the State between December 1 and December 15 and between April 1 and April 30 of any calendar year when the Secretary determines that due to weather conditions, soil conditions, or other limitations, application of manure to land would pose a significant potential of discharge or runoff to State waters.

(c) Seasonal exemption. The Secretary of Agriculture, Food and Markets shall amend the accepted agricultural practices by rule in order to establish a process under which the Secretary may authorize an exemption to the prohibition on the application of manure to land in the State between December 15 and April 1 of any calendar year or during any period established under subsection (b) of this section when manure is prohibited from application. Any process established for the issuance of an exemption under the accepted agricultural practices may authorize land application of manure on a weekly, monthly, or seasonal basis or in authorized regions, areas, or fields in the State, provided that any exemption shall:

(1) prohibit application of manure:

(A) in areas with established channels of concentrated stormwater runoff to surface waters, including ditches and ravines;

(B) in nonharvested permanent vegetative buffers;

(C) in a nonfarmed wetland, as that term is defined in 10 V.S.A. § 902(5);

(D) within 50 feet of a potable water supply, as that term is defined in 10 V.S.A. § 1972(6);

(E) to fields exceeding tolerable soil loss; and

(F) to saturated soils;

(2) establish requirements for the application of manure when frozen or snow-covered soils prevent effective incorporation at the time of application;

(3) require manure to be applied according to a nutrient management plan; and

(4) establish the maximum tons of manure that may be applied per acre during any one application.

Sec. 16. SMALL FARM AGRICULTURAL WATER QUALITY TRAINING

On or before January 15, 2015, the Secretary of Agriculture, Food and Markets shall submit to the Senate Committee on Agriculture and the House Committee on Agriculture and Forest Products a proposed voluntary training program for owners or operators of small farms. The proposed voluntary training program shall include:

(1) the prevention of discharges, as that term is defined in 10 V.S.A. § 1251(3);

(2) the requirements for small farms under the accepted agricultural practices;

(3) the mitigation and management from farms of stormwater runoff, as that term is defined in 10 V.S.A. § 1264.

(4) the existing statutory and regulatory requirements for operation of a small farm in the State; and

(5) address the management practices and technical and financial resources available to assist in compliance with statutory or regulatory agricultural requirements.

Sec. 17. EFFECTIVE DATES

This section and Secs. 12 (AAFM emergency authority), 13 (captive deer testing), and 14 (corrective actions; agricultural water quality) shall take effect on passage. All other sections shall take effect on July 1, 2014.

And that the bill ought to pass in concurrence with such proposal of amendment.

Senator Lyons, for the Committee on Finance, to which the bill was referred, reported recommending that the Senate propose to the House that the

bill be amended as recommended by the Committee on Agriculture with the following amendment thereto:

By striking out Sec. 11 in its entirety and inserting in lieu thereof a new Sec. 11 to read as follows:

Sec. 11. REPEAL OF EXEMPTIONS FOR WEIGHTS AND MEASURES FEES

9 V.S.A. § 2730(g) (license fee exemptions; commercial scale and motor fuel dispensers) shall be repealed on July 1, 2016.

And that the bill ought to pass in concurrence with such proposal of amendment.

Senator Starr, for the Committee on Appropriations, to which the bill was referred, reported recommending that the bill ought to pass in concurrence with proposal of amendment as recommended by the Committee on Agriculture.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and the recommendation of proposal of amendment of the Committee on Agriculture was amended as recommended by the Committee on Finance.

Thereupon, pending the question, Shall the Senate propose to the House to amend the bill as recommended by the Committee on Agriculture, as amended?, Senator Starr, French, McAllister, Sirotkin and Zuckerman, moved that the proposal of amendment of the Committee on Agriculture, as amended, be amended in the *second* proposal of amendment by adding two new sections to read as follows:

* * * Primary Agricultural Soils * * *

Sec. 16a. 10 V.S.A. § 6093 is amended to read:

§ 6093. MITIGATION OF PRIMARY AGRICULTURAL SOILS

(a) Mitigation for loss of primary agricultural soils. Suitable mitigation for the conversion of primary agricultural soils necessary to satisfy subdivision 6086(a)(9)(B)(iv) of this title shall depend on where the project tract is located.

(1) Project located in ~~growth center~~ certain designated areas. This subdivision applies to projects located in the following areas designated under 24 V.S.A. chapter 76A: a downtown development district, a growth center, a new town center designated on or before January 1, 2014, and a neighborhood development area associated with a designated downtown development district. If the project tract is located in ~~a designated growth center~~ one of these designated areas, an applicant who complies with subdivision 6086(a)(9)(B)(iv) of this title shall deposit an offsite mitigation fee into the Vermont ~~housing and conservation trust fund~~ Housing and Conservation Trust

Fund established under section 312 of this title for the purpose of preserving primary agricultural soils of equal or greater value with the highest priority given to preserving prime agricultural soils as defined by the U.S. Department of Agriculture. Any required offsite mitigation fee shall be derived by:

(A) ~~determining~~ Determining the number of acres of primary agricultural soils affected by the proposed development or subdivision~~;~~.

(B) ~~multiplying~~ Multiplying the number of affected acres of primary agricultural soils by a factor resulting in a ratio established as follows:

(i) ~~for~~ For development or subdivision within a designated ~~growth center~~ area described in this subdivision (a)(1), the ratio shall be 1:1~~;~~.

(ii) ~~for~~ For residential construction that has a density of at least eight units of housing per acre, of which at least eight units per acre or at least 40 percent of the units, on average, in the entire development or subdivision, whichever is greater, meets the definition of affordable housing established in this chapter, no mitigation shall be required, regardless of location in or outside a designated area described in this subdivision (a)(1). However, all affordable housing units shall be subject to housing subsidy covenants, as defined in 27 V.S.A. § 610, that preserve their affordability for a period of 99 years or longer. ~~For purposes of~~ As used in this section, housing that is rented shall be considered affordable housing when its inhabitants have a gross annual household income that does not exceed 60 percent of the county median income or 60 percent of the standard metropolitan statistical area income if the municipality is located in such an area.

(C) ~~multiplying~~ Multiplying the resulting product by a "price-per-acre" value, which shall be based on the amount that the ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets has determined to be the recent, per-acre cost to acquire conservation easements for primary agricultural soils in the same geographic region as the proposed development or subdivision.

(2) Project located outside certain designated ~~growth center~~ areas. If the project tract is not located in a designated ~~growth center~~ area described in subdivision (1) of this subsection, mitigation shall be provided on site in order to preserve primary agricultural soils for present and future agricultural use, with special emphasis on preserving prime agricultural soils. Preservation of primary agricultural soils shall be accomplished through innovative land use design resulting in compact development patterns which will maintain a sufficient acreage of primary agricultural soils on the project tract capable of supporting or contributing to an economic or commercial agricultural operation and shall be enforceable by permit conditions issued by the ~~district commission~~

District Commission. The number of acres of primary agricultural soils to be preserved shall be derived by:

(A) ~~determining~~ Determining the number of acres of primary agricultural soils affected by the proposed development or subdivision~~; and~~.

(B) ~~multiplying~~ Multiplying the number of affected acres of primary agricultural soils by a factor based on the quality of those primary agricultural soils, and other factors as the ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets may deem relevant, including the soil's location; accessibility; tract size; existing agricultural operations; water sources; drainage; slope; the presence of ledge or protected wetlands; the infrastructure of the existing farm or municipality in which the soils are located; and the ~~N.R.C.S.~~ NRCS rating system for Vermont soils. This factor shall result in a ratio of no less than 2:1, but no more than 3:1, protected acres to acres of impacted primary agricultural soils.

(3) Mitigation flexibility.

(A) Notwithstanding the provisions of subdivision (a)(1) of this ~~subsection~~ section pertaining to a development or subdivision on primary agricultural soils within ~~a~~ certain designated ~~growth center~~ areas, the ~~district commission~~ District Commission may, in appropriate circumstances, require onsite mitigation with special emphasis on preserving prime agricultural soils if that action is deemed consistent with the agricultural elements of local and regional plans and the goals of 24 V.S.A. § 4302. In this situation, the approved plans must designate specific soils that shall be preserved inside ~~growth centers~~ a designated area described in subdivision (a)(1) of this section. For projects located within such a designated ~~growth center~~ area, all factors used to calculate suitable mitigation acreage or fees, or some combination of these measures, shall be as specified in this subsection, subject to a ratio of 1:1.

(B) Notwithstanding the provisions of subdivision (a)(2) of this ~~subsection~~ section pertaining to a development or subdivision on primary agricultural soils outside a designated ~~growth center~~ area described in subdivision (a)(1) of this section, the ~~district commission~~ District Commission may, in appropriate circumstances, approve off-site mitigation or some combination of onsite and off-site mitigation if that action is deemed consistent with the agricultural elements of local and regional plans and the goals of 24 V.S.A. § 4302. For projects located outside such a designated ~~growth center~~ area, all factors used to calculate suitable mitigation acreage or fees, or some combination of these measures, shall be as specified in this subsection (a), subject to a ratio of no less than 2:1, but no more than 3:1.

* * *

(b) Easements required for protected lands. All primary agricultural soils preserved for commercial or economic agricultural use by the Vermont ~~housing and conservation board~~ Housing and Conservation Board pursuant to this section shall be protected by permanent conservation easements (grant of development rights and conservation restrictions) conveyed to a qualified holder, as defined in section 821 of this title, with the ability to monitor and enforce easements in perpetuity. Off-site mitigation fees may be used by the Vermont ~~housing and conservation board~~ Housing and Conservation Board and shall be used by the Agency of Agriculture, Food and Markets to pay reasonable staff or transaction costs, or both, of the ~~board and agency of agriculture, food, and markets~~ Board and Agency related to ~~preserve~~ the preservation of primary agricultural soils or to ~~implement section~~ the implementation of subdivision 6086(a)(9)(B) or section 6093 of this title.

Sec. 16b. 10 V.S.A. § 6001(15) is amended to read:

(15) "Primary agricultural soils" means ~~soil map units with the best combination of physical and chemical characteristics that have a potential for growing food, feed, and forage crops, have sufficient moisture and drainage, plant nutrients or responsiveness to fertilizers, few limitations for cultivation or limitations which may be easily overcome, and an average slope that does not exceed 15 percent. Present uses may be cropland, pasture, regenerating forests, forestland, or other agricultural or silvicultural uses. However, the soils must be of a size and location, relative to adjoining land uses, so that those soils will be capable, following removal of any identified limitations, of supporting or contributing to an economic or commercial agricultural operation. Unless contradicted by the qualifications stated in this subdivision, primary agricultural soils shall include important farmland soils map units with a rating of prime, statewide, or local importance as defined by the Natural Resources Conservation Service (N.R.C.S.) of the United States Department of Agriculture (U.S.D.A.)~~ each of the following:

(A) An important farmland soils map unit that the Natural Resources Conservation Service of the U.S. Department of Agriculture (NRCS) has identified and determined to have a rating of prime, statewide, or local importance, unless the District Commission determines that the soils within the unit have lost their agricultural potential. In determining that soils within an important farmland soils map unit have lost their agricultural potential, the Commission shall consider:

(i) impacts to the soils relevant to the agricultural potential of the soil from previously constructed improvements;

(ii) the presence on the soils of a Class I or Class II wetland under chapter 37 of this title;

(iii) the existence of topographic or physical barriers that reduce the accessibility of the rated soils so as to cause their isolation and that cannot reasonably be overcome; and

(iv) other factors relevant to the agricultural potential of the soils, on a site-specific basis, as found by the Commission after considering the recommendation, if any, of the Secretary of Agriculture, Food and Markets.

(B) Soils on the project tract that the District Commission finds to be of agricultural importance, due to their present or recent use for agricultural activities and that have not been identified by the NRCS as important farmland soil map units.

Which was agreed to.

Thereupon, pending the question, Shall the Senate propose to the House to amend the bill as recommended by the Committee on Agriculture, as amended?, Senator Starr, moved that the proposal of amendment of the Committee on Agriculture, as amended, be amended by inserting a reader guide and three new sections to be numbered 16c, 16d, and 16e to read as follows:

* * * Use Value Appraisal * * *

Sec. 16c. 32 V.S.A. § 3752 is amended to read:

§ 3752. DEFINITIONS

* * *

(9) "Managed forestland" means:

(A) any land, exclusive of any house site, which is at least 25 acres in size and which is under active long-term forest management for the purpose of growing and harvesting repeated forest crops in accordance with minimum acceptable standards for forest management. Such land may include eligible ecologically significant treatment areas in accordance with minimum acceptable standards for forest management and as approved by the Commissioner; or

* * *

Sec. 16d. 32 V.S.A. § 3755 is amended to read:

§ 3755. ELIGIBILITY FOR USE VALUE APPRAISALS

* * *

(b) Managed forestland shall be eligible for use value appraisal under this subchapter only if:

* * *

(3) there has not been filed with the Director an adverse inspection report by the Department stating that the management of the tract is contrary to the forest or conservation management plan, or contrary to the minimum acceptable standards for forest or conservation management. The management activity report shall be on a form prescribed by the Commissioner of Forests, Parks and Recreation in consultation with the Commissioner of Taxes and shall include a detachable section signed by all the owners that shall contain the federal tax identification numbers of all the owners. The section containing federal tax identification numbers shall not be made available to the general public, but shall be forwarded to the Commissioner of Taxes within 30 days after receipt and used for tax administration purposes. If any owner shall satisfy the Department that he or she was prevented by accident, mistake, or misfortune from filing ~~a~~ an initial or revised management plan which is required to be filed on or before October 1, or a management plan update which is required to be filed on or before April 1 of the year in which the plan expires, or a management activity report which is required to be filed on or before February 1 of the year following the year when the management activity occurred, the Department may receive that management plan or management activity report at a later date; provided, however, no initial or revised management plan shall be received later than December 31, and no management plan update shall be received later than one year after April 1 of the year the plan expires, and no management activity report shall be received later than March 1.

