

Journal of the Senate

THURSDAY, MAY 7, 2015

The Senate was called to order by the President.

Devotional Exercises

A moment of silence was observed in lieu of devotions.

Bills Referred to Committee on Appropriations

House bills of the following titles, appearing on the Calendar for notice and carrying appropriations or requiring the expenditure of funds, under the rules were severally referred to the Committee on Appropriations:

H. 35. An act relating to improving the quality of State waters.

H. 117. An act relating to creating a Division for Telecommunications and Connectivity within the Department of Public Service.

H. 484. An act relating to miscellaneous agricultural subjects.

Bills Referred

House bills entitled:

H. 497. An act relating to approval of amendments to the charter of the Town of Colchester.

H. 503. An act relating to approval of amendments to the charter of the City of Burlington.

H. 504. An act relating to approval of the adoption and codification of the charter of the Town of Waitsfield.

Were severally taken up and pursuant to Temporary Rule 44A were severally referred to the Committee on Government Operations.

Bill Passed in Concurrence with Proposal of Amendment

H. 18.

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

An act relating to Public Records Act exemptions.

Third Reading Ordered**J.R.H. 8.**

Senator Collamore, for the Committee on Government Operations, to which was referred joint House resolution entitled:

Joint resolution relating to military suicides.

Reported that the joint resolution ought to be adopted in concurrence.

Thereupon, the joint resolution was read the second time by title only pursuant to Rule 43, and third reading of the joint resolution was ordered on a roll call, Yeas 28, Nays 1.

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

Roll Call

Those Senators who voted in the affirmative were: Ashe, Balint, Baruth, Benning, Bray, Campbell, Campion, Collamore, Cummings, Degree, Doyle, Flory, Kitchel, Lyons, MacDonald, Mazza, McAllister, McCormack, Mullin, Pollina, Rodgers, Sears, Sirotkin, Snelling, Starr, Westman, White, Zuckerman.

The Senator who voted in the negative was: Ayer.

The Senator absent and not voting was: Nitka.

House Proposal of Amendment Not Concurred In; Committee of Conference Requested**S. 9.**

House proposal of amendment to Senate bill entitled:

An act relating to improving Vermont's system for protecting children from abuse and neglect.

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:

* * * Legislative Findings * * *

Sec. 1. LEGISLATIVE FINDINGS

(a) In 2014, the tragic deaths of two children exposed problems with Vermont's system intended to protect children from abuse and neglect. This act is intended to address these problems and implement the recommendations of the Joint Legislative Committee on Child Protection created by 2014 Acts

and Resolves No. 179, Sec. C.109 and improve our State's system for protecting our children to help prevent future tragedies.

(b) To better prevent child abuse and neglect, Vermont must invest in proven strategies to support and strengthen families.

(c) To better protect Vermont's children from abuse and neglect, and to address the increasing burden of drug abuse and other factors that are ripping families apart, the General Assembly believes that our State's child protection system must be focused on the safety and best interests of children, comprehensive, and properly funded. This system must ensure that:

(1) the dedicated frontline professionals, including guardians ad litem, who struggle to handle the seemingly ever-increasing caseloads have the support, training, and resources necessary to do their job;

(2) children who have suffered abuse and neglect can find safe, nurturing, and permanent homes, whether with their custodial parents, relatives, or other caring families and individuals;

(3) the most serious cases of abuse are thoroughly investigated and prosecuted if appropriate;

(4) courts have the information and tools necessary to make the best possible decisions;

(5) all participants in the child protection system, from the frontline caseworker to the judge determining ultimate custody, work together to prioritize the child's safety and best interests; and

(6) an effective oversight structure is established.

(d) This act is only the beginning of what must be an ongoing process in which the House and Senate Committees on Judiciary, the Senate Committee on Health and Welfare, the House Committee on Human Services, in consultation with the Senate and House Committees on Appropriations, continue to enhance the statewide approach to the prevention of child abuse and neglect.

* * * Agency of Human Services; Evidence-Informed Models * * *

Sec. 2. AGENCY OF HUMAN SERVICES EVIDENCE-INFORMED MODELS

The Secretary of Human Services shall identify and utilize evidence-informed models of serving families that prioritize child safety and prevention of child abuse and neglect through early interventions with high risk families that develop family strengths and reduce the impact of adverse

childhood experiences. The Secretary shall make recommendations in the FY2017 budget that reflect the utilization of these models.

* * * Human Services; Child Welfare Services; Definitions * * *

Sec. 3. 33 V.S.A. § 4912 is amended to read:

§ 4912. DEFINITIONS

As used in this subchapter:

* * *

(14) “Risk of harm” means a significant danger that a child will suffer serious harm by other than accidental means, which harm would be likely to cause physical injury, neglect, ~~emotional maltreatment~~, or sexual abuse, including as the result of:

(A) a single, egregious act that has caused the child to be at significant risk of serious physical injury;

(B) the production or preproduction of methamphetamines when a child is actually present;

(C) failing to provide supervision or care appropriate for the child’s age or development and as a result, the child is at significant risk of serious physical injury;

(D) failing to provide supervision or care appropriate for the child’s age or development due to use of illegal substances, or misuse of prescription drugs or alcohol;

(E) failing to supervise appropriately a child in a situation in which drugs, alcohol, or drug paraphernalia are accessible to the child; and

(F) a registered sex offender or person substantiated for sexually abusing a child residing with or spending unsupervised time with a child.

* * *

(15) “Sexual abuse” consists of any act or acts by any person involving sexual molestation or exploitation of a child, including incest, prostitution, rape, sodomy, or any lewd and lascivious conduct involving a child. Sexual abuse also includes the aiding, abetting, counseling, hiring, or procuring of a child to perform or participate in any photograph, motion picture, exhibition, show, representation, or other presentation which, in whole or in part, depicts sexual conduct, sexual excitement, or sadomasochistic abuse involving a child. Sexual abuse also includes the viewing, possession, or transmission of child pornography, with the exclusion of the exchange of images between mutually consenting minors, including the minor whose image is exchanged.

* * *

(17) “Serious physical injury” means any intentional or malicious conduct that leaves a child with an injury or injuries that leave significant or permanent bodily damage or disfigurement, or both, or that leaves a child without the ability to perform normal functions of daily living.

* * * Confidentiality * * *

Sec. 4. 33 V.S.A. § 4913 is amended to read:

§ 4913. REPORTING CHILD ABUSE AND NEGLECT; REMEDIAL ACTION

(a) ~~Any~~ A mandated reporter is any:

(1) health care provider, including any:

(A) physician, surgeon, osteopath, chiropractor, or physician assistant licensed, certified, or registered under the provisions of Title 26;

(B) ~~any~~ resident physician;

(C) intern;

(D) ~~or any~~ hospital administrator in any hospital in this State;

(F) ~~whether or not so registered, and any~~ registered nurse;

(G) licensed practical nurse;

(H) medical examiner;

(I) emergency medical personnel as defined in 24 V.S.A. § 2651(6);

(J) dentist;

(K) psychologist; and

(L) pharmacist, ~~any other health care provider, child care worker;~~

(2) individual who is employed by a school district or an approved or recognized independent school, or who is contracted and paid by a school district or an approved or recognized independent school to provide student services, including any:

(A) school superintendent;

(B) headmaster of an approved or recognized independent school as defined in 16 V.S.A. § 11;

(C) school teacher;

(D) student teacher;

(E) school librarian;

(F) school principal; and

~~(G) school guidance counselor, and any other individual who is employed by a school district or an approved or recognized independent school, or who is contracted and paid by a school district or an approved or recognized independent school to provide student services;~~

(3) child care worker;

(4) mental health professional;

(5) social worker;

(6) probation officer;

(7) any employee, contractor, and grantee of the Agency of Human Services who have contact with clients;

(8) police officer;

(9) camp owner;

(10) camp administrator;

(11) camp counselor; or

(12) member of the clergy.

(b) As used in subsection (a) of this section, "camp" includes any residential or nonresidential recreational program.

~~(c) Any mandated reporter who has reasonable cause to believe that any child has been abused or neglected reasonably suspects abuse or neglect of a child shall report or cause a report to be made in accordance with the provisions of section 4914 of this title within 24 hours of the time information regarding the suspected abuse or neglect was first received or observed. As used in this subsection, "camp" includes any residential or nonresidential recreational program.~~

~~(b)~~(d)(1) The Commissioner shall inform the person who made the report under subsection (a) of this section:

~~(1)~~(A) whether the report was accepted as a valid allegation of abuse or neglect;

~~(2)~~(B) whether an assessment was conducted and, if so, whether a need for services was found; and

~~(3)~~(C) whether an investigation was conducted and, if so, whether it resulted in a substantiation.

(2) Upon request, the Commissioner shall provide relevant information contained in the case records concerning a person's report to a person who:

(A) made the report under subsection (a) of this section; and

(B) is engaged in an ongoing working relationship with the child or family who is the subject of the report.

(3) Any information disclosed under subdivision (2) of this subsection shall not be disseminated by the mandated reporter requesting the information. A person who intentionally violates the confidentiality provisions of this section shall be fined not more than \$2,000.00.

(4) In providing information under subdivision (2) of this subsection, the Department may withhold information that could:

(A) compromise the safety of the reporter or the child or family who is the subject of the report; or

(B) threaten the emotional well-being of the child.

* * *

Sec. 4a. 33 V.S.A. § 4914 is amended to read:

§ 4914. NATURE AND CONTENT OF REPORT; TO WHOM MADE

A report shall be made orally or in writing to the Commissioner or designee. The Commissioner or designee shall request the reporter to follow the oral report with a written report, unless the reporter is anonymous. Reports shall contain the name and address or other contact information of the reporter as well as the names and addresses of the child and the parents or other persons responsible for the child's care, if known; the age of the child; the nature and extent of the child's injuries together with any evidence of previous abuse and neglect of the child or the child's siblings; and any other information that ~~the reporter believes~~ might be helpful in establishing the cause of the injuries or reasons for the neglect as well as in protecting the child and assisting the family. If a report of child abuse or neglect involves the acts or omissions of the Commissioner or employees of the Department, then the report shall be directed to the Secretary of Human Services who shall cause the report to be investigated by other appropriate Agency staff. If the report is substantiated, services shall be offered to the child and to his or her family or caretaker according to the requirements of section 4915b of this title.

Sec. 5. 33 V.S.A. § 4921 is amended to read:

§ 4921. DEPARTMENT'S RECORDS OF ABUSE AND NEGLECT

(a) The Commissioner shall maintain all records of all investigations, assessments, reviews, and responses initiated under this subchapter. The

Department may use and disclose information from such records in the usual course of its business, including to assess future risk to children, to provide appropriate services to the child or members of the child's family, or for other legal purposes.

(b) The Commissioner shall promptly inform the parents, if known, or guardian of the child that a report has been accepted as a valid allegation pursuant to subsection 4915(b) of this title and the Department's response to the report. The Department shall inform the parent or guardian of his or her ability to request records pursuant to subsection (c) of this section. This section shall not apply if the parent or guardian is the subject of the investigation.

(c) Upon request, the redacted investigation file shall be disclosed to:

(1) the child's parents, foster parent, or guardian, absent good cause shown by the Department, provided that the child's parent, foster parent, or guardian is not the subject of the investigation; and

(2) the person alleged to have abused or neglected the child, as provided for in subsection 4916a(d) of this title.

(d) Upon request, Department records created under this subchapter shall be disclosed to:

(1) the ~~court~~ Court, parties to the juvenile proceeding, and the child's guardian ad litem if there is a pending juvenile proceeding or if the child is in the custody of the Commissioner;

(2) the Commissioner or person designated by the Commissioner to receive such records;

(3) persons assigned by the Commissioner to conduct investigations;

(4) law enforcement officers engaged in a joint investigation with the Department, an ~~assistant attorney general~~ Assistant Attorney General, or a ~~state's attorney~~ State's Attorney; and

(5) other State agencies conducting related inquiries or proceedings; and.

(6) ~~a Probate Division of the Superior Court involved in guardianship proceedings. The Probate Division of the Superior Court shall provide a copy of the record to the respondent, the respondent's attorney, the petitioner, the guardian upon appointment, and any other individual, including the proposed guardian, determined by the Court to have a strong interest in the welfare of the respondent. [Repealed.]~~

(e)(1) Upon request, relevant Department records or information created under this subchapter ~~may~~ shall be disclosed to:

~~(A) service providers working with a person or child who is the subject of the report; and~~ A person, agency, or organization, including a multidisciplinary team empaneled under section 4917 of this title, authorized to diagnose, care for, treat, or supervise a child or family who is the subject of a report or record created under this subchapter, or who is responsible for the child's health or welfare.

(B) Health and mental health care providers working directly with the child or family who is the subject of the report or record.

(C) Educators working directly with the child or family who is the subject of the report or record.

(D) Licensed or approved foster care givers for the child.

(E) Mandated reporters as defined by section 4913 of this subchapter, making a report in accordance with the provisions of section 4914 of this subchapter and engaging in an ongoing working relationship with the child or family who is the subject of the report.

(F) A Family Division of the Superior Court involved in any proceeding in which custody of a child or parent-child contact is at issue.

(G) A Probate Division of the Superior Court involved in guardianship proceedings.

~~(H) other~~ Other governmental entities for purposes of child protection.

(2) Determinations of relevancy shall be made by the Department.

(3) In providing records or information under this subsection (e), the Department may withhold information that could:

(A) compromise the safety of the reporter or the child or family who is the subject of the report; or

(B) threaten the emotional well-being of the child.

(4) In providing records or information under this section, the Department may also provide other records related to its child protection activities for the child.

(5) Any persons or agencies authorized to receive confidential information under this section may share such information with other persons or agencies authorized to receive confidential information under this section

for the purposes of providing services and benefits to the children and families those persons or agencies mutually serve.

(f) Any records or information disclosed under this section and information relating to the contents of those records or reports shall not be disseminated by the receiving persons or agencies to any persons or agencies, other than to those persons or agencies authorized to receive information pursuant to this section. A person who intentionally violates the confidentiality provisions of this section shall be fined not more than \$2,000.00.

Sec. 6. 33 V.S.A. § 5110 is amended to read:

§ 5110. CONDUCT OF HEARINGS

(a) Hearings under the juvenile judicial proceedings chapters shall be conducted by the Court without a jury and shall be confidential.

(b) The general public shall be excluded from hearings under the juvenile judicial proceedings chapters, and only the parties, their counsel, witnesses, persons accompanying a party for his or her assistance, and such other persons as the Court finds to have a proper interest in the case or in the work of the Court, including a foster parent or a representative of a residential program where the child resides, may be admitted by the Court. An individual without party status seeking inclusion in the hearing in accordance with this subsection may petition the Court for admittance by filing a request with the clerk of the Court. This subsection shall not prohibit a victim's exercise of his or her rights under sections 5233 and 5234 of this title, and as otherwise provided by law.

(c) There shall be no publicity given by any person to any proceedings under the authority of the juvenile judicial proceedings chapters except with the consent of the child, the child's guardian ad litem, and the child's parent, guardian, or custodian. A person who violates this provision may be subject to contempt proceedings pursuant to Rule 16 of the Vermont Rules for Family Proceedings.

* * * Juvenile Proceedings; General Provisions; Children in Need of Care or Supervision; Request for an Emergency Care Order * * *

Sec. 7. 33 V.S.A. § 5302 is amended to read:

§ 5302. REQUEST FOR EMERGENCY CARE ORDER

(a) If an officer takes a child into custody pursuant to ~~subdivision section 5301(1) or (2)~~ of this title, the officer shall immediately notify the child's custodial parent, guardian, or custodian and release the child to the care of the child's custodial parent, guardian, or custodian unless the officer determines that the child's immediate welfare requires the child's continued absence from the home.

(b) If the officer determines that the child's immediate welfare requires the child's continued absence from the home, ~~the officer shall:~~

(1) ~~Remove~~ The officer shall remove the child from the child's surroundings, contact the Department, and deliver the child to a location designated by the Department. The Department shall have the authority to make reasonable decisions concerning the child's immediate placement, safety, and welfare pending the issuance of an emergency care order.

(2) ~~Prepare~~ The officer or a social worker employed by the Department for Children and Families shall prepare an affidavit in support of a request for an emergency care order and provide the affidavit to the State's Attorney. The affidavit shall include: the reasons for taking the child into custody; and to the degree known, potential placements with which the child is familiar; the names, addresses, and telephone number of the child's parents, guardian, custodian, or care provider; the name, address, and telephone number of any relative who has indicated an interest in taking temporary custody of the child. The officer or social worker shall contact the Department and the Department may prepare an affidavit as a supplement to the affidavit of the law enforcement officer or social worker if the Department has additional information with respect to the child or the family.

* * *

* * * Temporary Care Order; Custody * * *

Sec. 8. 33 V.S.A. § 5308 is amended to read:

§ 5308. TEMPORARY CARE ORDER

(a) The Court shall order that legal custody be returned to the child's custodial parent, guardian, or custodian unless the Court finds by a preponderance of the evidence that a return home would be contrary to the best interests of the child's welfare child because any one of the following exists:

(1) A return of legal custody could result in substantial danger to the physical health, mental health, welfare, or safety of the child.

(2) The child or another child residing in the same household has been physically or sexually abused by a custodial parent, guardian, or custodian, or by a member of the child's household, or another person known to the custodial parent, guardian, or custodian.

(3) The child or another child residing in the same household is at substantial risk of physical or sexual abuse by a custodial parent, guardian, or custodian, or by a member of the child's household, or another person known to the custodial parent, guardian, or custodian. It shall constitute prima facie

evidence that a child is at substantial risk of being physically or sexually abused if:

(A) a custodial parent, guardian, or custodian receives actual notice that a person has committed or is alleged to have committed physical or sexual abuse against a child; and

(B) a custodial parent, guardian, or custodian knowingly or recklessly allows the child to be in the physical presence of the alleged abuser after receiving such notice.

(4) The custodial parent, guardian, or ~~guardian~~ custodian has abandoned the child.

(5) The child or another child in the same household has been neglected and there is substantial risk of harm to the child who is the subject of the petition.

(b) Upon a finding that ~~any of the conditions set forth in subsection (a) of this section exists~~ a return home would be contrary to the best interests of the child, the Court may issue such temporary orders related to the legal custody of the child as it deems necessary and sufficient to protect the welfare and safety of the child, including, ~~in order of preference~~:

(1) ~~A~~ a conditional custody order returning or granting legal custody of the child to the custodial parent, guardian, ~~or~~ custodian, noncustodial parent, relative, or a person with a significant relationship with the child, subject to such conditions and limitations as the Court may deem necessary and sufficient ~~to protect the child~~;

~~(2)(A) An order transferring temporary legal custody to a noncustodial parent. Provided that parentage is not contested, upon a request by a noncustodial parent for temporary legal custody and a personal appearance of the noncustodial parent, the noncustodial parent shall present to the Court a care plan that describes the history of the noncustodial parent's contact with the child, including any reasons why contact did not occur, and that addresses:~~

~~(i) the child's need for a safe, secure, and stable home;~~

~~(ii) the child's need for proper and effective care and control; and~~

~~(iii) the child's need for a continuing relationship with the custodial parent, if appropriate.~~

~~(B) The Court shall consider court orders and findings from other proceedings related to the custody of the child.~~

~~(C) The Court shall transfer legal custody to the noncustodial parent unless the Court finds by a preponderance of the evidence that the transfer would be contrary to the child's welfare because any of the following exists:~~

~~(i) The care plan fails to meet the criteria set forth in subdivision (2)(A) of this subsection.~~

~~(ii) Transferring temporary legal custody of the child to the noncustodial parent could result in substantial danger to the physical health, mental health, welfare, or safety of the child.~~

~~(iii) The child or another child residing in the same household as the noncustodial parent has been physically or sexually abused by the noncustodial parent or a member of the noncustodial parent's household, or another person known to the noncustodial parent.~~

~~(iv) The child or another child residing in the same household as the noncustodial parent is at substantial risk of physical or sexual abuse by the noncustodial parent or a member of the noncustodial parent's household, or another person known to the noncustodial parent. It shall constitute prima facie evidence that a child is at substantial risk of being physically or sexually abused if:~~

~~(I) a noncustodial parent receives actual notice that a person has committed or is alleged to have committed physical or sexual abuse against a child; and~~

~~(II) the noncustodial parent knowingly or recklessly allows the child to be in the physical presence of the alleged abuser after receiving such notice.~~

~~(v) The child or another child in the noncustodial parent's household has been neglected, and there is substantial risk of harm to the child who is the subject of the petition.~~

~~(D) If the noncustodial parent's request for temporary custody is contested, the Court may continue the hearing and place the child in the temporary custody of the Department, pending further hearing and resolution of the custody issue. Absent good cause shown, the Court shall hold a further hearing on the issue within 30 days.~~

~~(3) An order transferring temporary legal custody of the child to a relative, provided:~~

~~(A) The relative seeking legal custody is a grandparent, great-grandparent, aunt, great-aunt, uncle, great-uncle, stepparent, sibling, or step-sibling of the child.~~

~~(B) The relative is suitable to care for the child. In determining suitability, the Court shall consider the relationship of the child and the relative and the relative's ability to:~~

~~(i) Provide a safe, secure, and stable environment.~~

~~(ii) Exercise proper and effective care and control of the child.~~

~~(iii) Protect the child from the custodial parent to the degree the Court deems such protection necessary.~~

~~(iv) Support reunification efforts, if any, with the custodial parent.~~

~~(v) Consider providing legal permanence if reunification fails.~~

(2) an order transferring temporary legal custody of the child to a noncustodial parent or to a relative;

(3) an order transferring temporary legal custody of the child to a person with a significant relationship with the child; or

(4) an order transferring temporary legal custody of the child to the Commissioner.

~~(C)(c) The Court shall consider orders and findings from other proceedings relating to the custody of the child, the child's siblings, or children of any adult in the same household as the child.~~

~~(d) In considering the suitability of a relative under this subdivision (3) an order under subsection (b) of this section, the Court may order the Department to conduct an investigation of a person seeking custody of the child, and the suitability of that person's home, and file a written report of its findings with the Court. The Court may place the child in the temporary custody of the Department Commissioner, pending such investigation.~~

~~(4) A temporary care order transferring temporary legal custody of the child to a relative who is not listed in subdivision (3)(A) of this subsection or a person with a significant relationship with the child, provided that the criteria in subdivision (3)(B) of this subsection are met. The Court may make such orders as provided in subdivision (3)(C) of this subsection to determine suitability under this subdivision.~~

~~(5) A temporary care order transferring temporary legal custody of the child to the Commissioner.~~

~~(e)(e) If the Court transfers legal custody of the child, the Court shall issue a written temporary care order.~~

(1) The order shall include:

(A) a A finding that remaining in the home is contrary to the ~~child's welfare~~ best interests of the child and the facts upon which that finding is based; ~~and.~~

(B) a A finding as to whether reasonable efforts were made to prevent unnecessary removal of the child from the home. If the Court lacks sufficient evidence to make findings on whether reasonable efforts were made to prevent the removal of the child from the home, that determination shall be made at the next scheduled hearing in the case but, in any event, no later than 60 days after the issuance of the initial order removing a child from the home.

(2) The order may include other provisions as may be ~~necessary for the protection and welfare~~ in the best interests of the child, ~~such as including:~~

(A) establishing parent-child contact ~~under such and terms and conditions as are necessary for the protection of the child.~~ and terms and conditions for that contact;

(B) requiring the Department to provide the child with services, if legal custody of the child has been transferred to the Commissioner;

(C) requiring the Department to refer a parent for appropriate assessments and services, including a consideration of the needs of children and parents with disabilities, provided that the child's needs are given primary consideration;

(D) requiring genetic testing if parentage of the child is at issue;

(E) requiring the Department to make diligent efforts to locate the noncustodial parent;

(F) requiring the custodial parent to provide the Department with names of all potential noncustodial parents and relatives of the child; and

(G) establishing protective supervision and requiring the Department to make appropriate service referrals for the child and the family, if legal custody is transferred to an individual other than the Commissioner.

