

Journal of the Senate

FRIDAY, MAY 9, 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. 80

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 Senate proposals of amendment to the following House bills:

H. 555. An act relating to the commitment of a criminal defendant who is incompetent to stand trial because of a traumatic brain injury.

H. 656. An act relating to professions and occupations regulated by the Office of Professional Regulation.

H. 728. An act relating to developmental services' system of care.

H. 877. An act relating to repeal of report requirements that are at least five years old.

And has severally concurred therein.

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

S. 208. An act relating to solid waste management.

And has concurred therein.

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

S. 239. An act relating to the regulation of toxic substances.

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

The Governor has informed the House that on the May 8, 2014, he approved and signed a bill originating in the House of the following title:

H. 112. An act relating to the labeling of food produced with genetic engineering.

Pages Honored

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

Brynn Bushey of Montpelier
Alden Ducharme of Morristown
Elizabeth Harris of Bennington
Evan Jones of South Burlington
Madelyn Koff of Hartford
Zoe Maskowitz of Hartland
Hannah Pandya of Montpelier
Caroline Saba of Burlington
Graham Stevens of Springfield
Rachel Sucher of Montpelier
Silas Worthington of Island Pond

Proposals of Amendment; Bill Passed in Concurrence with Proposal of Amendment; Bill Messaged

H. 876.

House bill entitled:

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

Was taken up.

Thereupon, pending third reading of the bill, Senator Collins moved that the Senate proposal of amendment be amended by striking out Sec. 58 (extension of RED program; 50% incentives) in its entirety and inserting in lieu thereof the following: [Deleted.]

Which was disagreed to on a roll call, Yeas 5, Nays 22.

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: Campbell, Collins, Doyle, Mazza, White.

Those Senators who voted in the negative were: Ashe, Ayer, Baruth, Benning, Cummings, Flory, French, Galbraith, Hartwell, Kitchel, Lyons, MacDonald, McCormack, Nitka, Pollina, Rodgers, Sears, Sirotkin, Snelling, Starr, Westman, Zuckerman.

Those Senators absent and not voting were: Bray, McAllister, Mullin.

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

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

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

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

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

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

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

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

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

(e) Analysis and recommendations.

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

(A) reflect upon public comments;

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

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

(D) identify themes; and

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

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

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

(B) to contain costs without compromising quality; and

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

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

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

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

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

(g) On or before January 15, 2016, the Process Team and the facilitator shall deliver a report to the General Assembly that is representative of the

testimony received and that identifies the vision, values, goals, and strategies for enhancing student opportunities pursuant to subsection (d) of this section.

Thereupon, the pending question, Shall the Senate proposal of amendment be amended as recommended by Senators Pollina, Cummings, Doyle, and Collins?, Senator Pollina requested and was granted leave to withdraw the proposal of amendment.

Thereupon, pending third reading of the bill, Senator Rodgers, moved that the Senate proposal of amendment be amended by inserting a new section to be Sec. 65a and a related reader assistance heading to read:

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

Sec. 65a. PUBLIC HIGH SCHOOL CHOICE

In the January 2015 report on the status of the public high school choice program as required in 16 V.S.A. § 822a(m), the Secretary shall examine the funding impact of the program on receiving schools and provide recommendations to the General Assembly for amendments to the tuitioning system that are equitable to both the sending and receiving districts.

Which was agreed to.

Thereupon, pending third reading of the bill, Senators Hartwell and Sears moved that the Senate proposal of amendment be amended by striking out Sec. 39 (privatization; moratorium) in its entirety and inserting in lieu thereof the following: [Deleted.]

Which was disagreed to on a roll call, Yeas 9, Nays 19.

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

Roll Call

Those Senators who voted in the affirmative were: Benning, Flory, Hartwell, Kitchel, Nitka, Rodgers, Sears, Starr, Westman.

Those Senators who voted in the negative were: Ayer, Baruth, Bray, Campbell, Collins, Cummings, Doyle, French, Galbraith, Lyons, MacDonald, Mazza, McCormack, Mullin, Pollina, Sirotkin, Snelling, White, Zuckerman.

Those Senators absent and not voting were: Ashe, McAllister.

Thereupon, pending third reading of the bill, Senator Sirotkin moved that the Senate proposal of amendment be amended in Sec. 66 by striking out subsection (c) in its entirety and inserting in lieu thereof a new subsection (c) to read:

(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:

(1) are enrolled as of that date in the University of Vermont in a distance education course or program or a graduate program other than in the College of Medicine; or

(2) are Vermont residents who were graduated from an undergraduate program at the University or one of the Vermont State Colleges and who enroll in an on-campus graduate program at the University of Vermont other than in the College of Medicine prior to January 1, 2017.

Which was disagreed to.

Thereupon, pending third reading of the bill, Senators Pollina, Cummings, Doyle, and Collins moved that the Senate proposal of amendment be amended by adding a new section to be Sec.65a and a related reader assistance heading to read:

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

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

(a) Facilitator; request. The General Assembly requests the Vermont Council on Rural Development, a neutral facilitator with deep experience in public policy at the community and State levels, to conduct a statewide dialogue about the future of education in Vermont. If the request is accepted, the work shall proceed as set forth more fully in this section.

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

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

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

(c) Targeted meetings. The facilitator shall conduct additional, targeted meetings of identified stakeholders, including youths; parents of students; teachers; principals; school board members; superintendents and administrative staff; municipal boards and staff; business leaders; social service and nonprofit

leaders; ethnically diverse Vermonters; economically diverse Vermonters; arts and cultural leaders; representatives of higher education; the Agency of Education and other State employees; alternative and independent school leaders, parents, and youths; and experts in technology, curriculum, and innovation in education.

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

(e) Analysis and recommendations.

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

(A) reflect upon public comments;

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

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

(D) identify themes; and

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

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

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

(B) to contain costs without compromising quality; and

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

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

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

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

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

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

Which was agreed to on a roll call, Yeas 16, Nays 8.

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

Roll Call

Those Senators who voted in the affirmative were: Benning, Collins, Cummings, Doyle, French, Galbraith, Lyons, McCormack, Nitka, Pollina, Sears, Sirotkin, Starr, Westman, White, Zuckerman.

Those Senators who voted in the negative were: Baruth, Flory, Hartwell, MacDonald, Mazza, Mullin, Rodgers, Snelling.

Those Senators absent and not voting were: Ashe, Ayer, Bray, Campbell, Kitchel, McAllister.

Thereupon, pending third reading of the bill, Senator Collins moved that the Senate proposal of amendment be amended by inserting two new sections to be numbered Secs. 50a and 50b to read as follows:

Sec. 50a. 2010 Acts and Resolves No. 153, Sec. 18, as amended by 2011 Acts and Resolves No. 58, Sec. 18, and by 2013 Acts and Resolves No. 56, Sec. 23, is further amended to read:

Sec. 18. TRANSITION

(a) Each supervisory union shall provide for any transition of employment of special education and transportation employees by member districts to employment by the supervisory union, pursuant to Sec. 9 of this act, 16 V.S.A. § 261a(a)(6), and (8)(E) by:

* * *

Sec. 50b. TRANSITION; INTENT

Nothing in this act shall be construed to repeal or amend provisions in 2013 Acts and Resolves No. 56, Secs. 23–27, relating to the transition of special education and transportation employees to employment by supervisory unions.

Which was agreed to.

Thereupon, pending third reading of the bill, Senator Collins moved that the Senate proposal of amendment be amended in Sec. 38 (technology task force) and in Sec. 43 (physical education task force), by striking out subsection (d) (assistance) in its entirety in both instances.

And by relettering the remaining subsections to be alphabetically correct.

Which was agreed to.

Thereupon, the bill was read the third time and passed in concurrence with proposals of amendment on a roll call, Yeas 23, Nays 5.

Senator Benning 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, Bray, Campbell, Collins, Cummings, French, Galbraith, Kitchel, Lyons, MacDonald, Mazza, McCormack, Mullin, Nitka, Pollina, Rodgers, Sirotkin, Starr, Westman, White, Zuckerman.

Those Senators who voted in the negative were: *Benning, Flory, Hartwell, Sears, Snelling.

Those Senators absent and not voting were: Doyle, McAllister.

*Senator Benning explained his vote as follows:

“Mr. President:

“I cannot vote for a bill which contains a provision declaring a moratorium on school privatization. This runs counter to my understanding of the Constitution I am sworn to uphold. I also oppose school district consolidation and thus cannot support spending additional money for that purpose. Finally, I cannot support adding three new positions in the Agency of Education at a time when property tax payers are telling us to cut back on school and government bureaucracy.

“Thank you Mr. President”

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

Adjournment

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

Afternoon

The Senate was called to order by the President.

Message from the House No. 81

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

S. 241. An act relating to binding arbitration for State employees.

And has adopted the same on its part.

Message from the House No. 82

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

S. 295. An act relating to pretrial services, risk assessments, and criminal justice programs.

And has adopted the same on its part.

Rules Suspended; Joint Resolution Adopted in Concurrence**J.R.H. 21.**

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

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

Was taken up for immediate consideration.

Thereupon, the question, Shall the joint resolution be adopted in concurrence?, was decided in the affirmative.

Thereupon, on motion of Senator Baruth, the rules were suspended and the joint resolution was placed on all remaining stages of its adoption in concurrence forthwith.

Thereupon, the joint resolution was read the third time and adopted in concurrence.

Rules Suspended; Joint Resolution Adopted in Concurrence**J.R.H. 19.**

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

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

Was taken up for immediate consideration.

Thereupon, the question, Shall the joint resolution be adopted in concurrence?, was decided in the affirmative.

Thereupon, on motion of Senator Baruth, the rules were suspended and the joint resolution was placed on all remaining stages of its adoption in concurrence forthwith.

Thereupon, the joint resolution was read the third time and adopted in concurrence.

House Proposal of Amendment Concurred In**S. 264.**

House proposal of amendment to Senate bill entitled:

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

Was taken up.

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

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

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

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

§ 601. JUDICIAL NOMINATING BOARD CREATED; COMPOSITION

* * *

(d) The Judicial Nominating Board shall adopt rules under 3 V.S.A. chapter 25 which shall establish criteria and standards for the nomination of ~~qualified~~ candidates for ~~justices~~ Justices of the Supreme ~~court, superior~~ Court, Superior judges, magistrates, the Chair of the Public Service Board, and members of the Public Service Board. The criteria and standards shall include such factors as

integrity, legal knowledge and ability, judicial temperament, impartiality, health, experience, diligence, administrative and communicative skills, social consciousness, and public service. The application form shall not be included in the rules and may be developed and periodically revised at the discretion of the Board.

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

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

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

§ 2292. DEFENSES; LIABILITY AND PROTECTION OF TRANSFEREE

* * *

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

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

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

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

* * *

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

§ 2794. EXECUTION UPON REAL ESTATE; HOMESTEAD A PART

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

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

(b) Prior to acting on an application, the ~~department~~ Department shall obtain from the Vermont ~~criminal information center~~ Crime Information Center a Vermont criminal record, an out-of-state criminal record, and a criminal record from the Federal Bureau of Investigation for the applicant. ~~For purposes of this subdivision~~ As used in this subsection, "criminal record" means a record of whether the person has ever been convicted of a drug-related

crime. Each applicant shall consent to release of criminal records to the ~~department~~ Department on forms ~~substantially similar to the release forms developed by the center pursuant to 20 V.S.A. § 2056e~~ Center. The ~~department~~ Department shall comply with all laws regulating the release of criminal history records and the protection of individual privacy. The Vermont ~~criminal information center~~ Crime Information Center shall send to the requester any record received pursuant to this section or inform the ~~department of public safety~~ Department of Public Safety that no record exists. If the ~~department~~ Department disapproves an application, the ~~department~~ Department shall promptly provide a copy of any record of convictions and pending criminal charges to the applicant and shall inform the applicant of the right to appeal the accuracy and completeness of the record pursuant to rules adopted by the Vermont ~~criminal information center~~ Crime Information Center. No person shall confirm the existence or nonexistence of criminal record information to any person who would not be eligible to receive the information pursuant to this subchapter.

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

(b) Prior to acting on an application for a registry identification card, the ~~department of public safety~~ Department of Public Safety shall obtain with respect to the applicant a Vermont criminal history record, an out-of-state criminal history record, and a criminal history record from the Federal Bureau of Investigation. Each applicant shall consent to the release of criminal history records to the ~~department~~ Department on forms ~~substantially similar to the release forms developed in accordance with 20 V.S.A. § 2056e~~ by the Vermont Crime Information Center.

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

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

Investigation criminal history records is subject to the rules and regulations of the Federal Bureau of Investigation's National Crime Information Center.

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

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

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

* * *

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

§ 145. EFFECT OF SPOUSE JOINING IN MORTGAGE

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

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

§ 182. APPLICATION TO SUPERIOR COURT FOR RELIEF

When a dwelling house, outbuildings, and lands in which a homestead right exists, exceed in value ~~\$75,000.00~~, \$125,000.00 and a severance of the homestead would greatly depreciate the value of the residue of the premises or be of great inconvenience to the parties interested either in the residue or in the

homestead, either party may apply for relief to the ~~superior court~~ Superior Court by a complaint setting forth the facts.

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

§ 183. TRANSFER OR SALE IN LIEU OF SEVERANCE

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

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

§ 1111. CIVIL VIOLATION; FAILURE TO PRODUCE IDENTIFICATION

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 15. EFFECTIVE DATE

This act shall take effect on passage.

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

Rules Suspended; Senate Resolution Adopted

S.R. 14.

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

Senate resolution relating to bad faith patent assertion.

Was taken up for immediate consideration.

Thereupon, the question, Shall the resolution be adopted?, was decided in the affirmative.

Thereupon, on motion of Senator Baruth, the rules were suspended and the resolution was placed on all remaining stages of its adoption forthwith.

Thereupon, the resolution was read the third time and adopted.

Rules Suspended; House Proposal of Amendment Concurred In

S. 237.

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 civil forfeiture proceedings in cases of animal cruelty.

Was taken up for immediate consideration.