Sec. 16e. 2008 Acts and Resolves No. 205, Sec. 7 is amended to read:

Sec. 7. COMMISSIONER OF FORESTS, PARKS AND RECREATION

* * *

(3) If more than 20 percent of the acres to be enrolled are Site 4, plus open not to be restocked, plus ecologically significant not to be managed for timber production, landowners may apply to the ~~commissioner~~ Commissioner for approval. The plans and maps shall be reviewed by the county foresters of the county where the parcel is located. ~~In no situation shall a parcel be approved that does not provide for at least 80 percent of the land classified as Site 1, 2, or 3 to be managed for timber production.~~

* * *

Which was agreed to.

Thereupon, pending the question, Shall the Senate propose to the House to amend the bill as recommended by the Committee on Agriculture, as amended?, Senators Galbraith and Hartwell moved to amend the proposal of

amendment of the Committee on Agriculture, as amended, in the *second* proposal of amendment by striking out Sec. 17 (Effective Dates) in its entirety and inserting in lieu thereof reader guides and two new sections to be numbered Secs. 17 and 18 to read:

* * * Neonicotinoid Pesticides * * *

Sec. 17. 6 V.S.A. § 1113 is added to read:

§ 1113. NEONICOTINOID PESTICIDES; SAFETY AND USE

(a) The Secretary of Agriculture Food, and Markets shall evaluate whether the use or application of the pesticides imidacloprid, clothianiden, thiamethoxam, donotafuran, or any other member of the nitro group of neonicotinoid pesticides is safe and not harmful to human health or the health of bees and other pollinators in the State.

(b) If the Secretary of Agriculture, Food and Markets determines that the use or application of neonicotinoid pesticides is not safe and is harmful to human health or the health of bees and other pollinators, the Secretary shall, under the authority of section 1103 of this title, prohibit the sale, use, or application of neonicotinoid pesticides in the State. A prohibition under this section may apply to a type or types of neonicotinoid pesticides or to neonicotinoid pesticides as a class.

* * * Effective Dates * * *

Sec. 18. EFFECTIVE DATES

This section and Secs. 12 (AAFM emergency authority), 13 (captive deer testing), 14 (corrective actions; agricultural water quality), and 17 (neonicotinoid pesticides) shall take effect on passage. All other sections shall take effect on July 1, 2014.

Thereupon, pending the question, Shall the Senate propose to the House to amend the bill as proposed by the Committee on Agriculture, as amended?, Senator Galbraith moved to amend his proposal of amendment by striking out Sec. 17 in its entirety and inserting in lieu thereof a new Sec. 17 to read as follows:

Sec. 17. NEONICOTINOID PESTICIDES; SAFETY AND USE

The Secretary of Agriculture Food, and Markets shall evaluate whether the use or application of the pesticides imidacloprid, clothianiden, thiamethoxam, donotafuran, or any other member of the nitro group of neonicotinoid pesticides is safe and not harmful to human health or the health of bees and other pollinators in the State.

Which was agreed to.

Thereupon, the question, Shall the proposal of amended of the Committee Agriculture be amended as recommended by Senator Galbraith and Hartwell?, was agreed to.

Thereupon, the pending question, Shall the Senate propose to the House to amend the bill as recommended by the Committee on Agriculture, as amended?, was decided in the affirmative.

Thereupon, third reading of the bill was ordered, on a roll call, Yeas 29. Nays 0.

Senator Collins 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, Campbell, Collins, Cummings, Doyle, Flory, French, Galbraith, Hartwell, Kitchel, Lyons, MacDonald, Mazza, McAllister, McCormack, Mullin, Nitka, Pollina, Rodgers, Sears, Sirotkin, Snelling, Starr, Westman, White.

Those Senators who voted in the negative were: None.

The Senator absent and not voting was: Zuckerman.

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:

H. 695, H. 870, H. 892, H. 893, H, 894.

Message from the House No. 79

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

Mr. President:

I am directed to inform the Senate that:

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

S. 237. An act relating to civil forfeiture proceedings in cases of animal cruelty.

And has passed the same in concurrence with proposal 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. 220. An act relating to furthering economic development.

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

Rep. Botzow of Pownal
Rep. Marcotte of Coventry
Rep. Kitzmiller of Montpelier.

The House has considered the report of the Committee of Conference upon the disagreeing votes of the two Houses on Senate bill of the following title:

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

And has adopted the same on its part.

Adjournment

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

Afternoon

The Senate was called to order by the President.

Committees of Conference Appointed

H. 501.

An act relating to operating a motor vehicle under the influence of alcohol or drugs.

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

Senator Nitka
Senator Sears
Senator Benning

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

H. 790.

An act relating to Reach Up eligibility.

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

Senator Ayer
Senator Nitka
Senator Lyons

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

Rules Suspended; Bill Passed in Concurrence with Proposals of Amendment

H. 869.

Pending entry on the Calendar for action tomorrow, on motion of Senator Baruth, the rules were suspended and House bill entitled:

An act relating to miscellaneous agricultural subjects.

Was placed on all remaining stages of its passage in concurrence with proposals of amendment forthwith.

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

Rules Suspended; Report of Committee of Conference Accepted and Adopted on the Part of the Senate

S. 314.

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

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

Was taken up for immediate consideration.

Senator Flory, for the Committee of Conference, submitted the following report:

To the Senate and House of Representatives:

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

S. 314. An act relating to miscellaneous amendments to laws related to motor vehicles.

Respectfully reports that it has met and considered the same and recommends that the Senate accede to the House proposal of amendment, with the following amendments thereto:

First: By striking out Sec. 11 in its entirety and inserting in lieu thereof a new Sec. 11 to read as follows:

Sec. 11. 23 V.S.A. § 704 is amended to read:

§ 704. QUALIFICATIONS FOR TRAINING SCHOOL LICENSE

~~Each applicant in order to~~ To qualify for a driver's training school license, each new and renewal applicant shall ~~meet the following requirements~~:

* * *

(3) ~~provide evidence that he or she maintains~~ maintain bodily injury and property damage liability insurance on each motor vehicle being used in driver training, insuring the liability of the driver training school and the operator of each motor vehicle for each instructor and of any person while using any such motor vehicle with the permission of the named insured in at least the following amount: $300,000.00 for bodily injury or death of one person in any one accident and, subject to said limit for one person, $500,000.00 for bodily injury or death of two or more persons in any one accident, and $100,000.00 for damage to property of others in any one accident~~. Evidence of such insurance coverage shall be in the form of a certificate from an insurance company authorized to do business in this state filed with the commissioner setting forth the amount of coverage and providing that the policy of insurance shall be noncancelable except after 15 days' written notice to the commissioner~~;

* * *

Second: In Sec. 40, 23 V.S.A. § 1095b, in subdivision (c)(3), by striking out the following: "for a first conviction, and shall have two points assessed for a second or subsequent conviction within a two-year period"

Third: In Sec. 41, 23 V.S.A. § 2502, by striking out subdivision (a)(1)(LL)(iii) in its entirety.

Fourth: By inserting a new section to be Sec. 42a to read as follows:

Sec. 42a. PUBLIC EDUCATION CAMPAIGN

(a) To inform highway users of the requirements of Sec. 40 of this act (prohibition on handheld use of portable electronic devices while driving) and the October 1, 2014 effective date of Sec. 40, the Agency shall conduct a public education campaign to commence no later than August 1, 2014.

(b) At a minimum, the Agency shall:

(1) notify media outlets throughout the State of the prohibition and its effective date;

(2) update its website and the website of the Department of Motor Vehicles to provide notice of the prohibition and its effective date; and

(3) install signs and variable message boards at locations within highway rights-of-way designated by the Agency which inform highway users of the prohibition and its effective date. Such signs and boards shall conform to the Manual on Uniform Traffic Control Devices and any other applicable federal law.

Fifth: In Sec. 43 (effective dates), by striking out subsections (b) and (c) in their entirety and inserting in lieu thereof the following:

(b) Secs. 39–42 (use of portable electronic device while driving) shall take effect on October 1, 2014.

(c) All other sections shall take effect on July 1, 2014.

RICHARD T. MAZZA
MARGARET K FLORY

Committee on the part of the Senate

DAVID E. POTTER
PATRICK M. BRENNAN
MAXINE JO GRAD

Committee on the part of the House

Thereupon, the question, Shall the Senate accept and adopt the report of the Committee of Conference?, was decided in the affirmative on a roll call, Yeas 25, Nays 4.

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: Ashe, Ayer, Baruth, Benning, Campbell, Collins, Cummings, Doyle, Flory, French, Hartwell, Kitchel, Lyons, MacDonald, Mazza, McAllister, McCormack, Nitka, Pollina, Sirotkin, Snelling, Starr, Westman, White, Zuckerman.

Those Senators who voted in the negative were: *Galbraith, Mullin, Rodgers, Sears.

The Senator absent and not voting was: Bray.

*Senator Galbraith explained his vote as follows:

"Until my constituents have cell phone coverage I will not vote to ban their use."

Rules Suspended; House Proposal of Amendment Concurred In

S. 263.

Appearing on the Calendar for notice, on motion of Senator Baruth, the rules were suspended and House proposal of amendment to Senate bill entitled:

An act relating to the authority of assistant judges in child support contempt proceedings.

Was taken up for immediate consideration.

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. 4 V.S.A. § 36 is amended to read:

§ 36. COMPOSITION OF THE COURT

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

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

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

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

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

(ii) ~~All~~ all guardianship services proceeding for persons proceedings filed pursuant to 18 V.S.A. chapter 215 ~~of Title 18.~~;

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

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

(v) ~~All~~ all care for persons with developmental disabilities proceedings filed pursuant to 18 V.S.A. chapter 206 ~~of Title 18.~~; and

(vi) ~~All~~ all proceedings specifically within the jurisdiction of the office of magistrate except child support contempt proceedings held pursuant to a magistrate's jurisdiction under subdivision 461(a)(1) of this title~~.~~;

(C) Use of the term "judicial officer" in subdivisions (A) and (B) of this subsection shall not be construed to expand a judicial officer's subject matter jurisdiction or conflict with the authority of the Chief Justice or Administrative Judge to make special assignments pursuant to section 22 of this title.

* * *

Sec. 2. 3 V.S.A. § 221 is added to read:

§ 221. HEARING OFFICERS; RULES

(a) The Secretary of Administration shall adopt a rule to establish guidelines and oversight for hearing officers in the Executive Branch. As used in this section, "hearing officer" means a person employed by the State of Vermont whose exclusive duty is to resolve contested cases when a decision of an Executive Branch agency is challenged.

(b) The rule adopted pursuant to this subsection shall include provisions addressing the following topics:

(1) The rule shall include ethical standards for hearing officers. The ethical standards:

(A) may be based on the Model Code of Judicial Conduct for State Administrative Law Judges developed by the National Association of Administrative Law Judiciary;

(B) shall be made readily accessible to the public and to parties in administrative proceedings; and

(C) shall include provisions related to bias, impartiality and the appearance of impartiality, conflicts of interest, recusal and disqualification, confidentiality, and ex parte communications.

(2) The rule shall require the agency or department that employs the hearing officer to designate procedures for the receipt, consideration, and determination of complaints about the conduct of hearing officers. The procedures shall be provided to all parties in the matter.

(3) The rule shall ensure that all parties in proceedings presided over by a hearing officer are provided with a copy of the rules of procedure that apply to the proceedings. The rules shall prominently and specifically describe any appeal rights a party has and the procedure for filing an appeal.

Sec. 3. HEARING OFFICERS; REPORT

(a) On or before December 15, 2014, the Commissioner of Human Resources shall report to the House and Senate Committees on Judiciary and on Government Operations on the current and potential use and oversight of hearing officers in Vermont State government. The report shall:

(1) identify all State employees and contractors who function in whole or in part as hearing officers;

(2) analyze the feasibility and costs of expanding the rule adopted pursuant to 3 V.S.A. § 221 to all State employees and contractors who function in whole or in part as hearing officers; and

(3) analyze the feasibility and costs of providing education and training to:

(A) hearing officers covered by the rule adopted pursuant to 3 V.S.A. § 221; and

(B) all State employees and contractors who function in whole or in part as hearing officers.

(b) As used in this section:

(1) "Education and training" shall include content related to:

(A) the importance to the proceedings of fairness, impartiality, and the appearance of impartiality;

(B) the rules of evidence;

(C) legal writing, reasoning, and decision making;

(D) the ethical standards established pursuant to 3 V.S.A. § 221(b)(1);

(E) confidentiality; and

(F) the participation of pro se parties.

(2) "Hearing officer" means a person employed or contracted on a full-time or part-time basis by the State of Vermont whose duties include resolving contested cases when a decision of an Executive Branch agency is challenged.

Sec. 4. 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.

Rules Suspended; House Proposal of Amendment Concurred in With an Amendment

H. 413.

Appearing on the Calendar for notice, on motion of Senator Baruth, the rules were suspended and House proposal of amendment to Senate bill entitled:

An act relating to the Uniform Collateral Consequences of Conviction Act.

Was taken up for immediate consideration.