(3) If legal custody of a child is transferred to the Commissioner, the Commissioner shall provide the child with assistance and services. In his or her discretion, the Commissioner may provide assistance and services to other children and families to the extent that funds permit, ~~notwithstanding subdivision (2)(B) of this subsection.~~

~~(d) If a party seeks to modify a temporary care order in order to transfer legal custody of a child from the Commissioner to a relative or a person with a significant relationship with the child, the relative shall be entitled to preferential consideration under subdivision (b)(3) of this section, provided~~

~~that a disposition order has not been issued and the motion is filed within 90 days of the date that legal custody was initially transferred to the Commissioner. [Repealed.]~~

* * * Adoption Act; Postadoption Contact Agreements * * *

Sec. 9. 15A V.S.A. § 1-109 is amended to read:

§ 1-109. TERMINATION OF ORDERS AND AGREEMENTS FOR VISITATION OR COMMUNICATION UPON ADOPTION

When a decree of adoption becomes final, except as provided in Article 4 of this title ~~and 33 V.S.A. § 5124~~, any order or agreement for visitation or communication with the minor shall be unenforceable.

Sec. 10. 33 V.S.A. § 5124 is added to read:

§ 5124. POSTADOPTION CONTACT AGREEMENTS

(a) Either or both parents and each intended adoptive parent may enter into a postadoption contact agreement regarding communication or contact between either or both parents and the child after the finalization of an adoption by the intended adoptive parent or parents who are parties to the agreement. Such an agreement may be entered into if:

(1) the child is in the custody of the Department for Children and Families;

(2) an order terminating parental rights has not yet been entered; and

(3) either or both parents agree to a voluntary termination of parental rights, including an agreement in a case which began as an involuntary termination of parental rights.

(b) The Court shall approve the postadoption contact agreement if:

(1)(A) it determines that the child's best interests will be served by postadoption communication or contact with either or both parents; and

(B) in making a best interests determination, it may consider:

(i) the age of the child;

(ii) the length of time that the child has been under the actual care, custody, and control of a person other than a parent;

(iii) the desires of the child, the child's parents; and the child's intended adoptive parents;

(iv) the child's relationship with and the interrelationships between the child's parents, the child's intended adoptive parents, the child's siblings, and any other person with a significant relationship with the child;

(v) the willingness of the parents to respect the bond between the child and the child's intended adoptive parents;

(vi) the willingness of the intended adoptive parents to respect the bond between the child and the parents;

(vii) the adjustment to the child's home, school, and community;

(viii) any evidence of abuse or neglect of the child;

(ix) the recommendation of any guardian ad litem;

(x) the recommendation of a therapist or mental health care provider working directly with the child; and

(xi) the recommendation of the Department;

(2) it has reviewed and made each of the following a part of the Court record:

(A) a sworn affidavit by the parties to the agreement which affirmatively states that the agreement was entered into knowingly and voluntarily and is not the product of coercion, fraud, or duress and that the parties have not relied on any representations other than those contained in the agreement;

(B) a written acknowledgment by each parent that the termination of parental rights is irrevocable, even if the intended adoption is not finalized, the adoptive parents do not abide by the postadoption contact agreement, or the adoption is later dissolved;

(C) an agreement to the postadoption contact or communication from the child to be adopted, if he or she is 14 years of age or older; and

(D) an agreement to the postadoption contact or communication in writing from the Department, the guardian ad litem, and the attorney for the child.

(c) A postadoption contact agreement must be in writing and signed by each parent and each intended adoptive parent entering into the agreement. There may be separate agreements for each parent. The agreement shall specify:

(1) the form of communication or contact to take place;

(2) the frequency of the communication or contact;

(3) if visits are agreed to, whether supervision shall be required, and if supervision is required, what type of supervision shall be required;

(4) if written communication or exchange of information is agreed upon, whether that will occur directly or through the Vermont Adoption Registry, set forth in 15A V.S.A. § 6-103;

(5) if the Adoption Registry shall act as an intermediary for written communication, that the signing parties will keep their addresses updated with the Adoption Registry;

(6) that failure to provide contact due to the child's illness or other good cause shall not constitute grounds for an enforcement proceeding;

(7) that the right of the signing parties to change their residence is not impaired by the agreement;

(8) an acknowledgment by the intended adoptive parents that the agreement grants either or both parents the right to seek to enforce the postadoption contact agreement;

(9) an acknowledgment that once the adoption is finalized, the court shall presume that the adoptive parent's judgment concerning the best interests of the child is correct;

(10) the finality of the termination of parental rights and of the adoption shall not be affected by implementation of the provisions of the postadoption contact agreement; and

(11) a disagreement between the parties or litigation brought to enforce or modify the agreement shall not affect the validity of the termination of parental rights or the adoption.

(d) A copy of the order approving the postadoption contact agreement and the postadoption contact agreement shall be filed with the Probate Division of the Superior Court with the petition to adopt filed under 15A V.S.A. Article 3, and, if the agreement specifies a role for the Adoption Registry, with the Registry.

(e) The order approving a postadoption contact agreement shall be a separate order issued before and contingent upon the final order of voluntary termination of parental rights.

(f) The executed postadoption contact agreement shall become final upon legal finalization of an adoption under 15A V.S.A. Article 3.

Sec. 11. 15A V.S.A. Article 9 is added to read:

ARTICLE 9. ENFORCEMENT, MODIFICATION, AND TERMINATION
OF POSTADOPTION CONTACT AGREEMENTS

§ 9-101. ENFORCEMENT, MODIFICATION, AND TERMINATION OF
POSTADOPTION CONTACT AGREEMENTS

(a) An adoptive parent may petition the Court to modify or terminate a postadoption contact agreement entered into under 33 V.S.A. § 5124 if the adoptive parent believes the best interests of the child are being compromised by the terms of the agreement. In an action brought under this section, the burden of proof shall be on the adoptive parent to show by clear and convincing evidence that the modification or termination of the agreement is in the best interests of the child.

(b) A former parent may petition for enforcement of a postadoption contact agreement entered into under 33 V.S.A. § 5124 if the adoptive parent is not in compliance with the terms of the agreement. In an action brought under this section, the burden of proof shall be on the former parent to show by a preponderance of the evidence that enforcement of the agreement is in the best interests of the child.

(c) A disagreement between the parties or litigation brought to enforce or modify the agreement shall not affect the validity of the termination of parental rights or the adoption.

(d) The Court shall not act on a petition to modify or enforce the agreement unless the petitioner had in good faith participated or attempted to participate in mediation or alternative dispute resolution proceedings to resolve the dispute prior to bringing the petition for enforcement.

(e) Parties to the proceeding shall be the individuals who signed the original agreement created under 33 V.S.A. § 5124. The adopted child, if 14 years of age or older, may also participate. The Department for Children and Families shall not be required to be a party to the proceeding and the Court shall not order further investigation or evaluation by the Department.

(f) The Court may order the communication or contact be terminated or modified if the Court deems such termination or modification to be in the best interests of the child. In making a best interests determination, the Court may consider:

(1) the protection of the physical safety of the adopted child or other members of the adoptive family;

(2) the emotional well-being of the adopted child;

(3) whether enforcement of the agreement undermines the adoptive parent's parental authority; and

(4) whether, due to a change in circumstances, continued compliance with the agreement would be unduly burdensome to one or more of the parties.

(g) A Court-imposed modification of the agreement may limit, restrict, condition, or decrease contact between the former parents and the child, but in

no event shall a Court-imposed modification serve to expand, enlarge, or increase the amount of contact between the former parents and the child or place new obligations on the adoptive parents.

(h) A hearing held to enforce, modify, or terminate an agreement for postadoption contact shall be confidential.

(i) Failure to comply with the agreement or petitioning the Court to enforce, modify, or terminate an agreement shall not form the basis for an award of monetary damages.

(j) An agreement for postadoption contact or communication under 33 V.S.A. § 5124 shall cease to be enforceable on the date the adopted child turns 18 years of age or upon dissolution of the adoption.

Sec. 12. 33 V.S.A. § 152 is amended to read:

§ 152. ACCESS TO RECORDS

(a) The Commissioner may obtain from the Vermont Crime Information Center the record of convictions of any person to the extent required by law or the Commissioner has determined by rule that such information is necessary to regulate a facility or individual subject to regulation by the Department or to carry out the Department's child protection obligations under chapters 49–59 of this title. The Commissioner shall first notify the person whose record is being requested.

* * *

Sec. 13. 33 V.S.A. § 6911 is amended to read:

§ 6911. RECORDS OF ABUSE, NEGLECT, AND EXPLOITATION

(a) Information obtained through reports and investigations, including the identity of the reporter, shall remain confidential and shall not be released absent a court order, except as follows:

(1) The investigative report shall be disclosed only to: the Commissioner or person designated to receive such records; persons assigned by the Commissioner to investigate reports; the person reported to have abused, neglected, or exploited a vulnerable adult; the vulnerable adult or his or her representative; the Office of Professional Regulation when deemed appropriate by the Commissioner; the Secretary of Education when deemed appropriate by the Commissioner; the Commissioner for Children and Families or designee, for purposes of review of expungement petitions filed pursuant to section 4916c of this title; a law enforcement agency; the State's Attorney, or the Office of the Attorney General, when the Department believes there may be grounds for criminal prosecution or civil enforcement action, or in the

course of a criminal or a civil investigation. When disclosing information pursuant to this subdivision, reasonable efforts shall be made to limit the information to the minimum necessary to accomplish the intended purpose of the disclosure, and no other information, including the identity of the reporter, shall be released absent a court order.

* * *

(c) The Commissioner or ~~the Commissioner's~~ designee may disclose Registry information only to:

* * *

(5) the Commissioner for Children and Families; or ~~the Commissioner's~~ designee; for purposes related to:

(A) the licensing or registration of facilities and individuals regulated by the Department for Children and Families; and

(B) the Department's child protection obligations under chapters 49-59 of this title.

* * *

Sec. 14. 33 V.S.A. § 4916c is amended to read:

§ 4916c. PETITION FOR EXPUNGEMENT FROM THE REGISTRY

(a)(1) ~~A~~ Except as provided in this subdivision, a person whose name has been placed on the Registry prior to July 1, 2009 and has been listed on the Registry for at least three years may file a written request with the Commissioner, seeking a review for the purpose of expunging an individual Registry record. A person whose name has been placed on the Registry on or after July 1, 2009 and has been listed on the Registry for at least seven years may file a written request with the Commissioner seeking a review for the purpose of expunging an individual Registry record. The Commissioner shall grant a review upon request.

(2) A person who is required to register as a sex offender on a state's sex offender registry shall not be eligible to petition for expungement of his or her Registry record during the period in which the person is subject to sex offender registry requirements.

(b)(1) The person shall have the burden of proving that a reasonable person would believe that he or she no longer presents a risk to the safety or well-being of children.

(2) ~~Factors to be considered by the~~ The Commissioner shall ~~include~~ consider the following factors in making his or her determination:

~~(1)~~(A) the nature of the substantiation that resulted in the person's name being placed on the Registry;

~~(2)~~(B) the number of substantiations, ~~if more than one~~;

~~(3)~~(C) the amount of time that has elapsed since the substantiation;

~~(4)~~(D) the circumstances of the substantiation that would indicate whether a similar incident would be likely to occur;

~~(5)~~(E) any activities that would reflect upon the person's changed behavior or circumstances, such as therapy, employment, or education; ~~and~~

~~(6)~~(F) references that attest to the person's good moral character; ~~and~~

(G) any other information that the Commissioner deems relevant.

* * *

* * * Municipal and County Government; Special Investigative Units; Mission and Jurisdiction * * *

Sec. 15. 24 V.S.A. § 1940 is amended to read:

§ 1940. ~~TASK FORCES; SPECIALIZED~~ SPECIAL INVESTIGATIVE UNITS; BOARDS; GRANTS

(a) Pursuant to the authority established under section 1938 of this title, and in collaboration with law enforcement agencies, investigative agencies, victims' advocates, and social service providers, the Department of State's Attorneys and Sheriffs shall coordinate efforts to provide access in each region of the ~~state~~ State to special investigative units ~~to investigate sex crimes, child abuse, domestic violence, or crimes against those with physical or developmental disabilities. The General Assembly intends that access to special investigative units be available to all Vermonters as soon as reasonably possible, but not later than July 1, 2009~~ which:

(1) shall investigate:

(A) an incident in which a child suffers, by other than accidental means, serious bodily injury as defined in 13 V.S.A. § 1021; and

(B) potential violations of:

(i) 13 V.S.A. § 2602 (lewd or lascivious conduct with child);

(ii) 13 V.S.A. chapter 60 (human trafficking);

(iii) 13 V.S.A. chapter 64 (sexual exploitation of children);

(iv) 13 V.S.A. chapter 72 (sexual assault); and

(v) 13 V.S.A. § 1379 (sexual abuse of a vulnerable adult); and

(2) may investigate:

(A) an incident in which a child suffers:

(i) bodily injury, by other than accidental means, as defined in 13 V.S.A. § 1021; or

(ii) death;

(B) potential violations of:

(i) 13 V.S.A. § 2601 (lewd and lascivious conduct);

(ii) 13 V.S.A. § 2605 (voyeurism); and

(iii) 13 V.S.A. § 1304 (cruelty to a child); and

(C) an incident involving potential domestic violence or crimes against those with physical or developmental disabilities.

(b) A ~~task force or specialized~~ special investigative unit organized and operating under this section may accept, receive, and disburse in furtherance of its duties and functions any funds, grants, and services made available by the State of Vermont and its agencies, the federal government and its agencies, any municipality or other unit of local government, or private or civic sources. Any employee covered by an agreement establishing a special investigative unit shall remain an employee of the donor agency.

(c) A ~~Specialized~~ Special Investigative Unit Grants Board is created which shall ~~be comprised of~~ comprise the Attorney General, the Secretary of Administration, the Executive Director of the Department of State's Attorneys and Sheriffs, the Commissioner of Public Safety, the Commissioner for Children and Families, a representative of the Vermont Sheriffs' Association, a representative of the Vermont Association of Chiefs of Police, the Executive Director of the Center for Crime Victim Services, and the Executive Director of the Vermont League of Cities and Towns. ~~Specialized~~ Special investigative units organized and operating under this section ~~for the investigation of sex crimes, child abuse, elder abuse, domestic violence, or crimes against those with physical or developmental disabilities~~ may apply to the Board for a grant or grants covering the costs of salaries and employee benefits to be expended during a given year for the performance of unit duties as well as unit operating costs for rent, utilities, equipment, training, and supplies. Grants under this section shall be approved by a majority of the entire Board and shall not exceed 50 percent of the yearly salary and employee benefit costs of the unit. Preference shall be given to grant applications which include the participation of the Department of Public Safety, the Department for Children and Families, sheriffs' departments, community victims' advocacy organizations, and municipalities within the region. Preference shall also be given to grant

applications which promote policies and practices that are consistent across the State, including policies and practices concerning the referral of complaints, the investigation of cases, and the supervision and management of special investigative units. However, a sheriff's department in a county with a population of ~~less~~ fewer than 8,000 residents shall upon application receive a grant of up to \$20,000.00 for 50 percent of the yearly salary and employee benefits costs of a part-time ~~specialized~~ special investigative unit investigator which shall be paid to the department as time is billed on a per hour rate as agreed by contract up to the maximum amount of the grant.

(d) The Board may adopt rules relating to grant eligibility criteria, processes for applications, awards, and reports related to grants authorized pursuant to this section. The Attorney General shall be the adopting authority.

Sec. 16. 33 V.S.A. § 4915b(e) is amended to read:

~~(e) The Department shall report to and request assistance from law enforcement in the following circumstances:~~

~~(1) investigations of child sexual abuse by an alleged perpetrator age 10 or older;~~

~~(2) investigations of serious physical abuse or neglect likely to result in criminal charges or requiring emergency medical care;~~

~~(3) situations potentially dangerous to the child or Department worker. [Repealed.]~~

Sec. 17. 33 V.S.A. § 4915 is amended to read:

§ 4915. ASSESSMENT AND INVESTIGATION

* * *

(g) The Department shall report to and receive assistance from law enforcement in the following circumstances:

(1) investigations of child sexual abuse by an alleged perpetrator 10 years of age or older;

(2) investigations of serious physical abuse or neglect requiring emergency medical care, resulting in death, or likely to result in criminal charges; and

(3) situations potentially dangerous to the child or Department worker.

(h) The Department shall report to the appropriate special investigative unit any valid allegation pursuant to subsection (b) of this section concerning an incident in which a child suffers, by other than accidental means:

(1) serious bodily injury as defined in 13 V.S.A. § 1021; and

(2) potential violations of:

(A) 13 V.S.A. § 2602 (lewd or lascivious conduct with child);

(B) 13 V.S.A. chapter 60 (human trafficking);

(C) 13 V.S.A. chapter 64 (sexual exploitation of children); and

(D) 13 V.S.A. chapter 72 (sexual assault).

* * * Penalties for Mandated Reporters, Public Officers, and Others * * *

Sec. 18. [Deleted]

Sec. 19. [Deleted]

Sec. 20. [Deleted]

Sec. 21. [Deleted]

* * * Department for Children and Families; Policies * * *

Sec. 22. THE DEPARTMENT FOR CHILDREN AND FAMILIES;
POLICIES, PROCEDURES, AND PRACTICES

(a) The Commissioner for Children and Families shall:

(1) ensure that Family Services Division policies, procedures, and practices are consistent with the best interests of the child and are consistent with statute;

(2) ensure that Family Services Division policies, procedures, and practices are consistent with each other and are applied in a consistent manner, in all Department offices and in all regions of the State;

(3) develop metrics as to the appropriate case load for social workers in the Family Services Division that take into account the experience and training of a social worker, the number of families and the total number of children a social worker is responsible for, and the acuity or difficulty of cases;

(4) ensure that all Family Services Division employees receive training on:

(A) relevant policies, procedures, and practices; and

(B) the employees' legal responsibilities and obligations;

(5) develop policies, procedures, and practices to:

(A) ensure the consistent sharing of information, in a manner that complies with statute, treatment providers, courts, State's Attorneys, guardians ad litem, law enforcement, and other relevant parties;

(B) encourage treatment providers and all agencies, departments, and other persons that support recovery to provide regular treatment progress updates to the Commissioner;

(C) ensure that courts have all relevant information in a timely fashion, and that Department employees file paperwork and reports in a timely manner;

(D) require that the Family Services Division assess a child's safety if:

(i) the child remains in a home from which other children have been removed; or

(ii) the child remains in the custody of a parent or guardian whose parental rights as to another child have been terminated;

(E) improve information sharing with mandatory reporters who have an ongoing relationship with a child;

(F) ensure that mandatory reporters are informed that any confidential information they may receive cannot be disclosed to a person who is not authorized to receive that information;

(G) ensure all parties authorized to receive confidential information are informed of their right to receive that information; and

(H) apply results-based accountability or other data-based quality measures to determine if children who receive services from the Family Services Division in different areas of the State have different outcomes and the reasons for those differences;

(6) ensure that all employees assigned to carry out investigations of child abuse and neglect have training or experience in conducting investigations and have a master's degree in social work or an equivalent degree, or relevant experience; and

(7) by September 30, 2015, develop and implement a Family Services Division policy requiring a six-month supervision period by the Department after a child is returned to the home from which he or she was removed due to abuse or neglect.

(b) The Commissioner for Children and Families shall, within available resources, develop a plan to implement the following policies, procedures, and practices, including identifying potential costs to:

(1) increase the number of required face-to-face meetings between Family Services Division social workers and children;

(2) increase the number of required home visits and require unannounced home visits by Family Services Division social workers; and

(3) require that all persons living in a household, or that will have child care responsibilities, will be assessed for criminal history and potential safety risks whenever a child who has been removed from a home is returned to that home.

(c) On or before September 30, 2015, the Commissioner shall submit a written response to the House Committees on Human Services and on Judiciary and to the Senate Committees on Health and Welfare and on Judiciary with the Commissioner's response to the issues in subsection (a) of this section, including the language of any new or amended policies and procedures.

* * * Legislature; Establishing a Joint Legislative Child
Protection Oversight Committee * * *

Sec. 23. JOINT LEGISLATIVE CHILD PROTECTION OVERSIGHT
COMMITTEE

(a) Creation. There is created a Joint Legislative Child Protection Oversight Committee.

(b) Membership. The Committee shall be composed of the following six members, who shall be appointed each biennial session of the General Assembly:

(1) Three current members of the House of Representatives, not all from the same political party, who shall be appointed by the Speaker of the House; and

(2) Three current members of the Senate, not all from the same political party, who shall be appointed by the Committee on Committees.

(3) One appointment shall be made from the following committees:

(A) House Committee on Education;

(B) Senate Committee on Education;

(C) House Committee on Judiciary;

(D) Senate Committee on Judiciary;

(E) House Committee on Human Services; and

(F) Senate Committee on Health and Welfare.

(c) Powers and duties.

(1) The Committee shall:

(A) Exercise oversight over Vermont's system for protecting children from abuse and neglect, including:

(i) evaluating whether the branches, departments, agencies, and persons that are responsible for protecting children from abuse and neglect are effective;

(ii) determining if there are deficiencies in the system and the causes of those deficiencies;

(iii) evaluating which programs are the most cost-effective;

(iv) determining whether there is variation in policies, procedures, practices, and outcomes between different areas of the State and the causes and results of any such variation;

(v) evaluating whether licensed mandatory reporters should be required to certify that they completed training on the requirements set forth under 33 V.S.A. § 4913; and

(vi) evaluating the measures recommended by the Working Group to Recommend Improvements to CHINS Proceedings established in Sec. 24 of this act to ensure that once a child is returned to his or her family, the court or the Department for Children and Families may continue to monitor the child and family where appropriate.

(B) At least annually, report on the Committee's activities and recommendations to the General Assembly.

(2) The Committee may review and make recommendations to the House and Senate Committees on Appropriations regarding budget proposals and appropriations relating to protecting children from abuse and neglect.

(d) Assistance. The Committee shall have the administrative, technical, and legal assistance of the Office of Legislative Council.

(e) Retaliation. No person who is an employee of the State of Vermont, or of any State, local, county, or municipal department, agency, or person involved in child protection, and who testifies before, supplies information to, or cooperates with the Committee shall be subject to retaliation by his or her employer. Retaliation shall include job termination, demotion in rank, reduction in pay, alteration in duties and responsibilities, transfer, or a negative job performance evaluation based on the person's having testified before, supplied information to, or cooperated with the Committee.

(f) Meetings.

(1) The member appointed from the Senate Committee on Health and Welfare shall call the first meeting of the Committee.

(2) The Committee shall select a Chair, Vice Chair, and Clerk from among its members and may adopt rules of procedure. The Chair shall rotate biennially between the House and the Senate members. A quorum shall consist of five members.

(3) When the General Assembly is in session, the Committee shall meet at the call of the Chair. The Committee may meet six times during adjournment, and may meet more often subject to approval of the Speaker of the House and the President Pro Tempore of the Senate.

(g) Reimbursement. For attendance at meetings during adjournment of the General Assembly, members of the Committee shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 406.

(h) Sunset. On June 1, 2018 this section (creating the Joint Legislative Child Protection Oversight Committee) is repealed and the Committee shall cease to exist.

* * * Improvements to CHINS Proceedings * * *

Sec. 24. WORKING GROUP TO RECOMMEND IMPROVEMENTS TO CHINS PROCEEDINGS

(a) Creation. There is created a working group to recommend ways to improve the efficiency, timeliness, and process of Children in Need of Care or Supervision (CHINS) proceedings.

(b) Membership. The Working Group shall be composed of the following members:

(1) the Chief Administrative Judge or designee;

(2) the Defender General or designee;

(3) the Attorney General or designee;

(4) the Commissioner for Children and Families or designee;

(5) the Executive Director of State's Attorneys and Sheriffs or designee; and

(6) a guardian ad litem who shall be appointed by the Chief Superior Judge.

(c) Powers and duties. The Working Group shall study and make recommendations concerning:

(1) how to ensure that statutory time frames are met in 90 percent of proceedings;

(2) how to ensure that attorneys, judges, and guardians ad litem appear on time and are prepared;

(3) how to monitor and improve the performance and work quality of attorneys, judges, and guardians ad litem;

(4) how to ensure that there is a sufficient number of attorneys available to handle all CHINS cases, in all regions of the State, in a timely manner;

(5) the role of guardians ad litem, and how to ensure their information is presented to, and considered by, the court;

(6) how to expedite a new proceeding that concerns a family with repeated contacts with the child protection system;

(7) whether the adoption of American Bar Association standards for attorneys who work in the area of child abuse and neglect would be appropriate;

(8) the feasibility of creating a statewide Family Drug Treatment Court initiative to improve substance abuse treatment and child welfare outcomes;

(9) whether requiring a reunification hearing would improve child welfare outcomes;

(10) how and whether to provide financial assistance to individuals seeking to mediate a dispute over a postadoption contact agreement;

(11) how and whether to change the confidentiality requirements for juvenile judicial proceedings under 33 V.S.A. chapter 53;

(12) best practices regarding representation of children in juvenile judicial proceedings; and

(13) any other issue the Working Group determines is relevant to improve the efficiency, timeliness, process, and results of CHINS proceedings.