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

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

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

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

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

S. 234.

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

An act relating to Medicaid coverage for home telemonitoring services.

Was taken up for immediate consideration.

Senator Pollina, 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 Senate bill entitled:

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

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

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

§ 1901g. MEDICAID COVERAGE FOR HOME TELEMONITORING SERVICES

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

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

(c) As used in this section:

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

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

Sec. 2. GRANT FUNDING

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

Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2014.

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

Committee on the part of the Senate

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

Committee on the part of the House

Thereupon, the question, Shall the Senate accept and adopt the report of the Committee of Conference?, was decided in the affirmative.

House Proposal of Amendment Concurred In**S. 269.**

House proposal of amendment to Senate bill entitled:

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

Was taken up.

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

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

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

§ 3666. RULES; METHODS OF NOTICE

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

And by renumbering the remaining section to be numerically correct.

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

By striking out Sec. 2 in its entirety and by renumbering the remaining sections to be numerically correct.

Which was agreed to.

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

H. 297.

Pending entry 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 duties and functions of the Department of Public Service.

Was taken up for immediate consideration.

Senator Bray, 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:

H. 297. An act relating to duties and functions of the Department of Public Service.

Respectfully reports that it has met and considered the same and recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

* * * Legislative Purpose; Findings * * *

Sec. 1. LEGISLATIVE PURPOSE; FINDINGS

It is the intent of the General Assembly to maintain a robust and modern telecommunications network in Vermont by making strategic investments in improved technology for all Vermonters. To achieve that goal, it is the purpose of this act to upgrade the State's telecommunications objectives and reorganize government functions in a manner that results in more coordinated and efficient State programs and policies, and, ultimately, produces operational savings that may be invested in further deployment of broadband and mobile telecommunications services for the benefit of all Vermonters. In addition, it is the intent of the General Assembly to update and provide for a more equitable application of the Universal Service Fund (USF) surcharge.

Together, these operational savings and additional USF monies will raise at least \$1 million annually, as follows:

(1) \$650,000.00 from an increase in the USF charge to a flat two percent;

(2) \$450,000.00 from application of the USF charge to prepaid wireless telecommunications service providers; and

(3) \$300,000.00 in operational savings from the transfer and consolidation of State telecommunications functions.

* * * Universal Service Fund * * *

Sec. 2. 30 V.S.A. § 7501 is amended to read:

§ 7501. PURPOSE; DEFINITIONS

(a) It is the purpose of this act to create a financial structure that will allow every Vermont household to obtain basic telecommunications service at an affordable price, and to finance that structure with a proportional charge on all telecommunications transactions that interact with the public switched network.

(b) As used in this chapter:

(1) “Basic telecommunications service” means that a customer has available at his or her location:

(A) switched voice grade interactive telecommunications service permitting origination and termination of calls;

(B) the ability to transmit network switching instructions through tones generated by customer-owned equipment;

(C) the ability to transmit and receive the customer’s computer-generated digital data, either by digital or analog transmission, reliably and at common transmission rates, using customer-owned equipment;

(D) the ability to communicate quickly and effectively with emergency response personnel; and

(E) telecommunications relay service, as authorized under section 218a of this title.

(2) “Interactive” means that a communications medium is regularly used to transmit information in two directions.

(3) “Line in service” means a circuit or channel connecting a customer to the public switched network or to the Internet.

(4) “Private network” means a telecommunications system entirely owned and operated by a single corporate or individual person other than a telecommunications service provider and not available to the general public.

~~(4)~~(5) “Public switched network” means the communications network owned and operated by telecommunications service providers, some of whom are common carriers.

(6) “Service area” means:

(A) in the case of a rural telephone company, the company’s study area as approved by the Federal Communications Commission; or

(B) in the case of a local exchange carrier, other than a rural telephone company, the carrier’s local exchange service area as approved by the Public Service Board.

(7) “Service location” means a business or residential geographic point of contact of a telecommunications service for purposes of the enhanced-911 network. The number of service locations in each exchange shall be determined by the Department of Public Service in periodic updates to the State Telecommunications Plan based on analysis of the locations in the database of the Vermont Enhanced-911 Board.

~~(5)~~(8) “Telecommunications service” means the transmission of any interactive electromagnetic communications that passes through the public switched network. The term includes, ~~but is not limited to,~~ transmission of voice, image, data, and any other information, by means of ~~but not limited to~~ wire, electric conductor cable, optic fiber, microwave, radio wave, or any combinations of such media, and the leasing of any such service.

(A) Telecommunications service includes ~~but is not limited to:~~

(i) local telephone service, including any facility or service provided in connection with such local telephone service;

(ii) toll telephone service;

(iii) directory assistance;

(iv) two-way cable television service; and

(v) mobile telephone or telecommunication service, both analog and digital.

(B) Notwithstanding the ~~above, for purposes of~~ provisions of this subdivision (8), as used in this chapter, telecommunications service does not include:

(i) Services consisting primarily of the creation of artistic material or other information that is later transmitted over telecommunications equipment, including information services and electronic bulletin boards, but only to the extent that charges for such information processing are separated from charges for other telecommunications services, and only to the extent that such information is not used by any telecommunications service provider in the administration of the telecommunications network.

(ii) Mobile radio and paging services that do not have an electronic interface into the public switched network.

(iii) Private network services; provided, however, that payments by a private network to a telecommunications service provider, such as for point-to-point transmission services, are not exempt under this subdivision.

(iv) [Repealed.]

(v) Telecommunications services paid for at the point of purchase by depositing coins or currency.

(vi) Charges incurred by utilizing prepaid telephone calling cards or prepaid authorization numbers.

~~(6)(9)~~ “Telecommunications service provider” means a company required by law to hold a certificate of public good from the ~~public service board~~ Public Service Board to offer telecommunications service for intrastate service, or is authorized by the Federal Communications Commission to offer interstate telecommunications service.

Sec. 3. 30 V.S.A. § 7511(5) is amended to read:

(5) ~~To reduce the cost to customers of basic telecommunications service in high cost areas, in the manner provided by section 7515 of this title to support the Connectivity Fund established in section 7516 of this chapter.~~

Sec. 4. 30 V.S.A. § 7516 is added to read:

§ 7516. CONNECTIVITY FUND

There is created a Connectivity Fund for the purpose of providing support to the High-Cost Program established under section 7515 of this chapter and the Connectivity Initiative established under section 7515b of this chapter. The fiscal agent shall determine annually, on or before September 1, the amount of monies available to the Connectivity Fund. Such funds shall be apportioned equally to the High-Cost Program and the Connectivity Initiative referenced in this section.

Sec. 5. 30 V.S.A. § 7515 is amended to read:

§ 7515. HIGH-COST PROGRAM

(a) ~~The General Assembly intends that the universal service charge shall be used in the future as a means of keeping basic telecommunications service affordable in all parts of this State, thereby maintaining universal service, and as a means of supporting access to broadband service in all parts of the State.~~

(b) ~~The Commissioner of Public Service, in conjunction with the Public Service Board, shall conduct a study of the costs and other factors affecting the delivery of local exchange service by the incumbent local exchange carriers (the providers of last resort). The study shall include an informal workshop process to be conducted by the Board. Such process shall be noticed to the general public and structured to allow written and verbal comments by the general public, service providers, public officials, and others as determined by the Board. The study shall:~~

~~(1) After considering information on how various factors affect the costs of providing telecommunications service in Vermont and elsewhere, estimate the current costs and estimate, on a forward looking basis, the differential costs of providing local exchange service to various customer groups throughout Vermont.~~

~~(2) Estimate the relationship between basic telecommunications service charges and universal service, and the threshold level beyond which universal residential service is likely to be harmed.~~

~~(3) Estimate the relationship between basic telecommunications service charges and opportunities for uniform economic development throughout the State, and the threshold prices beyond which such opportunities may be adversely affected.~~

~~(4) Estimate the potential effects of local exchange competition on uniform and affordable basic telecommunications service charges in all parts of the State.~~

~~(5) Examine policy options by which the cost to customers may be managed so as not to jeopardize universal service and the uniform economic development opportunities, including at least the following:~~

~~(A) establishing a maximum price for basic telecommunications service, beyond which customers would have access, without regard to income, to credits or vouchers negotiable for local exchange service from a local exchange provider or competitive access provider;~~

~~(B) broadening eligibility for the Lifeline program; and~~

~~(C) establishing a mechanism to adjust the level of support for higher cost customers over time to reflect legal rights, recover historic costs, and reflect the advantages of improved technology and increased efficiency.~~

~~(6) Examine the actions, if any, of the Federal Communications Commission (FCC) in revising its Universal Service Fund, and the need, if any, for additional action in Vermont. In particular, the study shall examine the impact on Vermont services caused by the FCC's report and order released November 18, 2011, which, among other things, expands the federal Universal Service Fund to include broadband deployment in unserved areas. Further, the study shall consider the potential impact of various legal challenges to the FCC action on the federal Universal Service Fund.~~

~~(7) Propose mechanisms to support universal service and rural economic development while securing the benefits of telecommunications competition for Vermont households and businesses.~~

~~(8) Include an audit of the Universal Service Fund to examine, among other things, the contributions made to the fund in terms of the categories of telecommunications service providers covered as well as the specific services charged. In addition, the audit shall assess the disbursements made from the Fund.~~

~~(9) Consider any other relevant issues that may arise during the course of the study.~~

~~(e) The results of the study, together with any plan for amending and distributing funds under this section, shall be submitted to the House Committee on Commerce and Economic Development and the Senate Committee on Finance on or before December 1, 2012.~~

~~(d) The Commissioner of Public Service may contract with a consultant to conduct the study required by this section. Costs incurred in conducting the study shall be reimbursed from the State Universal Service Fund up to \$75,000.00.~~

~~(e) To the extent this study may require disclosure of confidential information by a telecommunications service provider, such confidential information shall be disclosed to a third party pursuant to a protective agreement. In no event shall the third party be a person or persons employed by a business competitor or whose primary duties engage them in business competition with a telecommunications service provider submitting the confidential information. The third party may be the consultant retained by the Commissioner under subsection (d) of this section or may be another third party agreed upon by the Commissioner and the telecommunications service providers. The third party shall be responsible for aggregating the information~~

~~and, once aggregated, may publicly disclose such information consistent with the purposes of this section. The confidentiality requirements of this subsection shall not affect whether information provided to an agency of the State or a political subdivision of the State pursuant to other laws is or is not subject to disclosure.~~ The Public Service Board, after review of a petition of a company holding a certificate of public good to provide telecommunications service in Vermont, and upon finding that the company meets all requirements for designation as an “eligible telecommunications carrier” as defined by the FCC, may designate the company as a Vermont-eligible telecommunications carrier (VETC).

(c) The supported services a designated VETC must provide are voice telephony services, as defined by the FCC, and broadband Internet access, directly or through an affiliate. A VETC receiving support under this section shall use that support for capital improvements in high cost areas to build broadband capable networks.

(d) The Board may designate multiple VETCs for a single high cost area, but each designated VETC shall:

(1) offer supported services to customers at all locations throughout the service area or areas for which it has been designated; and

(2) for its voice telephone services, meet service quality standards set by the Board.

(e) A VETC shall receive support as defined in subsection (i) of this section from the fiscal agent of the Vermont Universal Service Fund for each telecommunications line in service or service location, whichever is greater in number, in each high cost area it services. Such support may be made in the form of a net payment against the carrier’s liability to the Fund. If multiple VETCs are designated for a single area, then each VETC shall receive support for each line it has in service.

(f) As used in this section, a Vermont telephone exchange is a “high cost area” if the exchange is served by a rural telephone company, as defined by federal law, or if the exchange is designated as a rural exchange in the wholesale tariff of a regional bell operating company (RBOC), as defined by the FCC, or of a successor company to an RBOC. An exchange is not a high cost area if the Public Service Board finds that the supported services are available to all locations throughout the exchange from at least two service providers.

(g) Except as provided in subsection (h) of this section, a VETC shall provide broadband Internet access at speeds meeting 4 Mbps download and 1 Mbps upload in each high cost area it serves within five years of designation.

A VETC need not provide broadband service to a location that has service available from another service provider, as determined by the Department of Public Service.

(h) The Public Service Board may modify the build out requirements of subsection (d) of this section as it relates to broadband Internet access to be the geographic area that could be reached using one-half of the funds to be received over five years. A VETC may seek such waiver of the build out requirements in subsection (c) within one year of designation and shall demonstrate the cost of meeting broadband Internet access requirements on an exchange basis and propose an alternative build out plan.

(i) The amount of the monthly support under this section shall be the pro rata share of available funds as provided in subsection (e) of this section.

(j) The Public Service Board shall adopt by rule standards and procedures for ensuring projects funded under this section are not competitive overbuilds of existing wired telecommunications services.

(k) Each VETC shall submit certification that it is meeting the requirements of this section and an accounting of how it expended the funds received under this section in the previous calendar year with its annual report to the Department of Public Service. For good cause shown, the Public Service Board may investigate submissions required by this subsection and may revoke a company's designation if it finds that the company is not meeting the requirements of this subsection.

Sec. 6. 30 V.S.A. § 7515b is added to read:

§ 7515b. CONNECTIVITY INITIATIVE

(a) The purpose of the Connectivity Initiative is to provide each service location in Vermont access to Internet service that is capable of speeds of at least 4 Mbps download and 1 Mbps upload, beginning with locations not served as of December 31, 2013 according to the minimum technical service characteristic objectives applicable at that time. Within this category of service locations, priority shall be given first to unserved and then to underserved locations. As used in this section, "unserved" means a location having access to only satellite or dial-up Internet service and "underserved" means a location having access to Internet service with speeds that exceed satellite and dial-up speeds but are less than 4 Mbps download and 1 Mbps upload. Any new services funded in whole or in part by monies in this Fund shall be capable of being continuously upgraded to reflect the best available, most economically feasible service capabilities.