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

By striking out the following: "July 1, 2015" and inserting in lieu thereof the following: January 1, 2016

Thereupon, pending the question, Shall the Senate concur in the House proposal of amendment?, Senator Sears moved that the Senate concur in the House proposal of amendment with an amendment, as follows;

First: In Sec 4, 13 V.S.A. § 8004(a)(1)(B), by striking out the following: "November 1, 2014" and inserting in lieu thereof the following: January 1, 2016

Second: In Sec 4, 13 V.S.A. § 8004(a) (1)(C), by striking out the following "July 1" and inserting in lieu thereof the following: January 1

Which was agreed to.

Rules Suspended; House Proposal of Amendment to Senate Proposal of Amendment Concurred In

H. 578.

Appearing on the Calendar for notice, on motion of Senator Baruth, the rules were suspended and House proposal of amendment to Senate proposal of amendment to House bill entitled:

An act relating to administering State funds for loans to individuals for replacement of failed wastewater systems and potable water supplies.

Was taken up for immediate consideration.

The House concurs in the Senate proposal of amendment with the following amendment thereto:

In Sec. 1, 24 V.S.A. § 4753, in subsection (b), by striking out the second sentence in its entirety and inserting in lieu thereof a new second sentence to read:

These funds shall be administered by the Bond Bank on behalf of the State, except that: the ~~fund~~ Fund shall be administered by VEDA concerning loans to privately owned water systems under subdivision (a)(3) of this section; and the Fund may be administered by a community development financial institution, as that term is defined in 12 U.S.C. § 4702, that is contracted with by the State for the purpose of providing loans to individuals for failed wastewater systems and potable water supplies under subdivision (a)(10) of this section.

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

Rules Suspended; House Proposal of Amendment to Senate Proposal of Amendment Concurred In

H. 646.

Appearing on the Calendar for notice, on motion of Senator Baruth, the rules were suspended and House proposal of amendment to Senate proposal of amendment to House bill entitled:

An act relating to unemployment insurance.

Was taken up for immediate consideration.

The House concurs in the Senate proposal of amendment with the following amendment thereto:

By striking out Sec. 10 in its entirety and inserting in lieu thereof a new Sec. 10 to read as follows:

Sec. 10. 21 V.S.A. § 1344 is amended to read:

§ 1344. DISQUALIFICATIONS

(a) An individual shall be disqualified for benefits:

* * *

(2) For any week benefits are claimed, except as provided in subdivision (a)(3) of this section, until he or she has presented evidence to the satisfaction of the Commissioner that he or she has performed services in employment for a bona fide employer and has had earnings in excess of six times his or her weekly benefit amount if the Commissioner finds that such individual is unemployed because:

(A) He or she has left the employ of his or her last employing unit voluntarily without good cause attributable to such employing unit. An individual shall not suffer more than one disqualification by reason of such

separation. However, an individual shall not be disqualified for benefits if the individual left such employment to accompany a spouse who:

(i) is on active duty with the U.S. Armed Forces and is required to relocate due to permanent change of station orders, activation orders, or unit deployment orders, and when such relocation would make it impractical or impossible, as determined by the Commissioner, for the individual to continue working for such employment unit; or

(ii) holds a commission in the foreign service of the United States and is assigned overseas, and when such relocation would make it impractical or impossible, as determined by the Commissioner, for the individual to continue working for such employment unit.

* * *

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

Rules Suspended; Proposal of Amendment

H. 596.

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

An act relating to the conversion of assets of a nonprofit hospital.

Was taken up for immediate consideration.

Senator Ashe, for the Committee on Finance, to which the bill was referred, reported recommending that the Senate propose to the House to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

* * * Principles * * *

Sec. 1. PRINCIPLES FOR HEALTH CARE FINANCING

The General Assembly adopts the following principles to guide the financing of health care in Vermont:

(1) All Vermont residents have the right to high-quality health care.

(2) Vermont residents shall finance Green Mountain Care through taxes that are levied equitably, taking into account an individual's ability to pay and the value of the health benefits provided.

(3) As provided in 33 V.S.A. § 1827, Green Mountain Care shall be the payer of last resort for Vermont residents who continue to receive health care

through plans provided by an employer, by another state, by a foreign government, or as a retirement benefit.

(4) Vermont's system for financing health care shall raise revenue sufficient to provide medically necessary health care services to all enrolled Vermont residents, including maternity and newborn care, pediatric care, vision and dental care for children, surgery and hospital care, emergency care, outpatient care, treatment for mental health conditions, and prescription drugs.

* * * Vermont Health Benefit Exchange * * *

Sec. 2. 33 V.S.A. § 1803 is amended to read:

§ 1803. VERMONT HEALTH BENEFIT EXCHANGE

* * *

(b)(1)(A) The Vermont Health Benefit Exchange shall provide qualified individuals and qualified employers with qualified health benefit plans, including the multistate plans required by the Affordable Care Act, with effective dates beginning on or before January 1, 2014. The Vermont Health Benefit Exchange may contract with qualified entities or enter into intergovernmental agreements to facilitate the functions provided by the Vermont Health Benefit Exchange.

* * *

(4) To the extent permitted by the U.S. Department of Health and Human Services, the Vermont Health Benefit Exchange shall permit qualified employers to purchase qualified health benefit plans through the Exchange website, through navigators, by telephone, or directly from a health insurer under contract with the Vermont Health Benefit Exchange.

* * *

Sec. 3. 33 V.S.A. § 1811(b) is amended to read:

(b)(1) No person may provide a health benefit plan to an individual ~~or small employer~~ unless the plan is offered through the Vermont Health Benefit Exchange ~~and complies with the provisions of this subchapter~~.

(2) To the extent permitted by the U.S. Department of Health and Human Services, a small employer or an employee of a small employer may purchase a health benefit plan through the Exchange website, through navigators, by telephone, or directly from a health insurer under contract with the Vermont Health Benefit Exchange.

(3) No person may provide a health benefit plan to an individual or small employer unless the plan complies with the provisions of this subchapter.

Sec. 4. PURCHASE OF SMALL GROUP PLANS DIRECTLY FROM CARRIERS

To the extent permitted by the U.S. Department of Health and Human Services and notwithstanding any provision of State law to the contrary, the Department of Vermont Health Access shall permit employers purchasing qualified health benefit plans on the Vermont Health Benefit Exchange to purchase the plans through the Exchange website, through navigators, by telephone, or directly from a health insurer under contract with the Vermont Health Benefit Exchange.

* * * Health Insurance Rate Review * * *

Sec. 5. 8 V.S.A. § 4062(h) is amended to read:

(h)(1) ~~This~~ The authority of the Board under this section shall apply only to the rate review process for policies for major medical insurance coverage and shall not apply to the policy forms for major medical insurance coverage or to the rate and policy form review process for policies for specific disease, accident, injury, hospital indemnity, dental care, vision care, disability income, long-term care, student health insurance coverage, or other limited benefit coverage~~; to Medicare supplemental insurance;~~, or to benefit plans that are paid directly to an individual insured or to his or her assigns and for which the amount of the benefit is not based on potential medical costs or actual costs incurred.

(2) The policy forms for major medical insurance coverage, as well as the policy forms, premium rates, and rules for the classification of risk for the other lines of insurance described in subdivision (1) of this subsection shall be reviewed and approved or disapproved by the Commissioner. In making his or her determination, the Commissioner shall consider whether a policy form, premium rate, or rule is affordable and is not unjust, unfair, inequitable, misleading, or contrary to the laws of this State. The Commissioner shall make his or her determination within 30 days after the date the insurer filed the policy form, premium rate, or rule with the Department. At the expiration of the 30-day period, the form, premium rate, or rule shall be deemed approved unless prior to then it has been affirmatively approved or disapproved by the Commissioner or found to be incomplete. The Commissioner shall notify an insurer in writing if the insurer files any form, premium rate, or rule containing a provision that does not meet the standards expressed in this subsection. In such notice, the Commissioner shall state that a hearing will be granted within 20 days upon the insurer's written request.

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

* * * Green Mountain Care * * *

Sec. 6. 33 V.S.A. § 1827 is amended to read:

§ 1827. ADMINISTRATION; ENROLLMENT

* * *

(e) [Repealed.]

(f) Green Mountain Care shall be the ~~secondary~~ payer of last resort with respect to any health service that may be covered in whole or in part by any other health benefit plan, including Medicare, private health insurance, retiree health benefits, or federal health benefit plans offered by ~~the Veterans' Administration, by~~ the military~~,~~ or to federal employees.

* * *

Sec. 7. CONTRACT FOR ADMINISTRATION OF CERTAIN ELEMENTS OF GREEN MOUNTAIN CARE; REPORT

On or before January 15, 2015, the Secretary of Human Services shall report to the General Assembly the elements of Green Mountain Care, such as claims administration and provider relations, for which the Agency plans to solicit bids for administration pursuant to 33 V.S.A. § 1827(a), as well as the dates by which the Agency will solicit bids for administration of those elements and by which it will award the contracts.

Sec. 8. CONCEPTUAL WAIVER APPLICATION

On or before November 15, 2014, the Secretary of Administration or designee shall submit to the federal Center for Consumer Information and Insurance Oversight a conceptual waiver application expressing the intent of the State of Vermont to pursue a Waiver for State Innovation pursuant to Sec. 1332 of the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152, and the State's interest in commencing the application process.

* * * Green Mountain Care Board * * *

Sec. 9. 2000 Acts and Resolves No. 152, Sec. 117b, as amended by 2013 Acts and Resolves No. 79, Sec, 42, is further amended to read:

Sec. 117b. MEDICAID COST SHIFT REPORTING

* * *

(b) Notwithstanding 2 V.S.A. § 20(d), annually on or before ~~December~~ January 15, the ~~chair~~ Chair of the Green Mountain Care Board, the Commissioner of Vermont Health Access, and each acute care hospital shall file with the Joint Fiscal Committee, the House Committee on Health Care, and the Senate Committee on Health and Welfare, in the manner required by the Joint Fiscal Committee, such information as is necessary to carry out the purposes of this section. Such information shall pertain to the provider delivery system to the extent it is available. The Green Mountain Care Board may satisfy its obligations under this section by including the information required by this section in the annual report required by 18 V.S.A. § 9375(d).

* * *

Sec. 10. 2013 Acts and Resolves No. 79, Sec. 5b is amended to read:

Sec. 5b. STANDARDIZED HEALTH INSURANCE CLAIMS AND EDITS

(a)(1) As part of moving away from fee-for-service and toward other models of payment for health care services in Vermont, the Green Mountain Care Board, in consultation with the Department of Vermont Health Access, health care providers, health insurers, and other interested stakeholders, shall develop a complete set of standardized edits and payment rules based on Medicare or on another set of standardized edits and payment rules appropriate for use in Vermont. The Board and the Department shall adopt by rule the standards and payment rules that health care providers, health insurers, and other payers shall use beginning on January 1, ~~2015~~ 2016 and that Medicaid shall use beginning on January 1, 2017.

* * *

* * * Non-Emergency Walk-In Centers * * *

Sec. 11. 18 V.S.A. § 9492 is added to read:

§ 9492. NON-EMERGENCY WALK-IN CENTERS; NONDISCRIMINATION

(a) A non-emergency walk-in center shall accept patients of all ages for diagnosis and treatment of illness, injury, and disease during all hours that the center is open to see patients. A non-emergency walk-in center shall not discriminate against any patient or prospective patient on the basis of insurance status or type of health coverage.

(b) As used in this section, "non-emergency walk-in center" means an outpatient or ambulatory diagnostic or treatment center at which a patient

without making an appointment may receive medical care that is not of an emergency, life threatening nature. The term includes facilities that are self-described as urgent care centers, retail health clinics, and convenient care clinics.

* * * Pharmacy Benefit Managers * * *

Sec. 12. 18 V.S.A. § 9472 is amended to read:

§ 9472. PHARMACY BENEFIT MANAGERS; REQUIRED PRACTICES WITH RESPECT TO HEALTH INSURERS

(c) ~~Unless the contract provides otherwise, a~~ A pharmacy benefit manager that provides pharmacy benefit management for a health plan shall:

* * *

(4) ~~If~~ Unless the contract provides otherwise, if the pharmacy benefit manager derives any payment or benefit for the dispensation of prescription drugs within the ~~state~~ State based on volume of sales for certain prescription drugs or classes or brands of drugs within the ~~state~~ State, pass that payment or benefit on in full to the health insurer.

* * *

(d) At least annually, a pharmacy benefit manager that provides pharmacy benefit management for a health plan shall disclose to the health insurer, the Department of Financial Regulation, and the Green Mountain Care Board the aggregate amount the pharmacy benefit manager retained on all claims charged to the health insurer for prescriptions filled during the preceding calendar year in excess of the amount the pharmacy benefit manager reimbursed pharmacies.

(e) Compliance with the requirements of this section is required for pharmacy benefit managers entering into contracts with a health insurer in this ~~state~~ State for pharmacy benefit management in this ~~state~~ State.

Sec. 13. 18 V.S.A. § 9473 is redesignated to read:

§ ~~9473~~ 9474. ENFORCEMENT

Sec. 14. 18 V.S.A. § 9473 is added to read:

§ 9473. PHARMACY BENEFIT MANAGERS; REQUIRED PRACTICES WITH RESPECT TO PHARMACIES

(a) Within 14 calendar days following receipt of a pharmacy claim, a pharmacy benefit manager or other entity paying pharmacy claims shall do one of the following:

(1) Pay or reimburse the claim.

(2) Notify the pharmacy in writing that the claim is contested or denied. The notice shall include specific reasons supporting the contest or denial and a description of any additional information required for the pharmacy benefit manager or other payer to determine liability for the claim.