(d) Assistance. The Working Group shall have the administrative, technical, and legal assistance of the Office of the Attorney General. The Working Group may consult with any persons necessary in fulfilling its powers and duties.

(e) Report. On or before November 1, 2015, the Working Group shall provide a report on its findings and recommendations with respect to subdivisions (c)(1)–(5) of this section to the Joint Legislative Child Protection Oversight Committee, the House Committees on Human Services and on Judiciary, and the Senate Committees on Health and Welfare and on Judiciary. On or before November 1, 2016, the Working Group shall report its findings and recommendations with respect to subdivisions (c)(6)–(13) of this section to the same Committees.

(f) Meetings and sunset.

(1) The Attorney General or designee shall call the first meeting of the Working Group.

(2) The Working Group shall select a chair from among its members at the first meeting.

(3) The Working Group shall cease to exist on November 2, 2016.

* * * Effective Dates * * *

Sec. 25. EFFECTIVE DATES

This act shall take effect on July 1, 2015, except for this section, Secs. 22 (Department for Children and Families; policies, procedures, and practices), 23 (Joint Legislative Child Protection Oversight Committee), and 24 (Working Group to Recommend Improvements to CHINS Proceedings), which shall take effect on passage.

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

House Proposal of Amendment Concurred In

S. 108.

House adoption of amendment to Senate bill entitled:

An act relating to repealing the sunset on provisions pertaining to patient choice at end of life.

Was taken up.

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

By adding two new sections to be numbered Sec. 2 and Sec. 3 to read as follows:

Sec. 2. 18 V.S.A. § 5293 is added to read:

§ 5293. REPORTING REQUIREMENTS

(a) The Department of Health shall adopt rules pursuant to 3 V.S.A. chapter 25 to facilitate the collection of information regarding compliance with this chapter, including identifying patients who filled prescriptions written pursuant to this chapter. Except as otherwise required by law, information regarding compliance shall be confidential and shall be exempt from public inspection and copying under the Public Records Act.

(b) Beginning in 2018, the Department of Health shall generate and make available to the public a biennial statistical report of the information collected pursuant to subsection (a) of this section, as long as releasing the information complies with the federal Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191.

Sec. 3. 18 V.S.A. § 4284(b)(2) is amended to read:

(2) The Department shall provide reports of data available to the Department through the VPMS only to the following persons:

* * *

(G) The Commissioner of Health or the Commissioner's designee in order to identify patients who filled prescriptions written pursuant to chapter 113 of this title.

And by renumbering Sec. 2, effective date, to be Sec. 4

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

Rules Suspended; Proposal of Amendment; Third Reading Ordered

H. 361.

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

An act relating to making amendments to education funding, education spending, and education governance.

Was taken up for immediate consideration.

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

* * * Findings * * *

Sec. 1. FINDINGS

(a) Vermont's kindergarten through grade 12 student population has declined from 103,000 in fiscal year 1997 to 78,300 in fiscal year 2015.

(b) The number of school-related personnel has not decreased in proportion to the decline in student population.

(c) The proportion of Vermont students with severe emotional needs has increased from 1.5 percent of the population in fiscal year 1997 to 2.3 percent in fiscal year 2015. In addition, the proportion of students from families in

crisis due to loss of employment, opiate addiction, and other factors has also increased during this time period, requiring the State's public schools to fulfill an array of human services functions.

(d) From July 1997 through July 2014, the number of Vermont children ages 6 through 17 residing with families receiving nutrition benefits has increased by 47 percent, from 13,000 to 19,200. While other factors affect student academic performance, studies demonstrate that when the percentage of students in a school who are living in poverty increases, student performance and achievement have a tendency to decrease.

(e) With 13 different types of school district governance structures, elementary and secondary education in Vermont lacks cohesive governance and delivery systems. As a result, many school districts:

(1) are not well-suited to achieve economies of scale; and

(2) lack the flexibility to manage, share, and transfer resources, including personnel, with other school districts and to provide students with a variety of high quality educational opportunities.

(f) 16 V.S.A. § 4010(f) was enacted in 1999 to protect school districts, particularly small school districts, from large, sudden tax increases due to declining student populations. The steady, continued decline in some districts, together with the compounding effect of the legislation as written, has inflated the equalized pupil count in some districts by as much as 77 percent, resulting in artificially low tax rates in those communities.

(g) National literature suggests that the optimal size for student learning is in elementary schools of 300 to 500 students and in high schools of 600 to 900 students. In Vermont, the smallest elementary school has a total enrollment of 15 students (kindergarten–grade 6) and the smallest high school has a total enrollment of 55 students (grades 9–12). Of the 300 public schools in Vermont, 205 have 300 or fewer enrolled students and 64 have 100 or fewer enrolled students. Of those 64 schools, 16 have 50 or fewer enrolled students.

(h) National literature suggests that the optimal size for a school district in terms of financial efficiencies is between 2,000 and 4,000 students. The smallest Vermont school district has an average daily membership (ADM) of six students, with 79 districts having an ADM of 100 or fewer students. Four Vermont school districts have an ADM that exceeds 2,000 students.

(i) Vermont recognizes the important role that a small school plays in the social and educational fabric of its community. It is not the State's intent to close its small schools, but rather to ensure that those schools have the opportunity to enjoy the expanded educational opportunities and economies of

scale that are available to schools within larger, more flexible governance models.

(j) The presence of multiple public schools within a single district not only supports flexibility in the management and sharing of resources, but it promotes innovation. For example, individual schools within a district can more easily develop a specialized focus, which, in turn, increases opportunities for students to choose the school best suited to their needs and interests.

* * * Preferred Education Governance Structure; Alternative Structure * * *

Sec. 2. PREFERRED EDUCATION GOVERNANCE STRUCTURE;
ALTERNATIVE STRUCTURE

(a) Preferred structure: prekindergarten–grade 12 district. In order to provide substantial equity in the quality and variety of educational opportunities statewide; to maximize operational efficiencies through increased flexibility to manage, share, and transfer resources; and to promote transparency and accountability, the preferred education governance structure in Vermont is a school district that:

(1) is responsible for the education of all resident prekindergarten through grade 12 students;

(2) is its own supervisory district;

(3) has a minimum average daily membership of 900; and

(4) is organized and operates according to one of the four most common governance structures:

(A) a district that operates a school or schools for all resident students in prekindergarten or kindergarten through grade 12;

(B) a district that operates a school or schools for all resident students in prekindergarten or kindergarten through grade 8 and pays tuition for all resident students in grade 9 through grade 12;

(C) a district that operates a school or schools for all resident students in prekindergarten or kindergarten through grade 6 and pays tuition for all resident students in grade 7 through grade 12; or

(D) a district that operates no schools and pays tuition for all resident students in prekindergarten through grade 12.

(b) Alternative structure: supervisory union. A single prekindergarten–grade 12 district as envisioned in subsection (a) of this section may not be possible or the best model to achieve Vermont’s education goals in all regions of the State. In such situations, a supervisory union composed of multiple

member districts, each with its separate school board, can meet the State's goals, particularly if:

(1) the member districts consider themselves to be collectively responsible for the education of all prekindergarten through grade 12 students residing in the supervisory union;

(2) the supervisory union operates in a manner that maximizes efficiencies through economies of scale and flexible management, transfer, and sharing of nonfinancial resources among the member districts; and

(3) the supervisory union has the smallest number of member school districts practicable, achieved wherever possible by the merger of districts with similar operating and tuitioning patterns.

* * * Intent; Protections * * *

Sec. 3. SCHOOL CLOSURE; SMALL SCHOOLS; TUITION PAYMENT;
SCHOOL OPERATION; PROTECTIONS; INTENT

(a) School closure; intent. It is not the State's intent to close schools and nothing in this act shall be construed to require, encourage, or contemplate the closure of schools in Vermont.

(b) Small schools; intent. As stated in Sec. 1 (findings), it is not the State's intent to close its small schools, but rather to ensure that those schools have the opportunity to enjoy the expanded educational opportunities and economies of scale that are available to schools within larger, more flexible governance models.

(c) Tuition payment; school operation; protection; intent.

(1) Tuition payment; protection. All governance transitions contemplated pursuant to this act shall preserve the ability of a district that, as of the effective date of this section, provides for the education of all resident students in one or more grades by paying tuition on the students' behalf, to continue to provide education by paying tuition on behalf of all students in the grade or grades if it chooses to do so and shall not require the district to limit the options available to students if it ceases to exist as a discrete entity and realigns into a supervisory district or union school district.

(2) School operation; protection. All governance transitions contemplated pursuant to this act shall preserve the ability of a district that, as of the effective date of this section, provides for the education of all resident students in one or more grades by operating a school offering the grade or grades, to continue to provide education by operating a school for all students in the grade or grades if it chooses to do so and shall not require the district to

pay tuition for students if it ceases to exist as a discrete entity and realigns into a supervisory district or union school district.

(3) Tuition payment; school operation; intent. Nothing in this act shall be construed to restrict or repeal, or to authorize, encourage, or contemplate the restriction or repeal of, the ability of a school district that, as of the effective date of this section, provides for the education of all resident students in one or more grades:

(A) by paying tuition on the students' behalf, to continue to provide education by paying tuition on behalf of all students in the grade or grades; or

(B) by operating a school offering the grade or grades, to continue to provide education by operating a school for all students in the grade or grades.

* * * Voluntary Mergers; Incentives; REDS * * *

Sec. 4. 2010 Acts and Resolves No. 153, Sec. 2(a), as amended by 2012 Acts and Resolves No. 156, Sec. 1, is further amended to read:

(a) Program created. There is created a school district merger incentive program under which the incentives outlined in Sec. 4 of this act shall be available to each new unified union school district created pursuant to Sec. 3 of this act and to each new district created under Sec. 3 of this act by the merger of districts that provide education by paying tuition; and to the Vermont members of any new interstate school district if the Vermont members jointly satisfy the size criterion of Sec. 3(a)(1) of this act and the new, merged district meets all other requirements of Sec. 3 of this act. Incentives shall be available, however, only if the effective date of merger ~~is on or before July 1, 2017~~ on which the new district becomes operational is on or before July 1, 2020.

Sec. 5. 2010 Acts and Resolves No. 153, Sec. 4, as amended by 2012 Acts and Resolves No. 156, Sec. 13, is further amended to read:

Sec. 4. VOLUNTARY SCHOOL DISTRICT MERGER; INCENTIVES

* * *

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

* * * Accelerated Activity; Enhanced Incentives * * *

Sec. 6. ACCELERATED MERGER; SUPERVISORY UNION BECOMING A SUPERVISORY DISTRICT; INCENTIVES; REPORT

(a) A newly formed school district shall receive the incentives set forth in subsection (b) of this section if it:

(1) is formed by merging the governance structures of all member districts of a supervisory union into one unified union school district pursuant

to the processes and requirements of 16 V.S.A. chapter 11; and, in addition, could include merger with a neighboring supervisory district;

(2) obtains an affirmative vote of all “necessary” districts on or after July 1, 2015, and prior to July 1, 2016;

(3) is responsible for the education of all resident prekindergarten through grade 12 students;

(4) is its own supervisory district;

(5) has a minimum average daily membership of 900 in its first year of operation; and

(6) is organized and operates according to one of the following common governance structures:

(A) a district that operates a school or schools for all resident students in prekindergarten or kindergarten through grade 12;

(B) a district that operates a school or schools for all resident students in prekindergarten or kindergarten through grade 8 and pays tuition for all resident students in grade 9 through grade 12; or

(C) a district that operates a school or schools for all resident students in prekindergarten or kindergarten through grade 6 and pays tuition for resident students in grade 7 through grade 12;

(7) becomes operational on or before July 1, 2017; and

(8) provides data as requested by the Agency of Education and otherwise assists the Agency to assess whether and to what extent the consolidation of its governance results in increased educational opportunities, operational efficiencies, transparency, and accountability.

(b) A newly formed school district that meets the criteria set forth in subsection (a) shall receive the following:

(1) Decreased equalized homestead property tax rate or accelerated action incentive grant. A new district’s plan of merger shall provide whether, upon creation of the new district, the district shall receive decreased equalized homestead property tax rates during the first five years of operation pursuant to subdivision (A) or an incentive grant during the first year of operation pursuant to subdivision (B):

(A)(i) Decreased homestead property tax rates. Subject to the provisions of subdivision (iii) of this subdivision (A) and notwithstanding any other provision of law, the new district’s equalized homestead property tax rate shall be:

(I) decreased by \$0.10 in the first fiscal year of operation;
(II) decreased by \$0.10 in the second fiscal year of operation;
(III) decreased by \$0.08 in the third fiscal year of operation;
(IV) decreased by \$0.06 in the fourth fiscal year of operation; and

(V) decreased by \$0.04 in the fifth fiscal year of operation.

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

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

(B) Accelerated action incentive grant. During the first fiscal year of operation, the Secretary of Education shall pay to the new district's board an accelerated action incentive grant from the Education Fund equal to \$400.00 multiplied by the total number of resident students in the new district in that year. The grant shall be in addition to funds received under 16 V.S.A. § 4028.

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

(2) Merger support grant. Notwithstanding any provision of law to the contrary, if the districts forming the new district include at least one "eligible school district," as defined in 16 V.S.A. § 4015, that received a small school support grant under section 4015 in fiscal year 2016, then the new district shall receive an annual merger support grant in each of the first five fiscal years after it begins operation in an amount equal to the small school support grant received by the eligible school district in fiscal year 2016. If more than one merging district was an eligible school district, then the merger support grant shall be in an amount equal to the total combined small school support grants they received in fiscal year 2016.

(3) Transition facilitation grant. After voter approval of the plan of merger, the Secretary of Education shall pay the transitional board of the new district a transition facilitation grant from the Education Fund equal to the lesser of:

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

(B) \$150,000.00.

(c) If a new district that receives incentives under this section also meets the eligibility criteria to receive incentives as a regional education district (RED), then the district shall not receive the incentives available to a RED pursuant to 2010 Acts and Resolves No. 153, subsections 4(a), (d), (e) or (g), as amended by 2012 Acts and Resolves No. 156, Sec. 13.

(d) The Secretary of Education, in collaboration with other entities such as the University of Vermont or the Regional Educational Laboratory–Northeast and Islands, shall collect and analyze data from the new districts created under this section regarding issues including educational opportunities, operational efficiencies, transparency, and accountability following merger. Beginning on January 15, 2016, and annually through January 2021, the Secretary shall submit a report to the House and Senate Committees on Education and on Appropriations, the House Committee on Ways and Means, and the Senate Committee on Finance regarding the districts pursuing merger under this section, conclusions drawn from the data collected, and any recommendations for legislative action.

* * * Facilitating Voluntary Governance Transitions; Supervisory
Union Boundaries * * *

Sec. 7. 16 V.S.A. § 261 is amended to read:

§ 261. ORGANIZATION AND ADJUSTMENT OF SUPERVISORY UNIONS

(a) The State Board shall review on its own initiative or when requested as per subsection (b) of this section and may regroup the supervisory unions of the State or create new supervisory unions in such manner as to afford increased efficiency or greater convenience and economy and to facilitate ~~K-12~~ prekindergarten through grade 12 curriculum planning and coordination as changed conditions may seem to require.

(b)(1) Any school district that has so voted at its annual school district meeting, if said meeting has been properly warned regarding such a vote, may apply to request that the State Board of education for adjustment of adjust the existing boundaries of the supervisory union of which it is a component member district.

(2) Any group of school districts that have so voted at their respective annual school district meeting, regardless of whether the districts are members of the same supervisory union, may request that the State Board adjust existing supervisory union boundaries and move one or more nonrequesting districts to a different supervisory union if such adjustment would assist the requesting districts to realign their governance structures into a unified union school district pursuant to chapter 11 of this title.

(3) The State Board shall give timely consideration to such requests made pursuant to this subsection and may regroup the school districts of the area so as to ensure reasonable supervision of all public schools therein.

(c) The State Board may designate any school district, including a unified union district, as a supervisory district if it will ~~offer schools in grades K-12~~ provide for the education of all resident students in prekindergarten through grade 12 and is large enough to support the planning and administrative functions of a supervisory union.

(d) Upon application by a supervisory union board, the State Board may waive any requirements of chapter 5 or 7 of this title with respect to the supervisory union board structure, board composition, or board meetings, or the staffing pattern of the supervisory union, if it can be demonstrated that such a waiver will result in efficient and effective operations of the supervisory union; will not result in any disproportionate representation; and is otherwise in the public interest.

* * * Merger Support Grants; Small Schools Grants * * *

Sec. 8. MERGER SUPPORT GRANT

(a) Notwithstanding any provision of law to the contrary and subject to subsection (b) of this section, if the districts creating a union school district pursuant to 16 V.S.A. chapter 11 include at least one "eligible school district," as defined in 16 V.S.A. § 4015, that received a small school support grant under section 4015 in fiscal year 2016, then the new union school district shall receive an annual merger support grant in each of the first five fiscal years after it begins operation in an amount equal to the small school support grant received by the eligible school district in fiscal year 2016. If more than one merging district was an eligible school district, then the merger support grant shall be in an amount equal to the total combined small school support grants they received in fiscal year 2016.

(b) This section shall apply only to a union school district that:

(1) is responsible for the education of all resident prekindergarten through grade 12 students;

(2) is its own supervisory district;

(3) has a minimum average daily membership of 900 in its first year of operation; and

(4) is organized and operates according to one of the following common governance structures:

(A) a district that operates a school or schools for all resident students in prekindergarten or kindergarten through grade 12;

(B) a district that operates a school or schools for all resident students in prekindergarten or kindergarten through grade 8 and pays tuition for all resident students in grade 9 through grade 12; or

(C) a district that operates a school or schools for all resident students in prekindergarten or kindergarten through grade 6 and pays tuition for resident students in grade 7 through grade 12;

(5) obtains a favorable vote of all “necessary” districts on or after July 1, 2015; and

(6) becomes operational after July 1, 2017, and on or before July 1, 2020.

Sec. 9. 16 V.S.A. § 4015 is amended to read:

§ 4015. SMALL SCHOOL SUPPORT

(a) In this section:

(1) “Eligible school district” means a school district that operates at least one school; that has been determined by the State Board to be eligible due to geographic necessity, and

~~(A) has a two-year average combined enrollment of fewer than 100 students in all the schools operated by the district; or~~

~~(B) that school has an average grade size of 20 or fewer.~~

* * *

(7) “Eligible due to geographic necessity” means that the State Board has determined, on an annual basis, that the lengthy driving times or inhospitable travel routes between the school and the nearest school or schools in which there is excess capacity are an obstacle to transporting students. The State Board shall adopt and publish guidelines, which it will update as necessary, by which it will determine eligibility. A determination by the State Board of whether a district is eligible due to geographic necessity under this section shall be final.

* * *

~~(c) Small schools financial stability grant: In addition to a small schools support grant, an eligible school district whose two year average enrollment decreases by more than 10 percent in any one year shall receive a small schools financial stability grant. However, a decrease due to a reduction in the number of grades offered in a school or to a change in policy regarding paying tuition for students shall not be considered an enrollment decrease. The amount of the grant shall be determined by multiplying 87 percent of the base education amount for the current fiscal year, by the number of enrollment, to the nearest one-hundredth of a percent, necessary to make the two year average enrollment decrease only 10 percent. [Repealed.]~~

~~(d) Funds for both grants shall be appropriated from the Education Fund and shall be added to payments for the base education amount or deducted from the amount owed to the Education Fund in the case of those districts that must pay into the Fund under section 4027 of this title. [Repealed.]~~

* * *

Sec. 10. SMALL SCHOOL SUPPORT; TRANSITION

(a) In fiscal year 2017, any district that was eligible for small school support pursuant to 16 V.S.A. § 4015 in fiscal year 2016 but is not “eligible due to geographic necessity” for small school support in fiscal year 2017 shall receive small school support that is two-thirds of the amount it received in fiscal year 2016.

(b) In fiscal year 2018, any district that was eligible for small school support pursuant to 16 V.S.A. § 4015 in fiscal year 2016 but is not “eligible due to geographic necessity” for small school support in fiscal year 2018 shall receive small school support that is one-third of the amount it received in fiscal year 2016.

* * * Declining Enrollment; Equalized Pupils; 3.5 Percent Limit * * *

Sec. 11. 16 V.S.A. § 4010(f) is amended to read:

(f) For purposes of the calculation under this section, a district’s equalized pupils shall in no case be less than 96 and one-half percent of the district’s actual number of equalized pupils in the district in the previous year, prior to making any adjustment under this subsection.

Sec. 12. DECLINING ENROLLMENT; TRANSITION

(a) If a district’s equalized pupils in fiscal year 2016 do not reflect any adjustment pursuant to 16 V.S.A. § 4010(f), then Sec. 11 of this act shall apply to the district in fiscal year 2017 and after.

(b) If a district's equalized pupils in fiscal year 2016 reflect adjustment pursuant to 16 V.S.A. § 4010(f), then, notwithstanding the provisions of § 4010(f) as amended by this act:

(1) in fiscal year 2017, the district's equalized pupils shall in no case be less than 90 percent of the district's equalized pupils in the previous year; and

(2) in fiscal year 2018, the district's equalized pupils shall in no case be less than 80 percent of the district's equalized pupils in the previous year.

Sec. 13. REPEAL

16 V.S.A. § 4010(f) (declining enrollment; hold-harmless provision) is repealed on July 1, 2020.

Sec. 14. DECLINING ENROLLMENT; 3.5 PERCENT HOLD-HARMLESS; GRANDFATHERED DISTRICTS

Beginning in fiscal year 2021, for purposes of determining weighted membership under 16 V.S.A. § 4010, a district's equalized pupils shall in no case be less than 96 and one-half percent of the actual number of equalized pupils in the district in the previous year, prior to making any adjustment under this section, if the district, on or before July 1, 2020:

(1) became eligible to receive incentives pursuant to Sec. 6 of this act (accelerated activity);

(2) met each of the criteria listed in Sec. 8(b)(1)–(5) of this act, regardless of whether the new district is eligible for a merger support grant, and became an operational unified union school district; or

(3) became eligible to receive incentives pursuant to 2010 Acts and Resolves No. 153, Sec. 4, as amended by 2012 Acts and Resolves No. 156, Sec. 13, and further amended by this act (REDs and eligible variations).

* * * Current Incentives for Other Joint Activity * * *

Sec. 15. CURRENT INCENTIVES FOR JOINT ACTIVITY; LIMITATIONS ON APPLICABILITY

(a) Notwithstanding the provisions of the following sections of law, the grants and reimbursements authorized by those sections shall be available only as provided in subsection (b) of this section:

(1) 2012 Acts and Resolves No. 156, Sec. 2 (reimbursement of fees of up to \$5,000.00 incurred by school districts or supervisory unions for initial exploration of joint activity).

(2) 2012 Acts and Resolves No. 156, Sec. 4 (reimbursement of analysis or transition costs of up to \$10,000.00 incurred by school districts or supervisory unions for joint activity other than a merger).

(3) 2012 Acts and Resolves No. 156, Sec. 5 (reimbursement of fees of up to \$20,000.00 incurred by supervisory unions for analysis relating to the advisability of merger of supervisory unions).

(4) 2012 Acts and Resolves No. 156, Sec. 6 (transition facilitation grant of \$150,000.00 for the successful merger of two or more supervisory unions).

(5) 2012 Acts and Resolves No. 156, Sec. 9 (reimbursement of fees of up to \$20,000.00 incurred by school districts for analysis relating to the advisability of merger other than a regional education district (RED)).

(6) 2012 Acts and Resolves No. 156, Sec. 11 (transition facilitation grant of the lesser of \$150,000.00 or five percent of the base education amount multiplied by the combined enrollment for the successful merger of two or more districts other than a RED).

(b) A group of districts or supervisory unions shall receive one or more of the incentives listed in subsection (a) of this section only if it:

(1) meets the specific eligibility criteria for the incentive; and

(2) completes the specific requirements for eligibility on or before December 31, 2015.