(b) The Department of Public Service shall publish annually a list of census blocks eligible for funding based on the Department's most recent broadband

mapping data. The Department annually shall solicit proposals from service providers, the Vermont Telecommunications Authority, and the Division for Connectivity to deploy broadband to eligible census blocks. The Department shall give priority to proposals that reflect the lowest cost of providing services to unserved and underserved locations; however, the Department also shall consider:

(1) the proposed data transfer rates and other data transmission characteristics of services that would be available to consumers;

(2) the price to consumers of services;

(3) the proposed cost to consumers of any new construction, equipment installation service, or facility required to obtain service;

(4) whether the proposal would use the best available technology that is economically feasible;

(5) the availability of service of comparable quality and speed; and

(6) the objectives of the State's Telecommunications Plan.

Sec. 7. 30 V.S.A. § 7523 is amended to read:

§ 7523. RATE ADJUSTED ANNUALLY OF CHARGE

~~(a) Annually, after considering the probable expenditures for programs funded pursuant to this chapter, the probable service revenues of the industry and seeking recommendations from the department, the public service board shall establish a rate of charge to apply during the 12 months beginning on the following September 1. However, the rate so established shall not at any time exceed two percent of retail telecommunications service. The board's decision shall be entered and announced each year before July 15. However, if the general assembly does not enact an authorization amount for E-911 before July 15, the board may defer decision until 30 days after the E-911 authorization is established, and the existing charge rate shall remain in effect until the board establishes a new rate. Beginning on July 1, 2014, the rate of charge shall be two percent of retail telecommunications service.~~

(b) Universal service charges imposed and collected by the fiscal agent under this subchapter shall not be transferred to any other fund or used to support the cost of any activity other than in the manner authorized by section 7511 of this title.

* * * State Telecommunications Policy; Planning; Reporting * * *

Sec. 8. 30 V.S.A. § 202c is amended to read:

§ 202c. STATE TELECOMMUNICATIONS; POLICY AND PLANNING

(a) The General Assembly finds that advances in telecommunications technology and changes in federal regulatory policy are rapidly reshaping telecommunications services, thereby promising the people and businesses of the State communication and access to information, while creating new challenges for maintaining a robust, modern telecommunications network in Vermont.

(b) Therefore, to direct the benefits of improved telecommunications technology to all Vermonters, it is the purpose of this section and section 202d of this title to:

(1) ~~Strengthen~~ strengthen the State's role in telecommunications planning;:

(2) ~~Support~~ support the universal availability of appropriate infrastructure and affordable services for transmitting voice and high-speed data;:

(3) ~~Support~~ support the availability of modern mobile wireless telecommunications services along the State's travel corridors and in the State's communities;:

(4) ~~Provide~~ provide for high-quality, reliable telecommunications services for Vermont businesses and residents;:

(5) ~~Provide~~ provide the benefits of future advances in telecommunications technologies to Vermont residents and businesses;:

(6) ~~Support~~ support competitive choice for consumers among telecommunications service providers and promote open access among competitive service providers on nondiscriminatory terms to networks over which broadband and telecommunications services are delivered;:

(7) ~~Support, to the extent practical and cost effective,~~ support the application of telecommunications technology to maintain and improve governmental and public services, public safety, and the economic development of the State;:

(8) ~~Support~~ support deployment of broadband infrastructure that:

(A) ~~Uses~~ uses the best commercially available technology;:

(B) ~~Does~~ does not negatively affect the ability of Vermont to take advantage of future improvements in broadband technology or result in

widespread installation of technology that becomes outmoded within a short period after installation;

(9) ~~In~~ in the deployment of broadband infrastructure, encourage the use of existing facilities, such as existing utility poles and corridors and other structures, in preference to the construction of new facilities or the replacement of existing structures with taller structures; and

(10) support measures designed to ensure that by the end of the year 2024 every E-911 business and residential location in Vermont has infrastructure capable of delivering Internet access with service that has a minimum download speed of 100 Mbps and is symmetrical.

Sec. 9. 30 V.S.A. § 202d is amended to read:

§ 202d. TELECOMMUNICATIONS PLAN

(a) ~~The department of public service~~ Department of Public Service shall constitute the responsible planning agency of the ~~state~~ State for the purpose of obtaining for all consumers in the ~~state~~ State stable and predictable rates and a technologically advanced telecommunications network serving all service areas in the ~~state~~ State. ~~The department of public service~~ Department shall be responsible for the provision of plans for meeting emerging trends related to telecommunications technology, markets, financing, and competition.

(b) ~~The department of public service~~ Department shall prepare a ~~telecommunications plan~~ Telecommunications Plan for the ~~state~~ State. ~~The department of innovation and information~~ Department of Innovation and Information, the Division for Connectivity and ~~the agency of commerce and community development~~ Agency of Commerce and Community Development shall assist the ~~department of public service~~ Department of Public Service in preparing the ~~plan~~ Plan. ~~The plan~~ Plan shall be for a ~~seven-year~~ ten-year period and shall serve as a basis for ~~state~~ State telecommunications policy. Prior to preparing the ~~plan~~ Plan, the ~~department of public service~~ Department shall prepare:

(1) an overview, looking ~~seven~~ ten years ahead, of future requirements for telecommunications services, considering services needed for economic development, technological advances, and other trends and factors which, as determined by the ~~department of public service~~ Department of Public Service, will significantly affect ~~state~~ State telecommunications policy and programs;

(2) a survey of Vermont residents and businesses, conducted in cooperation with the ~~agency of commerce and community development~~ Agency of Commerce and Community Development and ~~the Division for Connectivity~~, to determine what telecommunications services are needed now and in the succeeding ~~seven~~ ten years;

(3) an assessment of the current state of telecommunications infrastructure;

(4) an assessment, conducted in cooperation with the ~~department of innovation and information~~ Department of Innovation and Information and the Division for Connectivity, of the current ~~state~~ State telecommunications system and evaluation of alternative proposals for upgrading the system to provide the best available and affordable technology for use by government; and

(5) an assessment of the state of telecommunications networks and services in Vermont relative to other states, including price comparisons for key services and comparisons of the state of technology deployment.

(c) In developing the ~~plan~~ Plan, the ~~department~~ Department shall take into account the policies and goals of section 202c of this title.

(d) In establishing plans, public hearings shall be held and the ~~department of public service~~ Department shall consult with members of the public, representatives of telecommunications utilities, other providers, and other interested ~~state~~ State agencies, particularly the ~~agency of commerce and community development~~ Agency of Commerce and Community Development, the Division for Connectivity, and the ~~department of innovation and information~~ Department of Innovation and Information, whose views shall be considered in preparation of the ~~plan~~ Plan. To the extent necessary, the ~~department of public service~~ Department shall include in the ~~plan~~ Plan surveys to determine existing, needed, and desirable plant improvements and extensions, access and coordination between telecommunications providers, methods of operations, and any change that will produce better service or reduce costs. To this end, the ~~department of public service~~ Department may require the submission of data by each company subject to supervision by the ~~public service board~~ Public Service Board.

(e) Before adopting a ~~plan~~ Plan, the ~~department~~ Department shall conduct public hearings on a final draft and shall consider the testimony presented at such hearings in preparing the final ~~plan~~ Plan. At least one hearing shall be held jointly with ~~committees~~ Committees of the ~~general assembly~~ General Assembly designated by the ~~general assembly~~ General Assembly for this purpose. The ~~plan~~ Plan shall be adopted by ~~September 1, 2004~~ September 1, 2014.

(f) The ~~department~~ Department, from time to time, but in no event less than every three years, institute proceedings to review a ~~plan~~ Plan and make revisions, where necessary. The three-year major review shall be made according to the procedures established in this section for initial adoption of the ~~plan~~ Plan. For good cause or upon request by a ~~joint resolution~~ Joint

Resolution passed by the ~~general assembly~~ General Assembly, an interim review and revision of any section of the ~~plan~~ Plan may be made after conducting public hearings on the interim revision. At least one hearing shall be held jointly with ~~committees~~ Committees of the ~~general assembly~~ General Assembly designated by the ~~general assembly~~ General Assembly for this purpose.

(g) The Department shall review and update the minimum technical service characteristic objectives not less than every three years beginning in 2017. In the event such review is conducted separately from an update of the Plan, the Department shall issue revised minimum technical service characteristic objectives as an amendment to the Plan.

Sec. 10. 3 V.S.A. § 2222b is amended to read:

§ 2222b. TELECOMMUNICATIONS; COORDINATION AND PLANNING

(a) The Secretary of Administration or designee shall be responsible for the coordination of telecommunications initiatives among Executive Branch agencies, departments, and offices.

(b) In furtherance of the goals set forth in 30 V.S.A. § 8060(b), the Secretary shall have the following duties:

(1) from information reasonably available after public notice to and written requests made of mobile telecommunications and broadband service providers, to develop and maintain an inventory of locations at which mobile telecommunications and broadband services are not available within the State, develop and maintain an inventory of infrastructure that is available or reasonably likely to be available to support provision of services to unserved areas, and develop and maintain an inventory of infrastructure necessary for provision of these services to the unserved areas;

(2) to identify the types and locations of infrastructure and services needed to accomplish the goals of this chapter;

(3) to formulate, on or before December 15, 2014, an action plan to accomplish the goals of universal availability of broadband and mobile telecommunications services ~~by the end of the year 2013~~;

(4) to coordinate the agencies of the State to make public resources available to support the extension of mobile telecommunications and broadband infrastructure and services to all unserved areas;

(5) to support and facilitate initiatives to extend the availability of mobile telecommunications and broadband services, and to promote development of the infrastructure that enables the provision of these services;

(6) through the Department of Innovation and Information, to aggregate and broker access at reduced prices to services and facilities required to provide wireless telecommunications and broadband services; and to waive or reduce State fees for access to state-owned rights-of-way in exchange for comparable value to the State, unless payment for use is otherwise required by federal law;

(7) to review all financial transactions, statements, and contracts of the Vermont ~~telecommunications authority~~ Telecommunications Authority established under 30 V.S.A. § 8061; and

(8) to receive all technical and administrative assistance as deemed necessary by the Secretary of Administration.

(c) Deployment tracking.

(1) Not later than 30 days after the effective date of this act, all persons proposing to construct or install Vermont cables, wires, or telecommunications facilities as defined in 30 V.S.A. § 248a(b)(1) shall file plans with the Secretary if the construction or installation relates to the deployment of broadband infrastructure and is funded in whole or in part pursuant to the American Recovery and Reinvestment Act of 2009, Pub.L. No. 111-5, or by funds granted or loaned by the State of Vermont or one of its instrumentalities.

(2) The plans filed pursuant to subdivision (1) of this subsection shall include data identifying the projected coverage area, the projected average speed of service, service type, and the anticipated date of completion in addition to identifying the location and routes of proposed cables, wires, and telecommunications facilities, and shall be updated every 90 days.

(3) The Secretary shall use the information provided pursuant to this subsection in performing the duties set forth in subsection (b) of this section.

(4) The Secretary shall keep confidential the plans submitted to him or her under this subsection except that, pursuant to a nondisclosure agreement, the ~~secretary~~ Secretary may disclose the information to ~~the Vermont Center for Geographic Information created under 10 V.S.A. § 122 or to some other person~~ or an entity for the purpose of aggregating the information. Information so disclosed shall remain confidential.

(5) The Secretary may request voluntary disclosure of information such as that set forth in subdivision (2) of this subsection regarding deployment of broadband, telecommunications facilities, or advanced metering infrastructure that is not publicly funded. The Secretary may enter into a nondisclosure agreement with respect to any such voluntary disclosures and the information disclosed pursuant thereto shall remain confidential. Alternatively, entities that voluntarily provide information requested pursuant to this subdivision may

select a third party to be the recipient of such information. That third party may aggregate information provided by the entities, but shall not disclose the information it has received to any person, including the Secretary. The third party may only disclose the aggregated information to the Secretary.

(6) The Secretary may publicly disclose aggregated information based upon the information provided pursuant to this subsection.

(7) The confidentiality requirements of subdivisions (4) and (5) of this subsection shall not affect whether information provided to an agency of the state or a political subdivision of the state pursuant to other laws is or is not subject to disclosure.

Sec. 11. 3 V.S.A. § 2222c is amended to read:

§ 2222c. BROADBAND AND WIRELESS DEPLOYMENT

* * *

(b) Report; broadband and wireless deployment; underserved and unserved areas. On or before ~~January 30, 2012~~ December 15, 2014, the Secretary of Administration or designee shall report to the General Assembly each of the following:

(1) As of ~~January 1, 2014~~ December 15, 2014, based upon data submitted by the providers, the areas of the State that will not be served by broadband. The report shall reflect both areas currently served as of the date of the report, as well as areas proposed to be served on or before ~~January 1, 2014~~ January 1, 2016, including broadband and wireless communications services funded in whole or in part pursuant to the American Recovery and Reinvestment Act of 2009, Pub.L. No. 111-5. The report shall include a map and a narrative description of each of the following, as of ~~January 1, 2014~~ December 15, 2014:

(A) The areas served and the areas not served by broadband that has a download speed of at least 0.768 Mbps and an upload speed of at least 0.2 Mbps.

(B) The areas served and the areas not served by broadband that has a combined download and upload speed of at least five Mbps.

(C) The areas served and the areas not served by wireless communications service.

(2) Estimates as can reasonably be identified of the cost to:

(A) Provide broadband that has a download speed of at least 0.768 Mbps and an upload speed of at least 0.2 Mbps to areas not served by such broadband.

(B) Provide broadband that has a combined download and upload speed of at least five Mbps to areas not served by such broadband.

(C) Provide wireless communications service to the areas identified under subdivision (1)(C) of this subsection as not receiving such service.

Sec. 12. 3 V.S.A. § 2225 is added to read:

§ 2225. DIVISION FOR CONNECTIVITY

(a) Creation. The Division for Connectivity is created within the Agency of Administration as the successor in interest to and the continuation of the Vermont Telecommunications Authority. A Director for Connectivity shall be appointed by the Secretary of Administration. The Division shall receive administrative support from the Agency.