(b) A pharmacy benefit manager or other entity paying pharmacy claims shall not:

(1) impose a higher co-payment for a prescription drug than the co-payment applicable to the type of drug purchased under the insured's health plan;

(2) impose a higher co-payment for a prescription drug than the maximum allowable cost for the drug; or

(3) require a pharmacy to pass through any portion of the insured's co-payment to the pharmacy benefit manager or other payer.

Sec. 15. 9 V.S.A. § 2466a is amended to read:

§ 2466a. CONSUMER PROTECTIONS; PRESCRIPTION DRUGS

(a) A violation of 18 V.S.A. § 4631 shall be considered a prohibited practice under section 2453 of this title.

(b) As provided in 18 V.S.A. § ~~9473~~ 9474, a violation of 18 V.S.A. § 9472 or 9473 shall be considered a prohibited practice under section 2453 of this title.

* * *

* * * Adverse Childhood Experiences * * *

Sec. 16. ADVERSE CHILDHOOD EXPERIENCES; REPORT

On or before January 15, 2015, the Director of the Blueprint for Health and the Chair of the Green Mountain Care Board or their designees shall review evidence-based materials on the relationship between adverse childhood experiences (ACEs) and population health and recommend to the General Assembly whether, how, and at what expense ACE-informed medical practice should be integrated into Blueprint practices and community health teams. The Director and the Chair or their designees shall also develop a methodology by which the Blueprint will evaluate emerging health care delivery quality initiatives to determine whether, how, and to what extent they should be integrated into the Blueprint for Health.

* * * Reports * * *

Sec. 17. CHRONIC CARE MANAGEMENT; BLUEPRINT; REPORT

On or before October 1, 2014, the Secretary of Administration or designee shall recommend to the House Committees on Health Care and on Human Services and the Senate Committees on Health and Welfare and on Finance whether and to what extent to increase payments to health care providers and community health teams for their participation in the Blueprint for Health and whether to expand the Blueprint to include additional services or chronic conditions such as obesity, mental conditions, and oral health.

Sec. 18. HEALTH INSURER SURPLUS; LEGAL CONSIDERATIONS; REPORT

The Department of Financial Regulation, in consultation with the Office of the Attorney General, shall identify the legal and financial considerations involved in the event that a private health insurer offering major medical insurance plans, whether for-profit or nonprofit, ceases doing business in this State, including appropriate disposition of the insurer's surplus funds. On or before July 15, 2014, the Department shall report its findings to the House Committees on Health Care, on Commerce, and on Ways and Means and the Senate Committees on Health and Welfare and on Finance.

Sec. 19. INDEPENDENT PHYSICIAN PRACTICES; REPORT

On or before December 1, 2014, the Secretary of Administration or designee shall recommend to the House Committee on Health Care and the Senate Committees on Health and Welfare and on Finance whether the State should prohibit health insurers from reimbursing physicians in independent practices at lower rates than those at which they reimburse physicians in hospital-owned practices for providing the same services.

Sec. 20. INCREASING MEDICAID RATES; REPORT

On or before January 15, 2015, the Secretary of Administration or designee, in consultation with the Green Mountain Care Board, shall report to the House Committees on Health Care and on Ways and Means and the Senate Committees on Health and Welfare and on Finance regarding the impact of increasing Medicaid reimbursement rates to providers to match Medicare rates. The issues to be addressed in the report shall include:

(1) the amount of State funds needed to effect the increase;

(2) the projected impact of the increase on health insurance premiums; and

(3) to the extent that premium reductions would likely result in a decrease in the aggregate amount of federal premium tax credits for which Vermont residents would be eligible, whether there are specific timing considerations for the increase as it relates to Vermont's application for a Waiver for State Innovation pursuant to Section 1332 of the Patient Protection and Affordable Care Act.

Sec. 21. HEALTH INFORMATION TECHNOLOGY AND INTELLECTUAL PROPERTY; REPORT

On or before October 1, 2014, the Office of the Attorney General, in consultation with the Vermont Information Technology Leaders, shall report to the House Committees on Health Care, on Commerce and Economic Development, and on Ways and Means and the Senate Committees on Health and Welfare, on Economic Development, Housing and General Affairs, and on Finance regarding the need for intellectual property protection with respect to Vermont's Health Information Exchange and other health information technology initiatives, including the potential for receiving patent, copyright, or trademark protection for health information technology functions, the estimated costs of obtaining intellectual property protection, and projected revenues to the State from protecting intellectual property assets or licensing protected interests to third parties.

* * * Health Care Workforce Symposium * * *

Sec. 22. HEALTH CARE WORKFORCE SYMPOSIUM

On or before January 15, 2015, the Secretary of Administration or designee, in collaboration with the Vermont Medical Society, the Vermont Association of Hospitals and Health Systems, and the Vermont Assembly of Home Health and Hospice Agencies, shall organize and conduct a symposium to address the impacts of moving toward universal health care coverage on Vermont's health care workforce and on its projected workforce needs.

* * * Global Hospital Budgets * * *

Sec. 23. GREEN MOUNTAIN CARE BOARD; GLOBAL HOSPITAL PILOT PROJECTS

(a) The Green Mountain Care Board may develop and implement global budgeting pilot projects involving multiple payers at up to two hospitals in this State. The Board shall ensure that a hospital's existing or pending contracts with accountable care organizations and any shared savings or other financial arrangements related to such contracts are accurately accounted for when establishing global hospital budgets pursuant to this section.

(b) The Green Mountain Care Board may take such steps as are necessary to include all payers in the global hospital budget pilot projects, including negotiating with the federal Center for Medicare & Medicaid Innovation to involve Medicare and Medicaid.

(c) In the event that at least one pilot project authorized under this section is being developed or implemented on or before January 15, 2015, on that date and quarterly thereafter through January 2017, the Green Mountain Care Board shall provide updates to the House Committee on Health Care, the Senate Committees on Health and Welfare and on Finance, and the Health Care Oversight Committee regarding the development and implementation of the global hospital budget pilot projects authorized by this section, including any effect on hospital budget growth, any impact on care delivery and patient outcomes, and recommendations about whether to continue global hospital budgets at the participating hospital or hospitals and whether to implement global hospital budgets for other Vermont hospitals.

* * * Repeal * * *

Sec. 24. REPEAL

3 V.S.A. § 635a (legislators and session-only legislative employees eligible to purchase State Employees Health Benefit Plan at full cost) is repealed.

* * * Effective Dates * * *

Sec. 25. EFFECTIVE DATES

This act shall take effect on passage, except that:

(1) notwithstanding 1 V.S.A. § 214, Sec. 24 (repeal of legislator eligibility to purchase State Employees Health Benefit Plan) shall take effect on passage and shall apply retroactively to January 1, 2014, except that members and session-only employees of the General Assembly who were enrolled in the State Employees Health Benefit Plan on January 1, 2014 may continue to receive coverage under the plan through the remainder of the 2014 plan year; and

(2) Sec. 14 (18 V.S.A. § 9473; pharmacy benefit managers) shall take effect on July 1, 2014 and shall apply to contracts entered into or renewed on or after that date.

And that after passage the title of the bill be amended to read:

An act relating to miscellaneous amendments to health care laws.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and the proposal of amendment of the Committee on Finance was agreed to.

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. 184, S. 263, S. 314, H. 413, H. 501, H. 578, H. 646, H. 790, H. 869.

Adjournment

On motion of Senator Baruth, the Senate adjourned until seven o'clock and in the evening.

Evening

The Senate was called to order by the President.

Rules Suspended; Proposal of Amendment; Bill Passed in Concurrence with Proposal of Amendment; Bill Messaged

H. 596.

Pending entry on the Calendar for action, on motion of Senator Baruth, the rules were suspended and Senate bill entitled:

An act relating to the conversion of assets of a nonprofit hospital.

Was taken up for immediate consideration.

Thereupon, pending the question, Shall the bill be read a time?, Senator Benning moved to amend the Senate proposal of amendment in Sec. 1, principles for health care financing, by striking out subdivision (2) in its entirety and inserting in lieu thereof a new subdivision (2) to read as follows:

(2) To the extent that Green Mountain Care is financed through taxes including mandatory premiums, the taxes shall be levied equitably, taking into account an individual's ability to pay and the value of the health benefits provided.

Which was agreed.

Thereupon, the bill was read the third time and passed in concurrence with proposal of amendment on a division of the Senate Yeas 18, Nays 5.

Thereupon, on motion of Senator Baruth, the rules were suspended, and the bill was ordered messaged to the House forthwith.

Rules Suspended; Proposal of Amendment; Third Reading Ordered

H. 876.

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

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

Was taken up for immediate consideration on a division of the Senate Yeas 21, Nays 5.

Senator McCormack, for the Committee on Education, to which the bill was referred, reported that it has considered the same and recommended that the Senate propose to the House to amend the bill as follows:

First: In Sec. 8, 16 V.S.A. § 176, in subdivision (d)(1) and in Sec. 9, 16 V.S.A. § 176a, in subdivision (e)(1), by striking out the word "Programs" and inserting in lieu thereof the following: Nondegree-granting and non-credit granting programs

Second: By striking out Sec. 10 (16 V.S.A. § 1075; residency) in its entirety and inserting in lieu thereof a new section to be Sec. 10 to read as follows:

Sec. 10. [Deleted.]

Third: In Sec. 19, 16 V.S.A. § 1542(a), in subdivision (5), after the word "~~employees~~" by inserting the words employees and of

Fourth: In Sec. 23, in 16 V.S.A. § 1551, by striking out subsection (b) in its entirety and inserting in lieu thereof the following: * * *

Fifth: By striking out Sec. 29 (16 V.S.A. § 2282(b); tuition) in its entirety and inserting in lieu thereof a new Sec. 29 to read:

Sec. 29. 16 V.S.A. § 2282(b) is amended to read:

(b) ~~Except for those attending the college of medicine, the amount of tuition for eligible Vermont residents for attendance during each academic year shall be not more than 40 percent of the tuition charged to nonresident students. Tuition for eligible Vermont residents for shorter terms shall be no more per credit hour than that charged eligible Vermont residents during the academic year~~ A Vermont resident who is enrolled in the University as a full-time undergraduate student shall not pay tuition in an amount that exceeds 40 percent of the tuition charged to a nonresident student.

Sixth: In Sec. 30, 16 V.S.A. § 2902, subsection (a), by striking out the final sentence and inserting in lieu thereof a new final sentence to read: The tiered system of supports shall, at a minimum, include an educational support team, instructional and behavioral interventions, and accommodations that are available as needed for any student who requires support beyond what can be provided in the general education classroom.

Seventh: By striking out Sec. 34 (expanded learning opportunities; study) in its entirety and inserting in lieu thereof a new Sec. 34 to read:

Sec. 34. WORKING GROUP ON EQUITY AND ACCESS IN EXPANDED LEARNING TIME; REPORT

(a) Creation. The Prekindergarten-16 Council shall create a working group from among its membership to review and evaluate issues of equity in and access to Vermont's expanded learning programs, including afterschool and summer programs. The Working Group shall obtain testimony from existing providers of extended learning programs, including the Governor's Institutes of Vermont and the Vermont Youth Conservation Corps. In particular, the Working Group shall identify:

(1) ways to increase connections between schools and afterschool and summer learning programs;

(2) ways to coordinate school-run programs and programs sponsored by community-based and statewide organizations;

(3) areas of the State with limited or inequitable access to expanded learning programs, models successfully serving populations in those areas, and barriers to operating programs in those areas;

(4) the key elements of afterschool and summer learning programs that should be encouraged by State policy decisions in order to:

(A) ensure that programs are of the highest quality;

(B) contribute to more effective school-year approaches to educating underserved learners in Vermont and provide program content that reflects Vermont's educational and workforce development priorities;

(C) determine how a more comprehensive statewide strategy to promote high-quality afterschool and summer learning programs could be implemented over time;

(D) consider how changes to the school calendar may affect time available for learning; and

(E) identify how best to coordinate and augment existing funding streams for afterschool and summer learning programs and ensure that programs are cost-effective, effective in reaching and producing outcomes for targeted populations, and nonduplicative.

(b) Report. On or before December 31, 2014, the Working Group shall report to the House and Senate Committees on Education with its findings and any recommendations for legislative action.

Eighth: By striking out Sec. 36 (16 V.S.A. § 323; audits) in its entirety and inserting in lieu thereof a new Sec. 36 to read:

Sec. 36. [Deleted.]

Ninth: By Striking out Sec. 37 (effective date) in its entirety and inserting in lieu thereof 29 new sections to be Secs. 37 through 65 and related reader assistance headings to read:

* * * Dual Enrollment Program; Privately Funded Students in Approved Independent Schools * * *

Sec. 37. 16 V.S.A. § 944 is amended to read:

§ 944. DUAL ENROLLMENT PROGRAM

* * *

(b) Students.

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

(A) the student:

(i) is enrolled in:

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

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

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

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

(iii) is a home study student;

* * *

(f) Tuition and funding.

* * *

(4) Notwithstanding any other provision of this subsection (f), a district of residence shall not be responsible for payments under this subsection on behalf of a student enrolled in an approved independent school for whom tuition is privately paid; rather, if the approved independent school chooses to

participate in the Dual Enrollment Program on behalf its privately tuitioned students, then the independent school shall pay the school district's portion of a student's dual enrollment tuition as calculated under this subsection.