* * * Supervisory Unions; Local Education Agency * * *

Sec. 16. 16 V.S.A. § 43(c) is amended to read:

(c) For purposes of determining pupil performance and application of consequences for failure to meet standards and for provision of compensatory and remedial services pursuant to 20 U.S.C. §§ 6311-6318, a ~~school district~~ supervisory union shall be a local education agency.

* * * Duties of Supervisory Unions; Failure to Comply; Tax Rates * * *

Sec. 17. 16 V.S.A. § 261a(c) is added to read:

(c)(1) After notice to the boards of a supervisory union and its member districts, the opportunity for a period of remediation, and the opportunity for a hearing, if the Secretary determines that a supervisory union or any one of its member districts is failing to comply with the any provision of subsection (a) of this section, then the Secretary shall notify the board of the supervisory union and the board of each of its member districts that the education property tax rates for nonresidential and homestead property shall be increased by five percent in each district within the supervisory union and the household income percentage shall be adjusted accordingly in the next fiscal year for which tax

rates will be calculated. The districts' actual tax rates shall be increased by five percent, and the household income percentage adjusted, in each subsequent fiscal year until the fiscal year following the one in which the Secretary determines that the supervisory union and its districts are in compliance. If the Secretary determines that the failure to comply with the provisions of subsection (a) of this section is solely the result of the actions of the board of one member district, then the tax increase in this subsection (c) shall apply only to the tax rates for that district. Subject to Vermont Rule of Civil Procedure 75, the Secretary's determination shall be final.

* * * Transition of Employees * * *

Sec. 18. 16 V.S.A. chapter 53, subchapter 3 is added to read:

Subchapter 3. TRANSITION OF EMPLOYEES

§ 1801. DEFINITIONS

As used in this subchapter:

(1) "New District" means a district created by the realignment or merger of two or more current districts into a new supervisory district, union school district, or any other form of merged or realigned district authorized by law, including by chapter 11, subchapter 1, of this title, regardless of whether one or more of the districts creating the New District (a Realigning District) is a town school district, a city school district, an incorporated school district, a union school district, a unified union school district, or a supervisory district.

(2) "New SU" means a supervisory union created from the merger or realignment of two or more current supervisory unions or of all or some of the districts in one or more current supervisory unions (a Realigning SU). "New SU" also means a supervisory union created by the State Board's adjustment of the borders of one or more current supervisory unions or parts of supervisory unions pursuant to section 261 of this title or otherwise, regardless of whether the New SU is known by the name of one of the current supervisory unions or the adjustment is otherwise structured or considered to be one in which one current supervisory union (the Absorbing SU) is absorbing one or more other supervisory unions or parts of supervisory unions into the Absorbing SU.

(3) "Employees of a Realigning Entity" means the licensed and nonlicensed employees of a Realigning District or Realigning SU, or both, that create the New District or New SU, and includes employees of an Absorbing SU and employees of a Realigning SU whose functions will be performed by employees of a New District that is a supervisory district.

(4) "System" shall mean the Vermont Municipal Employees' Retirement System created pursuant to 24 V.S.A. chapter 125.

(5) "Transitional Board" means the board created prior to the first day of a New District's or a New SU's existence in order to transition to the new structure by negotiating and entering into contracts, preparing an initial proposed budget, adopting policies, and otherwise planning for implementation of the New District or New SU, and includes the board of an Absorbing District to which members from the other Realigning SU or SUs have been added in order to perform transitional responsibilities.

§ 1802. TRANSITION OF EMPLOYEES TO NEWLY CREATED EMPLOYER

(a) Prior to the first day of a New District's or a new SU's existence, upon creation of the Transitional Board, the Board shall:

(1) appoint a negotiations council for the New District or New SU for the purpose of negotiating with future employees' representatives; and

(2) recognize the representatives of the Employees of the Realigning Districts or Realigning SUs as the recognized representatives of the employees of the New District or New SU.

(b) Negotiations shall commence within 90 days after formation of the Transitional Board and shall be conducted pursuant to the provisions of chapter 57 of this title for teachers and administrators and pursuant to 21 V.S.A. chapter 22 for other employees.

(c) An Employee of a Realigning District or Realigning SU who was not a probationary employee shall not be considered a probationary employee of the New District or New SU.

(d) If a new agreement is not ratified by both parties prior to the first day of the New District's or New SU's existence, then:

(1) the parties shall comply with the existing agreements in place for Employees of the Realigning Districts or the Realigning SUs until a new agreement is reached;

(2) the parties shall adhere to the provisions of an agreement among the Employees of the Realigning Districts or the Realigning SUs, as represented by their respective recognized representatives, regarding how provisions under the existing contracts regarding issues of seniority, reduction in force, layoff, and recall will be reconciled during the period prior to ratification of a new agreement; and

(3) a new employee beginning employment after the first day of the New District's or New SU's existence shall be covered by the agreement in effect that applies to the largest bargaining unit for Employees of the

Realigning Districts in the New District or for Employees of the Realigning SU in the New SU.

(e) On the first day of its existence, the New District or New SU shall assume the obligations of existing individual employment contracts, including accrued leaves and associated benefits, with the Employees of the Realigning Districts.

§ 1803. VERMONT MUNICIPAL EMPLOYEES' RETIREMENT SYSTEM

(a) A New District or New SU, on the first day of its existence, shall assume the responsibilities of any one or more of the Realigning Districts or Realigning SUs that have been participants in the system; provided, however, that this subsection shall not be construed to extend benefits to an employee who would not otherwise be a member of the system under any other provision of law.

(b) The existing membership and benefits of an Employee of a Realigning District or a Realigning SU shall not be impaired or reduced either by negotiations with the New District or New SU under 21 V.S.A. chapter 22 or otherwise.

(c) In addition to general responsibility for the operation of the System pursuant to 24 V.S.A. § 5062(a), the responsibility for implementation of all sections of this subchapter relating to the System is vested in the Retirement Board.

* * * Unified Union School District; Definition * * *

Sec. 19. 16 V.S.A. § 722 is amended to read:

§ 722. UNIFIED UNION DISTRICTS

~~If a union school district is organized to operate grades kindergarten through 12, it~~ (a) A union school district shall be known as a unified union district if it provides for the education of resident prekindergarten–grade 12 students, whether by:

- (1) operating a school or schools for all grades;
- (2) operating a school or schools for all students in one or more grades and paying tuition for all students in the remaining grade or grades; or
- (3) paying tuition for all grades.

(b) On the date the unified union district becomes operative, unless another date is specified in the study committee report, it shall supplant all other school districts within its borders, and they shall cease to exist.

(c) If provided for in the committee report, the unified union school district ~~school~~ board may be elected and may conduct business for the limited purpose of preparing for the transition to unified union district administration while the proposed member school districts continue to operate schools.

(d) The functions of the legislative branch of each preexisting school district in warning meetings and conducting elections of unified union school district board members shall be performed by the corresponding board of alderpersons of a city or city council, the selectboard of a town, or the trustees of an incorporated school district as appropriate.

* * * Agencies of Human Services and of Education;
Coordination; Report * * *

Sec. 20. COORDINATION OF EDUCATIONAL AND SOCIAL SERVICES; REPORT

(a) The Secretaries of Education and of Human Services, in consultation with school districts, supervisory unions, social service providers, and other interested parties, shall develop a plan for maximizing collaboration and coordination between the Agencies in delivering social services to Vermont public school students and their families. The plan shall:

(1) propose ways to improve access to and quality of social services provided to Vermont public school students and their families through systems-level planning and integration;

(2) propose sustainable ways to increase efficiencies in delivering social services to Vermont public school students and their families while maintaining access and quality, including ways to promote effective communication between the Agencies at the State and local levels;

(3) consider ways in which schools and social service providers can share services, personnel, and other resources, including the use of available space in school buildings by Agency of Human Services personnel;

(4) identify the amounts and sources of spending by the Agency of Human Services and the education system to provide social services to families with school-age children; and

(5) identify any barriers to increased efficiency, statutory or otherwise and including federal and State privacy protections, and propose ways to address these barriers, including any recommendations for legislative action.

(b) On or before January 15, 2016, the Secretaries shall present their plan and recommendations to the Senate Committees on Education and on Health and Welfare and the House Committees on Education and on Human Services.

* * * Quality Assurance; Accountability * * *

Sec. 21. 16 V.S.A. § 165(b)(1)–(4) are amended and subdivision (5) is added to read:

(1) the Agency continue to provide technical assistance for one more cycle of review;

(2) the State Board adjust supervisory union boundaries or responsibilities of the superintendency pursuant to section 261 of this title;

(3) the Secretary assume administrative control of an individual school, school district, or supervisory union, including budgetary control to ensure sound financial practices, only to the extent necessary to correct deficiencies; or

(4) the State Board close the an individual school or schools and require that the school district pay tuition to another public school or an approved independent school pursuant to chapter 21 of this title; or

(5) the State Board require two or more school districts to consolidate their governance structures.

Sec. 22. QUALITY ASSURANCE; ACCOUNTABILITY

The Secretary of Education shall regularly review, evaluate, and keep the State Board of Education apprised of the following:

(1) the discussions, studies, and activity among districts to move voluntarily toward creating a unified union school district as set forth in Sec. 2(a) (preferred governance structure) of this act;

(2) the data collected from districts that vote prior to July 1, 2016, to merge into that preferred governance structure pursuant to Sec. 6 (accelerated activity) of this act and from other districts that have merged or do merge into a regional education district (RED) and their variations or that otherwise merge into the preferred governance structure set forth in Sec. 2(a) of this act; and

(3) the data and other information collected in connection with the Education Quality Standards, and related on-site education quality reviews, including data and information regarding the equity of educational opportunities, academic outcomes, personalization of learning, a safe school climate, high quality staffing, and financial efficiency.

* * * Transition to Sustainable Governance Structures * * *

Sec. 23. VOLUNTARY SELF-EVALUATION, MEETINGS, AND DECLARATION

(a) The board of each school district in the State that has a governance structure different from the preferred structure set forth in Sec. 2(a) of this act or that does not expect to move or will not be moving into the preferred structure on or before July 1, 2020, may choose to pursue one or more of the following actions:

(1) Self-evaluation. The board may choose to evaluate the quality and variety of educational opportunities the district offers and the district's operational efficiencies, including its flexibility to manage, share, and transfer nonfinancial resources with other districts.

(2) Meetings.

(A) The board may choose to meet with the boards of one or more other districts, including those representing districts that have similar patterns of school operation and tuition payment, to discuss ways to promote improvement throughout the region in connection with:

(i) the quality, variety, and equity of available educational opportunities;

(ii) operational efficiencies, including the flexibility to manage, share, and transfer resources; and

(iii) transparency and accountability.

(B) The districts would not need to be contiguous and would not need to be within the same supervisory union.

(3) Declaration. A board of a district, solely on behalf of its own district or jointly with the boards of other districts, may choose to submit a letter to the Secretary of Education and the State Board of Education on or before June 30, 2017, that:

(A) declares the district's intention to retain its current governance structure or to work with other districts to form a different governance structure or otherwise enter into joint activity;

(B) demonstrates, through reference to enrollment projections, student-to-staff ratios, the comprehensive data collected pursuant to 16 V.S.A. § 165, and otherwise, how the intention stated in subdivision (A) of this subdivision supports the district's or districts' ability to:

(i) provide high-quality and varied educational opportunities that are substantially equitable when compared to opportunities available statewide;

(ii) to maximize operational efficiencies through increased flexibility to manage, share, and transfer resources among educational units; and

(iii) to promote transparency and accountability; and

(C) identifies detailed actions it would take to continue to improve its performance in each of the three areas set forth in subdivisions (B)(i)–(iii).

Sec. 24. TRANSITION TO SUSTAINABLE GOVERNANCE STRUCTURES

(a) Goals; Secretary’s proposal. In order to provide substantial equity in the quality and variety of educational opportunities statewide; to maximize operational efficiencies through increased flexibility to manage, share, and transfer resources; and to promote transparency and accountability, the Secretary of Education shall:

(1) Review the governance structures of the school districts and supervisory unions of the State as they will exist, or are anticipated to exist, on July 1, 2020. This review shall include consideration of any declarations submitted by districts or groups of districts pursuant to Sec. 23 of this act and conversations with those and other districts.

(2) On or before April 1, 2018, shall develop, publish on the Agency’s website, and present a proposed plan to the State Board of Education that, to the extent necessary to promote the purpose stated at the beginning of this subsection (a), would move districts into the more sustainable, preferred model of governance set forth in Sec. 2(a) of this act. If it is not possible or practicable to develop a proposal that realigns districts, where necessary, in a manner that adheres to the protections of Sec. 3(c) (protection for tuition-paying and operating districts) or that otherwise meets all aspects of Sec. 2(a), then the proposal may include alternative governance structures as necessary, such as a supervisory union with member districts or a unified union school district with a smaller average daily membership; provided, however, that any proposed alternative governance structure shall be designed to:

(A) ensure adherence to the protections of Sec. 3(c); and

(B) promote equity of educational opportunities, financial efficiencies, accountability, and transparency in a sustainable governance structure.

(b) State Board’s proposed plan. On or before December 31, 2018, the State Board shall review and analyze the Secretary’s proposal under the provisions in subsection (a) of this section, may take testimony or ask for additional information from districts and supervisory unions, shall approve the

proposal in either its original form or in an amended form that adheres to the provisions of subsection (a), and shall present to the General Assembly and publish on the Agency of Education's website a proposed plan realigning districts and supervisory unions where necessary.

(c) General Assembly. Upon review of the State Board's proposed plan and receipt of testimony from the public and interested parties, it is the intent of the General Assembly in 2015 that the 2019–2020 General Assembly shall enact the proposed plan either in its original form or in an amended form that:

(1) adheres to the provisions of subsection (a) of this section; and

(2) establishes a date by which any new districts and expanded or otherwise realigned supervisory unions that might be created under this section shall be operational.

(d) Applicability. This section shall not apply to:

(1) interstate school districts;

(2) regional career technical center school districts formed under 16 V.S.A. chapter 37, subchapter 5A; or

(3) districts that, between June 30, 2013, and July 2, 2020, have voluntarily created and have begun or will begin to operate as a unified union school district that:

(A) is a regional education district (RED) or a district eligible to receive RED incentives; or

(B) is formed pursuant to the preferred structure set forth Sec. 2(a) of this act.

* * * Education Technical Assistant; Position * * *

Sec. 25. EDUCATION TECHNICAL ASSISTANT

There is established one (1) new limited service exempt position – Education Technical Assistant – in the Agency of Education, authorized for fiscal years 2016 and 2017. The Education Technical Assistant shall work directly with school districts and supervisory unions to provide information and assistance regarding fiscal and demographic projections and the options available to address any necessary systems changes. The Agency's authority to hire an individual for this purpose is contingent on its ability to obtain funding for the position solely through nonstate sources.

* * * Effective Dates * * *

Sec. 26. EFFECTIVE DATES

(a) Sec. 1 (findings) shall take effect on passage.

-
- (b) Sec. 2 (preferred governance structure) shall take effect on passage.
- (c) Sec. 3 (intent) shall take effect on passage.
- (d) Secs. 4 and 5 (REDs; incentives; dates) shall take effect on passage.
- (e) Sec. 6 (accelerated activity; increased incentives) shall take effect on passage.
- (f) Sec. 7 (supervisory union boundaries) shall take effect on passage.
- (g) Sec. 8 (Merger Support Grants) shall take effect on July 1, 2015.
- (h) Secs. 9 and 10 (small school support; transition) shall take effect on July 1, 2016, and shall apply to grants made in fiscal year 2017 and after.
- (i) Secs. 11 and 12 (declining enrollment; hold-harmless provision; transition) shall take effect on July 1, 2016.
- (j) Sec. 13 (declining enrollment; hold-harmless provision; repeal) shall take effect on July 1, 2020.
- (k) Sec. 14 (declining enrollment; hold-harmless provision; exception) shall take effect on July 1, 2020.
- (l) Sec. 15 (existing incentives; applicability) shall take effect on July 1, 2015.
- (m) Sec. 16 (supervisory unions; local education agency) shall take effect on July 1, 2015.
- (n) Sec. 17 (supervisory union duties; failure to comply; tax rates) shall take effect on July 1, 2016; provided, however, that tax rates shall not be increased pursuant to this section prior to fiscal year 2018.
- (o) Sec. 18 (transition of employees) shall take effect on passage and shall apply to a New District or New SU that has its first day of operation on or after that date; provided, however, that this section shall not apply to the transition of employees to the new joint contract school scheduled to be operated by the Pomfret and Bridgewater school districts beginning in the 2015–2016 academic year.
- (p) Sec. 19 (unified union school district; definition) shall take effect on passage.
- (q) Sec. 20 (Agencies of Education and of Human Services; coordination) shall take effect on passage.
- (r) Sec. 21 (authorities of State Board of Education) shall take effect on July 1, 2020.
- (s) Sec. 22 (review of data) shall take effect on July 1, 2015.

(t) Sec. 23 (optional self-evaluation, meetings, and proposal) shall take effect on July 1, 2015.

(u) Sec. 24 (optional self-evaluation; transition to sustainable governance structures) shall take effect on July 1, 2015.

(v) Sec. 25 (limited service exempt position) shall take effect on July 1, 2015.

(w) This section (effective dates) shall take effect on passage.

Senator MacDonald, for the Committee on Finance, to which the bill was referred, reported recommending that the Senate propose to the House to amend the bill as recommended by the Committee on Education with the following amendment thereto:

First: In Sec. 6 (enhanced incentives), in subsection (a), by inserting a new subdivision (7) to read as follows:

(7) demonstrates in the study committee report presented to the State Board and district voters pursuant to 16 V.S.A. chapter 11 that the proposed governance changes will result in:

(A) increased equity in the quality and variety of educational opportunities;

(B) increased operational efficiencies, through enhanced flexibility to manage, share, and transfer resources;

(C) increased transparency and accountability; and

(D) reduced expenditures per equalized pupil;

And by renumbering existing subdivisions (7) and (8) to be numerically correct.)

Second: In Sec. 12 (declining enrollment; transition), by adding a new subsection to be subsection (c) to read as follows:

(c) Notwithstanding the provisions of subsections (a) and (b) of this section, if a district is actively engaged in merger discussions with one or more other districts regarding the formation of a regional education district (RED) or other form of unified union school district pursuant to 16 V.S.A. chapter 11, then Sec. 11 of this act shall apply to the district in fiscal year 2018 and after, and each of the dates in subsection (b) of this section shall be adjusted accordingly. A district shall be "actively engaged in merger discussions" pursuant to this subsection (c) if on or before July 1, 2016 it has formed a study committee pursuant to 16 V.S.A. chapter 11.

Third: After Sec. 25, by adding 13 new sections to be Secs. 26 through 38 to read as follows:

* * * Yield; Dollar Equivalent * * *

Sec. 26. 16 V.S.A. § 4001(13) is amended to read:

(13) “Base education amount” means a number used to calculate ~~tax rates. The base education amount is~~ categorical grants awarded under this title that is equal to \$6,800.00 per equalized pupil, adjusted as required under section 4011 of this title.

Sec. 27. 32 V.S.A. § 5401 is amended to read:

§ 5401. DEFINITIONS

* * *

(13)(A) “~~Distriet Education property tax spending adjustment~~” means the greater of: one or a fraction in which the numerator is the district’s education spending plus excess spending, per equalized pupil, for the school year; and the denominator is the ~~base education amount property dollar equivalent yield~~ for the school year, as defined in ~~16 V.S.A. § 4001 subdivision (15) of this section. For a district that pays tuition to a public school or an approved independent school, or both, for all of its resident students in any year and which has decided by a majority vote of its school board to opt into this provision, the district spending adjustment shall be the average of the district spending adjustment calculated under this subdivision for the previous year and for the current year. Any district opting for a two-year average under this subdivision may not opt out of such treatment, and the averaging shall continue until the district no longer qualifies for such treatment.~~

(B) “Education income tax spending adjustment” means the greater of: one or a fraction in which the numerator is the district’s education spending plus excess spending, per equalized pupil, for the school year; and the denominator is the income dollar equivalent yield for the school year, as defined in subdivision (16) of this section.

* * *

(15) “Property dollar equivalent yield” means the amount of spending per equalized pupil that would result if the homestead tax rate were \$1.00 per \$100.00 of equalized education property value, and the statutory reserves under 16 V.S.A. § 4026 and section 5402b of this title were maintained.

(16) “Income dollar equivalent yield” means the amount of spending per equalized pupil that would result if the applicable percentage in subdivision

6066(a)(2) of this title were 2.0 percent, and the statutory reserves under 16 V.S.A. § 4026 and section 5402b of this title were maintained.

Sec. 28. 32 V.S.A. § 5402 is amended to read:

§ 5402. EDUCATION PROPERTY TAX LIABILITY

(a) A ~~Statewide~~ statewide education tax is imposed on all nonresidential and homestead property at the following rates:

(1) The tax rate for nonresidential property shall be \$1.59 per \$100.00.

(2) The tax rate for homestead property shall be ~~\$1.10~~ \$1.00 multiplied by the ~~district~~ education property tax spending adjustment for the municipality, per \$100.00, of equalized education property value as most recently determined under section 5405 of this title. The homestead property tax rate for each municipality which is a member of a union or unified union school district shall be calculated as required under subsection (e) of this section.

(b) The ~~Statewide~~ statewide education tax shall be calculated as follows:

(1) The Commissioner of Taxes shall determine for each municipality the education tax rates under subsection (a) of this section, divided by the municipality's most recent common level of appraisal. The legislative body in each municipality shall then bill each property taxpayer at the homestead or nonresidential rate determined by the Commissioner under this subdivision, multiplied by the education property tax grand list value of the property, properly classified as homestead or nonresidential property and without regard to any other tax classification of the property. Tax bills shall show the tax due and the calculation of the rate determined under subsection (a) of this section, divided by the municipality's most recent common level of appraisal, multiplied by the current grand list value of the property to be taxed.

(2) Taxes assessed under this section shall be assessed and collected in the same manner as taxes assessed under chapter 133 of this title with no tax classification other than as homestead or nonresidential property.

(3) If a district has not voted a budget by June 30, an interim homestead education tax shall be imposed at the base rate determined under subdivision (a)(2) of this section, divided by the municipality's most recent common level of appraisal, but without regard to any ~~district~~ spending adjustment under subdivision 5401(13) of this title. Within 30 days after a budget is adopted and the deadline for reconsideration has passed, the Commissioner shall determine the municipality's homestead tax rate as required under subdivision (1) of this subsection.

* * *

(d) A municipality which has upon its grand list an operating electric generating plant subject to the tax under chapter 213 of this title shall be subject to the nonresidential education property tax at three-quarters of the rate provided in subdivision (a)(1) of this section, as adjusted under section 5402b of this chapter; and shall be subject to the homestead education property tax at three-quarters of the base rate provided in subdivision (a)(2) of this section, as adjusted under section 5402b of this chapter, and multiplied by its ~~district~~ spending adjustment under subdivision 5401(13) of this title.

(e) The Commissioner of Taxes shall determine a homestead education tax rate for each municipality which is a member of a union or unified union school district as follows:

(1) For a municipality which is a member of a unified union school district, use the base rate determined under subdivision (a)(2) of this section and a ~~district~~ spending adjustment under subdivision 5401(13) of this title based upon the education spending per equalized pupil of the unified union.

(2) For a municipality which is a member of a union school district:

(A) Determine the municipal district homestead tax rate using the base rate determined under subdivision (a)(2) of this section and a ~~district~~ spending adjustment under subdivision 5401(13) of this title based on the education spending per total equalized pupil in the municipality who attends a school other than the union school.

(B) Determine the union district homestead tax rate using the base rate determined under subdivision (a)(2) of this section and a ~~district~~ spending adjustment under subdivision 5401(13) of this title based on the education spending per equalized pupil of the union school district.

* * *

Sec. 29. 32 V.S.A. § 6066(a)(2) is amended to read:

(2) “Applicable percentage” in this section means two percent, multiplied by the ~~district~~ education income tax spending adjustment under subdivision 5401(13)(~~B~~) of this title for the property tax year which begins in the claim year for the municipality in which the homestead residence is located; ~~but in no event shall the applicable percentage be less than two percent.~~

Sec. 30. REVISION AUTHORITY

Notwithstanding 4 V.S.A. § 424, the Office of Legislative Council is authorized to change all instances in statute of the term “applicable percentage” to “income percentage” in 32 V.S.A. chapters 135 and 154.