(b) Purposes. The purposes of the Division are to promote:

(1) access to affordable broadband service to all residences and businesses in all regions of the State, to be achieved in a manner that is consistent with the State Telecommunications Plan;

(2) universal availability of mobile telecommunication services, including voice and high-speed data along roadways, and near universal availability statewide;

(3) investment in telecommunications infrastructure in the State that creates or completes the network for service providers to create last-mile connection to the home or business and supports the best available and economically feasible service capabilities;

(4) the continuous upgrading of telecommunications and broadband infrastructure in all areas of the State is to reflect the rapid evolution in the capabilities of available mobile telecommunications and broadband technologies, and in the capabilities of mobile telecommunications and broadband services needed by persons, businesses, and institutions in the State; and

(5) the most efficient use of both public and private resources through State policies by encouraging the development of open access telecommunications infrastructure that can be shared by multiple service providers.

(c) Duties. To achieve its purposes, the Division shall:

(1) provide resources to local, regional, public, and private entities in the form of grants, technical assistance, coordination, and other incentives;

(2) prioritize the use of existing buildings and structures, historic or otherwise, as sites for visually-neutral placement of mobile telecommunications and wireless broadband antenna facilities;

(3) inventory and assess the potential to use federal radio frequency licenses held by instrumentalities of the State to enable broadband service in unserved areas of the State; take steps to promote the use of those licensed radio frequencies for that purpose; and recommend to the General Assembly any further legislative measures with respect to ownership, management, and use of these licenses as would promote the general good of the State;

(4) coordinate telecommunications initiatives among Executive Branch agencies, departments, and offices;

(5) from information reasonably available after public notice to and written requests made of mobile telecommunications and broadband service providers, develop and maintain an inventory of locations at which mobile telecommunications and broadband services are not available within the State, develop and maintain an inventory of infrastructure that is available or reasonably likely to be available to support the provision of services to unserved areas, and develop and maintain an inventory of infrastructure necessary for the provision of these services to the unserved areas;

(6) identify the types and locations of infrastructure and services needed to carry out the purposes stated in subsection (b) of this section;

(7) formulate an action plan that conforms with the State Telecommunications Plan and carries out the purposes stated in subsection (b) of this section;

(8) coordinate the agencies of the State to make public resources available to support the extension of mobile telecommunications and broadband infrastructure and services to all unserved areas;

(9) support and facilitate initiatives to extend the availability of mobile telecommunications and broadband services, and promote development of the infrastructure that enables the provision of these services;

(10) through the Department of Innovation and Information, aggregate and broker access at reduced prices to services and facilities required to provide wireless telecommunications and broadband services; and waive or reduce State fees for access to State-owned rights-of-way in exchange for comparable value to the State, unless payment for use is otherwise required by federal law; and

(11) receive all technical and administrative assistance as deemed necessary by the Director for Connectivity.

(d)(1) Deployment. The Director may request voluntary disclosure of information regarding deployment of broadband, telecommunications facilities, or advanced metering infrastructure that is not publicly funded. Such information may include data identifying projected coverage areas, projected average speed of service, service type, and the anticipated date of completion in addition to identifying the location and routes of proposed cables, wires, and telecommunications facilities.

(2) The Director may enter into a nondisclosure agreement with respect to any voluntary disclosures under this subsection and the information disclosed pursuant thereto shall remain confidential. Alternatively, entities that voluntarily provide information requested under this subsection may select a third party to be the recipient of such information. The third party may aggregate information provided by the entities, but shall not disclose the information it has received to any person, including the Director. The third party shall only disclose the aggregated information to the Director. The Director may publicly disclose aggregated information based upon the information provided under this subsection. The confidentiality requirements of this subsection shall not affect whether information provided to any agency of the State or a political subdivision of the State pursuant to other laws is or is not subject to disclosure.

(e) Minimum technical service characteristics. The Division only shall promote the expansion of broadband services that offer actual speeds that meet or exceed the minimum technical service characteristic objectives contained in the State's Telecommunications Plan.

(f) Annual Report. Notwithstanding 2 V.S.A. § 20(d), on or before January 15 of each year, the Director shall submit a report of its activities for the preceding fiscal year to the General Assembly. Each report shall include an operating and financial statement covering the Division's operations during the year, including a summary of all grant awards and contracts and agreements entered into by the Division, as well as the action plan required under subdivision (c)(7) of this section. In addition, the report shall include an accurate map and narrative description of each of the following:

(1) the areas served and the areas not served by wireless communications service, as identified by the Department of Public Service, and cost estimates for providing such service to unserved areas;

(2) the areas served and the areas not served by broadband that has a download speed of at least 0.768 Mbps and an upload speed of at least 0.2 Mbps, as identified by the Department of Public Service, and cost estimates for providing such service to unserved areas;

(3) the areas served and the areas not served by broadband that has a combined download and upload speed of at least 5 Mbps, as identified by the Department of Public Service, and the costs for providing such service to unserved areas; and

(4) the areas served and the areas not served by broadband that has a download speed of at least 100 Mbps and is symmetrical, as identified by the Department of Public Service, and the costs for providing such service to unserved areas.

Sec. 13. REPEAL

3 V.S.A. § 2222b (Secretary of Administration responsible for coordination and planning); 3 V.S.A. § 2222c (Secretary of Administration to prepare deployment report); 30 V.S.A. § 8077 (minimum technical service characteristics); and 30 V.S.A. § 8079 (broadband infrastructure investment) are repealed.

Sec. 14. CREATION OF POSITIONS; TRANSFER OF VACANT POSITIONS; REEMPLOYMENT RIGHTS

(a) The following exempt positions are created within the Division for Connectivity: one full-time Director and up to six additional full-time employees as deemed necessary by the Secretary of Administration.

(b) The positions created under subsection (a) of this section shall only be filled to the extent there are existing vacant positions in the Executive Branch available to be transferred and converted to the new positions in the Division for Connectivity, as determined by the Secretary of Administration and the Commissioner of Human Resources, so that the total number of authorized positions in the State shall not be increased by this act.

(c) All full-time personnel of the Vermont Telecommunications Authority employed by the Authority on the day immediately preceding the effective date of this act, who do not obtain a position in the Division for Connectivity pursuant to subsection (a) of this section, shall be entitled to the same reemployment or recall rights available to non-management State employees under the existing collective bargaining agreement entered into between the State and the Vermont State Employees' Association.

Sec. 15. TRANSITIONAL PROVISIONS

(a) Personnel. The Secretary of Administration shall determine where the offices of the Division for Connectivity shall be housed.

(b) Assets and liabilities. The Secretary of Administration shall develop a plan for transferring the assets and liabilities of the Vermont Telecommunications Authority (VTA) to the Agency of Administration or to another entity, as deemed appropriate.

(c) Legal and contractual obligations. The Executive Director of the VTA, in consultation with the Secretary of Administration, shall identify all grants and contracts of the VTA and create a plan to redesignate the Agency of Administration as the responsible entity. The plan shall ensure that all existing grantors, grantees, and contractors are notified of the redesignation.

* * * Conduit Standards; Public Highways * * *

Sec. 16. 3 V.S.A. § 2226 is added to read:

§ 2226. PUBLIC HIGHWAYS; CONDUIT STANDARDS

(a) Intent. The intent of this section is to provide for the construction of infrastructure sufficient to allow telecommunications service providers seeking to deploy communication lines in the future to do so by pulling the lines through the conduit and appurtenances installed pursuant to this section. This section is intended to require those constructing public highways, including State, municipal, and private developers, to provide and install such conduit and appurtenances as may be necessary to accommodate future telecommunications needs within public highways and rights-of-way without further excavation or disturbance.

(b) Study. On or before December 15, 2014, the Secretary of Administration, in consultation with the Commissioner of Public Service, the Secretary of Transportation, and the Vermont League of Cities and Towns, shall submit a report to the General Assembly on a “Dig Once Program” consistent with the intent of subsection (a) of this section. The study shall include findings and recommendations related to the installation of conduit and such vaults and other appurtenances as may be necessary to accommodate installation and connection of telecommunications lines within conduit during highway construction projects; construction standards with due consideration given to existing and anticipated technologies and industry standards; minimum diameter of the conduit and interducts to meet the requirements of this section; the party responsible for installation costs; the ownership and availability of the conduit; and any other matters the Secretary deems appropriate.

* * * 248a Sunset * * *

Sec. 17. 30 V.S.A. § 248a is amended to read:

§ 248a. CERTIFICATE OF PUBLIC GOOD FOR COMMUNICATIONS FACILITIES

* * *

(b) Definitions. ~~For the purposes of~~ As used in this section:

* * *

(4) “Telecommunications facility” means a communications facility that transmits and receives signals to and from a local, State, national, or international network used primarily for two-way communications for commercial, industrial, municipal, county, or State purposes and any associated support structure that is proposed for construction or installation which is primarily for communications purposes, and any ancillary improvements that are proposed for construction or installation and are primarily intended to serve the communications facilities or support structure. An applicant may seek approval of construction or installation of a telecommunications facility whether or not the telecommunications facility is attached to an existing structure.

(5) “Wireless service” means any commercial mobile radio service, wireless service, common carrier wireless exchange service, cellular service, personal communications service (PCS), specialized mobile radio service, paging service, wireless data service, or public or private radio dispatch service.

* * *

(c) Findings. Before the Public Service Board issues a certificate of public good under this section, it shall find that:

(1) The proposed facility will not have an undue adverse effect on aesthetics, historic sites, air and water purity, the natural environment, and the public health and safety, and the public’s use and enjoyment of the I-89 and I-91 scenic corridors or of any highway that has been designated as a scenic road pursuant to 19 V.S.A. § 2501 or a scenic byway pursuant to 23 U.S.C. § 162, with due consideration having been given to the relevant criteria specified in 10 V.S.A. §§ 1424a(d) and 6086(a)(1) through (8) and (9)(K). However, with respect to telecommunications facilities of limited size and scope, the Board shall waive all criteria of this subdivision other than 10 V.S.A. § 6086(a)(1)(D)(floodways) and (a)(8)(aesthetics, scenic beauty, historic sites, rare and irreplaceable natural areas; endangered species; necessary wildlife habitat). Such waiver shall be on condition that:

(A) ~~The~~ the Board may determine, pursuant to the procedures described in subdivision (j)(2)(A) of this section, that a petition raises a significant issue with respect to any criterion of this subdivision; and

(B) ~~A~~ a telecommunications facility of limited size and scope shall comply, at a minimum, with the requirements of the Low Risk Site Handbook for Erosion Prevention and Sediment Control issued by the Department of Environmental Conservation, regardless of any provisions in that handbook that limit its applicability.

(2) Unless there is good cause to find otherwise, substantial deference has been given to the land conservation measures in the plans of the affected municipalities and the recommendations of the municipal legislative bodies and the municipal and regional planning commissions regarding the municipal and regional plans, respectively. Nothing in this section or other provision of law shall prevent a municipal body from basing its recommendations on an ordinance adopted under 24 V.S.A. § 2291(19) or bylaw adopted under 24 V.S.A. chapter 117 by the municipality in which the facility is located. A rebuttable presumption respecting compliance with the applicable plan shall be created by a letter from an affected municipal legislative body or municipal planning commission concerning compliance with the municipal plan and by a letter from a regional planning commission concerning compliance with the regional plan.

(3) If the proposed facility relates to the provision of wireless service, the proposed facility reasonably cannot be collocated on or at an existing telecommunications facility, or such collocation would cause an undue adverse effect on aesthetics.

* * *

(e) Notice. No less than 45 days prior to filing an application for a certificate of public good under this section, the applicant shall serve written notice of an application to be filed with the Board pursuant to this section to the legislative bodies and municipal and regional planning commissions in the communities in which the applicant proposes to construct or install facilities; the Secretary of Natural Resources; ~~the Secretary of Transportation;~~ the Division for Historic Preservation; the Commissioner of Public Service and its Director for Public Advocacy; the Natural Resources Board if the application concerns a telecommunications facility for which a permit previously has been issued under 10 V.S.A. chapter 151; and the landowners of record of property adjoining the project sites. In addition, at least one copy of each application shall be filed with each of these municipal and regional planning commissions.

(1) Upon motion or otherwise, the Public Service Board shall direct that further public or personal notice be provided if the Board finds that such

further notice will not unduly delay consideration of the merits and that additional notice is necessary for fair consideration of the application.

(2) On the request of the municipal legislative body or the planning commission, the applicant shall attend a public meeting with the municipal legislative body or planning commission, or both, within the 45-day notice period before filing an application for a certificate of public good. The Department of Public Service shall attend the public meeting on the request of the municipality. The Department shall consider the comments made and information obtained at the meeting in making recommendations to the Board on the application and in determining whether to retain additional personnel under subsection (o) of this section.

* * *

(i) Sunset of Board authority. Effective on July 1, 2014 2017, no new applications for certificates of public good under this section may be considered by the Board.

* * *

(m) Municipal bodies; participation. The legislative body and the planning commission for the municipality in which a telecommunications facility is located shall have the right to appear and participate on any application under this section seeking a certificate of public good for the facility.

(n) Municipal recommendations. The Board shall consider the comments and recommendations submitted by the municipal legislative body and planning commission. The Board's decision to issue or deny a certificate of public good shall include a detailed written response to each recommendation of the municipal legislative body and planning commission.

(o) Retention; experts. The Department of Public Service may retain experts and other personnel as identified in section 20 of this title to provide information essential to a full consideration of an application for a certificate of public good under this section. The Department may allocate the expenses incurred in retaining these personnel to the applicant in accordance with section 21 of this title. The Department may commence retention of these personnel once the applicant has filed the 45-day notice under subsection (e) of this section. A municipal legislative body or planning commission may request that the Department retain these personnel. Granting such a request shall not oblige the Department or the personnel it retains to agree with the position of the municipality.

(p) Review process; guide. The Department of Public Service, in consultation with the Board, shall create, maintain, and make available to the public a guide to the process of reviewing telecommunications facilities under

this section for use by local governments and regional planning commissions and members of the public who seek to participate in the process. On or before September 1, 2014, the Department shall complete the creation of this guide and make it publically available.