* * *

* * * Technology; Innovation in Education Task Force * * *

Sec. 38. VERMONT INNOVATION IN EDUCATION TASK FORCE; REPORT

(a) There is created a Vermont Innovation in Education Task Force to examine barriers to the effective use of technology in Vermont's schools and to support access to that technology through, among other things, the dissemination of best practices and the potential creation of a grant program.

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

(1) an individual employed as a director of technology in a Vermont public school appointed by the Secretary of Education;

(2) two at-large members appointed by the Secretary;

(3) an individual employed as a teacher in a Vermont public school appointed by the Vermont-NEA;

(4) an individual employed as a principal in a Vermont public school appointed by the Vermont Principals' Association;

(5) an individual employed as a superintendent in a Vermont public school appointed by the Vermont Superintendents Association; and

(6) an individual employed as a library media specialist in a Vermont public school appointed by the Vermont School Library Association.

(c) The Task Force shall:

(1) examine barriers to the effective use of technology in Vermont's schools and solutions to overcome them, including:

(A) methods to ensure that both current teachers and students enrolled in teacher preparation programs are able to use technology effectively;

(B) strategies to create and procure engaging and cost-effective digital content to inspire Vermont students;

(C) strategies to ensure that all students benefit from access to technology, especially students who face learning challenges;

(D) methods to increase operating efficiencies and enhance learning opportunities, especially in rural areas, through the use of technology; and

(E) best practices to assist districts to prepare students to enter the workforce or pursue postsecondary education or training without the need for remediation; and

(2) consider elements necessary for the creation of a grant program to support the effective use of technology in Vermont's schools, including identification of potential funding sources and the criteria on which awards could be based.

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

(e) On or before October 1, 2014, the Task Force shall publish on the Agency of Education's website and submit to the Governor and the House and Senate Committees on Education a written report detailing:

(1) the results of its examination under subdivision (c)(1) of this section;

(2) the results of its considerations regarding creation of a grant program; and

(3) any recommendations for legislative action.

(f) The Secretary of Education shall call the first meeting of the Task Force to occur on or before June 1, 2014, at which meeting the members shall select their own chair.

(g) The Task Force shall cease to exist on July 1, 2015.

* * * Privatization of Public Schools * * *

Sec. 39. PRIVATIZATION OF PUBLIC SCHOOLS; MORATORIUM; REPEAL

(a) Privatization of public school. Notwithstanding the authority of a school district to cease operating an elementary or secondary school and to begin paying tuition on behalf of its resident students, a school district shall not cease operation of a school with the intention, for the purpose, or with the result of having the school building or buildings reopen as an approved independent school serving essentially the same population of students.

(b) State Board approval. The State Board of Education shall not approve an independent school under 16 V.S.A. § 166 if, on or after the effective date of this act, a school district votes to cease operating a school that at the time of the vote serves essentially the same population of students as the independent school proposes to serve and is located in the building or buildings in which the independent school proposes to operate.

(c) Publicly funded tuition. An approved independent school shall not be eligible to receive publicly funded tuition dollars if, on or after the effective

date of this act, a school district votes to cease operating a school that at the time of the vote serves essentially the same population of students as the independent school proposes to serve and is located in the building or buildings in which the independent school proposes to operate.

(d) Repeal. This section is repealed on July 1, 2016.

Sec. 40. SECRETARY OF EDUCATION; PRIVATIZATION STUDY; REPORT

(a) The Secretary of Education shall research:

(1) the constitutional and other legal consequences of a school district's decision to cease operating a school with the intention, for the purpose, or with the result of having the school building or buildings reopen as an approved independent school serving essentially the same population of students (privatization); and

(2) the constitutional and other legal consequences if the General Assembly chose to prohibit privatization of public schools.

(b) Among other issues, the Secretary shall examine the Vermont and U.S. Constitutions, federal civil rights law, and the Vermont Supreme Court's decision in Brigham v. State and shall consider issues of delegation of authority and the proper use of State funds.

(c) On or before January 15, 2015, the Secretary shall report the results of the research required by this section to the Senate and House Committees on Education and on Judiciary, together with any recommendations for legislative amendments.

* * * Student Enrollment in School of Former Residency * * *

Sec. 41. 16 V.S.A. § 1093 is amended to read:

§ 1093. NONRESIDENT STUDENTS

(a) A school board may receive into the schools under its charge nonresident students under such terms and restrictions as it deems best and money received for the instruction of the students shall be paid into the school fund of the district.

(b) Notwithstanding subsection (a) of this section, if a student has legal residence in a Vermont school district and is enrolled in and attending a school maintained and operated by that district, and if at any time after completion of the annual census period defined in subdivision 4001(1)(A) of this title the student moves to a different Vermont school district with the intention of remaining there indefinitely as contemplated in subsection 1075(a) of this title, then, after a meeting at which the student, the student's parent or legal

guardian if the student is a minor, and representatives of both school districts discuss the educational advantages and disadvantages of the student remaining in the original district, the student or the student's parent or guardian may choose to remain enrolled in the school maintained by the original district for the remainder of the school year by notifying both school districts of the decision to do so.

(c) Nothing in this section shall be construed to eliminate State or federal requirements for a district to enroll eligible students residing outside the district under the McKinney–Vento Homeless Assistance Act, 42 U.S.C. § 11301 et seq., as may be amended.

* * * Principals; Nonrenewal of Contracts * * *

Sec. 42. 16 V.S.A. § 243 is amended to read:

§ 243. APPOINTMENT; SUPERVISION; RENEWAL; DISMISSAL

(a) Appointment; supervision.

(1) The school board of each school district operating a school, after recommendation by the superintendent, may designate a person as principal for each public school within the district, except that a principal may be selected to serve more than one school. In the case of a career technical education center, only the school board ~~which~~ that operates the center may designate a person as director. ~~For purposes of~~ As used in this section, the word "principal" shall include a principal and the director of career technical education, and the term "public school" shall include a career technical education center.

(2) The superintendent shall supervise each principal within the supervisory union in the performance of duties and the implementation of school-based initiatives. The superintendent shall evaluate a principal during the year in which the principal's contract shall expire and may evaluate the principal at other times during the contract term. Together with the evaluation provided to the principal in the year in which the contract shall expire, the superintendent shall indicate in writing whether he or she intends to recommend to the school board that the contract be renewed or not renewed. If the superintendent intends to recommend nonrenewal, then the written notification shall also indicate on which of the three categories set forth in subdivision (c)(2) of this section the recommendation is based.

(b) Length of contract. ~~The~~ A principal shall be employed by written contract for a term of not less than one year nor more than three years. Based upon the superintendent's most recent written evaluation of the principal, a superintendent shall recommend to the school board whether or not to renew the initial and any subsequent contract with a principal.

(c) Renewal and nonrenewal.

(1) A principal ~~who has been continuously employed for more than two years in the same position~~ has the right either to have his or her contract renewed~~,~~ or to receive written notice of nonrenewal ~~at least 90 days before the existing contract expires~~:

(A) on or before February 1, if the principal has been continuously employed for more than two years in the same position;

(B) on or before April 1, if the principal has been continuously employed for two years or less in the same position; and

(C) at least 90 days before the existing contract expires, if the final day of the existing contract is other than June 30.

(2) Nonrenewal may be based upon elimination of the position, unresolved performance deficiencies, or other reasons affecting the educational mission of the district. The written notice shall recite the grounds for nonrenewal. If nonrenewal is based on ~~performance deficiencies, the written notice shall be accompanied by an evaluation performed by the superintendent. At its discretion,~~ any reason other than the elimination of the position then, at its discretion, the school board may allow a period of remediation ~~of performance deficiencies~~ prior to issuance of ~~the written notice~~ its final decision on nonrenewal.

(3) After receiving ~~such~~ a notice of nonrenewal, the principal may request in writing, and shall be granted, a meeting with the school board. Such request shall be delivered within ~~15~~ 10 calendar days of delivery of notice of nonrenewal, and the meeting shall be held within 15 calendar days of delivery of the request for a meeting. At the meeting, the school board shall explain its position, and the principal shall be allowed to respond. The principal and any member of the board may present written information or oral information through statements of others, and the principal and the board may be represented by counsel. The meeting shall be in executive session unless both parties agree in writing that it be open to the public. After the meeting, the school board shall decide whether or not to offer the principal an opportunity to renew his or her contract. The school board shall issue its decision in writing within five days. The decision of the school board shall be final.

* * *

(e) Inclusion in contract. Every principal's contract shall be deemed to contain the provisions of this section. Any contract provision to the contrary is without effect. Each written contract shall include a reference to chapter 5, subchapter 3 of this title; provided, however, that failure to do so shall not give rise to a private right of action.

(f) Notification by principal. On or before May 1 of the year in which a principal's contract expires, the principal shall notify the school board in writing if he or she intends not to enter into a new contract with the district.

* * * Physical Education and Nutrition Task Force * * *

Sec. 43. PHYSICAL EDUCATION AND NUTRITION TASK FORCE; REPORT

(a) There is created a Vermont Physical Education and Nutrition Task Force to examine and recommend ways for schools to improve wellness, physical education, activity, and nutrition in Vermont schools.

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

(1) a member appointed by the Secretary of Education;

(2) a member appointed by the Commissioner of Health.

(3) an individual employed as a teacher in a Vermont public school appointed by the Vermont National Education Association;

(4) an individual employed as a physical education teacher in a Vermont public school appointed by the Vermont Association for Health, Physical Education, Recreation and Dance;

(5) an individual employed as a food service director in a Vermont public school appointed by the School Nutrition Association of Vermont;

(6) an individual employed as a principal in a Vermont public school appointed by the Vermont Principals' Association;

(7) an individual employed as a superintendent in a Vermont public school appointed by the Vermont Superintendents Association;

(8) an individual employed as a school nurse in a Vermont public school appointed by the Vermont State School Nurses Association;

(9) a representative of the American Heart Association; and

(10) a representative of the American Cancer Society.

(c) The Task Force shall:

(1) examine barriers to good nutrition and to adequate time for physical education, breakfast, and lunch and explore possible solutions to overcome the barriers, including review of:

(A) wellness councils and policies;

(B) minimum time limits for meals;

(C) the availability of snacks and beverages;

(D) the provision of physical education, including minimum instructional time;

(E) other opportunities for physical activity; and

(F) employee wellness; and

(2) recommend and share best practices for Vermont schools.

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

(e) On or before October 1, 2014, the Task Force shall publish on the Agency of Education's website and submit to the Governor and the House and Senate Committees on Education a written report detailing the results of its examination and any recommendations for legislative action.

(f) The Secretary of Education shall call the first meeting of the Task Force to occur on or before June 1, 2014, at which meeting the members shall select their own chair.

(g) The Task Force shall cease to exist on July 1, 2015

* * * Governance * * *

* * * Intent; Enhanced Opportunity and Efficiency * * *

Sec. 44. INTENT; ENHANCED OPPORTUNITY AND EFFICIENCY

2010 Acts and Resolves No. 153 put Vermont on a path toward voluntary mergers of education governing units – mergers designed both to increase 21st-century educational opportunities and to achieve necessary economies of scale in an age of declining enrollments. It is the General Assembly's intention to maintain the careful balance previously struck between local control and management efficiency, while significantly strengthening the impact of current statute. To that end, this act seeks to substantially increase the incentives of Act 153 and 2012 Acts and Resolves No. 156. In addition, it requires of supervisory unions a new and greater coordination with regard to the business aspects of education. It empowers the Secretary of Education to form supervisory union service regions, regional units that will contract for goods and procure services jointly. Sections that clarify and amend the responsibilities of supervisory unions and school districts will assist the State as larger governing units emerge by supporting operational efficiencies, more equitable deployment of resources, and the sharing of best practices.

* * * Supervisory Union and School District Responsibilities * * *

Sec. 45. 16 V.S.A. § 268 is added to read:

§ 268. DUTIES OF A SUPERVISORY UNION BOARD

A supervisory union board shall:

(1) adopt supervisory union-wide policies, including truancy policies that are consistent with model protocols developed by the Secretary;

(2) adopt a supervisory union-wide curriculum that meets the requirements adopted by the State Board under subdivision 165(a)(3)(B) of this title, by either developing the curriculum or directing the superintendent to assist the member districts to develop it jointly;

(3) on or before June 30 of each year, adopt a supervisory union budget for the ensuing school year;

(4) employ a superintendent pursuant to the provisions of section 270 of this title and evaluate and oversee the performance of the superintendent;

(5) employ all licensed and nonlicensed employees of the supervisory union pursuant to the provisions of section 271 of this title, including a person or persons qualified to provide financial and student data management services for the supervisory union and the member districts;

(6) negotiate with the licensed employees of the supervisory union and school districts, pursuant to chapter 57 of this title, and with other school personnel, pursuant to 21 V.S.A. chapter 22, at the supervisory union level; provided that:

(A) contract terms may vary by district; and

(B) contracts may include terms facilitating arrangements between or among districts to share the services of teachers, administrators, and other school personnel; and

(7) pursuant to criteria established by the State Board, establish and direct the superintendent to implement a plan for receiving and disbursing federal and State funds distributed by the Agency, including funds awarded under P.L. 89-10, the Elementary and Secondary Education Act of 1965, as amended.