Sec. 31. 16 V.S.A. § 4031 is amended to read:

§ 4031. UNORGANIZED TOWNS AND GORES

(a) For a municipality that as of January 1, 2004 is an unorganized town or gore, its ~~district~~ education property tax spending adjustment under 32 V.S.A. § 5401(13) shall be one for purposes of determining the tax rate under 32 V.S.A. § 5402(a)(2).

(b) For purposes of a claim for property tax adjustment under 32 V.S.A. chapter 154 by a taxpayer in a municipality affected under this section, the applicable percentage shall not be multiplied by a spending adjustment under 32 V.S.A. § 5401(13).

Sec. 32. 32 V.S.A. § 5402b is amended to read:

§ 5402b. STATEWIDE EDUCATION TAX RATE ADJUSTMENTS YIELDS; RECOMMENDATION OF THE COMMISSIONER

~~(a) Annually, by December 1, the Commissioner of Taxes shall recommend to the General Assembly, after consultation with the Agency of Education, the Secretary of Administration, and the Joint Fiscal Office, the following adjustments in the statewide education tax rates under subdivisions 5402(a)(1) and (2) of this title:~~

~~(1) If there is a projected balance in the Education Fund Budget Stabilization Reserve in excess of the five percent level authorized under 16 V.S.A. § 4026, the Commissioner shall recommend a reduction, for the following fiscal year only, in the statewide education tax rates which will retain the projected Education Fund Budget Stabilization Reserve at the five percent maximum level authorized and raise at least 34 percent of projected education spending from the tax on nonresidential property; and~~

~~(2) If there is a projected balance in the Education Fund Budget Stabilization Reserve of less than the three and one half percent level required under 16 V.S.A. § 4026, the Commissioner shall recommend an increase, for the following fiscal year only, in the statewide education tax rates which will retain the projected Education Fund Budget Stabilization Reserve at no less than the three and one half percent minimum level authorized under 16 V.S.A. § 4026, and raise at least 34 percent of projected education spending from the tax rate on nonresidential property.~~

~~(3) In any year following a year in which the nonresidential rate produced an amount of revenues insufficient to support 34 percent of education fund spending in the previous fiscal year, the Commissioner shall determine and recommend an adjustment in the nonresidential rate sufficient to raise at~~

~~least 34 percent of projected education spending from the tax rate on nonresidential property.~~

~~(4) If in any year in which the nonresidential rate is less than the statewide average homestead rate, the Commissioner of Taxes shall determine the factors contributing to the deviation in the proportionality of the nonresidential and homestead rates and make a recommendation for adjusting statewide education tax rates accordingly.~~

~~(b) If the Commissioner makes a recommendation to the General Assembly to adjust the education tax rates under section 5402 of this title, the Commissioner shall also recommend a proportional adjustment to the applicable percentage base for homestead income based adjustments under section 6066 of this title, but the applicable percentage base shall not be adjusted below 1.94 percent.~~

(a) Annually, no later than December 1, the Commissioner of Taxes, after consultation with the Secretary of Education, the Secretary of Administration, and the Joint Fiscal Office, shall calculate and recommend a property dollar equivalent yield and an income dollar equivalent yield for the following fiscal year. In making these calculations, the Commissioner shall assume:

(1) the homestead base tax rate in subdivision 5402(a)(2) of this title is 1.00 per \$100.00 of equalized education property value;

(2) the applicable percentage in subdivision 6066(a)(2) of this title is 2.0;

(3) the statutory reserves under 16 V.S.A. § 4026 and this section were maintained at five percent; and

(4) the percentage change in the median education tax bill applied to nonresidential property, the percentage change in the median education tax bill of homestead property, and the percentage change in the median education tax bill for taxpayers who claim an adjustment under subsection 6066(a) of this title are equal.

(b) For each fiscal year, the General Assembly shall set a property dollar equivalent yield and an income dollar equivalent yield, consistent with the definitions in this chapter.

* * * Fiscal Year 2016 Education Property Tax Rates, Applicable Percentage,
and Base Education Amount * * *

Sec. 33. FISCAL YEAR 2016 EDUCATION PROPERTY TAX RATES
AND APPLICABLE PERCENTAGE

(a) For fiscal year 2016 only, the education property tax imposed under 32 V.S.A. § 5402(a) shall be reduced from the rates of \$1.59 and \$1.10 and shall instead be at the following rates:

(1) the tax rate for nonresidential property shall be \$1.535 per \$100.00; and

(2) the tax rate for homestead property shall be \$1.00 multiplied by the district spending adjustment for the municipality per \$100.00 of equalized property value as most recently determined under 32 V.S.A. § 5405.

(b) For claims filed in 2015 only, “applicable percentage” in 32 V.S.A. § 6066(a)(2) shall be reduced from 2.0 percent and instead shall be 1.82 percent multiplied by the fiscal year 2015 district spending adjustment for the municipality in which the homestead residence is located; but in no event shall the applicable percentage be less than 1.82 percent.

Sec. 34. FISCAL YEAR 2016 BASE EDUCATION AMOUNT

As provided in 16 V.S.A. § 4011(b), the base education amount for fiscal year 2016 shall be \$9,459.00.

* * * Tuition; Statewide Average Rate * * *

Sec. 35. 16 V.S.A. § 823(b) is amended to read:

(b) Unless, in the case of a school located in Vermont, the electorate of a school district authorizes payment of a higher amount at an annual or special meeting warned for the purpose, the tuition paid to an approved independent elementary school or an independent school meeting school quality standards located in or outside Vermont shall not exceed the least of:

(1) the average announced tuition of Vermont union elementary schools for the year of attendance;

(2) the tuition charged by the approved independent school for the year of attendance; or

(3) the average per-pupil tuition the district pays for its other resident elementary students in the year in which the student is enrolled in the approved independent school.

Sec. 36. 16 V.S.A. § 824(c) is amended to read:

(c) The district shall pay an amount not to exceed the average announced tuition of Vermont union high schools for the year of attendance for its students enrolled in an approved independent school not functioning as a Vermont area career technical center; ~~or any~~; provided, however, that the electorate may vote to pay a higher amount approved by the electorate to a school located in Vermont at an annual or special meeting warned for that purpose.

* * * Socioeconomic Isolation * * *

Sec. 37. SOCIOECONOMIC ISOLATION OF SCHOOL DISTRICTS

On or before January 15, 2016, the Secretary of Education shall:

(1) develop and establish guidelines and procedures by which the Agency and the State Board of Education can minimize the possibility that voluntary mergers and other education governance changes authorized, contemplated, or incentivized by this act will result in the isolation of districts with low fiscal capacity or with high percentages of students from economically deprived backgrounds; and

(2) report to the Senate and House Committees on Education, and to other standing committees upon request, regarding guidelines and procedures designed to minimize the possibility of such isolation and any requests for legislative action.

* * * Systems Evaluation and Leadership Training * * *

Sec. 38. SYSTEMS EVALUATION AND LEADERSHIP TRAINING

(a) The Secretary of Education, in consultation with the Vermont Superintendents Association, the Vermont School Boards Association, and the Vermont Principals' Association, shall evaluate and identify supervisory unions and school districts that are experiencing chronic leadership challenges, as revealed by high administrator turnover rates and other indicators. The Secretary may enter into contracts with one or more qualified entities to provide systems evaluation and joint leadership training to the superintendent, principals, and school board members of each identified supervisory union or school board, which shall be in addition to the training required by 16 V.S.A. § 561(b). The systems evaluations shall identify specific problems, including those associated with structure, communication, or delineation of roles and responsibilities, that limit successful outcomes for leadership within the identified districts and shall lead to recommendations for leadership improvement.

(b) Prior to any reversions, of the amount appropriated in fiscal year 2015 pursuant to 2014 Acts and Resolves No. 179, Sec. B.505, an amount not to exceed \$50,000.00 may be expended, if necessary, by the Agency of Education in fiscal year 2016 for purposes of this section.

And by renumbering the remaining section (effective dates) to be numerically correct.

Fourth: In Sec. 39 (effective dates), in subsection (m) (local education agency), by striking out the following: “2015” and inserting in lieu thereof the following: 2016

Fifth: In Sec. 39 (effective dates), by adding five new subsections to be subsections (x) through (bb) to read as follows:

(x) Secs. 26–32 (yield; dollar equivalent) shall take effect on July 1, 2015, and apply to fiscal year 2017 and after.

(y) Secs. 33–34 (fiscal year 2016; tax rates; base education amount) shall take effect on July 1, 2015, and apply to fiscal year 2016.

(z) Secs. 35–36 (tuition amounts) shall take effect on July 1, 2015 and shall apply to tuition paid in fiscal year 2017 (academic year 2016–2017) and after.

(aa) Sec. 37 (socioeconomic isolation) shall take effect on passage.

(bb) Sec. 38 (leadership training; authorization) shall take effect on passage.

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

First: By striking out Secs. 9 (small school support), and 10 (small school support transition) and inserting in lieu thereof the following:

Sec. 9. [Deleted.]

Sec. 10. [Deleted.]

Second: By adding a new section to be numbered Sec. 20a to read as follows:

Sec. 20a. REPORT ON METRICS FOR EVALUATION

(a) On or before December 15, 2015, the Agency of Education shall report to the General Assembly with recommendations for establishing a consistent method of evaluating the performance of:

(1) pre-kindergarten programs in each school district; and

(2) special education programs in each supervisory union or school district.

(b) The recommendations under subsection (a) of this section shall consider the findings of the report required under 2014 Acts and Resolves No. 95, Sec. 79a and shall be consistent with the efforts taken by the Agency to develop consistent longitudinal student and financial data in 2014 Acts and Resolves No. 179, Secs. E.500.1 through E.500.3, allowing for district-to-district comparisons to support education-related decisions at the State and local level.

Third: By striking out Secs. 35 and 36 (tuition; statewide average rate) and their related reader assistance heading and inserting in lieu thereof the following:

Sec. 35. [Deleted.]

Sec. 36. [Deleted.]

Fourth: By striking out Sec. 38 (systems evaluation) and its related reader assistance heading and inserting in lieu thereof the following:

Sec. 38. [Deleted.]

Fifth: In Sec. 39 (effective dates), by striking out subsections (g) (merger support grants), (h) (small school support), (q) (agency coordination), (z) (tuition amounts), and (bb) (systems evaluation) in their entirety, and inserting a new subsection (q) to read as follows:

(q) Secs. 20 (Agencies of Education and of Human Services; coordination) and 20a (report) shall take effect on passage.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and pending the question, Shall the report of the Committee on Education be amended as recommended by the Committee on Finance?, Senator Cummings moved that the *third* proposal of amendment of the Committee on Finance be voted on separately.

Thereupon, pending the question Shall the report of the Committee on Education be amended as recommended by the Committee on Finance in the *third* proposal of amendment?, Senator Cummings requested and was granted leave to withdraw her motion.

Thereupon, Senators MacDonald, Ashe, Ayer, Lyons, Mullin and Sirotkin moved to amend the *third* proposal of amendment of the Committee on Finance in Sec. 33 (tax rates), in subdivision (a)(2), by striking out the following: “\$1.00” and inserting in lieu thereof the following: \$0.99 and in

subsection (b) by striking out the following: “1.82” and inserting in lieu thereof the following: 1.80 in all instances

Which was agreed to on a roll call, Yeas 29, Nays 1.

Senator Nitka 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, Balint, Baruth, Benning, Bray, Campbell, Campion, Collamore, Cummings, Degree, Doyle, Flory, Kitchel, Lyons, MacDonald, Mazza, McAllister, McCormack, Mullin, Nitka, Pollina, Rodgers, Sears, Sirotkin, Snelling, Starr, White, Zuckerman.

The Senator who voted in the negative was: Westman.

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

Thereupon, the question, Shall the report of the Committee on Education be amended as recommended by the Committee on Finance, as amended in the *third* proposal of amendment?, was agreed to on a roll call, Yeas 27, Nays 3.

Senator Degree 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, Balint, Baruth, Benning, Bray, Campbell, Campion, Collamore, Cummings, Doyle, Flory, Kitchel, Lyons, MacDonald, Mazza, McCormack, Mullin, Nitka, Pollina, Rodgers, Sears, Sirotkin, Snelling, Starr, White, Zuckerman.

Those Senators who voted in the negative were: Degree, McAllister, Westman.

Thereupon, the question, Shall the report of the Committee on Education be amended as recommended by the Committee on Finance, as amended in the *first, second, fourth and fifth* proposals of amendment?, which was agreed to.

Thereupon, pending the question, Shall the recommendation of proposal of amendment of the Committee on Education, as amended, be amended as recommended by the Committee on Appropriations?, Senator Sears, requested that the *first* proposal of amendment be voted on separately.

Thereupon, pending the question, Shall the report of the Committee on Education as amended, be amended as recommended by the Committee on Appropriations in the *first* instance?, Senator Lyons moved to amend *fourth* proposal of amendment as follows:

First: By striking Sec. 38 in its entirety, and inserting in lieu thereof a reader assistance heading and a Sec. 38 to read:

* * * Systems Evaluation and Leadership Training * * *

Sec. 38. SYSTEMS EVALUATION AND LEADERSHIP TRAINING

The Secretary of Education, in consultation with the Vermont Superintendents Association, the Vermont School Boards Association, and the Vermont Principals' Association, shall evaluate and identify supervisory unions and school districts that are experiencing chronic leadership challenges, as revealed by high administrator turnover rates and other indicators. The Secretary may enter into contracts with one or more qualified entities to provide systems evaluation and joint leadership training to the superintendent, principals, and school board members of each identified supervisory union or school board, which shall be in addition to the training required by 16 V.S.A. § 561(b). The systems evaluations shall identify specific problems, including those associated with structure, communication, or delineation of roles and responsibilities, that limit successful outcomes for leadership within the identified districts and shall lead to recommendations for leadership improvement.

Second: In Sec. 39 (effective dates) by inserting a subdivision (bb) to read:

(bb) Sec. 38 (leadership training) shall take effect on passage.

Thereupon, pending the question, Shall the *fourth* proposal of amendment of the Committee on Appropriations be amended as recommended by Senator Lyons, Senator Lyons requested and was granted leave with withdraw the proposal of amendment.

Thereupon, the question, Shall the report of the Committee on Education as amended, be amended as recommended by the Committee on Appropriations in the *first* proposal of amendment?, was agreed on a roll call, Yeas 23, Nays 7.

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

Roll Call

Those Senators who voted in the affirmative were: Ashe, Balint, Baruth, Benning, Bray, Campbell, Campion, Collamore, Doyle, Flory, Kitchel, Lyons,

MacDonald, McAllister, McCormack, Nitka, Pollina, Rodgers, Sears, Sirotkin, Snelling, Starr, Westman.

Those Senators who voted in the negative were: Ayer, Cummings, Degree, Mazza, Mullin, White, Zuckerman.

Thereupon, the question, Shall the report of the Committee on Education as amended, be amended as recommended by the Committee on Appropriations in the *second, third, fourth* and *fifth* proposals of amendment?, was agreed to.

Thereupon, the proposal of amendment recommended by the Committee on Education, as amended, was agreed to and third reading of the bill was ordered on a roll call, Yeas 27, Nays 3.

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: Ashe, Ayer, Balint, Baruth, Benning, Bray, Campbell, Campion, Collamore, Cummings, Degree, Doyle, Flory, Kitchel, Lyons, MacDonald, Mazza, McAllister, Mullin, Nitka, Rodgers, Sirotkin, Snelling, Starr, Westman, White, Zuckerman.

Those Senators who voted in the negative were: McCormack, Pollina, Sears.

Recess

On motion of Senator Campbell the Senate recessed until six o'clock and forty-five minutes.

Called to Order

The Senate was called to order by the President.

Recess

On motion of Senator Mazza the Senate recessed until the fall of the gavel.

Called to Order

The Senate was called to order by the President.

Message from the House No. 62

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 passed a House bill of the following title:

H. 355. An act relating to licensing and regulating foresters.

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

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

S. 93. An act relating to lobbying disclosures.

S. 102. An act relating to forfeiture of property associated with animal fighting and certain regulated drug possession, sale, and trafficking violations.

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

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

H. 241. An act relating to rulemaking on emergency involuntary procedures.

And has severally concurred therein.

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

H. 488. An act relating to the State's Transportation Program and miscellaneous changes to laws related to transportation.

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

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

S. 13. An act relating to the Vermont Sex Offender Registry.

And has concurred therein.

House Proposal of Amendment Concurred In with Amendment

S. 139.

House proposal of amendment to Senate bill entitled:

An act relating to pharmacy benefit managers and hospital observation status.

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:

* * * Pharmacy Benefit Managers * * *

Sec. 1. 18 V.S.A. § 9471 is amended to read:

§ 9471. DEFINITIONS

As used in this subchapter:

* * *

(6) “Maximum allowable cost” means the per unit drug product reimbursement amount, excluding dispensing fees, for a group of equivalent multisource generic prescription drugs.

Sec. 2. 18 V.S.A. § 9473 is amended to read:

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

* * *

(c) For each drug for which a pharmacy benefit manager establishes a maximum allowable cost in order to determine the reimbursement rate, the pharmacy benefit manager shall do all of the following:

(1) Make available, in a format that is readily accessible and understandable by a pharmacist, the actual maximum allowable cost for each drug and the source used to determine the maximum allowable cost.

(2) Update the maximum allowable cost at least once every seven calendar days. In order to be subject to maximum allowable cost, a drug must be widely available for purchase by all pharmacies in the State, without limitations, from national or regional wholesalers and must not be obsolete or temporarily unavailable.

(3) Establish or maintain a reasonable administrative appeals process to allow a dispensing pharmacy provider to contest a listed maximum allowable cost.

(4) Respond in writing to any appealing pharmacy provider within 10 calendar days after receipt of an appeal, provided that a dispensing pharmacy provider shall file any appeal within 10 calendar days from the date its claim for reimbursement is adjudicated.

* * * Notice of Hospital Observation Status * * *

Sec. 3. 18 V.S.A. § 1905 is amended to read:

§ 1905. LICENSE REQUIREMENTS

Upon receipt of an application for license and the license fee, the licensing agency shall issue a license when it determines that the applicant and hospital facilities meet the following minimum standards:

* * *

(22) All hospitals shall provide oral and written notices to each individual that the hospital places in observation status as required by section 1911a of this title.

Sec. 4. 18 V.S.A. § 1911a is added to read:

1911a. NOTICE OF HOSPITAL OBSERVATION STATUS

(a)(1) Each hospital shall provide oral and written notice to each Medicare beneficiary that the hospital places in observation status as soon as possible but no later than 24 hours following such placement, unless the individual is discharged or leaves the hospital before the 24-hour period expires. The written notice shall be a uniform form developed by the Department of Health, in consultation with interested stakeholders, for use in all hospitals.

(2) If a patient is admitted to the hospital as an inpatient before the notice of observation has been provided, and under Medicare rules the observation services may be billed as part of the inpatient stay, the hospital shall not be required to provide notice of observation status.

(b) Each oral and written notice shall include:

(1) a statement that the individual is under observation as an outpatient and is not admitted to the hospital as an inpatient;

(2) a statement that observation status may affect the individual's Medicare coverage for hospital services, including medications and pharmaceutical supplies, and for rehabilitative or skilled nursing services at a skilled nursing facility if needed upon discharge from the hospital; and

(3) a statement that the individual may contact the Office of the Health Care Advocate or the Vermont State Health Insurance Assistance Program to understand better the implications of placement in observation status.

(c) Each written notice shall include the name and title of the hospital representative who gave oral notice; the date and time oral and written notice were provided; the means by which written notice was provided, if not provided in person; and contact information for the Office of the Health Care Advocate and the Vermont State Health Insurance Assistance Program.

(d) Oral and written notice shall be provided in a manner that is understandable by the individual placed in observation status or by his or her representative or legal guardian.

(e) The hospital representative who provided the written notice shall request a signature and date from the individual or, if applicable, his or her representative or legal guardian, to verify receipt of the notice. If a signature

and date were not obtained, the hospital representative shall document the reason.

Sec. 4a. NOTICE OF OBSERVATION STATUS FOR PATIENTS WITH COMMERCIAL INSURANCE

The General Assembly requests that the Vermont Association of Hospitals and Health Systems and the Office of the Health Care Advocate consider the appropriate notice of hospital observation status that patients with commercial insurance should receive and the circumstances under which such notice should be provided. The General Assembly requests that the Vermont Association of Hospitals and Health Systems and the Office of the Health Care Advocate provide their findings and recommendations to the House Committee on Health Care and the Senate Committee on Health and Welfare on or before January 15, 2016.

* * * Reports * * *

Sec. 5. VERMONT HEALTH CARE INNOVATION PROJECT; UPDATES

The Project Director of the Vermont Health Care Innovation Project (VHCIP) shall provide an update at least quarterly to the House Committees on Health Care and on Ways and Means, the Senate Committees on Health and Welfare and on Finance, and the Health Reform Oversight Committee regarding VHCIP implementation and the use of the federal State Innovation Model (SIM) grant funds. The Project Director's update shall include information regarding:

(1) the VHCIP pilot projects and other initiatives undertaken using SIM grant funds, including a description of the projects and initiatives, the timing of their implementation, the results achieved, and the replicability of the results;

(2) how the VHCIP projects and initiatives fit with other payment and delivery system reforms planned or implemented in Vermont;

(3) how the VHCIP projects and initiatives meet the goals of improving health care access and quality and reducing costs;

(4) how the VHCIP projects and initiatives will reduce administrative costs;

(5) how the VHCIP projects and initiatives compare to the principles expressed in 2011 Acts and Resolves No. 48;

(6) what will happen to the VHCIP projects and initiatives when the SIM grant funds are no longer available; and

(7) how to protect the State's interest in any health information technology and security functions, processes, or other intellectual property developed through the VHCIP.

Sec. 6. REDUCING DUPLICATION OF SERVICES; REPORT

(a) The Agency of Human Services shall evaluate the services offered by each entity licensed, administered, or funded by the State, including the designated agencies, to provide services to individuals receiving home- and community-based long-term care services or who have developmental disabilities, mental health needs, or substance use disorder. The Agency shall determine areas in which there are gaps in services and areas in which programs or services are inconsistent with the Health Resource Allocation Plan or are overlapping, duplicative, or otherwise not delivered in the most efficient, cost-effective, and high-quality manner and shall develop recommendations for consolidation or other modification to maximize high-quality services, efficiency, service integration, and appropriate use of public funds.

(b) On or before January 15, 2016, the Agency shall report its findings and recommendations to the House Committee on Human Services and the Senate Committee on Health and Welfare.

* * * Strengthening Affordability and Access to Health Care * * *

Sec. 7. 33 V.S.A. § 1812(b) is amended to read:

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

(2) The Department of Vermont Health Access shall establish cost-sharing assistance on a sliding scale based on modified adjusted gross income for the individuals and families described in subdivision (1) of this subsection. Cost-sharing assistance shall be established as follows:

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

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

(C) for households with income above 200 percent FPL and at or below 250 percent FPL: ~~77~~ 83 percent actuarial value;

(D) for households with income above 250 percent FPL and at or below 300 percent FPL: ~~73~~ 79 percent actuarial value.

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

Sec. 8. COST-SHARING SUBSIDY; APPROPRIATION

(a) Increasing the cost-sharing subsidies available to Vermont residents will not only make it easier for people with incomes below 300 percent of the federal poverty level to access health care services, but it may encourage some residents without insurance to enroll for coverage if they know they will be able to afford to use it.

(b) The sum of \$761,308.00 is appropriated from the General Fund to the Department of Vermont Health Access in fiscal year 2016 for the Exchange cost-sharing subsidies for individuals at the actuarial levels in effect on January 1, 2015.

(c) The sum of \$2,000,000.00 is appropriated from the General Fund to the Department of Vermont Health Access in fiscal year 2016 to increase Exchange cost-sharing subsidies beginning on January 1, 2016 to provide coverage at an 83 percent actuarial value for individuals with incomes between 200 and 250 percent of the federal poverty level and at a 79 percent actuarial value for individuals with incomes between 250 and 300 percent of the federal poverty level.

* * * Strengthening Primary Care * * *

Sec. 9. INVESTING IN PRIMARY CARE SERVICES

The sum of \$7,000,000.00 in Global Commitment funds is appropriated to the Department of Vermont Health Access in fiscal year 2016 to increase reimbursement rates for primary care providers for services provided to Medicaid beneficiaries.