Sec. 18. PUBLIC SERVICE BOARD; ORDER REVISION

The Public Service Board (the Board) shall define the terms “good cause” and “substantial deference” for the purpose of 30 V.S.A. § 248a(c)(2) in accordance with the following process:

(1) Within 30 days of the effective date of this section, the Board shall provide direct notice to each municipal legislative body and planning commission, the Vermont League of Cities and Towns, the Department of Public Service, and such other persons as the Board considers appropriate, that it will be amending its procedures order issued under 30 V.S.A. § 248a(1) to include definitions of these terms. The notice shall provide an opportunity for submission of comments and recommendations and include the date and time of the workshop to be held.

(2) Within 60 days of giving notice under subdivision (1) of this section, the Board shall amend its procedures order to include definitions of these terms.

Sec. 19. REPORT; TELECOMMUNICATIONS FACILITY REVIEW PROCESS

On or before October 1, 2015, the Department of Public Service shall submit to the House Committee on Commerce and Economic Development and the Senate Committee on Finance a report assessing the telecommunications facility review process under 30 V.S.A § 248a. The report shall include the number of applications for the construction or installation of telecommunications facilities filed with the Board, the number of applications for which a certificate of public good was granted, the number of applications for which notice was filed but were then withdrawn, and the number of times the Department used its authority under 30 V.S.A. § 248(o) to allocate expenses incurred in retaining expert personnel to the applicant, during the year ending August 31, 2015.

Sec. 20. 10 V.S.A. § 1264(j) is amended to read:

(j) Notwithstanding any other provision of law, if an application to discharge stormwater runoff pertains to a telecommunications facility as defined in 30 V.S.A. § 248a and is filed before July 1, ~~2014~~ 2017 and the discharge will be to a water that is not principally impaired by stormwater runoff:

(1) The Secretary shall issue a decision on the application within 40 days of the date the Secretary determines the application to be complete, if the application seeks authorization under a general permit.

(2) The Secretary shall issue a decision on the application within 60 days of the date the Secretary determines the application to be complete, if the application seeks or requires authorization under an individual permit.

Sec. 21. 10 V.S.A. § 8506 is amended to read:

§ 8506. RENEWABLE ENERGY PLANT; TELECOMMUNICATIONS FACILITY; APPEALS

(a) Within 30 days of the date of the act or decision, any person aggrieved by an act or decision of the ~~secretary~~ Secretary, under the provisions of law listed in section 8503 of this title, or any party by right may appeal to the ~~public service board~~ Public Service Board if the act or decision concerns a renewable energy plant for which a certificate of public good is required under 30 V.S.A. § 248 or a telecommunications facility for which the applicant has applied or has served notice under 30 V.S.A. § 248a(e) that it will apply for approval under 30 V.S.A. § 248a. This section shall not apply to a facility that is subject to section 1004 (dams before the Federal Energy Regulatory Commission) or 1006 (certification of hydroelectric projects) or chapter 43 (dams) of this title. This section shall not apply to an appeal of an act or decision of the secretary regarding a telecommunications facility made on or after July 1, ~~2014~~ 2017.

* * *

Sec. 22. REPEAL

2011 Acts and Resolves No. 53, Sec. 14d (repeal of limitations on municipal bylaws; municipal ordinances; wireless telecommunications facilities) is repealed.

Sec. 23. 3 V.S.A. § 2809 is amended to read:

§ 2809. REIMBURSEMENT OF AGENCY COSTS

(a)(1) The Secretary may require an applicant for a permit, license, certification, or order issued under a program that the Secretary enforces under 10 V.S.A. § 8003(a) to pay for the cost of research, scientific, programmatic, or engineering expertise provided by the Agency of Natural Resources, provided that the following apply:

(A) ~~the~~ The Secretary does not have such expertise or services and such expertise is required for the processing of the application for the permit, license, certification, or order; ~~or.~~

(B) ~~the~~ The Secretary does have such expertise but has made a determination that it is beyond the ~~agency's~~ Agency's internal capacity to effectively utilize that expertise to process the application for the permit, license, certification, or order. In addition, the Secretary shall determine that such expertise is required for the processing of the application for the permit, license, certification, or order.

(2) The Secretary may require an applicant under 10 V.S.A. chapter 151 to pay for the time of Agency of Natural Resources personnel providing research, scientific, or engineering services or for the cost of expert witnesses when ~~agency~~ Agency personnel or expert witnesses are required for the processing of the permit application.

(3) In addition to the authority set forth under 10 V.S.A. chapters 59 and 159 and § section 1283, the Secretary may require a person who caused the ~~agency~~ Agency to incur expenditures or a person in violation of a permit, license, certification, or order issued by the Secretary to pay for the time of ~~agency~~ Agency personnel or the cost of other research, scientific, or engineering services incurred by the ~~agency~~ Agency in response to a threat to public health or the environment presented by an emergency or exigent circumstance.

* * *

(g) Concerning an application for a permit to discharge stormwater runoff from a telecommunications facility as defined in 30 V.S.A. § 248a that is filed before July 1, ~~2014~~ 2017:

(1) Under subdivision (a)(1) of this section, the ~~agency~~ Agency shall not require an applicant to pay more than \$10,000.00 with respect to a facility.

(2) The provisions of subsection (c) (mandatory meeting) of this section shall not apply.

* * * Administration Reports; Transfers and Consolidations * * *

Sec. 24. ADMINISTRATION REPORT; TRANSFERS AND CONSOLIDATION; VERMONT USF FISCAL AGENT

(a) On or before December 15, 2014, after receiving input from State and local agencies potentially impacted, the Secretary of Administration shall submit a report to the General Assembly proposing a plan for transferring the responsibilities and powers of the Enhanced 911 Board, including necessary positions, to the Division for Connectivity, the Department of Public Service, or the Department of Public Safety, as he or she deems appropriate. The plan shall include budgetary recommendations and shall strive to achieve annual operational savings of at least \$300,000.00, as well as enhanced coordination

and efficiency, and reductions in operational redundancies. The report shall include draft legislation implementing the Secretary's plan. In addition, the report shall include findings and recommendations on whether it would be cost effective to select an existing State agency to serve as fiscal agent to the Vermont Universal Service Fund.

(b) As part of the report required in subsection (a) of this section, the Secretary shall also make findings and recommendations regarding the status of the Vermont Communications Board, Department of Public Safety, and the Vermont Public Safety Broadband Network Commission (Vermont FirstNet). If not prohibited by federal law, the Secretary shall propose draft legislation creating an advisory board within the Division for Connectivity or the Department of Public Safety comprising 15 members appointed by the Governor to assume functions of the current Enhanced 911 Board, the Vermont Communications Board, and Vermont FirstNet, as the Secretary deems appropriate.

Sec. 25. ADMINISTRATION REPORT; VERMONT
TELECOMMUNICATIONS AUTHORITY; DIVISION FOR
CONNECTIVITY

On or before December 15, 2014, the Secretary of Administration, in consultation with the Commissioner of Public Service and the Secretary of Commerce and Community Development, shall submit a report to the General Assembly assessing all aspects of the Division for Connectivity established under this act, including its duties, functions, objectives, and agency location within the Executive Branch. The Secretary shall recommend any amendments he or she deems appropriate, including repeal of the Division for Connectivity if he or she determines the Vermont Telecommunications Authority (VTA) or another entity is more appropriate for implementing the State's telecommunications policies and deployment programs. If the Secretary recommends establishment of the Division for Connectivity or an entity other than the VTA, he or she shall make a proposal regarding establishment of a new telecommunications advisory board, which could be modeled after the VTA Board of Directors and may include a proposal for transferring the existing VTA Board members to such board.

Sec. 26. ADMINISTRATION PRESENTATION TO GENERAL
ASSEMBLY

In January of 2015, the Secretary shall present the reports required in Secs. 24 and 25 of this act to the Senate Committees on Finance and on Government Operations and to the House Committees on Commerce and Economic Development and on Government Operations.

* * * DPS Deployment Report * * *

Sec. 27. DEPARTMENT OF PUBLIC SERVICE; DEPLOYMENT REPORT

On July 15, 2015, the Commissioner of Public Service shall submit to the General Assembly and the Division for Connectivity a report, including maps, indicating the service type and average speed of service of mobile telecommunications and broadband services available within the State by census block as of December 31, 2014.

* * * VTA; Dormant Status * * *

Sec. 28. 30 V.S.A. § 8060a is added to read:

§ 8060a. PERIOD OF DORMANCY

On July 1, 2015, the Division for Connectivity established under 3 V.S.A. § 2225 shall become the successor in interest to and the continuation of the Vermont Telecommunications Authority, and the Authority shall cease all operations and shall not resume its duties as specified under this chapter or under any other Vermont law unless directed to do so by enactment of the General Assembly or, if the General Assembly is not in session, by order of the Joint Fiscal Committee. Notwithstanding 32 V.S.A. § 5, the Joint Fiscal Committee shall issue such order only upon finding that, due to an unforeseen change in circumstances, implementation of the Authority's capacity to issue revenue bonds or to accept any new gifts, grants, or contributions would be the most effective means of furthering the State's telecommunications goals and policies. Upon the effective date of such enactment or order, the duties of the Executive Director and the Board of Directors of the Authority shall resume in accordance with 30 V.S.A. chapter 91 and the Director for Connectivity shall be the acting Executive Director of the Authority, until the position is filled pursuant to 30 V.S.A. § 8061(e).

* * * Retransmission Fees * * *

Sec. 29. 30 V.S.A. § 518 is added to read:

§ 518. RETRANSMISSION FEES; REPORTING

(a) Purpose. The purpose of this section is to provide the Attorney General with information necessary to investigate certain conduct within the cable and broadcast network industries to determine whether unfair methods of competition or unfair or deceptive acts or practices are occurring in violation of 9 V.S.A. chapter 63.

(b) Reporting. Annually, beginning January 1, 2015, each commercial broadcasting station doing business with a Vermont cable company shall report to the Attorney General any fees charged for program content retransmitted on

the cable network under a retransmission consent agreement entered into pursuant to 47 U.S.C. § 325, for the prior calendar year.

(c) Investigations. The Attorney General may investigate retransmission fees charged by commercial broadcasting stations, pursuant to his or her investigatory powers established under 9 V.S.A. chapter 63.

(d) Public disclosure. The information received under this section by the Attorney General shall be disclosed to the public at a time and in a manner determined by the Attorney General to be consistent with and permitted by the Public Records Act and relevant provisions of federal law.

(e) Enforcement. A violation of this section constitutes an unfair and deceptive act and practice in commerce under 9 V.S.A. § 2453.

(f) The Attorney General may adopt rules he or she deems necessary to implement this section. The rules, as well as any finding of unfair or deceptive practices with regard to retransmission consent fees, shall not be inconsistent with the rules, regulations, and decisions of the Federal Communications Commission and the federal courts interpreting the Communications Act of 1934, as amended.

* * * Statutory Revision Authority * * *

Sec. 30. LEGISLATIVE COUNCIL STATUTORY REVISION AUTHORITY; LEGISLATIVE INTENT

(a) The staff of the Office of the Legislative Council in its statutory revision capacity is authorized and directed to amend the Vermont Statutes Annotated as follows:

(1) deleting all references to “by the end of the year 2013” in 30 V.S.A. chapter 91; and

(2) during the interim of the 2015 biennium of the General Assembly, in 30 V.S.A. § 227e, replacing every instance of the words “Secretary of Administration” and “Secretary” with the words “Director for Connectivity” and “Director,” respectively.

(b) Any duties and responsibilities that arise by reference to the Division for Connectivity in the Vermont Statutes Annotated shall not be operative until the Division is established pursuant to 3 V.S.A. § 2225.

* * * Effective Dates * * *

Sec. 31. EFFECTIVE DATES

This act shall take effect on passage, except that Secs. 12, 13, and 14 (regarding the Division for Connectivity) shall take effect on July 1, 2015.

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

An act relating to Vermont telecommunications policy.

*CHRISTOPHER A. BRAY
TIMOTHY R. ASHE*

Committee on the part of the Senate

*SAMUEL R. YOUNG
MICHAEL J. MARCOTTE*

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.

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

H. 735.

Pending entry 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 Executive Branch and Judiciary fees.

Was taken up for immediate consideration.

Senator MacDonald, 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:

H. 735. An act relating to Executive Branch and Judiciary fees.

Respectfully reports that it has met and considered the same and recommends that the Senate proposal of amendment be further amended as follows:

First: In Sec. 6, in 22 V.S.A. § 724, by inserting subsection (a) to read:

(a) ~~Historic sites operations special fund~~ Sites Operations Special Fund. The ~~historic sites operations special fund~~ Historic Sites Operations Special Fund is established pursuant to ~~32 V.S.A. chapter 7, subchapter 5 of chapter 7 of Title 32~~ to be used by the ~~division for historic preservation~~ Division for Historic Preservation to carry out the provisions of subdivisions 723(a)(9) and (b)(1) of this title. Revenues to the ~~fund~~ Fund shall be from the following sources:

(1) Receipts from ticket sales at and fees for rental of ~~state-owned~~ State-owned historic sites. Notwithstanding ~~subdivision 32 V.S.A. § 603(2) of Title 32,~~ fees for admission to and rentals of historic sites shall be set by the ~~state historic preservation officer~~ State Historic Preservation Officer, with the approval of the ~~commissioner of housing and community affairs~~ Commissioner of Housing and Community Development, in a manner that both maximizes revenues and promotes the tourism purposes of historic sites, but not to exceed ~~\$8.00~~ \$12.00 for a single admission. This not-to-exceed amount shall not apply to the rental of an historic site or admission to an historic site for a special event. These fees shall be reported in accordance with ~~section 605 of Title 32~~ 32 V.S.A. § 605.

Second: In Sec. 14, in 26 V.S.A. § 1256, by striking out subsection (d) in its entirety and inserting in lieu thereof the following:

(d) Applicants and persons regulated under this chapter shall pay the following fees:

(1) Application for license	\$ 70.00
(2) Biennial renewal of license	
(A) Funeral director	\$ 300.00 <u>\$ 350.00</u>
(B) Embalmer	\$ 300.00 <u>\$ 350.00</u>
(C) Funeral establishment	\$ 540.00 <u>\$ 800.00</u>
(D) Crematory establishment	\$ 540.00 <u>\$ 800.00</u>
(E) <u>Crematory personnel</u>	<u>\$ 125.00</u>
(F) <u>Removal personnel</u>	\$ 85.00 <u>\$ 125.00</u>
(G) <u>Limited services establishment license</u>	<u>\$ 800.00</u>

Third: In Sec. 20, in 20 V.S.A. § 2307, in subsection (b), subdivision (2)(B)(ii), after the words “until further order of the Court” by inserting: , and specifies the manner in which he or she will provide secure storage of such items.