Sec. 46. 16 V.S.A. § 269 is added to read:

§ 269. DUTIES OF A SUPERVISORY UNION

(a) A supervisory union shall have sole responsibility to:

(1) provide professional development programs or arrange for the

provision of them, or both, for teachers, administrators, and staff within the supervisory union, which may include programs offered solely to one school or other component of the entire supervisory union to meet the specific needs or interests of that component; a supervisory union has the discretion to provide financial assistance outside the negotiated agreements for teachers' professional development activities;

(2) provide special education services on behalf of the member districts and, except as provided in section 144b of this title, compensatory and remedial services, and provide or coordinate the provision of other educational services as directed by the State Board or local boards;

(3) provide financial and student data management services on behalf of the member districts and perform the districts' business and human resources functions;

(4) provide transportation or contract for the provision of transportation, or both in any districts in which it is offered within the supervisory union;

(5) procure and distribute goods and operational services used by the member districts, including office and classroom supplies and equipment, textbooks, and cleaning materials; and

(6) manage all construction projects within the supervisory union.

(b) A supervisory union shall submit to the board of each member school district, on or before January 15 of each year, a summary report of financial operations of the supervisory union for the preceding school year, an estimate of its financial operations for the current school year, and a preliminary budget for the supervisory union for the ensuing school year. This requirement shall not apply to a supervisory district. For each school year, the report shall show the actual or estimated amount expended by the supervisory union for special education services, including:

(1) a breakdown of that figure showing the amount paid by each school district within the supervisory union; and

(2) a summary of the services provided by the supervisory union's use of the expended funds;

(c) A supervisory union may provide other appropriate services if requested by a member district, including grant writing and fundraising**.**

(d) Notwithstanding the requirement in subsection (a) of this section that a supervisory union is solely responsible for the duties set forth in that subsection, if a supervisory union determines that services in subdivision (a)(2), (4), (5), or (6) would be provided more efficiently and effectively in whole or in part at the district level or in some other manner, then it may ask the Secretary to grant it a waiver from the requirement.

Sec. 47. 16 V.S.A. § 241 is redesignated to read:

§ ~~241~~ 270. APPOINTMENT OF SUPERINTENDENT

Sec. 48. 16 V.S.A. § 242 is redesignated and amended to read:

§ ~~242~~ 271. DUTIES OF SUPERINTENDENTS

The superintendent shall be the chief executive officer for the supervisory union board and for each school board within the supervisory union, and shall:

* * *

(6) arrange for the provision of the professional training required in subsection 561(b) of this title; ~~and~~

(7)(A) ensure implementation of the supervisory union-wide curriculum adopted by the supervisory union board;

(B) assist each school in the supervisory union to follow the curriculum; and

(C) if students residing in the supervisory union receive their education outside the supervisory union, periodically review the compatibility of the supervisory union's curriculum with those other schools;

(8) perform all the duties required of a supervisory union in section 269 of this title or oversee the performance of those duties by employees of the supervisory union;

(9) ensure that the school districts and supervisory union are in compliance with State and federal laws; and

(10) provide for the general supervision of the public schools in the supervisory union ~~or district~~.

Sec. 49. 16 V.S.A. § 242a is redesignated to read:

§ ~~242a~~ 272. INTERNAL FINANCIAL CONTROLS

Sec. 50. 16 V.S.A. § 563 is amended to read:

§ 563. POWERS OF SCHOOL BOARDS~~; FORM OF VOTE IF BUDGET EXCEEDS BENCHMARK AND DISTRICT SPENDING IS ABOVE AVERAGE~~

The school board of a school district, in addition to other duties and authority specifically assigned by law:

* * *

(2) May take any action, ~~which~~ except actions explicitly reserved to the supervisory union pursuant to chapter 7 of this title, that is required for the

~~sound~~ administration of the school district. The Secretary, with the advice of the Attorney General, upon application of a school board, shall decide whether any action contemplated or taken by a school board under this subdivision is required for the ~~sound~~ administration of the district and is proper under this subdivision. The Secretary's decision shall be final.

(3) Shall own and have the possession, care, control, and management of the property of the school district, subject to the authority vested in the electorate or any school district official.

(4) ~~[Repealed.]~~

~~(5)~~ Shall keep the school buildings and grounds in good repair, suitably equipped, insured, and in safe and sanitary condition at all times.

(5) ~~The school board shall~~ Shall regulate or prohibit firearms or other dangerous or deadly weapons on school premises. At a minimum, a school board shall adopt and implement a policy at least consistent with section 1166 of this title and 13 V.S.A. § 4004, relating to a student who brings a firearm to or possesses a firearm at school.

(6) Shall have discretion to furnish instruction to pupils who have completed a secondary education and to administer early educational programs.

(7) May relocate or discontinue use of a schoolhouse or facility, subject to the provisions of sections 821 and 822 of this title.

(8) ~~Shall~~ Subject to the duties and authority of the supervisory union pursuant to subdivision 263(a)(3) of this title, shall establish and maintain a system for receipt, deposit, disbursement, accounting, control, and reporting procedures that meets the criteria established by the State Board pursuant to subdivision 164(15) of this title and that ensures that all payments are lawful and in accordance with a budget adopted or amended by the school board. The school board may authorize a subcommittee, the superintendent of schools, or a designated employee of the school board to examine claims against the district for school expenses and draw orders for such as shall be allowed by it payable to the party entitled thereto. Such orders shall state definitely the purpose for which they are drawn and shall serve as full authority to the treasurer to make such payments. It shall be lawful for a school board to submit to its treasurer a certified copy of those portions of the board minutes, properly signed by the clerk and chair, or a majority of the board, showing to whom, and for what purpose each payment is to be made by the treasurer, and such certified copy shall serve as full authority to the treasurer to make the payments as thus approved.

* * *

(14) ~~Shall provide, at the expense of the district, subject to the approval of the superintendent, all text books, learning materials, equipment and supplies.~~ [Repealed.]

* * *

Sec. 51. REPEAL

16 V.S.A. § 261a is repealed.

* * * Collaboration Among Supervisory Unions * * *

Sec. 52. SUPERVISORY UNION SERVICE REGIONS

On or before July 1, 2015, the State Board of Education, in consultation with the Secretary of Education and with the supervisory union boards and superintendents of the State, shall establish supervisory union service regions, each of which shall be a group of supervisory unions that jointly provide the services as required by 16 V.S.A. § 269(d).

Sec. 53. 16 V.S.A. § 269(e) and (f) are added to read:

(e) The supervisory unions in each supervisory union service region, as established by the Secretary, shall jointly provide the services required under the following subdivisions of subsection (a) of this section:

(1) subdivision (1) (professional development);

(2) subdivision (4) (transportation); and

(3) subdivision (5) (goods and operational services), exclusive of school food services.

(f) The requirements of subsection (e) of this section shall not apply:

(1) to a supervisory union that received a waiver pursuant to subsection (d) of this section;

(2) to a regional education district created pursuant to 2010 Acts and Resolves No. 153 as amended by 2012 Acts and Resolves No. 156; or

(3) if the Secretary concludes that doing so will be more costly or less effective.

Sec. 54. 16 V.S.A. § 267(a) is amended to read:

(a) ~~Supervisory~~ In addition to the joint agreements required in subsection 269(d) of this title, supervisory unions, or administrative units not within a supervisory union, in order to provide services cooperatively, may at any annual or special meeting of the supervisory unions, by a majority vote of the directors present and eligible to vote, enter into a joint agreement to provide joint programs, services, facilities, and professional and other staff that are necessary to carry out the desired programs and services.

* * * Supervisory Unions; Merger; Governance * * *

Sec. 54a. SUPERVISORY UNIONS; MERGER PLANS

On or before April 1, 2015, each supervisory union, including a supervisory district, shall explore the possibility of merger with at least one other neighboring supervisory union and shall present to the Secretary of Education either a plan by which it shall implement the merger or an explanation of the reasons that it believes that merger would inhibit the effective and efficient use of financial and human resources or diminish educational quality and opportunities in the district; provided, however, that this section shall not apply to a supervisory union in which the school districts have appointed a study committee pursuant to 16 V.S.A. chapter 11 in order to explore potential realignment into a regional education district pursuant to 2010 Acts and Resolves No. 153 as amended by 2012 Acts and Resolves No. 156.

* * * Voluntary Mergers * * *

Sec. 55. 2010 Acts and Resolves No. 153, Sec. 2(a), as amended by 2012 Acts and Resolves No. 156, Sec. 1, is further amended to read:

(a) Program created. There is created a school district merger incentive program under which the incentives outlined in Sec. 4 of this act shall be available to each new unified union school district created pursuant to Sec. 3 of this act and to each new district created under Sec. 3 of this act by the merger of districts that provide education by paying tuition; and to the Vermont members of any new interstate school district if the Vermont members jointly satisfy the size criterion of Sec. 3(a)(1) of this act and the new, merged district meets all other requirements of Sec. 3 of this act. Incentives shall be available, however, only if the ~~effective date of merger is~~ electorate approves the merger on or before July 1, 2017.

Sec. 56. 2010 Acts and Resolves No. 153, Sec. 3 is amended to read:

Sec. 3. VOLUNTARY SCHOOL DISTRICT MERGER INCENTIVE PROGRAM

(a) Size.

(1) School districts, which may include one or more union school districts, may merge to form a union school district pursuant to 16 V.S.A. chapter 11 ~~of Title 16~~ (a "Regional Education District" or "RED") that shall have an average daily membership of at least ~~1,250~~ 1,000 or result from the merger of at least four districts, or both.

(2) School districts interested in merger may request the ~~state board of education~~ State Board of Education to grant them a waiver from the requirements of subdivision (1) of this subsection, which shall be granted if the

districts can demonstrate that the requirements would not be cost-effective, would decrease educational opportunities, or would diminish student achievement, or any combination of these.

* * *

Sec. 57. 2010 Acts and Resolves No. 153, Sec. 4, as amended by 2012 Acts and Resolves No. 156, Sec. 13, is further amended to read:

Sec. 4. VOLUNTARY SCHOOL DISTRICT MERGER; INCENTIVES

* * *

(g) Transition facilitation grant.

(1) After voter approval of the plan of merger, the ~~commissioner of education~~ Secretary of Education shall pay the RED a transition facilitation grant from the education fund equal to the lesser of:

(A) five percent of the base education amount established in 16 V.S.A. § 4001(13) multiplied by the greater of either the combined enrollment or the average daily membership of the merging districts on October 1 of the year in which the successful vote is taken; or

(B) ~~$150,000.00~~ $500,000.00.

(2) A transition facilitation grant awarded under this subsection (g) shall be reduced by the total amount of reimbursement paid under subsection (e) of this section.

(3) Notwithstanding any other provision of this subsection, a transition facilitation grant paid to a modified unified union school district created pursuant to 2012 Acts and Resolves No. 156, Sec. 17 shall not exceed $150,000.00.

(h) ~~This section is repealed on July 1, 2017.~~ [Repealed.]

Sec. 58. VOLUNTARY SCHOOL DISTRICT MERGER BETWEEN JULY 1, 2017 AND JUNE 30, 2019; INCENTIVES

(a) July 1, 2017 through June 30, 2019. A regional education district (RED) approved by the electorate pursuant to the provisions of 16 V.S.A. chapter 11 between July 1, 2017 and June 30, 2019 shall be eligible for the incentives provided in this section, provided that the RED complies with all other provisions of 2010 Acts and Resolves No. 153, Sec. 2(a), as amended by 2012 Acts and Resolves No. 156, Sec. 1, and as further amended by Sec. 55 of this act and of 2010 Acts and Resolves No. 153, Sec. 3.

(b) Equalized homestead property tax rates or RED incentive grant. A RED's plan of merger shall provide whether, upon merger, the RED shall

receive an equalization of its homestead property tax rates during the first four years following merger pursuant to subdivision (1) of this subsection or an incentive grant during the first year following merger pursuant to subdivision (2).

(1)(A) Equalized homestead property tax rates. Subject to the provisions of subdivision (C) of this subdivision (1) and notwithstanding any other provision of law, the RED's equalized homestead property tax rate shall be:

(i) decreased by $0.04 in the first year after the effective date of merger;

(ii) decreased by $0.03 in the second year after the effective date of merger;

(iii) decreased by $0.02 in the third year after the effective date of merger; and

(iv) decreased by $0.01 in the fourth year after the effective date of merger.

(B) The household income percentage shall be calculated accordingly.

(C) During the years in which a RED's equalized homestead property tax rate is decreased pursuant to this subsection, the rate for each town within the RED shall not increase or decrease by more than five percent in a single year. The household income percentage shall be calculated accordingly.

(2) RED incentive grant. During the first year after the effective date of merger, the Secretary of Education shall pay to the RED board a RED incentive grant from the education fund equal to $200.00 per pupil based on the combined enrollment of the participating districts on October 1 of the year in which the successful vote was taken. The grant shall be in addition to funds received under 16 V.S.A. § 4028.

(3) Common level of appraisal. Regardless of whether a RED chooses to receive an equalization of its homestead property tax rates or a RED incentive grant, on and after the effective date of merger, the common level of appraisal shall be calculated independently for each town within the RED for purposes of determining the homestead property tax rate for each town.

(c) Sale of school buildings.

(1) if a RED closes a school building and sells the school building, or an energy saving measure within it as contemplated in 16 V.S.A. § 3448f(g), then neither the RED nor any other entity shall be required to refund a percentage of the sale price to the state pursuant to 16 V.S.A. chapter 123; and

(2) if a participating district retains ownership of and closes a school building as part of the electorate-approved plan for merger and the participating district sells the school building or energy saving measure associated with the building, then neither the district nor any other entity shall be required to refund a percentage of the sale price to the State pursuant to 16 V.S.A. chapter 123.