Sec. 10. BLUEPRINT FOR HEALTH INCREASES

(a) The sum of \$4,085,826.00 in Global Commitment funds is appropriated to the Department of Vermont Health Access in fiscal year 2016 to increase payments to patient-centered medical homes and community health teams pursuant to 18 V.S.A. § 702.

(b) In its use of the funds appropriated in this section, the Blueprint for Health shall work collaboratively to begin including family-centered approaches and adverse childhood experience screenings consistent with the report entitled “Integrating ACE-Informed Practice into the Blueprint for Health.” Considerations should include prevention, early identification, and screening, as well as reducing the impact of adverse childhood experiences through trauma-informed treatment and suicide prevention initiatives.

Sec. 11. AREA HEALTH EDUCATION CENTERS

The sum of \$700,000.00 in Global Commitment funds is appropriated to the Department of Health in fiscal year 2016 for a grant to the Area Health Education Centers for repayment of educational loans for health care providers and health care educators.

* * * Investing in Structural Reform for Long-Term Savings * * *

Sec. 12. GREEN MOUNTAIN CARE BOARD; ALL-PAYER WAIVER; RATE-SETTING

(a) The sum of \$862,767.00 is appropriated to the Green Mountain Care Board in fiscal year 2016, of which \$184,636.00 comes from the General Fund, \$224,774.00 is in Global Commitment funds, \$393,357.00 comes from the Board's bill-back authority pursuant to 18 V.S.A. § 9374(h), and \$60,000.00 comes from the Health IT-Fund.

(b) Of the funds appropriated pursuant to this section, the Board shall use:

(1) \$502,767.00 for positions and operating expenses related to the Board's provider rate-setting authority, the all-payer model, and the Medicaid cost shift;

(2) \$300,000.00 for contracts and third-party services related to the all-payer model, provider rate-setting, and the Medicaid cost shift; and

(3) \$60,000.00 to provide oversight of the budget and activities of the Vermont Information Technology Leaders, Inc.

Sec. 13. GREEN MOUNTAIN CARE BOARD; POSITIONS

(a) On July 1, 2015, two classified positions are created for the Green Mountain Care Board.

(b) On July 1, 2015, one exempt position, attorney, is created for the Green Mountain Care Board.

* * * Consumer Information, Assistance, and Representation * * *

Sec. 14. OFFICE OF THE HEALTH CARE ADVOCATE; APPROPRIATION; INTENT

(a) The Office of the Health Care Advocate has a critical function in the Vermont's health care system. The Health Care Advocate provides information and assistance to Vermont residents who are navigating the health care system and represents their interests in interactions with health insurers, health care providers, Medicaid, the Green Mountain Care Board, the General Assembly, and others. The continuation of the Office of the Health Care Advocate is necessary to achieve additional health care reform goals.

(b) The sum of \$40,000.00 is appropriated from the General Fund to the Agency of Administration in fiscal year 2016 for its contract with the Office of the Health Care Advocate.

(c) It is the intent of the General Assembly that, beginning with the 2017 fiscal year budget, the Governor's budget proposal developed pursuant to 32 V.S.A. chapter 5 should include a separate provision identifying the aggregate sum to be appropriated from all State sources to the Office of the Health Care Advocate.

Sec. 15. CONSUMER INFORMATION AND PRICE TRANSPARENCY

The Green Mountain Care Board shall evaluate potential models for providing consumers with information about the cost and quality of health care services available across the State, including a consideration of the models used in Maine, Massachusetts, and New Hampshire, as well as any platforms developed and implemented by health insurers doing business in this State. On or before October 1, 2015, the Board shall report its findings and a proposal for a robust Internet-based consumer health care information system to the House Committee on Health Care, the Senate Committees on Health and Welfare and on Finance, and the Health Reform Oversight Committee.

* * * Universal Primary Care * * *

Sec. 16. PURPOSE

The purpose of Secs. 16 through 20 of this act is to establish the administrative framework and reduce financial barriers as preliminary steps to the implementation of the principles set forth in 2011 Acts and Resolves No. 48 to enable Vermonters to receive necessary health care and examine the cost of providing primary care to all Vermonters without deductibles, coinsurance, or co-payments or, if necessary, with limited cost-sharing.

Sec. 17. [Deleted.]

Sec. 18. DEFINITION OF PRIMARY CARE

As used in Secs. 16 through 20 of this act, "primary care" means health services provided by health care professionals who are specifically trained for and skilled in first-contact and continuing care for individuals with signs, symptoms, or health concerns, not limited by problem origin, organ system, or diagnosis, and includes pediatrics, internal and family medicine, gynecology, primary mental health services, and other health services commonly provided at federally qualified health centers. Primary care does not include dental services.

Sec. 19. COST ESTIMATES FOR UNIVERSAL PRIMARY CARE

(a) On or before October 15, 2015, the Joint Fiscal Office, in consultation with the Green Mountain Care Board and the Secretary of Administration or designee, shall provide to the Joint Fiscal Committee, the Health Reform Oversight Committee, the House Committees on Appropriations, on Health Care, and on Ways and Means, and the Senate Committees on Appropriations, on Health and Welfare, and on Finance an estimate of the costs of providing primary care to all Vermont residents, with and without cost-sharing by the patient, beginning on January 1, 2017.

(b) The report shall include an estimate of the cost of primary care to those Vermonters who access it if a universal primary care plan is not implemented, and the sources of funding for that care, including employer-sponsored and individual private insurance, Medicaid, Medicare, and other government-sponsored programs, and patient cost-sharing such as deductibles, coinsurance, and co-payments.

(c) Departments and agencies of State government and the Green Mountain Care Board shall provide such data to the Joint Fiscal Office as needed to permit the Joint Fiscal Office to perform the estimates and analysis required by this section. If necessary, the Joint Fiscal Office may enter into confidentiality agreements with departments, agencies, and the Board to ensure that confidential information provided to the Office is not further disclosed.

Sec. 20. APPROPRIATION

Up to \$200,000.00 is appropriated from the General Fund to the Joint Fiscal Office in fiscal year 2016 to be used for assistance in the calculation of the cost estimates required in Sec. 19 of this act; provided, however, that the appropriation shall be reduced by the amount of any external funds received by the Office to carry out the estimates and analysis required by Sec. 19.

* * * Green Mountain Care Board * * *

Sec. 21. 18 V.S.A. § 9375(b) is amended to read:

(b) The Board shall have the following duties:

* * *

(2)(A) Review and approve Vermont's statewide Health Information Technology Plan pursuant to section 9351 of this title to ensure that the necessary infrastructure is in place to enable the State to achieve the principles expressed in section 9371 of this title. Vermont Information Technology Leaders, Inc. shall be an interested party in the Board's review.

(B) Review and approve the criteria required for health care providers and health care facilities to create or maintain connectivity to the State's health information exchange as set forth in section 9352 of this title. Within 90 days following this approval, the Board shall issue an order explaining its decision.

(C) Annually review and approve the budget, consistent with available funds, and the core activities associated with public funding, of the Vermont Information Technology Leaders, Inc., which shall include establishing the interconnectivity of electronic medical records held by health care professionals, and the storage, management, and exchange of data received from such health care professionals, for the purpose of improving the quality of and efficiently providing health care to Vermonters. This review shall take into account the Vermont Information Technology Leaders' responsibilities in section 9352 of this title and shall be conducted according to a process established by the Board by rule pursuant to 3 V.S.A. chapter 25.

* * *

Sec. 21a. 18 V.S.A. § 9376(b)(2) is amended to read:

(2) Nothing in this subsection shall be construed to:

(A) limit the ability of a health care professional to accept less than the rate established in subdivision (1) of this subsection from a patient without health insurance or other coverage for the service or services received; or

(B) reduce or limit the covered services offered by Medicare or Medicaid.

* * * Vermont Information Technology Leaders * * *

Sec. 22. 18 V.S.A. § 9352 is amended to read:

§ 9352. VERMONT INFORMATION TECHNOLOGY LEADERS

(a)(1) Governance. ~~The General Assembly and the Governor shall each appoint one representative to the~~ Vermont Information Technology Leaders, Inc. (VITL) Board of Directors shall consist of no fewer than nine nor more than 14 members. The term of each member shall be two years, except that of the members first appointed, approximately one-half shall serve a term of one year and approximately one-half shall serve a term of two years, and members shall continue to hold office until their successors have been duly appointed. The Board of Directors shall comprise the following:

(A) one member of the General Assembly, appointed jointly by the Speaker of the House and the President Pro Tempore of the Senate, who shall be entitled to the same per diem compensation and expense reimbursement

pursuant to 2 V.S.A. § 406 as provided for attendance at sessions of the General Assembly;

(B) one individual appointed by the Governor;

(C) one representative of the business community;

(D) one representative of health care consumers;

(E) one representative of Vermont hospitals;

(F) one representative of Vermont physicians;

(G) one practicing clinician licensed to practice medicine in Vermont;

(H) one representative of a health insurer licensed to do business in Vermont;

(I) the President of VITL, who shall be an ex officio, nonvoting member;

(J) two individuals familiar with health information technology, at least one of whom shall be the chief technology officer for a health care provider; and

(K) two at-large members.

(2) Except for the members appointed pursuant to subdivisions (1)(A) and (B) of this subsection, whenever a vacancy on the Board occurs, the members of the Board of Directors then serving shall appoint a new member who shall meet the same criteria as the member he or she replaces.

(b) Conflict of interest. In carrying out their responsibilities under this section, Directors of VITL shall be subject to conflict of interest policies established by the Secretary of Administration to ensure that deliberations and decisions are fair and equitable.

(c)(1) Health information exchange operation. VITL shall be designated in the Health Information Technology Plan pursuant to section 9351 of this title to operate the exclusive statewide health information exchange network for this State. ~~The~~ After the Green Mountain Care Board approves VITL's core activities and budget pursuant to chapter 220 of this title, the Secretary of Administration or designee shall enter into procurement grant agreements with VITL pursuant to 8 V.S.A. § 4089k. Nothing in this chapter shall impede local community providers from the exchange of electronic medical data.

(2) Notwithstanding any provision of 3 V.S.A. § 2222 or 2283b to the contrary, upon request of the Secretary of Administration, the Department of Information and Innovation shall review VITL's technology for security,

privacy, and interoperability with State government information technology, consistent with the State's health information technology plan required by section 9351 of this title.

* * *

* * * Referral Registry * * *

Sec. 23. REFERRAL REGISTRY

On or before October 1, 2015, the Department of Mental Health and the Division of Alcohol and Drug Abuse Programs in the Department of Health shall develop jointly a registry of mental health and addiction services providers in Vermont, organized by county. The registry shall be updated at least annually and shall be made available to primary care providers participating in the Blueprint for Health and to the public.

* * * Ambulance Reimbursement * * *

Sec. 24. MEDICAID; AMBULANCE REIMBURSEMENT

The Department of Vermont Health Access shall evaluate the methodology used to determine reimbursement amounts for ambulance and emergency medical services delivered to Medicaid beneficiaries to determine the basis for the current reimbursement amounts and the rationale for the current level of reimbursement, and shall consider any possible adjustments to revise the methodology in a way that is budget neutral or of minimal fiscal impact to the Agency of Human Services for fiscal year 2016. On or before December 1, 2015, the Department shall report its findings and recommendations to the House Committees on Health Care and on Human Services, the Senate Committee on Health and Welfare, and the Health Reform Oversight Committee.

* * * Direct Enrollment for Individuals * * *

Sec. 25. 33 V.S.A. § 1803(b)(4) is amended to read:

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

Sec. 26. 33 V.S.A. § 1811(b) is amended to read:

(b)(1) No person may provide a health benefit plan to an individual unless the plan is offered through the Vermont Health Benefit Exchange To the extent permitted by the U.S. Department of Health and Human Services, an

individual may purchase a health benefit plan through the Exchange website, through navigators, by telephone, or directly from a registered carrier under contract with the Vermont Health Benefit Exchange, if the carrier elects to make direct enrollment available. A registered carrier enrolling individuals in health benefit plans directly shall comply with all open enrollment and special enrollment periods applicable to the Vermont Health Benefit Exchange.

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

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

* * * Extension of Presuit Mediation * * *

Sec. 27. 12 V.S.A. chapter 215, subchapter 2 is added to read:

Subchapter 2. Mediation Prior to Filing a Complaint of Malpractice

§ 7011. PURPOSE

The purpose of mediation prior to filing a medical malpractice case is to identify and resolve meritorious claims and reduce areas of dispute prior to litigation, which will reduce the litigation costs, reduce the time necessary to resolve claims, provide fair compensation for meritorious claims, and reduce malpractice-related costs throughout the system.

§ 7012. PRESUIT MEDIATION; SERVICE

(a) A potential plaintiff may serve upon each known potential defendant a request to participate in presuit mediation prior to filing a civil action in tort or in contract alleging that an injury or death resulted from the negligence of a health care provider and to recover damages resulting from the personal injury or wrongful death.

(b) Service of the request required in subsection (a) of this section shall be in letter form and shall be served on all known potential defendants by certified mail. The date of mailing such request shall toll all applicable statutes of limitations.

(c) The request to participate in presuit mediation shall name all known potential defendants, contain a brief statement of the facts that the potential plaintiff believes are grounds for relief, and be accompanied by a certificate of merit prepared pursuant to section 1051 of this title, and may include other documents or information supporting the potential plaintiff's claim.

(d) Nothing in this chapter precludes potential plaintiffs and defendants from presuit negotiation or other presuit dispute resolution to settle potential claims.

§ 7013. MEDIATION RESPONSE

(a) Within 60 days of service of the request to participate in presuit mediation, each potential defendant shall accept or reject the potential plaintiff's request for presuit mediation by mailing a certified letter to counsel or if the party is unrepresented to the potential plaintiff.

(b) If the potential defendant agrees to participate, within 60 days of the service of the request to participate in presuit mediation, each potential defendant shall serve a responsive certificate on the potential plaintiff by mailing a certified letter indicating that he or she, or his or her counsel, has consulted with a qualified expert within the meaning of section 1643 of this title and that expert is of the opinion that there are reasonable grounds to defend the potential plaintiff's claims of medical negligence. Notwithstanding the potential defendant's acceptance of the request to participate, if the potential defendant does not serve such a responsive certificate within the 60-day period, then the potential plaintiff need not participate in the presuit mediation under this title and may file suit. If the potential defendant is willing to participate, presuit mediation may take place without a responsive certificate of merit from the potential defendant at the plaintiff's election.

§ 7014. PROCESS; TIME FRAMES

(a) The mediation shall take place within 60 days of the service of all potential defendants' acceptance of the request to participate in presuit mediation. The parties may agree to an extension of time. If in good faith the mediation cannot be scheduled within the 60-day time period, the potential plaintiff need not participate and may proceed to file suit.

(b) If presuit mediation is not agreed to, the mediator certifies that mediation is not appropriate, or mediation is unsuccessful, the potential plaintiff may initiate a civil action as provided in the Vermont Rules of Civil Procedure. The action shall be filed upon the later of the following:

(1) within 90 days of the potential plaintiff's receipt of the potential defendant's letter refusing mediation, the failure of the potential defendant to file a responsive certificate of merit within the specified time period, or the mediator's signed letter certifying that mediation was not appropriate or that the process was complete; or

(2) prior to the expiration of the applicable statute of limitations.

(c) If presuit mediation is attempted unsuccessfully, the parties shall not be required to participate in mandatory mediation under Rule 16.3 of the Vermont Rules of Civil Procedure.

§ 7015. CONFIDENTIALITY

All written and oral communications made in connection with or during the mediation process set forth in this chapter shall be confidential. The mediation process shall be treated as a settlement negotiation under Rule 408 of the Vermont Rules of Evidence.

* * * Blueprint for Health; Reports * * *

Sec. 28. BLUEPRINT FOR HEALTH; REPORTS

(a) The 2016 annual report of the Blueprint for Health shall present an analysis of the value-added benefits and return on investment to the Medicaid program of the new funds appropriated in the fiscal year 2016 budget, including the identification of any costs avoided that can be directly attributed to those funds, and the means of the analysis that was used to draw any such conclusions.

(b) The Blueprint for Health shall explore and report back to the General Assembly on or before January 15, 2016 on potential wellness incentives.

Sec. 28a. PREVENTABLE ILLNESSES RELATED TO OBESITY

While the General Assembly is adjourned during fiscal year 2016, the Health Reform Oversight Committee shall review existing data on expenditures from the treatment of preventable illnesses related to obesity, including costs borne by the private sector, and shall survey existing and proposed policy measures to reduce the incidence of obesity in Vermont.

* * * Green Mountain Care Board; Payment Reform * * *

Sec. 29. PAYMENT REFORM AND DIFFERENTIAL PAYMENTS TO PROVIDERS

In implementing an all-payer model and provider rate-setting, the Green Mountain Care Board shall consider:

(1) the benefits of prioritizing and expediting payment reform in primary care that shifts away from fee-for-service models;

(2) the impact of hospital acquisitions of independent physician practices on the health care system costs, including any disparities between reimbursements to hospital-owned practices and reimbursements to independent physician practices;

(3) the effects of differential reimbursement for different types of providers when providing the same services billed under the same codes; and

(4) the advantages and disadvantages of allowing health care providers to continue to set their own rates for customers without health insurance or other health care coverage.

* * * Independent Analysis of Exchange Alternatives * * *

Sec. 29a. INDEPENDENT ANALYSIS; JOINT FISCAL OFFICE

(a) The Joint Fiscal Office shall conduct a preliminary, independent risk analysis of the advantages and disadvantages, including the costs and the quantitative and qualitative benefits, of alternative options for the Vermont Health Benefit Exchange, including continuing the current State-based marketplace known as Vermont Health Connect, transitioning to a federally facilitated State-based marketplace, and other available options. The Chief of Health Care Reform shall provide the Joint Fiscal Office with regular updates on the Agency of Administration's analysis of alternative options. The Joint Fiscal Office may enter into contracts for assistance in performing some or all of the analysis and shall provide the results of the analysis to the Joint Fiscal Committee and the Health Reform Oversight Committee on or before September 15, 2015.

(b) The sum of \$85,000.00 is appropriated from the General Fund to the Joint Fiscal Office in fiscal year 2016 to conduct the analysis required by this section.

* * * Exchange Reports * * *

Sec. 29b. VERMONT HEALTH CONNECT REPORTS

The Chief of Health Care Reform shall provide monthly reports to the House Committee on Health Care, the Senate Committees on Health and Welfare and on Finance, the Health Reform Oversight Committee, and the Joint Fiscal Committee regarding:

(1) the schedule, cost, and scope status of the Vermont Health Connect system's Release 1 and Release 2 development efforts, including whether any critical path items did not meet their milestone dates and the corrective actions being taken;

(2) an update on the status of current risks in Vermont Health Connect's implementation;

(3) an update on the actions taken to address the recommendations in the Auditor's report on Vermont Health Connect dated April 14, 2015 and any other audits of Vermont Health Connect; and

(4) an update on the preliminary analysis of alternatives to Vermont Health Connect.

Sec. 29c. INDEPENDENT REVIEW OF VERMONT HEALTH CONNECT

The Chief of Health Care Reform shall provide the Joint Fiscal Office with the materials provided by the Independent Verification and Validation (IVV) firms evaluating Vermont Health Connect. The reports shall be provided in a manner that protects security and confidentiality as required by any memoranda of understanding entered into by the Joint Fiscal Office and the Executive Branch. For the period between July 1, 2015 and January 1, 2016, the Joint Fiscal Office shall analyze the reports and shall provide information regarding Vermont Health Connect information technology systems at least once every two months to the House Committee on Health Care, the Senate Committees on Health and Welfare and on Finance, the Health Reform Oversight Committee, and the Joint Fiscal Committee.

* * * Alternatives to Vermont Health Connect * * *

Sec. 29d. VERMONT HEALTH CONNECT OUTCOMES;
ALTERNATIVES TO VERMONT HEALTH CONNECT

(a) The Agency of Administration shall explore all feasible alternatives to Vermont Health Connect.

(b) The General Assembly expects Vermont Health Connect to achieve the following milestones with respect to qualified health plans offered in the individual market:

(1) On or before May 31, 2015, the vendor under contract with the State to implement the Vermont Health Benefit Exchange shall deliver the information technology release providing the “back end” of the technology supporting changes in circumstances and changes in information to allow for a significant reduction, as described in subdivision (5) of this subsection, in the amount of time necessary for the State to process changes requested by individuals and families enrolled in qualified health plans.

(2) On or before May 31, 2015, the State shall complete a contract to ensure automated renewal functionality for qualified health plans offered to individuals and families that has been reviewed and agreed to by the State, by registered carriers offering qualified health plans, and by the chosen vendor. The contract shall be sent to the Centers for Medicare and Medicaid Services for its review by the same date.

(3) On or before August 1, 2015, Vermont Health Connect shall develop a contingency plan for renewing qualified health plans offered to individuals and families for calendar year 2016 and shall ensure that the registered carriers offering these qualified health plans agree to the process.

(4) On or before October 1, 2015, the vendor under contract with the State for automated renewal of qualified health plans offered to individuals and families shall deliver the information technology release providing for the automated renewal of those qualified health plans.

(5) On or before October 1, 2015, Vermont Health Connect customer service representatives shall begin processing new requests for changes in circumstances and for changes in information received in the first half of a month in time to be reflected on the next invoice and shall begin processing requests for changes received in the latter half of the month in time to be reflected on one of the next two invoices.

(6) On or before October 1, 2015, registered carriers that offer qualified health plans and wish to enroll individuals and families directly shall have completed implementation of any necessary information technology upgrades.

(c) If Vermont Health Connect fails to meet one or more of the milestones set forth in subsection (b) of this section, the Agency of Administration shall begin exploring with the U.S. Department of Health and Human Services a transition to a federally supported State-based marketplace (FSSBM). The Chief of Health Care Reform shall report on the status of the exploration at the next scheduled meetings of the Joint Fiscal Committee and the Health Reform Oversight Committee.

(d) The Joint Fiscal Committee may at any time direct the Chief of Health Care Reform to prepare an analysis and potential implementation plan regarding a transition from Vermont Health Connect to a different model for Vermont's health benefit exchange, including an FSSBM, and to present information about such a transition, including:

(1) the outcome of King v. Burwell, Docket No. 14-114 (U.S. Supreme Court), relating to whether federal advance premium tax credits will be available to reduce the cost of health insurance provided through a federally facilitated exchange, and the likely impacts on Vermont individuals and families if the State moves to an FSSBM or to another exchange model;

(2) whether it is feasible to offer State premium and cost-sharing assistance to individuals and families purchasing qualified health plans through an FSSBM or through another exchange model, how such assistance could be implemented, whether federal financial participation would be available through the Medicaid program, and applicable cost implications;

(3) how the Department of Financial Regulation's and Green Mountain Care Board's regulatory authority over health insurers and qualified health plans would be affected, including the timing of health insurance rate and form review;

(4) any impacts on the State's other health care reform efforts, including the Blueprint for Health and payment reform initiatives;

(5) any available estimates of the costs attributable to a transition from a State-based exchange to an FSSBM or to another exchange model; and

(6) whether any new developments have occurred that affect the availability of additional alternatives that would be more beneficial to Vermonters by minimizing negative effects on individuals and families enrolling in qualified health plans, reducing the financial impacts of the transition to an alternative model, lessening the administrative burden of the transition on the registered carriers, and decreasing the potential impacts on the State's health insurance regulatory framework.

(e) On or before November 15, 2015, the Chief of Health Care Reform shall provide the Joint Fiscal Committee and Health Reform Oversight Committee with a recommendation regarding the future of Vermont's health benefit exchange, including a proposed timeline for 2016. The Chief's recommendation shall include an analysis of whether the recommended course of action would be likely to minimize any negative effects on individuals and families enrolling in qualified health plans, the financial impacts of the transition, the ability of the registered carriers to accomplish the transition, and the potential impacts of the transition on the State's health insurance regulatory framework.

(1)(A) If the Chief of Health Care Reform recommends requesting approval from the U.S. Department of Health and Human Services to allow Vermont to transition to an FSSBM, then on or before December 1, 2015, the Joint Fiscal Committee shall determine whether to concur with the recommendation. In determining whether to concur, the Joint Fiscal Committee shall consider whether the transition to an FSSBM would be likely to minimize any negative effects on individuals and families enrolling in qualified health plans, the financial impacts of the transition, the ability of the registered carriers to accomplish the transition, and the potential impacts of the transition on the State's health insurance regulatory framework. The Joint Fiscal Committee shall also consider relevant input offered by legislative committees of jurisdiction.