Fourth: In Sec. 20, in 20 V.S.A. § 2307, in subsection (b), subdivision (2)(B)(iv), by striking out the words “this subdivision (2)(A)” and inserting in lieu thereof the words subdivision (2)(C).

Fifth: In Sec. 20, in 20 V.S.A. § 2307, in subsection (b), at the end of subdivision (2)(C), by adding a sentence to read: In the event that the person required to relinquish the firearms, ammunition, or other weapons or any other person not authorized by law to possess the relinquished items obtains access to, possession of, or use of a relinquished item, all relinquished items shall be

immediately transferred to the possession of a law enforcement agency or approved federally licensed firearms dealer pursuant to subdivision (1) of this subsection (b).

Sixth: In Sec. 20, in 20 V.S.A. § 2307, in subsection (g), subdivision (2)(A)(iii), by striking out the words “pursuant to Rule 4 of the Vermont Rules of Civil Procedure” and inserting in lieu thereof via first class mail, certified restricted delivery

Seventh: By striking out Sec. 28 in its entirety and inserting in lieu thereof a new Sec. 28 to read:

Sec. 28. 18 V.S.A. § 4474f is amended to read:

§ 4474f. DISPENSARY APPLICATION, APPROVAL, AND REGISTRATION

* * *

(g) After a dispensary is approved but before it begins operations, it shall submit the following to the ~~department of public safety~~ Department:

* * *

(4) A registration fee of \$20,000.00 for the first year of operation, and an annual fee of ~~\$30,000.00~~ \$25,000.00 in subsequent years.

* * *

Eighth: In Sec. 29, 30 V.S.A. § 7521, by striking out subsection (d) in its entirety and inserting in lieu thereof a new subsection (d) to read as follows:

(d)(1) Notwithstanding any other provision of law to the contrary, beginning on September 1, 2014, in the case of prepaid wireless telecommunications service, the universal service charge shall be imposed as follows:

(A) If the provider sells directly to a consumer in a retail transaction, the provider may collect the charge from the customer at the rate specified in section 7523 of this title; or

(B) if the provider does not sell directly to the consumer, or if the provider sells directly to the customer in a retail transaction but elects not to collect the charge from the customer, the charge shall be imposed on the provider at the rate determined in subdivision (2) of this subsection (d).

(2) The Public Service Board shall establish a formula to ensure the universal service charge rate imposed on prepaid wireless telecommunications service providers under subdivision (1)(B) of this subsection reflects two percent of retail prepaid wireless telecommunications service in Vermont.

(3) As used in this subsection, “prepaid wireless telecommunications service” means a telecommunications service as defined in subdivision 203(5) of this title that a consumer pays for in advance and that is sold in predetermined units or dollars that decline with use.

Ninth: In Sec. 30, in 30 V.S.A. § 7524, by inserting a new subsection to be subsection (f) to read:

(f) The Public Service Board shall ensure the fiscal agent is authorized to negotiate and collect from telecommunications service providers any universal service charges not properly assessed or remitted pursuant to this chapter. For the purpose of this subsection, the fiscal agent may examine the records of telecommunications providers for the immediately preceding three years and assess the provider for underpayments, if any, as appropriate.

Tenth: In Sec. 31, 6 V.S.A. § 3022, in subsection (a), by striking out in its entirety the sentence “~~The secretary~~ Secretary may, ~~with the approval of the governor,~~ appoint or contract with one or more inspectors who shall also be authorized to inspect all apiaries and otherwise enforce the provisions of this chapter.”

Eleventh: By striking out Sec. 32 (effective dates) in its entirety and inserting in lieu thereof the following Secs. 32–36 to read:

Sec. 32. 9 V.S.A. § 2632 is amended to read:

§ 2632. GENERAL POWERS AND DUTIES OF SECRETARY

* * *

(b) Fees and reimbursements of costs collected by the ~~agency of agriculture, food and markets~~ Agency of Agriculture, Food and Markets under the provisions of this chapter and 6 V.S.A. § 3022 shall be credited to a weights and measures special fund and shall be available to the ~~agency~~ Agency to offset the costs of implementing this chapter.

Sec. 33. 30 V.S.A. § 7503(a) is amended to read:

(a) A fiscal agent shall be selected to receive and distribute funds under this chapter ~~for the Vermont telecommunications relay service, for the Vermont lifeline program, for enhanced 911 services, and, subject to further legislative authorization, to reduce the cost to customers of basic telecommunications service in high-cost areas.~~

Sec. 34. 30 V.S.A. § 7511 is amended to read:

§ 7511. DISTRIBUTION GENERALLY

(a) As directed by the ~~public service board~~ Public Service Board, funds collected by the fiscal agent, and interest accruing thereon, shall be distributed as follows:

(1) ~~To~~ to pay costs payable to the fiscal agent under its contract with the ~~public service board.~~ Board;

(2) ~~To~~ to support the Vermont telecommunications relay service in the manner provided by section 7512 of this title;

(3) ~~To~~ to support the Vermont ~~lifeline~~ Lifeline program in the manner provided by section 7513 of this title;

(4) ~~To~~ to support ~~enhanced-911~~ Enhanced-911 services in the manner provided by section 7514 of this title;

(5) ~~To~~ to reduce the cost to customers of basic telecommunications service in high-cost areas, in the manner provided by section 7515 of this title; and

(6) to support the cost of Executive Branch activities as specified under section 7515a of this title.

(b) If insufficient funds exist to support all of the purposes contained in subsection (a) of this section, the ~~public service board~~ Board shall conduct an expedited proceeding to allocate the available funds, giving priority in the order listed in subsection (a).

Sec. 35. 30 V.S.A. § 7515a is added to read:

§ 7515a. ADDITIONAL PROGRAM SUPPORT

The fiscal agent may make distributions to the State Treasurer to fund Executive Branch activities related to and supportive of the programs funded under this chapter, as determined by the General Assembly.

Sec. 36. EFFECTIVE DATES

(a) This section and Sec. 28 (dispensaries) shall take effect on passage.

(b) Secs. 31 and 32 (apiaries) shall take effect on July 1, 2015.

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

*MARK A. MACDONALD
CHRISTOPHER A. BRAY
ELDRED FRENCH*

Committee on the part of the Senate

*JAMES W. MASLAND
ALISON H. CLARKSON
KESHA K. RAM*

Committee on the part of the House

Thereupon, the question, Shall the Senate accept and adopt the report of the Committee of Conference?, Senator Benning moved that the Senate reject the Committee of Conference report and appoint a new Committee of Conference, which was disagreed to on a roll call, Yeas 1, Nays 25.

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

Roll Call

Those Senators who voted in the affirmative were: Benning.

Those Senators who voted in the negative were: Ayer, Baruth, Bray, Campbell, Collins, Cummings, Doyle, Flory, French, Galbraith, Hartwell, Lyons, MacDonald, Mazza, McAllister, McCormack, Nitka, Pollina, Rodgers, Sears, Sirotkin, Starr, Westman, White, Zuckerman.

Those Senators absent and not voting were: Ashe, Kitchel, Mullin, Snelling.

Thereupon, the question Shall the Committee of Conference be adopted?, was decided in the affirmative.

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

S. 241.

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

An act relating to binding arbitration for State employees.

Was taken up for immediate consideration.

Senator Baruth, 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 Senate bill entitled:

S. 241. An act relating to binding arbitration for State employees.

Respectfully reports that it has met and considered the same and recommends that the Senate accede to the first Proposal of Amendment by the House and that the House recede from the second Proposal of Amendment and that the bill be amended in Sec. 1, by striking out subsection (c) in its entirety and inserting in lieu thereof a new subsection (c) to read as follows:

(c) Powers and duties. The Committee shall:

(1) study the issue of grievance arbitration for State employees; and

(2) assess the relative merits of various grievance protocols, including arbitration and use of the Vermont Labor Relations Board, addressing the ability of these protocols to provide resolution of grievances in a manner that is economical, timely, just, and provides for appropriate privacy protections for the parties.

*PHILIP E. BARUTH
ANN E. CUMMINGS
WILLIAM T. DOYLE*

Committee on the part of the Senate

*JOHN T. MORAN
CYNTHIA A. WEED
JEAN D. O'SULLIVAN*

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.

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

Rules Suspended; House Proposal of Amendment Concurred In

S. 239.

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

An act relating to the regulation of toxic substances.

Was taken up for immediate consideration on a roll call, Yeas 23, Nays 7.

Senator Ayer 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, Bray, Campbell, Collins, Cummings, Doyle, French, Galbraith, Hartwell, Kitchel, Lyons, MacDonald, McCormack, Mullin, Nitka, Pollina, Sears, Sirotkin, Snelling, White, Zuckerman.

Those Senators who voted in the negative were: Benning, Flory, Mazza, McAllister, Rodgers, Starr, Westman.

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

First: In Sec. 2, in 18 V.S.A. § 1772, in subdivision (7)(A), after “children in the State of Vermont,” and before “including” by striking out or any consumer product whose substantial use or handling by children under 12 years of age is reasonably foreseeable,

Second: In Sec. 2, in 18 V.S.A. § 1772, by inserting a new subdivision to be subdivision (11) to read:

(11) “Intentionally added” means the addition of a chemical in a product that serves an intended function in the product component.

and by renumbering the remaining subdivisions to be numerically correct.

Third: In Sec. 2, in 18 V.S.A. § 1774, by striking out subsection (g) (right of appeal) in its entirety.

Fourth: In Sec. 2, in 18 V.S.A. § 1775, in subdivision (a)(1), by striking out “present in” where it appears and inserting in lieu thereof intentionally added to

and by adding a new subsection to be subsection (g) to read as follows:

(g) Certificate of compliance. A manufacturer required to submit notice under this section to the Commissioner may rely on a certificate of compliance from suppliers for determining reporting obligations. A certificate of compliance provided by a supplier under this subsection shall be solely for the purpose of compliance with the requirements of this chapter.

and by relettering the remaining subsections to be alphabetically correct.

Fifth: In Sec. 2, in 18 V.S.A. § 1776, in subdivision (d)(1), in the first sentence, by striking out the sentence to the colon and inserting in lieu thereof the following:

The Commissioner, upon the recommendation of the Chemicals of High Concern to Children Working Group, may adopt a rule to regulate the sale or distribution of a children’s product containing a chemical of high concern to children upon a determination that

Sixth: In Sec. 2, in 18 V.S.A. § 1776, in subdivision (d)(2), after “credible information regarding” and before the colon, by striking out one or more of the following

and in subdivision (f)(1), in the first sentence, by striking out “subsection (b) or (c)” where it appears and inserting in lieu thereof subsection (b), (c), or (d).

Seventh: In Sec. 2, in 18 V.S.A. § 1778, by striking out the last sentence in its entirety.

Thereupon, the question, Shall the Senate concur in the House proposal of amendment to the Senate proposal of amendment to the House proposal of amendment?, was decided in the affirmative on a roll call, Yeas 26, Nays 3.

Senator Ayer 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, French, Galbraith, Hartwell, Kitchel, Lyons, MacDonald, Mazza, McAllister, McCormack, Mullin, Pollina, Rodgers, Sirotkin, Snelling, Westman, White, Zuckerman.

Those Senators who voted in the negative were: Flory, Nitka, Starr.

The Senator absent and not voting was: Sears.

Rules Suspended; Bills and Joint Resolutions Messaged

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

S. 269, H. 297, H. 735, J.R.H. 19, J.R.H. 21.

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

S. 295.

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

An act relating to pretrial services, risk assessments, and criminal justice programs.

Was taken up for immediate consideration.

Senator Sears, 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 Senate bill entitled:

S. 295. An act relating to pretrial services, risk assessments, and criminal justice programs.

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

Sec. 1. LEGISLATIVE FINDINGS

(a) This act was initiated by legislators serving on the Joint Legislative Corrections Oversight Committee, and notably Senator Sally Fox. Senator Fox was instrumental in the General Assembly's recent work on the issues of mental health, substance abuse, and criminal justice reform. She was an early advocate of risk assessments and needs screenings for the purpose of tailoring criminal justice responses to the individual in a manner that would protect public safety while addressing the needs of the offender in the hope of breaking the cycle of recidivism. The General Assembly is eternally grateful for her contributions.

(b) It is the intent of the General Assembly that law enforcement officials and criminal justice professionals develop and maintain programs at every stage of the criminal justice system to provide alternatives to a traditional criminal justice response for people who, consistent with public safety, can effectively and justly benefit from those alternative responses. These programs shall be reflective of the goals and principles of restorative justice pursuant to 28 V.S.A. § 2a. Commonly referred to as the sequential intercept model, this approach was designed to identify five points within the criminal justice system where innovative approaches to offenders and offending behavior could be taken to divert individuals away from a traditional criminal justice response to crime. These intercept points begin in the community with law enforcement interaction with citizens, proceed through arrest, the judicial process, and sentencing, and conclude with release back into communities. Alternative justice programs may include the employment of police-social workers, community-based restorative justice programs, community-based dispute resolution, precharge programs, pretrial services and case management, recovery support, DUI and other drug treatment courts, suspended fine programs, and offender reentry programs.

(c) Research shows the risk-need-responsivity model approach to addressing criminal conduct is successful at reducing recidivism. The model's premise is that the risk and needs of a person charged with or convicted of a criminal offense should determine the strategies appropriate for addressing the person's criminogenic factors.

(d) Some studies show that incarceration of low-risk offenders or placement of those offenders in programs or supervision designed for high-risk offenders may increase the likelihood of recidivism.