(d) Merger support grant; small school support grant. If the merging districts of a RED included at least one "eligible school district," as defined in 16 V.S.A. § 4015, that had received a small school support grant under section 4015 in the fiscal year two years prior to the first fiscal year of merger, then the RED shall be eligible to receive a merger support grant in each of its first five fiscal years in an amount equal to one-half of the small school support grant received by the eligible school district in the fiscal year two years prior to the first fiscal year of merger. If more than one merging district was an eligible school district, then the merger support grant shall be in an amount equal to the total of one-half of each small school support grant they received in the fiscal year two years prior to the first fiscal year of merger.

(e) Consulting services reimbursement grant. From the Education Fund, the Secretary shall pay up to $10,000.00 to the merger study committee established under 16 V.S.A. § 706 to reimburse the participating districts for legal and other consulting fees necessary for the analysis and report required by 16 V.S.A. § 706b. The study committee shall forward invoices to the Secretary on a quarterly basis. The Secretary shall reimburse one-half of the total amount reflected in each set of invoices and the remaining one-half upon completion of the final report, provided that no payment shall cause the total amount paid to exceed the $10,000.00 limit. In addition, any transition facilitation grant funds paid to the RED pursuant to subsection (g) of this section shall be reduced by the total amount of reimbursement paid under this subsection.

(f) Multiyear budgets.

(1) In addition to the option of proposing a single-year budget on an annual basis pursuant to the provisions of 16 V.S.A. chapter 11 and notwithstanding any other provision of law, a RED formed pursuant to this section shall have the option to propose one or both of the following:

(A) A multiyear budget for the first two fiscal years of its existence that will be included as part of the plan that must be approved by the electorate in order to create the RED.

(B) A multiyear budget for the third and fourth fiscal years of its existence that is presented to the electorate for approval at the RED's annual meeting convened in its second fiscal year.

(2) The plan presented to the electorate to authorize creation of the RED may contain a provision authorizing the RED, beginning in the fifth fiscal year of its existence to present multiyear proposed budgets to the electorate once in every two or three years.

(g) Transition facilitation grant.

(1) After voter approval of the plan of merger, the Secretary shall pay the RED a transition facilitation grant from the education fund equal to the lesser of:

(A) two and one-half percent of the base education amount established in 16 V.S.A. § 4001(13) multiplied by the greater of either the combined enrollment or the average daily membership of the merging districts on October 1 of the year in which the successful vote is taken; or

(B) $200,000.00.

(2) A transition facilitation grant awarded under this subsection shall be reduced by the total amount of reimbursement paid under subsection (e) of this section.

Sec. 59. MERGER SUPPORT GRANT; SMALL SCHOOL SUPPORT GRANT

The provisions of 2014 Acts and Resolves No. ___ (H.889) that limit payment of small school support grants under 16 V.S.A. § 4015 to schools that are eligible due to geographic necessity shall not prevent payment of the grants as merger support grants pursuant to 2010 Acts and Resolves No. 153, Sec. 4(d) and subsection 20(d) of this act; provided, however, that the merger support grants shall be used solely to support programs and activities in the small school or schools after transitioning to the new governance structure.

Sec. 60. EXPEDITED PROCESS; RED FORMATION

Notwithstanding 16 V.S.A. chapter 11 or any other provision of law to the contrary:

(1) if:

(A) on or before the effective date of this act the electorate of two or more districts voted whether to change their governance structure pursuant to

2010 Acts and Resolves No. 153, Secs. 2–4, as amended by 2012 Acts and Resolves No. 156; and

(B) one or more of the districts did not vote in favor of the plan of merger (the Plan) presented at the most recent meeting warned to vote on the Plan (the Meeting); and

(C) after the effective date of this act and before July 1, 2017, upon approval of the school boards of all districts identified as "necessary" in the Plan, each of the "necessary" districts that did not vote in favor of the Plan at the Meeting votes on the Plan at a meeting warned for that purpose and the new vote is favorable in each district;

(2) then:

(A) the affirmative votes of the districts that voted in favor of the Plan at the Meeting shall continue without the need to vote again; and

(B) the change to the districts' governance structure shall occur pursuant to terms set forth in the Plan.

Sec. 61. RED FORMATION PROCESS; AGENCY OF EDUCATION; STATE BOARD OF EDUCATION

The Agency of Education shall:

(1) provide technical support to districts exploring or engaged in the RED formation process at their request;

(2) revise and add to the existing template developed for use in the RED process to provide meaningful guidance to districts and flexible, alternative models for their use;

(3) develop a technical assistance handbook to support RED formation; and

(4) update these materials as necessary until expiration of the RED incentive program.

* * * Appropriations; Positions * * *

Sec. 62. POSITIONS; AGENCY OF EDUCATION

The General Assembly authorizes the establishment of two new limited service positions in the Agency of Education in fiscal year 2015 as follows: two analyst positions to provide technical assistance to school districts as they explore voluntary realignment under the RED process.

Sec. 63. APPROPRIATIONS

The sum of $175,500.00 is transferred in fiscal year 2014 from the Supplemental Property Tax Relief Fund created by 32 V.S.A. § 6075 to the Agency of Education and is appropriated in fiscal year 2015 as follows:

(1) the sum of $152,000.00 for personal services;

(2) the sum of $18,500.00 for operational expenses; and

Sec. 64. EDUCATION ANALYST; UNIFORM CHART OF ACCOUNTS; BUSINESS MANAGER HANDBOOK AND TRAINING; SOFTWARE SPECIFICATIONS

Secs. 61–62 of this act are intended to be in addition to, and to work in concert with, those sections of 2014 Acts and Resolves No. ____ (H.889) (education taxes) regarding an education analyst who shall create tools and indicators for State and local education decision makers and a contract for development and completion of a uniform chart of accounts; an updated, comprehensive accounting manual, with related business rules, for school district business managers; related training programs; and specifications for school financial software.

* * * Effective Dates * * *

Sec. 65. EFFECTIVE DATES

(a) Secs. 45–51 of this act (supervisory unions and school district responsibilities) shall take effect on July 1, 2015 and shall apply beginning in academic year 2015–2016.

(b) Secs. 52–54 (collaboration among supervisory unions) shall take effect on July 1, 2014 and shall apply beginning in academic year 2016–2017.

(c) This section and all other sections shall take effect on passage; provided, however, that Sec. 29 (tuition for graduate and distance education programs) shall not apply to students who are enrolled as of that date in the University of Vermont in:

(1) a distance education course or program; or

(2) a graduate program other than in the College of Medicine.

And that the bill ought to pass in concurrence with such proposals of amendment.

Senator Ashe, for the Committee on Finance, to which the bill was referred, reported recommending that the Senate propose to the House that the bill be amended as recommended by the Committee on Education with the following amendments thereto:

First: In Sec. 45, in 16 V.S.A. § 268, by striking out subdivision (4) (hiring a superintendent) in its entirety and inserting in lieu thereof a new subdivision (4) to read:

(4) employ, at its discretion, a superintendent pursuant to the provisions of section 270 of this title and evaluate and oversee the performance of the superintendent;

Second: In Sec. 46, in 16 V.S.A. § 269, by striking out subsection (d) (waivers) in its entirety and after Sec. 46, by inserting two new sections to be Secs. 46a and 46b to read:

Sec. 46a. 16 V.S.A. § 269a is added to read:

§ 269a. WAIVERS; SUPERVISORY UNION DUTIES

(a) Notwithstanding the requirement in subsection 269(a) of this title that a supervisory union is solely responsible for the duties set forth in that subsection, a supervisory union may request the Secretary of Education to grant it a waiver from the requirements of subdivision (a)(2) (special education), (4) (transportation), (5) (goods and services), or (6) (construction management).

(b) The Secretary shall identify standards and criteria by which he or she shall determine whether the services will be performed most efficiently and cost-effectively at the supervisory union level or in some other manner. The Secretary shall publish the standards and criteria on or before October 1, 2014 together with guidelines for submitting a waiver request.

(c) A waiver granted pursuant to this section shall be for no more than one year, but may be renewed at the Secretary's discretion.

Sec. 46b. REPEAL

16 V.S.A. § 269a (waiver; supervisory union duties) is repealed on July 1, 2019.

Third: By inserting a new section to be Sec. 50a to read:

Sec. 50a. 32 V.S.A. § 5401 is amended to read:

§ 5401. DEFINITIONS

As used in this chapter:

* * *

(13) "District spending adjustment" means the greater of: one or a fraction in which the numerator is the district's education spending plus excess spending plus any noncompliance penalty, per equalized pupil, for the school year; and the denominator is the base education amount for the school year, as

defined in 16 V.S.A. § 4001. For a district that pays tuition to a public school or an approved independent school, or both, for all of its resident students in any year and which has decided by a majority vote of its school board to opt into this provision, the district spending adjustment shall be the average of the district spending adjustment calculated under this subdivision for the previous year and for the current year. Any district opting for a two-year average under this subdivision may not opt out of such treatment, and the averaging shall continue until the district no longer qualifies for such treatment.

* * *

(15) "Noncompliance penalty" means an amount equal to one percent of a district's total education spending, as defined in 16 V.S.A. § 4001(6), included in the calculation of a district's district spending adjustment if the Secretary of Education determines, pursuant to criteria established by the State Board of Education, that the district performed duties assigned by 16 V.S.A. chapter 7 to the supervisory union board, the supervisory union, or the superintendent.

Fourth: By striking out Sec. 53 in its entirety and inserting in lieu thereof a new Sec. 53 to read:

Sec. 53. 16 V.S.A. § 269(d) is added to read:

(d) The supervisory unions in each supervisory union service region, as established by the State Board, shall jointly provide the services required under the following subdivisions of subsection (a) of this section unless, upon petition of one or more supervisory unions within a region, the Secretary determines that it would be more costly or less effective to do so:

(1) subdivision (1) (professional development);

(2) subdivision (4) (transportation); and

(3) subdivision (5) (goods and operational services).

Fifth: By striking out Sec. 54a in its entirety and inserting in lieu thereof a new Sec. 54a to read:

Sec. 54a. SUPERVISORY UNIONS; MERGER PLANS

(a) On or before April 1, 2015, each supervisory union, including a supervisory district, shall explore the possibility of merger with at least one other neighboring supervisory union and shall present to the State Board of Education either a detailed plan by which it shall implement the merger or a detailed explanation of the reasons that it believes that merger would inhibit the effective and efficient use of financial and human resources or diminish educational quality and opportunities in the district. If a supervisory union is

unable to identify a neighboring supervisory union that is willing to explore the possibility of merger with it, then the State Board may facilitate a meeting or meetings with one or more neighboring supervisory unions on the supervisory union's behalf.

(b) On or before July 1, 2015, the State Board either shall approve the plan of merger or the decision not to merge or shall direct the supervisory union to explore merger further and to report again to the State Board by a date certain with either a detailed plan or explanation, as required in subsection (a) of this section. The State Board may request that the supervisory union explore merger repeatedly until he or she approves the plan or explanation.

Sixth: By striking out Sec. 55 in its entirety and inserting in lieu thereof a new Sec. 55 to read:

Sec. 55. 2010 Acts and Resolves No. 153, Sec. 2(a), as amended by 2012 Acts and Resolves No. 156, Sec. 1, is further amended to read:

(a) Program created. There is created a school district merger incentive program under which the incentives outlined in Sec. 4 of this act shall be available to each new unified union school district created pursuant to Sec. 3 of this act and to each new district created under Sec. 3 of this act by the merger of districts that provide education by paying tuition; and to the Vermont members of any new interstate school district if the Vermont members jointly satisfy the size criterion of Sec. 3(a)(1) of this act and the new, merged district meets all other requirements of Sec. 3 of this act. Incentives shall be available, however, only if the ~~effective date of merger is on or before~~ electorate approves the merger prior to July 1, 2017.

Seventh: By striking out Sec. 57 in its entirety and inserting in lieu thereof a new Sec. 57 to read:

Sec. 57. 2010 Acts and Resolves No. 153, Sec. 4, as amended by 2012 Acts and Resolves No. 156, Sec. 13, is further amended to read:

Sec. 4. VOLUNTARY SCHOOL DISTRICT MERGER; INCENTIVES

* * *

(e) Consulting services reimbursement grant. From the ~~education fund~~ Education Fund, the ~~commissioner of education~~ Secretary of Education shall pay up to $20,000.00 to the merger study committee established under 16 V.S.A. § 706 to reimburse the participating districts for legal and other consulting fees necessary for the analysis and report required by 16 V.S.A. § 706b. The ~~study committee~~ Study Committee shall forward invoices to the ~~commissioner~~ Secretary on a quarterly basis. The ~~commissioner~~ Secretary shall reimburse one-half of the total amount reflected in each set of invoices

and the remaining one-half upon completion of the final report, provided that no payment shall cause the total amount paid to exceed the $20,000.00 limit. ~~In addition, any transition facilitation grant funds paid to the RED pursuant to subsection (g) of this section shall be reduced by the total amount of reimbursement paid under this subsection (e).~~

* * *

(g) Transition facilitation grant.

(1) After voter approval of the plan of merger, the ~~commissioner of education~~ Secretary of Education shall pay the RED a transition facilitation grant from the education fund equal to the lesser of:

(A) five percent of the base education amount established in 16 V.S.A. § 4001(13) multiplied by the greater of either the combined enrollment or the average daily membership of the merging districts on October 1 of the year in which the successful vote is taken; or

(B) between $150,000.00 and $500,000.00, as determined by the Secretary based on projected annual post-merger savings that do not decrease the quality of education.

(2) ~~A transition facilitation grant awarded under this subsection (g) shall be reduced by the total amount of reimbursement paid under subsection (e) of this section.~~ Notwithstanding any other provision of this subsection, a transition facilitation grant paid to a modified unified union school district created pursuant to 2012 Acts and Resolves No. 156, Sec. 17 shall not exceed $150,000.00.