(B) If the Chief of Health Care Reform recommends requesting approval from the U.S. Department of Health and Human Services to allow Vermont to transition from a State-based exchange to an FSSBM and the Joint Fiscal Committee concurs with that recommendation, the Chief of Health Care Reform and the Commissioner of Vermont Health Access shall:

(i) prior to December 31, 2015, request that the U.S. Department of Health and Human Services begin the approval process with the Department of Vermont Health Access; and

(ii) on or before January 15, 2016, provide to the House Committee on Health Care and the Senate Committees on Health and Welfare and on Finance the recommended statutory changes necessary to align with operating an FSSBM if approved by the U.S. Department of Health and Human Services.

(2) If the Chief of Health Care Reform either does not recommend that Vermont transition to an FSSBM or the Joint Fiscal Committee does not concur with the Chief's recommendation to transition to an FSSBM, the Chief of Health Care Reform shall submit information to the House Committee on Health Care and the Senate Committees on Health and Welfare and on Finance on or before January 15, 2016 regarding the advantages and disadvantages of alternative models and options for Vermont's health benefit exchange and the proposed statutory changes that would be necessary to accomplish them.

* * * Cigarette and Tobacco Taxes * * *

Sec. 30. 32 V.S.A. § 7771 is amended to read:

§ 7771. RATE OF TAX

* * *

(d) The tax imposed under this section shall be at the rate of ~~137.5~~ 142.5 mills per cigarette or little cigar and for each 0.0325 ounces of roll-your-own tobacco. The interest and penalty provisions of section 3202 of this title shall apply to liabilities under this section.

Sec. 30a. 32 V.S.A. § 7811 is amended to read:

§ 7811. IMPOSITION OF TOBACCO PRODUCTS TAX

There is hereby imposed and shall be paid a tax on all other tobacco products, snuff, and new smokeless tobacco possessed in the State of Vermont by any person for sale on and after July 1, 1959 which were imported into the State or manufactured in the State after that date, except that no tax shall be imposed on tobacco products sold under such circumstances that this State is without power to impose such tax, or sold to the United States, or sold to or by a voluntary unincorporated organization of the U.S. Armed Forces operating a place for the sale of goods pursuant to regulations promulgated by the appropriate executive agency of the United States. The tax is intended to be imposed only once upon the wholesale sale of any other tobacco product and shall be at the rate of 92 percent of the wholesale price for all tobacco products except tobacco substitutes, which shall be taxed at a rate of 46 percent of the

wholesale price, snuff, which shall be taxed at ~~\$2.29~~ \$2.38 per ounce, or fractional part thereof, new smokeless tobacco, which shall be taxed at the greater of ~~\$2.29~~ \$2.38 per ounce or, if packaged for sale to a consumer in a package that contains less than 1.2 ounces of the new smokeless tobacco, at the rate of ~~\$2.75~~ \$2.85 per package, and cigars with a wholesale price greater than \$2.17, which shall be taxed at the rate of \$2.00 per cigar if the wholesale price of the cigar is greater than \$2.17 and less than \$10.00, and at the rate of \$4.00 per cigar if the wholesale price of the cigar is \$10.00 or more. Provided, however, that upon payment of the tax within 10 days, the distributor or dealer may deduct from the tax two percent of the tax due. It shall be presumed that all other tobacco products, snuff, and new smokeless tobacco within the State are subject to tax until the contrary is established and the burden of proof that any other tobacco products, snuff, and new smokeless tobacco are not taxable hereunder shall be upon the person in possession thereof. Licensed wholesalers of other tobacco products, snuff, and new smokeless tobacco shall state on the invoice whether the price includes the Vermont tobacco products tax.

Sec. 30b. 32 V.S.A. § 7814 is amended to read:

§ 7814. FLOOR STOCK TAX

(a) Snuff. A floor stock tax is hereby imposed upon every retail dealer of snuff in this State in the amount by which the new tax exceeds the amount of the tax already paid on the snuff. The tax shall apply to snuff in the possession or control of the retail dealer at 12:01 a.m. on July 1, ~~2014~~ 2015, but shall not apply to retail dealers who hold less than \$500.00 in wholesale value of such snuff. Each retail dealer subject to the tax shall, on or before July 25, ~~2014~~ 2015, file a report to the Commissioner in such form as the Commissioner may prescribe showing the snuff on hand at 12:01 a.m. on July 1, ~~2014~~ 2015, and the amount of tax due thereon. The tax imposed by this section shall be due and payable on or before August 25, ~~2014~~ 2015, and thereafter shall bear interest at the rate established under section 3108 of this title. In case of timely payment of the tax, the retail dealer may deduct from the tax due two percent of the tax. Any snuff with respect to which a floor stock tax has been imposed and paid under this section shall not again be subject to tax under section 7811 of this title.

(b) Cigarettes, little cigars, or roll-your-own tobacco. Notwithstanding the prohibition against further tax on stamped cigarettes, little cigars, or roll-your-own tobacco under section 7771 of this title, a floor stock tax is hereby imposed upon every dealer of cigarettes, little cigars, or roll-your-own tobacco in this State who is either a wholesaler, or a retailer who at 12:01 a.m. on July 1, ~~2014~~ 2015, has more than 10,000 cigarettes or little cigars or who

has \$500.00 or more of wholesale value of roll-your-own tobacco, for retail sale in his or her possession or control. The amount of the tax shall be the amount by which the new tax exceeds the amount of the tax already paid for each cigarette, little cigar, or roll-your-own tobacco in the possession or control of the wholesaler or retail dealer at 12:01 a.m. on July 1, ~~2014~~ 2015, and on which cigarette stamps have been affixed before July 1, ~~2014~~ 2015. A floor stock tax is also imposed on each Vermont cigarette stamp in the possession or control of the wholesaler at 12:01 a.m. on July 1, ~~2014~~ 2015, and not yet affixed to a cigarette package, and the tax shall be at the rate of ~~\$0.13~~ \$0.10 per stamp. Each wholesaler and retail dealer subject to the tax shall, on or before July 25, ~~2014~~ 2015, file a report to the Commissioner in such form as the Commissioner may prescribe showing the cigarettes, little cigars, or roll-your-own tobacco and stamps on hand at 12:01 a.m. on July 1, ~~2014~~ 2015, and the amount of tax due thereon. The tax imposed by this section shall be due and payable on or before July 25, ~~2014~~ 2015, and thereafter shall bear interest at the rate established under section 3108 of this title. In case of timely payment of the tax, the wholesaler or retail dealer may deduct from the tax due two and three-tenths of one percent of the tax. Any cigarettes, little cigars, or roll-your-own tobacco with respect to which a floor stock tax has been imposed under this section shall not again be subject to tax under section 7771 of this title.

Sec. 30c. 32 V.S.A. § 7771 is amended to read:

§ 7771. RATE OF TAX

* * *

(d) The tax imposed under this section shall be at the rate of ~~142.5~~ 154 mills per cigarette or little cigar and for each 0.0325 ounces of roll-your-own tobacco. The interest and penalty provisions of section 3202 of this title shall apply to liabilities under this section.

Sec. 30d. 32 V.S.A. § 7811 is amended to read:

§ 7811. IMPOSITION OF TOBACCO PRODUCTS TAX

There is hereby imposed and shall be paid a tax on all other tobacco products, snuff, and new smokeless tobacco possessed in the State of Vermont by any person for sale on and after July 1, 1959 which were imported into the State or manufactured in the State after that date, except that no tax shall be imposed on tobacco products sold under such circumstances that this State is without power to impose such tax, or sold to the United States, or sold to or by a voluntary unincorporated organization of the U.S. Armed Forces operating a place for the sale of goods pursuant to regulations promulgated by the appropriate executive agency of the United States. The tax is intended to be

imposed only once upon the wholesale sale of any other tobacco product and shall be at the rate of 92 percent of the wholesale price for all tobacco products except tobacco substitutes, which shall be taxed at a rate of 46 percent of the wholesale price, snuff, which shall be taxed at ~~\$2.38~~ \$2.57 per ounce, or fractional part thereof, new smokeless tobacco, which shall be taxed at the greater of ~~\$2.38~~ \$2.57 per ounce or, if packaged for sale to a consumer in a package that contains less than 1.2 ounces of the new smokeless tobacco, at the rate of ~~\$2.85~~ \$3.08 per package, and cigars with a wholesale price greater than \$2.17, which shall be taxed at the rate of \$2.00 per cigar if the wholesale price of the cigar is greater than \$2.17 and less than \$10.00, and at the rate of \$4.00 per cigar if the wholesale price of the cigar is \$10.00 or more. Provided, however, that upon payment of the tax within 10 days, the distributor or dealer may deduct from the tax two percent of the tax due. It shall be presumed that all other tobacco products, snuff, and new smokeless tobacco within the State are subject to tax until the contrary is established and the burden of proof that any other tobacco products, snuff, and new smokeless tobacco are not taxable hereunder shall be upon the person in possession thereof. Licensed wholesalers of other tobacco products, snuff, and new smokeless tobacco shall state on the invoice whether the price includes the Vermont tobacco products tax.

Sec. 30e. 32 V.S.A. § 7814 is amended to read:

§ 7814. FLOOR STOCK TAX

(a) Snuff. A floor stock tax is hereby imposed upon every retail dealer of snuff in this State in the amount by which the new tax exceeds the amount of the tax already paid on the snuff. The tax shall apply to snuff in the possession or control of the retail dealer at 12:01 a.m. on July 1, ~~2015~~ 2016, but shall not apply to retail dealers who hold less than \$500.00 in wholesale value of such snuff. Each retail dealer subject to the tax shall, on or before July 25, ~~2015~~ 2016, file a report to the Commissioner in such form as the Commissioner may prescribe showing the snuff on hand at 12:01 a.m. on July 1, ~~2015~~ 2016, and the amount of tax due thereon. The tax imposed by this section shall be due and payable on or before August 25, ~~2015~~ 2016, and thereafter shall bear interest at the rate established under section 3108 of this title. In case of timely payment of the tax, the retail dealer may deduct from the tax due two percent of the tax. Any snuff with respect to which a floor stock tax has been imposed and paid under this section shall not again be subject to tax under section 7811 of this title.

(b) Cigarettes, little cigars, or roll-your-own tobacco. Notwithstanding the prohibition against further tax on stamped cigarettes, little cigars, or roll-your-own tobacco under section 7771 of this title, a floor stock tax is

hereby imposed upon every dealer of cigarettes, little cigars, or roll-your-own tobacco in this State who is either a wholesaler, or a retailer who at 12:01 a.m. on July 1, ~~2015~~ 2016, has more than 10,000 cigarettes or little cigars or who has \$500.00 or more of wholesale value of roll-your-own tobacco, for retail sale in his or her possession or control. The amount of the tax shall be the amount by which the new tax exceeds the amount of the tax already paid for each cigarette, little cigar, or roll-your-own tobacco in the possession or control of the wholesaler or retail dealer at 12:01 a.m. on July 1, ~~2015~~ 2016, and on which cigarette stamps have been affixed before July 1, ~~2015~~ 2016. A floor stock tax is also imposed on each Vermont cigarette stamp in the possession or control of the wholesaler at 12:01 a.m. on July 1, ~~2015~~ 2016, and not yet affixed to a cigarette package, and the tax shall be at the rate of ~~\$0.43~~ \$0.23 per stamp. Each wholesaler and retail dealer subject to the tax shall, on or before July 25, ~~2015~~ 2016, file a report to the Commissioner in such form as the Commissioner may prescribe showing the cigarettes, little cigars, or roll-your-own tobacco and stamps on hand at 12:01 a.m. on July 1, ~~2015~~ 2016, and the amount of tax due thereon. The tax imposed by this section shall be due and payable on or before July 25, ~~2015~~ 2016, and thereafter shall bear interest at the rate established under section 3108 of this title. In case of timely payment of the tax, the wholesaler or retail dealer may deduct from the tax due two and three-tenths of one percent of the tax. Any cigarettes, little cigars, or roll-your-own tobacco with respect to which a floor stock tax has been imposed under this section shall not again be subject to tax under section 7771 of this title.

* * * Meals and Room Tax * * *

Sec. 30f. 32 V.S.A. § 9202 is amended to read:

§ 9202. DEFINITIONS

* * *

(10) "Taxable meal" means:

(A) Any food or beverage furnished within the State by a restaurant for which a charge is made, including admission and minimum charges, whether furnished for consumption on or off the premises.

(B) Where furnished by other than a restaurant, any nonprepackaged food or beverage furnished within the State and for which a charge is made, including admission and minimum charges, whether furnished for consumption on or off the premises. Fruits, vegetables, candy, flour, nuts, coffee beans, and similar unprepared grocery items sold self-serve for take-out from bulk containers are not subject to tax under this subdivision.

(C) Regardless where sold and whether or not prepackaged:

- (i) sandwiches of any kind except frozen;
- (ii) food or beverage furnished from a salad bar;
- (iii) heated food or beverage;
- (iv) food or beverage sold through a vending machine.

* * *

(19) "Vending machine" means a machine operated by coin, currency, credit card, slug, token, coupon, or similar device that dispenses food or beverages.

Sec. 30g. 32 V.S.A. § 9271 is amended to read:

§ 9271. LICENSES REQUIRED

Each operator prior to commencing business shall register with the Commissioner each place of business within the ~~state~~ State where he or she operates a hotel or sells taxable meals or alcoholic beverages; provided however, that an operator who sells taxable meals through a vending machine shall not be required to hold a license for each individual machine. Upon receipt of an application in such form and containing such information as the Commissioner may require for the proper administration of this chapter, the Commissioner shall issue without charge a license for each such place in such form as he or she may determine, attesting that such registration has been made. No person shall engage in serving taxable meals or alcoholic beverages or renting hotel rooms without the license provided in this section. The license shall be nonassignable and nontransferable and shall be surrendered to the Commissioner, if the business is sold or transferred or if the registrant ceases to do business at the place named.

* * * Sales Tax * * *

Sec. 30h. 32 V.S.A. § 9701(31) is amended to read:

(31) "Food and food ingredients" means substances, whether in liquid, concentrated, solid, frozen, dried, or dehydrated form, that are sold for ingestion or chewing by humans and are consumed for their taste or nutritional value. "Food and food ingredients" does not include alcoholic beverages ~~or~~, tobacco, soft drinks, or candy.

* * *

(53) "Soft drink" means nonalcoholic beverages that contain natural or artificial sweeteners. "Soft drinks" do not include beverages that contain milk or milk products, soy, rice, or similar milk substitutes, or greater than 50 percent of vegetable or fruit juice by volume.

(54) "Candy" means a preparation of sugar, honey, or other natural or artificial sweeteners in combination with chocolate, fruits, nuts, or other ingredients or flavorings in the form of bars, drops, or pieces. "Candy" shall not include any preparation containing flour and shall require no refrigeration.

* * * Nonresidential Education Property Tax Rate * * *

Sec. 30i. FISCAL YEAR 2016 NONRESIDENTIAL PROPERTY TAX RATE

Notwithstanding any other provision of law, for fiscal year 2016 only, the nonresidential education property tax imposed under 32 V.S.A. § 5402(a)(1) shall be reduced from the rate of \$1.59 to \$1.515.

Sec. 30j. ELECTRONIC CIGARETTES; REVENUE

Notwithstanding the provisions of 32 V.S.A. § 7823 and 33 V.S.A. § 1910d, the Department of Finance and Management shall determine the amount to be raised by the taxation of electronic cigarettes by this act in fiscal year 2016 and shall reserve that amount in the Tobacco Trust Fund established pursuant to 18 V.S.A. § 9502.

* * * Electronic Cigarettes * * *

Sec. 31a. 7 V.S.A. § 1003(d) is amended to read:

(d)(1) ~~No person holding a tobacco license shall display or store tobacco products or tobacco substitutes where those products are accessible to consumers without direct assistance by the sales personnel~~ Persons holding a tobacco license may only display or store tobacco products or tobacco substitutes:

(A) behind a sales counter in an area accessible only to sales personnel; or

(B) in a locked container that is not located on a sales counter.

(2) This subsection shall not apply to the following:

(1)(A) A display of tobacco products that is located in a commercial establishment in which by law no person younger than 18 years of age is permitted to enter at any time;

(2)(B) Cigarettes cigarettes in unopened cartons and smokeless tobacco in unopened multipack containers of 10 or more packages, any of which shall be displayed in plain view and under the control of a responsible employee so that removal of the cartons or multipacks from the display can be readily observed by that employee; or

~~(3)(C)~~ Cigars cigars and pipe tobacco stored in a humidor on the sales counter in plain view and under the control of a responsible employee so that the removal of these products from the humidor can be readily observed by that employee.

Sec. 31b. 18 V.S.A. § 1421 is amended to read:

§ 1421. SMOKING IN THE WORKPLACE; PROHIBITION

(a) The use of lighted tobacco products and tobacco substitutes is prohibited in any workplace.

(b)(1) As used in this subchapter, “workplace” means an enclosed structure where employees perform services for an employer, including restaurants, bars, and other establishments in which food or drinks, or both, are served. In the case of an employer who assigns employees to departments, divisions, or similar organizational units, “workplace” means the enclosed portion of a structure to which the employee is assigned.

(2) Except for schools, workplace does not include areas commonly open to the public or any portion of a structure that also serves as the employee’s or employer’s personal residence.

(3) For schools, workplace includes any enclosed location where instruction or other school-sponsored functions are occurring.

(4) For lodging establishments used for transient traveling or public vacationing, such as resorts, hotels, and motels, workplace includes the sleeping quarters and adjoining rooms rented to guests.

(5) The prohibition on using tobacco substitutes in a workplace shall not apply to a business that does not sell food or beverages but is established for the purpose of providing a setting for patrons to purchase and use electronic cigarettes and related paraphernalia.

(c) Nothing in this section shall be construed to restrict the ability of residents of the Vermont ~~veterans’ home~~ Veterans’ Home to use lighted tobacco products or tobacco substitutes in the indoor area of the facility in which smoking is permitted.

Sec. 31c. 18 V.S.A. § 1741 is amended to read:

§ 1741. DEFINITIONS

As used in this chapter:

* * *

(5) “Tobacco substitutes” shall have the same meaning as in 7 V.S.A. § 1001.

Sec. 31d. 18 V.S.A. § 1742 is amended to read:

§ 1742. RESTRICTIONS ON SMOKING IN PUBLIC PLACES

(a) The possession of lighted tobacco products or use of tobacco substitutes in any form is prohibited in:

(1) the common areas of all enclosed indoor places of public access and publicly owned buildings and offices;

(2) all enclosed indoor places in lodging establishments used for transient traveling or public vacationing, such as resorts, hotels, and motels, including sleeping quarters and adjoining rooms rented to guests;

(3) designated smoke-free areas of property or grounds owned by or leased to the State; and

(4) any other area within 25 feet of State-owned buildings and offices, except that to the extent that any portion of the 25-foot zone is not on State property, smoking is prohibited only in that portion of the zone that is on State property unless the owner of the adjoining property chooses to designate his or her property smoke-free.

(b) The possession of lighted tobacco products or use of tobacco substitutes in any form is prohibited on the grounds of any hospital or secure residential recovery facility owned or operated by the State, including all enclosed places in the hospital or facility and the surrounding outdoor property.

(c) Nothing in this section shall be construed to restrict the ability of residents of the Vermont Veterans' Home to use lighted tobacco products or tobacco substitutes in the indoor area of the facility in which smoking is permitted.

(d) Nothing in this chapter shall be construed to prohibit the use of tobacco substitutes in a business that does not sell food or beverages but is established for the purpose of providing a setting for patrons to purchase and use electronic cigarettes and related paraphernalia.

Sec. 31e. 18 V.S.A. § 1743 is amended to read:

§ 1743. EXCEPTIONS

The restrictions in this chapter on possession of lighted tobacco products and use of tobacco substitutes do not apply to areas not commonly open to the public of owner-operated businesses with no employees.

Sec. 31f. 18 V.S.A. § 1745 is amended to read:

§ 1745. ENFORCEMENT

A proprietor, or the agent or employee of a proprietor, who observes a person in possession of lighted tobacco products or using tobacco substitutes in apparent violation of this chapter shall ask the person to extinguish all lighted tobacco products or cease using the tobacco substitutes. If the person persists in the possession of lighted tobacco products or use of tobacco substitutes, the proprietor, agent, or employee shall ask the person to leave the premises.

Sec. 31g. 23 V.S.A. § 1134b is amended to read:

§ 1134b. SMOKING IN MOTOR VEHICLE WITH CHILD PRESENT

(a) A person shall not possess a lighted tobacco product or use a tobacco substitute in a motor vehicle that is occupied by a child required to be properly restrained in a federally approved child passenger restraining system pursuant to subdivision 1258(a)(1) or (2) of this title.

(b) A person who violates subsection (a) of this section shall be subject to a fine of not more than \$100.00. No points shall be assessed for a violation of this section.

Sec. 31h. 32 V.S.A. § 7702(15) is amended to read:

(15) "Other tobacco products" means any product manufactured from, derived from, or containing tobacco that is intended for human consumption by smoking, chewing, or in any other manner, including products sold as a tobacco substitute, as defined in 7 V.S.A. § 1001(8); but shall not include cigarettes, little cigars, roll-your-own tobacco, snuff, or new smokeless tobacco as defined in this section.

* * * Repeal * * *

Sec. 32. REPEAL

12 V.S.A. chapter 215, subchapter 2 (presuit mediation) is repealed on July 1, 2018.

* * * Effective Dates * * *

Sec. 33. EFFECTIVE DATES

(a) Secs. 1 and 2 (pharmacy benefit managers), 4a (report on observation status), 5 and 6 (reports), 15 (consumer information), 21 (Green Mountain Care Board duties), 21a (impact of rate-setting authority), 22 (VITL), 23 (referral registry), 24 (ambulance reimbursement), 27 (extension of presuit mediation), 28 (Blueprint for Health; reports), 28a (obesity data review), 29 (Green Mountain Care Board; payment reform), 29a–29d (Exchange

alternatives and reports), 32 (repeal), and this section shall take effect on passage.

(b) Secs. 7 and 8 (Exchange cost-sharing subsidies), 9 (primary care provider increases), 10 (Blueprint increases), 11 (AHEC appropriation), 12 (Green Mountain Care Board appropriation), 13 (Green Mountain Care Board positions), 14 (Health Care Advocate), and 16–20 (primary care study) shall take effect on July 1, 2015.

(c) Secs. 25 and 26 (direct enrollment in Exchange plans) shall take effect on July 1, 2015 and shall apply beginning with the 2016 open enrollment period.

(d) Secs. 3 and 4 (notice of hospital observation status) shall take effect on December 1, 2015.

(e) Secs. 30 (cigarette tax), 30a (tobacco products tax), 30b (floor stock tax), 30f (meals and rooms tax definitions), 30g (meals and rooms tax licenses), 30h (sales tax definitions), 30i (property tax), 30j (electronic cigarette revenue), 31a–31g (electronic cigarettes), and 31h (tax on electronic cigarettes) shall take effect July 1, 2015. The Tax Department shall provide to vendors subject to the sales tax under this act outreach, education, and ongoing support to implement the tax effectively.

(f) Secs. 30c (cigarette tax), 30d (tobacco products tax), and 30e (floor stock tax) shall take effect July 1, 2016.

and that after passage the title of the bill be amended to read: "An act relating to health care".

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

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

* * * Cost Containment Measures * * *

Sec. 1. ALL-PAYER MODEL; SCOPE

The Secretary of Administration or designee and the Green Mountain Care Board shall jointly explore an all-payer model, which may be achieved through a waiver from the Centers for Medicare and Medicaid Services. The Secretary or designee and the Board shall consider a model that includes payment for a broad array of health services, a model applicable to hospitals only, and a model that enables the State to establish global hospital budgets for each hospital licensed in Vermont.

* * * Pharmacy Benefit Managers * * *

Sec. 2. 18 V.S.A. § 9471 is amended to read:

§ 9471. DEFINITIONS

As used in this subchapter:

* * *

(6) “Maximum allowable cost” means the per unit drug product reimbursement amount, excluding dispensing fees, for a group of equivalent multisource generic prescription drugs.