(e) The General Assembly recommends use of evidence-based risk assessments and needs screening tools for eligible offenses to provide information to the Court for the purpose of determining bail and appropriate conditions of release and to inform decisions by the State's Attorney and the Court related to a person's participation and level of supervision in an alternative justice program.

(f) As used in this act:

(1) "Risk assessment" means a pretrial assessment that is designed to be predictive of a person's failure to appear in court and risk of violating pretrial conditions of release with a new alleged offense.

(2) "Needs screening" means a preliminary systematic procedure to evaluate the likelihood that an individual has a substance abuse or a mental health condition.

(3) "Clinical assessment" means the procedures, to be conducted after a client has been screened, by which a licensed or otherwise approved counselor identifies and evaluates an individual's strengths, weaknesses, problems, and needs for the development of a treatment plan.

(g) The General Assembly intends this act to be a continuation of justice reinvestment efforts initiated in 2007 by the Legislative, Judicial, and Executive Branches. Justice reinvestment is a data-driven approach to improve public safety, reduce corrections and related criminal justice spending, and reinvest savings in strategies that can decrease crime and strengthen communities.

(h) Buprenorphine/Naloxone (Suboxone or Subutex) is a well-known medication used in the treatment of opioid addiction. Vermont spends \$8.3 million in Medicaid funds annually on these drugs. As medicated-assisted treatment for opiate addiction has increased substantially in the last several years, so has illegal diversion of these drugs and their misuse. Suboxone is currently the number one drug smuggled into Vermont correctional facilities and evidence suggests that the nonmedical use of such drugs is gaining in popularity. The General Assembly urges the administration to prioritize efforts to ensure that people with opiate addictions are provided access to necessary medication, while taking all possible measures to prevent the diversion and misuse of these drugs, including working with drug manufacturers.

(i) Approximately 54,000 Vermonters have abused or been dependent on alcohol or illicit drugs in the past year, according to the current National

Survey on Drug Use and Health. More people abuse or are dependent on alcohol (approximately 39,000) than all illicit drugs combined (18,000). Many Vermonters struggle with both alcohol and illicit drugs. Substance abuse is expensive, and not solely due to the cost of providing treatment. Research indicates that \$1.00 invested in addiction treatment saves between \$4.00 and \$7.00 in reduced drug-related crime, criminal justice costs, and theft. Earlier intervention to provide services before major problems develop can save even more.

Sec. 2. 13 V.S.A. § 7554c is added to read:

§ 7554c. PRETRIAL RISK ASSESSMENTS; NEEDS SCREENINGS

(a)(1) The objective of a pretrial risk assessment is to provide information to the Court for the purpose of determining whether a person presents a risk of nonappearance or a threat to public safety so the Court can make an appropriate order concerning bail and conditions of pretrial release.

(2) The objective of a pretrial needs screening is to obtain a preliminary indication of whether a person has a substantial substance abuse or mental health issue that would warrant a subsequent court order for a more detailed clinical assessment.

(3) Participation in a risk assessment or needs screening pursuant to this section does not create any entitlement for the assessed or screened person.

(b)(1) A person whose offense or status falls into any of the following categories shall be offered a risk assessment and, if deemed appropriate by the pretrial monitor, a needs screening prior to arraignment:

(A) felonies, excluding listed crimes, cited into court;

(B) persons cited or arrested for an offense that is not a listed crime who are identified by law enforcement, the prosecution, the defense, probation and parole personnel, the Court, a treatment provider, or a family member or friend as having a substantial substance abuse or mental health issue;

(C) misdemeanor and felony drug offenses, excluding trafficking, cited into court; and

(D) persons who are arrested and lodged and unable to post bail within 24 hours of lodging, excluding persons who are charged with an offense for which registration as a sex offender is required upon conviction pursuant to subchapter 3 of chapter 167 of this title or an offense punishable by up to life imprisonment.

(2) As used in this section, "listed crime" shall have the same meaning as provided in section 5301 of this title.

(3) Unless ordered as a condition of release under section 7554 of this title, participation in an assessment or screening shall be voluntary.

(4) In the event an assessment or screening cannot be obtained prior to arraignment, the Court shall direct the assessment and screening to be conducted as soon as practicable.

(5) A person who qualifies pursuant to subdivision (1)(A)–(D) of this subsection and who has an additional pending charge or a violation of probation shall not be excluded from being offered a risk assessment or needs screening unless the other charge is a listed crime.

(6)(A) The Administrative Judge and Court Administrator, in consultation with the Secretary of Human Services and the Commissioner of Corrections, shall develop a statewide plan for the phased, consistent rollout of the categories identified in subdivisions (1)(A) through (D) of this subsection, in the order in which they appear in this subsection. The Administrative Judge and Court Administrator shall present the plan to the Joint Legislative Corrections Oversight Committee on or before October 15, 2014.

(B) All persons whose offense or status falls into one of the categories shall be eligible for a risk assessment or needs screening on or before October 15, 2015. Prior to that date, a person shall not be guaranteed the offer of a risk assessment or needs screening solely because the person's offense or status falls into one of the categories. Criminal justice professionals charged with implementation shall adhere to the plan.

(c) The results of the assessment and screening shall be provided to the prosecutor who, upon filing a criminal charge against the person, shall provide the results to the person and his or her attorney and the Court.

(d)(1) In consideration of the assessment and screening, the Court may order the person to comply with any of the following conditions:

(A) meet with a pretrial monitor on a schedule set by the Court;

(B) participate in a clinical assessment by a substance abuse or mental health treatment provider;

(C) comply with any level of treatment or recovery support recommended by the provider;

(D) provide confirmation to the pretrial monitor of the person's attendance and participation in the clinical assessment and any recommended treatment; and

(E) provide confirmation to the pretrial monitor of the person's compliance with any other condition of release.

(2) If possible, the Court shall set the date and time for the assessment at arraignment. In the alternative, the pretrial monitor shall coordinate the date, time, and location of the clinical assessment and advise the Court, the person and his or her attorney, and the prosecutor.

(3) The conditions authorized in subdivision (1) of this subsection shall be in addition to any other conditions of release permitted by law and shall not limit the Court in any way.

(e)(1) Information obtained from the person during the risk assessment or needs screening shall be exempt from public inspection and copying under the Public Records Act and, except as provided in subdivision (2) of this subsection, only may be used for determining bail, conditions of release, and appropriate programming for the person in the pending case. The immunity provisions of this subsection apply only to the use and derivative use of information gained as a proximate result of the risk assessment or needs screening.

(2) The person shall retain all of his or her due process rights throughout the assessment and screening process and may release his or her records at his or her discretion.

(3) The Vermont Supreme Court in accordance with judicial rulemaking as provided in 12 V.S.A. § 1 shall promulgate and the Department of Corrections in accordance with the Vermont Administrative Procedure Act pursuant to 3 V.S.A. chapter 25 shall adopt rules related to the custody, control, and preservation of information consistent with the confidentiality requirements of this section. Emergency rules adopted prior to January 1, 2015 pursuant to this section shall be considered to meet the “imminent peril” standard under 3 V.S.A. § 844(a).

Sec. 3. RISK ASSESSMENT AND NEEDS SCREENING TOOLS AND SERVICES

(a) The Department of Corrections shall select risk and needs assessment and screening tools for use in the various decision points in the criminal justice system, including pretrial, community supervision screening, community supervision, prison screening, prison intake, and reentry. The Department shall validate the selected tools for the population in Vermont.

(b) In selection and implementation of the tools, the Department shall consider tools being used in other states and shall consult with and have the cooperation of all criminal justice agencies.

(c) The Department shall have the tools available for use on or before September 1, 2014. The Department, the Judiciary, the Defender General, and the Executive Director and the Department of State’s Attorneys and Sheriffs

shall conduct training on the risk assessment tools on or before December 15, 2014.

(d) The Department, in consultation with law enforcement agencies and the courts, shall contract for or otherwise provide pretrial services described in this section, including performance of risk assessments, needs screenings, and pretrial monitoring. The contract shall include requirements to comply with data collection and evaluation procedures.

(e) Pretrial monitoring may include:

(1) reporting to the Court concerning the person's compliance with conditions of release;

(2) supporting the person in meeting the conditions imposed by the Court, including the condition to appear in Court as directed;

(3) identifying community-based treatment, rehabilitative services, recovery supports, and restorative justice programs; and

(4) supporting a prosecutor's precharge program.

(f)(1) The Department, in consultation with the Judiciary and the Crime Research Group, shall develop and implement a system to evaluate goals and performance of the pretrial services described in this section and report to the General Assembly annually on or before December 15.

(2) The Agency of Human Services, in consultation with the Judiciary, shall ensure that a study is conducted to include an outcome study, process evaluation and cost benefit analysis.

(g) The Secretary of Human Services, with staff and administrative support from the Criminal Justice Capable Core Team, shall map services and assess the impact of court referrals and the capacity of the current service provision system in each region. The Secretary, in collaboration with service providers and other stakeholders, shall consider regional resources, including services for assessment, early intervention, treatment, and recovery support. Building on existing models and data, the Secretary and the Criminal Justice Capable Core Team shall develop recommendations for a system for referral based on the appropriate level of need, identifying existing gaps to optimize successful outcomes. Funding models for those services shall be examined by the appropriate State departments. The recommendation for the system for referral shall reflect all initiatives within the Agency of Human Services, including those within the Blueprint for Health and Screening, Brief Intervention, and Referral for Treatment (SBIRT), as well as initiatives within the Green Mountain Care Board and the State Innovation Model (SIM) grant.

* * * Alternative Justice Programs * * *

Sec. 4. PROSECUTOR PRECHARGE PROGRAM GUIDELINES AND REPORTING

(a) The Department of State's Attorneys and Sheriffs, in consultation with the Judiciary and the Attorney General, shall develop broad guidelines for precharge programs to ensure there is probable cause and that there are appropriate opportunities for victim input and restitution.

(b) On or before October 1, 2014, and annually thereafter, the Executive Director of the Department of State's Attorneys and Sheriffs shall report to the General Assembly detailing the alternative justice programs that exist in each county together with the protocols for each program, the annual number of persons served by the program, and a plan for how a sequential intercept model can be employed in the county. The report shall be prepared in cooperation with the Director of Court Diversion, a co-chair of the Community Justice Network of Vermont, and State, municipal, and county law enforcement officials.

Sec. 5. [Deleted.]

Sec. 6. [Deleted.]

Sec. 7. [Deleted.]

* * * Criminal Provisions * * *

Sec. 8. 18 V.S.A. § 4233(d) is added to read:

(d) Transportation into the State. In addition to any other penalties provided by law, a person knowingly and unlawfully transporting one gram or more of heroin into Vermont with the intent to sell or dispense the heroin shall be imprisoned not more than 10 years or fined not more than \$100,000.00, or both.

Sec. 9. 13 V.S.A. § 1201 is amended to read:

§ 1201. BURGLARY

(a) A person is guilty of burglary if he or she enters any building or structure knowing that he or she is not licensed or privileged to do so, with the intent to commit a felony, petit larceny, simple assault, or unlawful mischief. This provision shall not apply to a licensed or privileged entry, or to an entry that takes place while the premises are open to the public, unless the person, with the intent to commit a crime specified in this subsection, surreptitiously remains in the building or structure after the license or privilege expires or after the premises no longer are open to the public.

(b) As used in this section, ~~the words “building,” “structure,” and “premises”;~~

(1) “Building,” “premises,” and “structure” shall, in addition to their common meanings, include and mean any portion of a building, structure, or premises which differs from one or more other portions of such building, structure, or premises with respect to license or privilege to enter, or to being open to the public.

(2) “Occupied dwelling” means a building used as a residence, either full-time or part-time, regardless of whether someone is actually present in the building at the time of entry.

(c)(1) ~~A person convicted of burglary into an occupied dwelling shall be imprisoned not more than 25 years or fined not more than \$1,000.00, or both. Otherwise a person convicted of burglary shall be imprisoned not more than 15 years or fined not more than \$1,000.00, or both.~~

(2) A person convicted of burglary and who carries a dangerous or deadly weapon, openly or concealed, shall be imprisoned not more than 20 years or fined not more than \$10,000.00, or both.

(3) A person convicted of burglary into an occupied dwelling:

(A) shall be imprisoned not more than 25 years or fined not more than \$1,000.00, or both; or

(B) shall be imprisoned not more than 30 years or fined not more than \$10,000.00, or both, if the person carried a dangerous or deadly weapon, openly or concealed, during commission of the offense.

(4) When imposing a sentence under this section, the Court shall consider as an aggravating factor whether, during commission of the offense, the person entered the building when someone was actually present or used or threatened to use force against the occupant.

Sec. 10. DEPARTMENT OF PUBLIC SAFETY REPORT

The Department of Public Safety, in consultation with the Department of Health, shall examine 18 V.S.A. § 4234 (depressant, stimulant, narcotic drug) for the purpose of establishing clear dosage amounts for narcotics as they relate to unlawful possession, dispensing, and sale. The Department shall consider section 4234 in relation to 18 V.S.A. § 4233 (heroin). The Department shall report its recommendations to the Senate and House Committees on Judiciary on or before December 15, 2014.

* * * Regulation of Opiates * * *

Sec. 11. DVHA AUTHORITY; USE OF AVAILABLE SANCTIONS

The Department of Vermont Health Access shall use its authority to sanction Medicaid-participating prescribers, whether practicing in or outside the State of Vermont, operating in bad faith or not in compliance with State or federal requirements.

Sec. 12. CONTINUED MEDICATION-ASSISTED TREATMENT FOR INCARCERATED PERSONS

(a) The Department of Corrections, in consultation with the Medication-Assisted Treatment for Inmates Work Group created by 2013 Acts and Resolves No. 67, Sec. 11, shall develop and implement a one-year demonstration project to pilot the continued use of medication-assisted treatment within Department facilities for detainees and sentenced inmates.

(b) The pilot project shall offer continued medication-assisted treatment for opioid dependence with methadone or buprenorphine and a prescribed taper as appropriate to incarcerated persons who were participating in medication-assisted treatment in the community immediately prior to incarceration.