(h) ~~This section is repealed on July 1, 2017.~~ The incentives provided in this section shall be available only if the electorate approves the plan of merger prior to July 1, 2017.

Eighth: In Sec. 58, in subsection (e), by striking out the final sentence (transition grant reduced by amount of reimbursement) and also in Sec. 58, by striking out subsection (g) in its entirety and inserting in lieu thereof a new subsection (g) to read:

(g) Transition facilitation grant. After voter approval of the plan of merger, the Secretary shall pay the RED a transition facilitation grant from the education fund equal to the lesser of:

(1) two and one-half percent of the base education amount established in 16 V.S.A. § 4001(13) multiplied by the greater of either the combined enrollment or the average daily membership of the merging districts on October 1 of the year in which the successful vote is taken; or

(2) between $75,000.00 and $250,000.00, as determined by the Secretary based on projected annual post-merger savings that do not decrease the quality of education; provided, however, that a transition facilitation grant paid to a modified unified union school district created pursuant to 2012 Acts and Resolves No. 156, Sec. 17 shall not exceed $75,000.00.

Ninth: By inserting two new sections to be Secs. 60a and 60b to read:

Sec. 60a. 2012 Acts and Resolves No.156, Sec. 5 is amended to read:

Sec. 5. REIMBURSEMENT OF FEES FOR CONSULTING SERVICES; MERGER; SUPERVISORY UNIONS; SUNSET

(a) From the ~~education fund~~ Education Fund, the ~~commissioner of education~~ Secretary of Education shall reimburse:

(1) up to ~~$20,000.00~~ $40,000.00 of fees paid prior to July 1, 2017 by two or more supervisory unions for legal and other consulting services necessary to analyze the advisability of the merger into a fewer number of supervisory unions and to prepare a petition to the ~~state board of education~~ State Board of Education requesting adjustment of supervisory union boundaries; or

(2) up to $20,000.00 of fees paid after June 30, 2017 and prior to July 1, 2019 by two or more supervisory unions for legal and other consulting services necessary to analyze the advisability of the merger into a fewer number of supervisory unions and to prepare a petition to the State Board of Education requesting adjustment of supervisory union boundaries.

(b) Each group of supervisory unions shall forward invoices to the ~~commissioner~~ Secretary on a quarterly basis. The ~~commissioner~~ Secretary shall reimburse one-half of the total amount reflected in each set of invoices and the remaining one-half upon submission of either a petition to the ~~state board~~ State Board requesting that the boundaries be redrawn or a written statement of the entities' analysis supporting preservation of the current boundaries, provided that no payment shall cause the total amount paid to exceed the ~~$20,000.00~~ limit set forth in subsection (a) of this section. A group of supervisory unions shall not be eligible for reimbursement under both subdivisions (1) and (2) of subsection (a).

(c) ~~Any transition facilitation grant funds paid pursuant to Sec. 6 of this act shall be reduced by the total amount of reimbursement provided under this section.~~

~~(d)~~ This section is repealed on July 1, ~~2017~~ 2019.

Sec. 60b. 2012 Acts and Resolves No.156, Sec. 6 is amended to read:

Sec. 6. TRANSITION FACILITATION GRANT; MERGER; SUPERVISORY UNIONS; SUNSET

(a) After ~~state board of education~~ State Board of Education approval of the petition of two or more supervisory unions to merge into a fewer number of supervisory unions, the ~~commissioner of education~~ Secretary of Education shall pay to the new supervisory union board or the new group of boards a transition facilitation grant from the ~~education fund~~ Education Fund of:

(1) between $150,000.00~~, less reimbursement funds received under Sec. 5 of this act~~ and $750,000.00, as determined by the Secretary based on projected annual post-merger savings that do not decrease the quality of education if the State Board approves the petition prior to July 1, 2017; and

(2) between $75,000.00 and $375,000.00, as determined by the Secretary based on projected annual post-merger savings that do not decrease the quality of education if the State Board approves the petition after June 30, 2017 and prior to July 1, 2019.

(b) This section is repealed on July 1, ~~2017~~ 2019.

Tenth: By striking out Sec. 62 (positions) in its entirety and inserting in lieu thereof a new Sec. 62 to read:

Sec. 62. POSITIONS; AGENCY OF EDUCATION

The General Assembly authorizes the establishment of two new limited service positions in the Agency of Education in fiscal year 2015 as follows: two analyst positions to provide technical assistance to school districts as they explore voluntary realignment under the RED process and to supervisory unions as they work together in supervisory union service regions pursuant to Sec. 53 of this act and explore merger pursuant to Secs. 54a, 60a, and 60b of this act.

Eleventh: By striking out Sec. 65 (effective dates) in its entirety and inserting in lieu thereof two new sections to be Secs. 65 and 66 and related reader assistance headings to read:

* * * Special Education Funding; Pilot * * *

Sec. 65. SPECIAL EDUCATION EXPENDITURES; PILOT PROGRAM; REPORT

(a) There is created a three-year pilot program designed to encourage reduced special education expenditures through the use of best practices to provide special education services in the general classroom setting. Pursuant to a process and criteria to be developed by the Secretary of Education and

based upon the Schoolwide Integrated Framework for Transformation (SWIFT), the districts comprising the four supervisory unions currently engaged in implementing the SWIFT model may expend special education mainstream block grant funds received pursuant to 16 V.S.A. § 2961 in a manner other than as required by State Board of Education Rule 2366.2.

(b) To be eligible for the pilot program, all districts within a supervisory union shall submit a joint application providing information prescribed by the Secretary on or before September 1, 2014. The joint application shall:

(1) describe how the districts' special education spending plan under the SWIFT model will be less costly than special education spending without using the SWIFT model;

(2) describe how the districts will serve students on individual education programs in a general classroom setting using the SWIFT model;

(3) describe the manner in which the districts shall measure student performance; and

(4) demonstrate how the use of the SWIFT model shall result in fewer students found to be in need of special education services at the end of the three-year pilot program.

(c) Beginning in 2015, annually on or before January 15 for the duration of the pilot program, the Secretary shall submit a report to the House and Senate Committees on Education, the House Committee on Ways and Means, and the Senate Committee on Finance regarding the results of the pilot project and any recommendations for legislative action.

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

* * * Effective Dates * * *

Sec. 66. EFFECTIVE DATES

(a) Secs. 45–51 of this act (supervisory unions and school district responsibilities) shall take effect on July 1, 2014; provided, however, that Sec. 50b (noncompliance penalty) shall apply to noncompliance occurring on or after July 1, 2015.

(b) Secs. 52–54 (collaboration among supervisory unions) shall take effect on July 1, 2014 and shall apply beginning in academic year 2016–2017.

(c) This section and all other sections shall take effect on passage; provided, however, that Sec. 29 (tuition for graduate and distance education programs) shall not apply to students who are enrolled as of that date in the University of Vermont in:

(1) a distance education course or program; or

(2) a graduate program other than in the College of Medicine.

And that the bill ought to pass in concurrence with such proposals of amendment.

Senator Starr, for the Committee on Appropriations, to which the bill was referred, reported recommending that the Senate propose to the House to amend the bill as recommended by the Committee on Education and the Committee on Finance with further proposals of amendments thereto:

By striking out Secs. 62 through 64 in their entirety and inserting in lieu thereof four new sections to be Secs. 62, 63, 64, and 64a and related reader assistance headings to read:

* * * Chart of Accounts * * *

Sec. 62. STATEWIDE INTEGRATED FINANCIAL AND STUDENT DATA MANAGEMENT SYSTEMS; POSITION; APPROPRIATION

(a) Systems. On or before July 1, 2016, the Agency of Education shall have fully implemented statewide, integrated systems to maintain financial reporting and accounting data and longitudinal student data that:

(1) enable and support compliance with federal reporting requirements;

(2) provide data necessary to make education-related decisions at the State and local levels;

(3) are designed to measure and to compare on a district-to-district basis:

(A) the quality and variety of educational opportunities available to students throughout the State;

(B) student outcomes; and

(C) financial costs of education-related decisions;

(4) enable each supervisory union and school district to provide all requested data to both data systems and access all data to which they are entitled under State and federal privacy laws; and

(5) account for and report financial information in accordance with Generally Accepted Accounting Principles.

(b) Position. The General Assembly authorizes the establishment in fiscal year 2015 of one (1) new limited service Education Analyst position for a period not to exceed three (3) years in the Agency of Education to assist the Agency to establish the systems required in subsection (a) of this section, including development of:

(1) specifications for school software;

(2) a detailed transition plan;

(3) training materials and guidance documents for each supervisory union and school district; and

(4) an updated, more comprehensive, consolidated, business manager handbook that includes uniform business rules, and comprehensive information on federal and State funds and compliance.

(c) Appropriation and expenditure authorization. The sum of $1,500,000.00 is appropriated in fiscal year 2015 from the Supplemental Property Tax Relief Fund created in 32 V.S.A. § 6075 to the Agency of Education for the purposes of this section. Of this appropriation, the Agency may expend the sum of $500,000.00 in fiscal year 2015; the remaining appropriation shall be carried forward to be used for the purposes of this section in future fiscal years upon authorization of the General Assembly.

(d) Compliance by districts. On or before July 1, 2017, each supervisory union and school district shall be fully compliant with the requirements of both the financial reporting and accounting system and the longitudinal student data system.

(e) Reporting. The Agency shall report on the progress of the work required by this section to the Joint Fiscal Committee at its September meetings and to the General Assembly in January until full implementation of both data systems.

(f) Transition planning. In January 2015, the Agency shall provide to the General Assembly an initial plan for the transition of districts to the new system. which shall include cost estimates for providing financial assistance to districts that need to modify existing or acquire new fiscal reporting systems.

* * * REDs and Supervisory Unions;

Positions; Incentives; Appropriations * * *

Sec. 63. POSITIONS; AGENCY OF EDUCATION

The General Assembly authorizes the establishment in fiscal year 2015 of two (2) new limited service Analyst positions for a period not to exceed three (3) years in the Agency of Education to provide technical assistance to school districts as they explore voluntary realignment under the RED process and to supervisory unions as they work together collaboratively and explore voluntary merger.

Sec. 64. APPROPRIATIONS; INCENTIVES; POSITIONS

(a) The sum of $329,000.00 in unexpended monies appropriated to support the purposes of 2010 Acts and Resolves No. 153 and 2012 Acts and Resolves No. 156 shall be carried forward to fiscal year 2015 for the purpose of providing reimbursement payments and incentive grants to school districts and supervisory unions pursuant to those Acts, as amended by this act.

(b) The sum of up to $5,000,000.00 from the Supplemental Property Tax Relief Fund created in 32 V.S.A. § 6075 shall be used for the purpose of providing incentives for mergers and other joint activity by school districts and supervisory unions pursuant to 2010 Acts and Resolves No. 153, as amended by 2012 Acts and Resolves No. 156, and as further amended by this act, and for the purpose of funding the two analyst positions authorized in Sec. 63 of this act. Of this amount, the sum of $175,500.00 is appropriated to the Agency of Education in fiscal year 2015 for the purpose of funding the two analyst positions during that year.

Sec. 64a. CONSTRUCTION AID; REPORT

The Secretary of Education shall examine ways to use school construction aid for consolidation of school buildings in order to encourage school districts to explore voluntary consolidation of governance structures or other joint activity. On or before January 15, 2015, the Secretary shall present his or her conclusions and any recommendations for legislative action to the General Assembly.

And that the bill ought to pass in concurrence with such proposals of amendment.

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

Thereupon, pending the question, Shall the report of the Committee on Education be amended as recommended by the Committee on Finance?, the report of the Committee on Finance was amended as recommended by the Committee on Appropriations.

Thereupon, pending the question, Shall the report of the Committee on Education be amended as recommended by the Committee on Finance, as amended?, Senator Sears and Hartwell moved to amend the proposal of amendment of the Committee on Finance, as amended, in Sec. 54a (supervisory union; merger plans), by striking out subsection (b) in its entirety and striking out the designation (a)

Which was agreed to.

Thereupon, the pending question, Shall the report of the Committee on Education be amended as recommended by the Committee on Finance, as amended?, Senator Galbraith requested that the *third* proposal of amendment be voted on separately.

Thereupon, the question, Shall the report of the Committee on Education be amended as recommended by the Committee on Finance in the *first, second, fourth, fifth, sixth, seventh, eighth, ninth, tenth and eleventh* proposals of amendment?, was decided in the affirmative.

Thereupon, the question, Shall the report of the Committee on Education be amended as recommended by the Committee on Finance in the *third* proposal of amendment?, was decided in the negative.

Thereupon, the proposals of amendment proposed by the Committee on Education, as amended, were agreed to.

Thereupon, pending the question, Shall the bill be read the third time, Senator Rodgers, moved that the Senate proposal of amendment be amended by adding two new sections to be numbered Secs. 65 and 66 and a related reader assistance heading to read as follows:

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

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

§ 822a. PUBLIC HIGH SCHOOL CHOICE

* * *

(g) Tuition and other costs.

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

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

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

Sec. 66. IMPLEMENTATION

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

And by renumbering the remaining section to be numerically correct.

Thereupon, pending the question, Shall the Senate proposal of amendment be amended as proposed by Senator Rodgers?, Senator Rodgers requested and was granted leave to withdraw his proposal of amendment.

Thereupon, third reading of the bill was ordered.

Adjournment

On motion of Senator Campbell, the Senate adjourned until ten o'clock in the morning.