(c) As used in this section, "prescribed taper" means a clinically appropriate medication taper that is designed to minimize withdrawal symptoms and limit avoidable suffering.

(d) The Commissioner of Corrections shall publish an interim revision memorandum to replace Directive 363.01 as recommended by the Medication-Assisted Treatment for Inmates Work Group.

(e) On or before July 30, 2014, the Department shall enter into memoranda of understanding with the Department of Health and with hub treatment providers regarding ongoing medication-assisted treatment for persons in the custody of the Department. The memoranda shall ensure that incarcerated persons who were not receiving medication-assisted treatment prior to incarceration do not receive priority for treatment over persons not in the custody of the Department of Corrections who are on a waiting list for medication-assisted treatment.

(f) The Department shall collaborate with the Department of Health to facilitate the provision of opioid overdose prevention training for pilot project participants who are incarcerated and the distribution of overdose rescue kits with naloxone at correctional facilities to persons who are transitioning from incarceration back into the community.

(g) The Departments of Corrections and of Health shall continue the Medication-Assisted Treatment for Inmates Work Group created by 2013 Acts and Resolves No. 67, Sec. 11 to inform and monitor implementation of the demonstration project. The Departments shall evaluate the demonstration project and provision of medication-assisted treatment to persons who are incarcerated in Vermont and report their findings, including a proposed schedule of expansion, to the Joint Legislative Corrections Oversight Committee during the 2014 interim and to the House Committees on Corrections and Institutions, on Human Services, and on Judiciary and the Senate Committees on Health and Welfare and on Judiciary on or before January 1, 2015.

Sec. 13. VPMS QUERY; RULEMAKING

The Secretary of Human Services shall adopt rules requiring:

(1) All Medicaid participating providers, whether licensed in or outside Vermont, who prescribe buprenorphine or a drug containing buprenorphine to a Vermont Medicaid beneficiary to query the Vermont Prescription Monitoring System the first time they prescribe buprenorphine or a drug containing buprenorphine for the patient and at regular intervals thereafter. Regular intervals shall exceed the requirements for other Schedule III pharmaceuticals, and queries shall be done prior to prescribing a replacement prescription. The rules shall also include dosage thresholds, which may be exceeded only with prior approval from the Chief Medical Officer of the Department of Vermont Health Access or designee.

(2) All providers licensed in Vermont who prescribe buprenorphine or a drug containing buprenorphine to a Vermont patient who is not a Medicaid beneficiary to query the Vermont Prescription Monitoring System the first time they prescribe buprenorphine or a drug containing buprenorphine for the patient and at regular intervals thereafter. Regular intervals shall exceed the requirements for other Schedule III pharmaceuticals, and queries shall be done prior to prescribing a replacement prescription. The rules shall also include dosage thresholds.

Sec. 14. MEDICATION-ASSISTED THERAPY; RULEMAKING

The Commissioner of Health shall adopt rules relating to medication-assisted therapy for opioid dependence for physicians treating fewer than 30 patients, which shall include a requirement that such physicians ensure that their patients are screened or assessed to determine their need for counseling and that patients who are determined to need counseling or other support services are referred for appropriate counseling from a licensed clinical professional or for other services as needed.

Sec. 15. 26 V.S.A. chapter 36, subchapter 8 is added to read:

Subchapter 8. Naloxone Hydrochloride

§ 2080. NALOXONE HYDROCHLORIDE; DISPENSING OR FURNISHING

(a) The Board of Pharmacy shall adopt protocols for licensed pharmacists to dispense or otherwise furnish naloxone hydrochloride to patients who do not hold an individual prescription for naloxone hydrochloride. Such protocols shall be consistent with rules adopted by the Commissioner of Health.

(b) Notwithstanding any provision of law to the contrary, a licensed pharmacist may dispense naloxone hydrochloride to any person as long as the pharmacist complies with the protocols adopted pursuant to subsection (a) of this section.

Sec. 16. [Deleted.]

Sec. 16a. DEPARTMENT OF CORRECTIONS AND HEALTH CARE REFORM

(a) The Agency of Human Services and its departments shall assist the Department of Corrections in fully enacting the provisions of the Affordable Care Act and Vermont's health care reform initiatives as they pertain to persons in the criminal justice population, including access to health information technology, the Blueprint for Health, Medicaid enrollment, the health benefit exchange, health plans, and other components under the Department of Vermont Health Access that support and ensure a seamless process for reentry to the community or readmission to a correctional facility.

(b) The Department of Corrections shall include substance abuse and mental health services in its request for proposal (RFP) process for inmate health services. Through the RFP, the Department shall require that substance abuse and mental health services be provided to persons while incarcerated; however, this requirement does not create any entitlement for an incarcerated person. The Department shall report to the Joint Legislative Corrections Oversight Committee during the 2014 interim regarding progress toward selecting inmate health services.

Sec. 17. 18 V.S.A. § 4254 is amended to read:

§ 4254. IMMUNITY FROM LIABILITY

* * *

(d) A person who seeks medical assistance for a drug overdose or is the subject of a good faith request for medical assistance pursuant to subsection (b) or (c) of this section shall not be subject to any of the penalties for violation of

13 V.S.A. § 1030 (violation of a protection order), for a violation of this chapter or 7 V.S.A §§ 656 and 657, for being at the scene of the drug overdose, or for being within close proximity to any person at the scene of the drug overdose.

(e) A person who seeks medical assistance for a drug overdose or is the subject of a good faith request for medical assistance pursuant to subsection (b) or (c) of this section shall not be subject to any sanction for a violation of a condition of pretrial release, probation, furlough, or parole for a violation of this chapter or 7 V.S.A §§ 656 and 657; for being at the scene of the drug overdose; or for being within close proximity to any person at the scene of the drug overdose.

* * *

(g) The immunity provisions of this section apply only to the use and derivative use of evidence gained as a proximate result of the person's seeking medical assistance for a drug overdose, being the subject of a good faith request for medical assistance, being at the scene, or being within close proximity to any person at the scene of the drug overdose for which medical assistance was sought and do not preclude prosecution of the person on the basis of evidence obtained from an independent source.

Sec. 18. EFFECTIVE DATES

(a) Secs. 2, 6, and 7 shall take effect on January 1, 2015.

(b) This section and Secs. 1 (legislative intent), 3 (risk assessment and needs screening tools), 4 (prosecutor precharge programs and reporting), 10 (Department of Public Safety report), 13 (VPMS query; rulemaking), 14 (medication-assisted therapy, rulemaking), and 17 (immunity from liability) shall take effect on passage.

(c) The remaining sections shall take effect on July 1, 2014.

*RICHARD W. SEARS
JOSEPH C. BENNING
VIRGINIA V. LYONS*

Committee on the part of the Senate

*WILLIAM J. LIPPERT
SANDY J. HAAS
ALICE M. EMMONS*

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.

Appointments Confirmed

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

Crawford, Geoffrey W. of Burlington - Judge, Associate Justice of the Supreme Court - October 16, 2013, to March 31, 2017.

Hoar, Samuel of South Burlington - Judge, Superior Judge - March 26, 2014, to March 31, 2019.

Message from the Governor

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

Mr. President:

I am directed by the Governor to inform the Senate that on the ninth day of May, 2014, he approved and signed a bill originating in the Senate of the following title:

S. 177. An act relating to nonjudicial discipline.

Recess

On motion of Senator Baruth the Senate recessed until 7:10 P.M.

Evening

The Senate was called to order by the President.

Senate Concurrent Resolutions

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

By Senators Doyle, Cummings and Pollina,

S.C.R. 57.

Senate concurrent resolution congratulating the Capitol Plaza Hotel and Conference Center on providing 20 years of award-winning service to the Montpelier community.

By All Members of the Senate,

By All Members of the House,

S.C.R. 58.

Senate concurrent resolution congratulating the Greenwood School and documentary filmmaker Ken Burns on the premiere of *The Address*.

By Senators Doyle, Cummings and Pollina,

S.C.R. 59.

Senate concurrent resolution congratulating OUR House of Central Vermont on its 25th anniversary.

By All Members of the Senate,

By Representative Webb and others,

S.C.R. 60.

Senate concurrent resolution congratulating Pixley Tyler Hill and Ted Tyler on being named as U.S. Environmental Protection Agency's 2014 Environmental Merit Award winners.

By Senators McAllister, Collins, French, Pollina, Rodgers and White,

By Representative Beyor and others,

S.C.R. 61.

Senate concurrent resolution honoring Franklin County Deputy Sheriff Corporal Brendan McKenney and Enosburgh Ambulance Officer Dean Scott for their heroic rescue efforts in Montgomery.

By Senators Doyle, Cummings and Pollina,

S.C.R. 62.

Senate concurrent resolution congratulating the Vermont State Nurses' Association on its centennial .

By Senators Doyle, Cummings and Pollina,

S.C.R. 63.

Senate concurrent resolution commemorates the U.S. Army's 10th Mountain Division, our nation's alpine soldiers.

House Concurrent Resolutions

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

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

By Representative Russell and others,

H.C.R. 356.

House concurrent resolution honoring Rutland Free Library Director Paula Baker.

By the Committee on General, Housing and Military Affairs,

H.C.R. 357.

House concurrent resolution congratulating the Vermont Housing Finance Agency on its 40th anniversary and recognizing the leadership of its executive director, Sarah Carpenter.

By Representative Russell and others,

H.C.R. 358.

House concurrent resolution congratulating the Italian American Club in Rutland on its centennial.

By Representative Moran,

By Senators Galbraith and White,

H.C.R. 359.

House concurrent resolution congratulating William Anton on being named the 2014 Vermont winner of the National Association of Elementary School Principals' National Distinguished Principal Award.

By Representative Moran,

By Senators Galbraith and White,

H.C.R. 360.

House concurrent resolution congratulating Rosemary FitzSimons on being named the 2014 winner of the Henry Giaguque Vermont Elementary Principal of the Year.

By Representative Clarkson and others,

By Senators Campbell, McCormack and Nitka,

H.C.R. 361.

House concurrent resolution congratulating the 2014 Woodstock Union High School Wasps Division II girls' Nordic skiing championship team.

By Representative Clarkson and others,
By Senators Campbell, McCormack and Nitka,

H.C.R. 362.

House concurrent resolution congratulating the 2014 Woodstock Union High School Wasps Division II boys' Nordic skiing championship team.

By the Committee on Commerce and Economic Development,

By the Committee on Economic Development, Housing and General Affairs,

H.C.R. 363.

House concurrent resolution congratulating Vermont Economic Development Authority on its 40th anniversary.

By Representative Campion and others,

By Senators Hartwell and Sears,

H.C.R. 364.

House concurrent resolution in memory of John P. Griffin Jr. of Bennington.

By Representatives Ancel and Klein,

By Senators Doyle, Cummings and Pollina,

H.C.R. 365.

House concurrent resolution congratulating the Washington Electric Cooperative on its 75th anniversary.

By Representative Brennan and others,

By Senator Mazza,

H.C.R. 366.

House concurrent resolution commemorating the 70th anniversary of D-Day.

By Representative Pearce and others,

By Senators Collins, McAllister, Rodgers and Starr,

H.C.R. 367.

House concurrent resolution congratulating the 2013 Richford High School's Division IV girls' track and field team.

By Representatives Turner and Hubert,

H.C.R. 368.

House concurrent resolution congratulating the Milton High School Drama Club on winning the Vermont Drama Festival's one-act play competition.

By Representative Ralston and others,

H.C.R. 369.

House concurrent resolution congratulating the 2014 Middlebury Union High School Tigers Division II championship girls' ice hockey team.

By Representative Clarkson and others,

By Senators Campbell, McCormack and Nitka,

H.C.R. 370.

House concurrent resolution congratulating the Farm & Wilderness Camps on their 75th anniversary.

By Representative Mrowicki and others,

By Senator White,

H.C.R. 371.

House concurrent resolution honoring Windham Southeast Supervisory Union Business Administrator James E. Kane.

By Representative Bissonnette and others,

H.C.R. 372.

House concurrent resolution congratulating Penny Ly on being named the Vermont winner of the 2014 Doodle 4 Google competition.

By Representatives Lanpher and Van Wyck,

By Senators Ayer and Bray,

H.C.R. 373.

House concurrent resolution honoring Frances Ann Sullivan of Vergennes.

By Representative Gallivan and others,

By Senators Flory, French and Mullin,

H.C.R. 374.

House concurrent resolution in memory of former Representative Ira Pike of Mendon.

By Representatives French and Ryerson,

By Senator MacDonald,

H.C.R. 375.

House concurrent resolution congratulating Coy Lyford on winning his third consecutive State youth wrestling championship.

By Representative French and others,

By Senators MacDonald and McCormack,

H.C.R. 376.

House concurrent resolution congratulating Rebecca Carleton on winning the National Art Education Association's 2014 Eastern Region Educator of the Year Award.

By Representative Morrissey and others,

By Senators Hartwell and Sears,

H.C.R. 377.

House concurrent resolution congratulating the Bennington Fire Department on its 50th Bennington Battle Day Parade.

By Representative Dickinson and others,

H.C.R. 378.

House concurrent resolution honoring the Vermont Elks Association's Silver Towers Camp.

By Representative Rachelson and others,

By Senator Baruth,

H.C.R. 379.

House concurrent resolution honoring University of Vermont Associate Professor of Philosophy Arthur Kuflik.

By Representative Stuart and others,

By Senators Ayer, Baruth, Doyle, French, Hartwell, Lyons, McAllister, McCormack, Pollina, Rodgers, Sirotkin, White and Zuckerman,

H.C.R. 380.

House concurrent resolution designating May 7, 2014 as Poverty Awareness Day in Vermont.

By Representative Stuart and others,

By Senators Galbraith and White,

H.C.R. 381.

House concurrent resolution honoring former Brattleboro Selectboard Chair Jesse M. Corum IV for his legal and civic leadership in Windham County.

By Representative Martin and others,

By Senators Campbell, McCormack and Nitka,

H.C.R. 382.

House concurrent resolution congratulating Kelly Stettner of Springfield on being named the 2014 winner of the Green Mountain Power–Zetterstrom Environmental Award.

Adjournment

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