Sec. 3. 18 V.S.A. § 9473 is amended to read:

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

* * *

(c) For each drug for which a pharmacy benefit manager establishes a maximum allowable cost in order to determine the reimbursement rate, the pharmacy benefit manager shall do all of the following:

(1) Make available, in a format that is readily accessible and understandable by a pharmacist, the actual maximum allowable cost for each drug and the source used to determine the maximum allowable cost.

(2) Update the maximum allowable cost at least once every seven calendar days. In order to be subject to maximum allowable cost, a drug must be widely available for purchase by all pharmacies in the State, without limitations, from national or regional wholesalers and must not be obsolete or temporarily unavailable.

(3) Establish or maintain a reasonable administrative appeals process to allow a dispensing pharmacy provider to contest a listed maximum allowable cost.

(4) Respond in writing to any appealing pharmacy provider within 10 calendar days after receipt of an appeal, provided that a dispensing pharmacy provider shall file any appeal within 10 calendar days from the date its claim for reimbursement is adjudicated.

* * * Notice of Hospital Observation Status * * *

Sec. 4. 18 V.S.A. § 1905 is amended to read:

§ 1905. LICENSE REQUIREMENTS

Upon receipt of an application for license and the license fee, the licensing agency shall issue a license when it determines that the applicant and hospital facilities meet the following minimum standards:

* * *

(22) All hospitals shall provide oral and written notices to each individual that the hospital places in observation status as required by section 1911a of this title.

Sec. 5. 18 V.S.A. § 1911a is added to read:

1911a. NOTICE OF HOSPITAL OBSERVATION STATUS

(a)(1) Each hospital shall provide oral and written notice to each Medicare beneficiary that the hospital places in observation status as soon as possible but no later than 24 hours following such placement, unless the individual is discharged or leaves the hospital before the 24-hour period expires. The written notice shall be a uniform form developed by the Department of Health, in consultation with interested stakeholders, for use in all hospitals.

(2) If a patient is admitted to the hospital as an inpatient before the notice of observation has been provided, and under Medicare rules the observation services may be billed as part of the inpatient stay, the hospital shall not be required to provide notice of observation status.

(b) Each oral and written notice shall include:

(1) a statement that the individual is under observation as an outpatient and is not admitted to the hospital as an inpatient;

(2) a statement that observation status may affect the individual's Medicare coverage for hospital services, including medications and pharmaceutical supplies, and for rehabilitative or skilled nursing services at a skilled nursing facility if needed upon discharge from the hospital; and

(3) a statement that the individual may contact the Office of the Health Care Advocate or the Vermont State Health Insurance Assistance Program to understand better the implications of placement in observation status.

(c) Each written notice shall include the name and title of the hospital representative who gave oral notice; the date and time oral and written notice were provided; the means by which written notice was provided, if not provided in person; and contact information for the Office of the Health Care Advocate and the Vermont State Health Insurance Assistance Program.

(d) Oral and written notice shall be provided in a manner that is understandable by the individual placed in observation status or by his or her representative or legal guardian.

(e) The hospital representative who provided the written notice shall request a signature and date from the individual or, if applicable, his or her representative or legal guardian, to verify receipt of the notice. If a signature

and date were not obtained, the hospital representative shall document the reason.

Sec. 6. NOTICE OF OBSERVATION STATUS FOR PATIENTS WITH COMMERCIAL INSURANCE

The General Assembly requests that the Vermont Association of Hospitals and Health Systems and the Office of the Health Care Advocate consider the appropriate notice of hospital observation status that patients with commercial insurance should receive and the circumstances under which such notice should be provided. The General Assembly requests that the Vermont Association of Hospitals and Health Systems and the Office of the Health Care Advocate provide their findings and recommendations to the House Committee on Health Care and the Senate Committee on Health and Welfare on or before January 15, 2016.

* * * Telemedicine * * *

Sec. 7. 33 V.S.A. § 1901i is added to read:

§ 1901i. MEDICAID COVERAGE FOR PRIMARY CARE TELEMEDICINE

(a) Beginning on October 1, 2015, the Department of Vermont Health Access shall provide reimbursement for Medicaid-covered primary care consultations delivered through telemedicine to Medicaid beneficiaries outside a health care facility. The Department shall reimburse health care professionals for telemedicine consultations in the same manner as if the services were provided through in-person consultation. Coverage provided pursuant to this section shall comply with all federal requirements imposed by the Centers for Medicare and Medicaid Services.

(b) Medicaid shall only provide coverage for services delivered through telemedicine outside a health care facility that have been determined by the Department's Chief Medical Officer to be clinically appropriate. The Department shall not impose limitations on the number of telemedicine consultations a Medicaid beneficiary may receive or on which Medicaid beneficiaries may receive primary care consultations through telemedicine that exceed limitations otherwise placed on in-person Medicaid covered services.

(c) As used in this section:

(1) "Health care facility" shall have the same meaning as in 18 V.S.A. § 9402.

(2) "Health care provider" means a physician licensed pursuant to 26 V.S.A. chapter 23 or 33, a naturopathic physician licensed pursuant to 26 V.S.A. chapter 81, an advanced practice registered nurse licensed pursuant

to 26 V.S.A. chapter 28, subchapter 3, or a physician assistant licensed pursuant to 26 V.S.A. chapter 31.

(3) “Telemedicine” means the delivery of health care services such as diagnosis, consultation, or treatment through the use of live interactive audio and video over a secure connection that complies with the requirements of the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191. Telemedicine does not include the use of audio-only telephone, e-mail, or facsimile.

Sec. 8. TELEMEDICINE; IMPLEMENTATION REPORT

On or before April 15, 2016, the Department of Vermont Health Access shall submit to the House Committee on Health Care and the Senate Committees on Health and Welfare and on Finance a report providing data regarding the first six months of implementation of Medicaid coverage for primary care consultations delivered through telemedicine outside a health care facility. The report shall include demographic information regarding Medicaid beneficiaries receiving the telemedicine services, the types of services received, and an analysis of the effects of providing primary care consultations through telemedicine outside a health care facility on health care costs, quality, and access.

* * * Green Mountain Care Board; Duties * * *

Sec. 9. 18 V.S.A. § 9375(b) is amended to read:

(b) The Board shall have the following duties:

(1) Oversee the development and implementation, and evaluate the effectiveness, of health care payment and delivery system reforms designed to control the rate of growth in health care costs and maintain health care quality in Vermont, including ensuring that the payment reform pilot projects set forth in this chapter are consistent with such reforms.

(A) Implement by rule, pursuant to 3 V.S.A. chapter 25, methodologies for achieving payment reform and containing costs that may include the participation of Medicare and Medicaid, which may include the creation of health care professional cost-containment targets, global payments, bundled payments, global budgets, risk-adjusted capitated payments, or other uniform payment methods and amounts for integrated delivery systems, health care professionals, or other provider arrangements.

(i) The Board shall work in collaboration with providers to develop payment models that preserve access to care and quality in each community.

(ii) The rule shall take into consideration current Medicare designations and payment methodologies, including critical access hospitals, prospective payment system hospitals, graduate medical education payments, Medicare dependent hospitals, and federally qualified health centers.

(iii) The payment reform methodologies developed by the Board shall encourage coordination and planning on a regional basis, taking into account existing local relationships between providers and human services organizations.

* * *

(2)(A) Review and approve Vermont's statewide Health Information Technology Plan pursuant to section 9351 of this title to ensure that the necessary infrastructure is in place to enable the State to achieve the principles expressed in section 9371 of this title. In performing its review, the Board shall consult with and consider any recommendations regarding the plan received from the Vermont Information Technology Leaders, Inc. (VITL).

(B) Review and approve the criteria required for health care providers and health care facilities to create or maintain connectivity to the State's health information exchange as set forth in section 9352 of this title. Within 90 days following this approval, the Board shall issue an order explaining its decision.

(C) Annually review the budget and all activities of VITL and approve the budget, consistent with available funds, and the core activities associated with public funding, which shall include establishing the interconnectivity of electronic medical records held by health care professionals and the storage, management, and exchange of data received from such health care professionals, for the purpose of improving the quality of and efficiently providing health care to Vermonters. This review shall take into account VITL's responsibilities pursuant to 18 V.S.A. § 9352 and the availability of funds needed to support those responsibilities.

* * *

Sec. 10. 18 V.S.A. § 9376(b)(2) is amended to read:

(2) Nothing in this subsection shall be construed to:

(A) limit the ability of a health care professional to accept less than the rate established in subdivision (1) of this subsection from a patient without health insurance or other coverage for the service or services received; or

(B) reduce or limit the covered services offered by Medicare or Medicaid.

* * * Vermont Information Technology Leaders * * *

Sec. 11. 18 V.S.A. § 9352 is amended to read:

§ 9352. VERMONT INFORMATION TECHNOLOGY LEADERS

(a)(1) Governance. ~~The General Assembly and the Governor shall each appoint one representative to the~~ Vermont Information Technology Leaders, Inc. (VITL) Board of Directors shall consist of no fewer than nine nor more than 14 members. The term of each member shall be two years, except that of the members first appointed, approximately one-half shall serve a term of one year and approximately one-half shall serve a term of two years, and members shall continue to hold office until their successors have been duly appointed. The Board of Directors shall comprise the following:

(A) one member of the General Assembly, appointed jointly by the Speaker of the House and the President Pro Tempore of the Senate, who shall be entitled to the same per diem compensation and expense reimbursement pursuant to 2 V.S.A. § 406 as provided for attendance at sessions of the General Assembly;

(B) one individual appointed by the Governor;

(C) one representative of the business community;

(D) one representative of health care consumers;

(E) one representative of Vermont hospitals;

(F) one representative of Vermont physicians;

(G) one practicing clinician licensed to practice medicine in Vermont;

(H) one representative of a health insurer licensed to do business in Vermont;

(I) the President of VITL, who shall be an ex officio, nonvoting member;

(J) two individuals familiar with health information technology, at least one of whom shall be the chief technology officer for a health care provider; and

(K) two at-large members.

(2) Except for the members appointed pursuant to subdivisions (1)(A) and (B) of this subsection, whenever a vacancy on the Board occurs, the members of the Board of Directors then serving shall appoint a new member who shall meet the same criteria as the member he or she replaces.

(b) Conflict of interest. In carrying out their responsibilities under this section, Directors of VITL shall be subject to conflict of interest policies established by the Secretary of Administration to ensure that deliberations and decisions are fair and equitable.

(c)(1) Health information exchange operation. VITL shall be designated in the Health Information Technology Plan pursuant to section 9351 of this title to operate the exclusive statewide health information exchange network for this State. The After the Green Mountain Care Board approves VITL's core activities and budget pursuant to chapter 220 of this title, the Secretary of Administration or designee shall enter into procurement grant agreements with VITL pursuant to 8 V.S.A. § 4089k. Nothing in this chapter shall impede local community providers from the exchange of electronic medical data.

(2) Notwithstanding any provision of 3 V.S.A. § 2222 or 2283b to the contrary, upon request of the Secretary of Administration, the Department of Information and Innovation shall review VITL's technology for security, privacy, and interoperability with State government information technology, consistent with the State's health information technology plan required by section 9351 of this title.

* * *

(f) Funding authorization. VITL is authorized to seek matching funds to assist with carrying out the purposes of this section. In addition, it may accept any and all donations, gifts, and grants of money, equipment, supplies, materials, and services from the federal or any local government, or any agency thereof, and from any person, firm, foundation, or corporation for any of its purposes and functions under this section and may receive and use the same, subject to the terms, conditions, and regulations governing such donations, gifts, and grants. VITL shall not use any State funds for health care consumer advertising, marketing, lobbying, or similar services.

* * * Ambulance Reimbursement * * *

Sec. 12. MEDICAID; AMBULANCE REIMBURSEMENT

The Department of Vermont Health Access shall evaluate the methodology used to determine reimbursement amounts for ambulance and emergency medical services delivered to Medicaid beneficiaries to determine the basis for the current reimbursement amounts and the rationale for the current level of reimbursement, and shall consider any possible adjustments to revise the methodology in a way that is budget neutral or of minimal fiscal impact to the Agency of Human Services for fiscal year 2016. On or before December 1, 2015, the Department shall report its findings and recommendations to the House Committees on Health Care and on Human Services, the Senate

Committee on Health and Welfare, and the Health Reform Oversight Committee.

* * * Direct Enrollment for Individuals * * *

Sec. 13. 33 V.S.A. § 1803(b)(4) is amended to read:

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

Sec. 14. 33 V.S.A. § 1811(b) is amended to read:

(b)(1) ~~No person may provide a health benefit plan to an individual unless the plan is offered through the Vermont Health Benefit Exchange~~ To the extent permitted by the U.S. Department of Health and Human Services, an individual may purchase a health benefit plan through the Exchange website, through navigators, by telephone, or directly from a registered carrier under contract with the Vermont Health Benefit Exchange, if the carrier elects to make direct enrollment available. A registered carrier enrolling individuals in health benefit plans directly shall comply with all open enrollment and special enrollment periods applicable to the Vermont Health Benefit Exchange.

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

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

* * * Large Group Insurance Market * * *

Sec. 15. 33 V.S.A. § 1802 is amended to read:

§ 1802. DEFINITIONS

As used in this subchapter:

* * *

(5) “Qualified employer”:

(A) means an entity which employed an average of not more than 50 employees on working days during the preceding calendar year and which:

(i) has its principal place of business in this State and elects to provide coverage for its eligible employees through the Vermont Health Benefit Exchange, regardless of where an employee resides; or

(ii) elects to provide coverage through the Vermont Health Benefit Exchange for all of its eligible employees who are principally employed in this State.

(B) on and after January 1, 2016, shall include an entity which:

(i) employed an average of not more than 100 employees on working days during the preceding calendar year; and

(ii) meets the requirements of subdivisions (A)(i) and (A)(ii) of this subdivision (5).

(C) on and after January 1, ~~2017~~ 2018, shall include all employers meeting the requirements of subdivisions (A)(i) and (ii) of this subdivision (5), regardless of size.

* * *

Sec. 16. 33 V.S.A. § 1804(c) is amended to read:

(c) On and after January 1, ~~2017~~ 2018, a qualified employer shall be an employer of any size which elects to make all of its full-time employees eligible for one or more qualified health plans offered in the Vermont Health Benefit Exchange, and the term “qualified employer” includes self-employed persons. A full-time employee shall be an employee who works more than 30 hours per week.

Sec. 17. LARGE GROUP MARKET; IMPACT ANALYSIS

The Green Mountain Care Board, in consultation with the Department of Financial Regulation, shall analyze the projected impact on rates in the large group health insurance market if large employers are permitted to purchase qualified health plans through the Vermont Health Benefit Exchange beginning in 2018. The analysis shall estimate the impact on premiums for employees in the large group market if the market were to transition from experience rating to community rating beginning with the 2018 plan year.

* * * Universal Primary Care * * *

Sec. 18. PURPOSE

The purpose of Secs. 18 through 21 of this act is to establish the administrative framework and reduce financial barriers as preliminary steps to the implementation of the principles set forth in 2011 Acts and Resolves No. 48 to enable Vermonters to receive necessary health care and examine the cost of providing primary care to all Vermonters without deductibles, coinsurance, or co-payments or, if necessary, with limited cost-sharing.

Sec. 19. DEFINITION OF PRIMARY CARE

As used in Secs. 18 through 21 of this act, “primary care” means health services provided by health care professionals who are specifically trained for and skilled in first-contact and continuing care for individuals with signs, symptoms, or health concerns, not limited by problem origin, organ system, or diagnosis, and includes pediatrics, internal and family medicine, gynecology, primary mental health services, and other health services commonly provided at federally qualified health centers. Primary care does not include dental services.

Sec. 20. COST ESTIMATES FOR UNIVERSAL PRIMARY CARE

(a) On or before October 15, 2015, the Secretary of Administration or designee, in consultation with the Green Mountain Care Board and the Joint Fiscal Office, shall provide to the Joint Fiscal Office a draft estimate of the costs of providing primary care to all Vermont residents, with and without cost-sharing by the patient, beginning on January 1, 2017. The Joint Fiscal Office shall conduct an independent review of the draft estimate and shall provide its comments and feedback to the Secretary or designee on or before December 2, 2015. On or before December 16, 2015, the Secretary of Administration or designee shall provide to the Joint Fiscal Committee, the Health Reform Oversight Committee, the House Committees on Appropriations, on Health Care, and on Ways and Means, and the Senate Committees on Appropriations, on Health and Welfare, and on Finance a finalized report of the costs of providing primary care to all Vermont residents, with and without cost-sharing by the patient, beginning on January 1, 2017. The Joint Fiscal Office shall present its independent review to the same committees by January 6, 2016.

(b) The report shall include an estimate of the cost of primary care to those Vermonters who access it if a universal primary care plan is not implemented, and the sources of funding for that care, including employer-sponsored and individual private insurance, Medicaid, Medicare, and other government-sponsored programs, and patient cost-sharing such as deductibles, coinsurance, and co-payments.

(c) The Secretary of Administration or designee, in collaboration with the Joint Fiscal Office, shall arrange for the actuarial services needed to perform the estimates and analysis required by this section. Departments and agencies of State government and the Green Mountain Care Board shall provide such data to the Joint Fiscal Office as needed to permit the Joint Fiscal Office to perform the estimates and analysis. If necessary, the Joint Fiscal Office may enter into confidentiality agreements with departments, agencies, and the

Board to ensure that confidential information provided to the Office is not further disclosed.

Sec. 21. APPROPRIATION

Up to \$100,000.00 is appropriated from the General Fund to the Agency of Administration, Secretary's Office in fiscal year 2016 to be used for assistance in the calculation of the cost estimates required in Sec. 20 of this act; provided, however, that the appropriation shall be reduced by the amount of any external funds received to carry out the estimates and analysis required by Sec. 20.

* * * Consumer Information * * *

Sec. 22. 18 V.S.A. § 9413 is added to read:

§ 9413. HEALTH CARE QUALITY AND PRICE COMPARISON

Each health insurer with more than 200 covered lives in this State shall establish an Internet-based tool to enable its members to compare the price of medical care in Vermont by service or procedure, including office visits, emergency care, radiologic services, and preventive care such as mammography and colonoscopy. The tool shall include provider quality information as available and to the extent consistent with other applicable laws and regulations. The tool shall allow members to compare price by selecting a specific service or procedure and a geographic region of the State. Based on the criteria specified, the tool shall provide the member with an estimate for each provider of the amount the member would pay for the service or procedure, an estimate of the amount the insurance plan would pay, and an estimate of the combined payments. The price information shall reflect the cost-sharing applicable to a member's specific plan, as well as any remaining balance on the member's deductible for the plan year.

* * * Public Employees' Health Benefits * * *

Sec. 23. PUBLIC EMPLOYEES' HEALTH BENEFITS; REPORT

(a) The Director of Health Care Reform in the Agency of Administration shall identify options and considerations for providing health care coverage to all public employees, including State and judiciary employees, school employees, municipal employees, and State and teacher retirees, in a cost-effective manner that will not trigger the excise tax on high-cost, employer-sponsored health insurance plans imposed pursuant to 26 U.S.C. § 4980I. One of the options to be considered shall be an intermunicipal insurance agreement, as described in 24 V.S.A. chapter 121, subchapter 6.

(b) The Director shall consult with representatives of the Vermont-NEA, the Vermont School Boards Association, the Vermont Education Health Initiative, the Vermont State Employees' Association, the Vermont Troopers

Association, the Vermont League of Cities and Towns, the Department of Human Resources, the Office of the Treasurer, and the Joint Fiscal Office.

(c) On or before November 1, 2015, the Director shall report his or her findings and recommendations to the House Committees on Appropriations, on Education, on General, Housing, and Military Affairs, on Government Operations, on Health Care, and on Ways and Means; the Senate Committees on Appropriations, on Education, on Economic Development, Housing, and General Affairs, on Government Operations, on Health and Welfare, and on Finance; and the Health Reform Oversight Committee.

* * * Provider Payment Parity * * *

Sec. 24. PAYMENT REFORM AND DIFFERENTIAL REIMBURSEMENT TO PROVIDERS

(a) In implementing an all-payer model and provider rate-setting, the Green Mountain Care Board shall consider the effects of differential reimbursement for professional services provided by health care providers employed by academic medical centers and other health care providers and methods for reducing or eliminating such differences, as appropriate.

(b) The Board shall require any health insurer as defined in 18 V.S.A. § 9402 with more than 5,000 covered lives for major medical insurance to develop and submit to the Board, on or before July 1, 2016, an implementation plan for providing fair and equitable reimbursement amounts for professional services to promote parity between professional services provided by academic medical centers and other professionals. Each plan shall ensure that proposed changes to reimbursement create no increase in health insurance premiums or public funding of health care. Any academic medical center located in Vermont shall collaborate in the development of the plan. Upon receipt of such a plan, the Board may direct the health insurer to submit modifications to the plan and may approve, modify, or reject the plan. If the Board approves a plan pursuant to this section, the Board shall require any Vermont academic medical center to accept the reimbursements included in the plan, through the hospital budget process and other appropriate enforcement mechanisms.

(c) The Board shall include a description of its progress on the issues identified in this section in the annual report required by 18 V.S.A. § 9375(d).

* * * Green Mountain Care Board; Payment Reform * * *

Sec. 25. PAYMENT REFORM AND DIFFERENTIAL PAYMENTS TO PROVIDERS

In implementing an all-payer model and provider rate-setting, the Green Mountain Care Board shall consider:

(1) the benefits of prioritizing and expediting payment reform in primary care that shifts away from fee-for-service models;

(2) the impact of hospital acquisitions of independent physician practices on the health care system costs, including any disparities between reimbursements to hospital-owned practices and reimbursements to independent physician practices;

(3) the effects of differential reimbursement for different types of providers when providing the same services billed under the same codes; and

(4) the advantages and disadvantages of allowing health care providers to continue to set their own rates for customers without health insurance or other health care coverage.

* * * Reports * * *

Sec. 26. VERMONT HEALTH CARE INNOVATION PROJECT;
UPDATES

The Project Director of the Vermont Health Care Innovation Project (VHCIP) shall provide an update at least quarterly to the House Committees on Health Care and on Ways and Means, the Senate Committees on Health and Welfare and on Finance, and the Health Reform Oversight Committee regarding VHCIP implementation and the use of the federal State Innovation Model (SIM) grant funds. The Project Director's update shall include information regarding:

(1) the VHCIP pilot projects and other initiatives undertaken using SIM grant funds, including a description of the projects and initiatives, the timing of their implementation, the results achieved, and the replicability of the results;

(2) how the VHCIP projects and initiatives fit with other payment and delivery system reforms planned or implemented in Vermont;

(3) how the VHCIP projects and initiatives meet the goals of improving health care access and quality and reducing costs;

(4) how the VHCIP projects and initiatives will reduce administrative costs;

(5) how the VHCIP projects and initiatives compare to the principles expressed in 2011 Acts and Resolves No. 48;

(6) what will happen to the VHCIP projects and initiatives when the SIM grant funds are no longer available; and

(7) how to protect the State's interest in any health information technology and security functions, processes, or other intellectual property developed through the VHCIP.

Sec. 27. REDUCING DUPLICATION OF SERVICES; REPORT

(a) The Agency of Human Services shall evaluate the services offered by each entity licensed, administered, or funded by the State, including the designated agencies, to provide services to individuals receiving home- and community-based long-term care services or who have developmental disabilities, mental health needs, or substance use disorder. The Agency shall determine areas in which there are gaps in services and areas in which programs or services are inconsistent with the Health Resource Allocation Plan or are overlapping, duplicative, or otherwise not delivered in the most efficient, cost-effective, and high-quality manner and shall develop recommendations for consolidation or other modification to maximize high-quality services, efficiency, service integration, and appropriate use of public funds.

(b) On or before January 15, 2016, the Agency shall report its findings and recommendations to the House Committee on Human Services and the Senate Committee on Health and Welfare.

Sec. 28. REPURPOSING EXCESS HOSPITAL FUNDS

(a) The 2014 Vermont Household Health Insurance Survey indicates that the number of uninsured Vermonters has decreased from 6.8 percent in 2012 to 3.7 percent in 2014, which is a 46 percent reduction in the rate of uninsured. Over the same time, however, hospital funds to support the uninsured have not declined in a manner that is proportionate to the reduction in the number of uninsured the funds are intended to support. Disproportionate Share Hospital (DSH) payments have remained unchanged and will total \$38,289,419.00 in fiscal year 2015, and the amount of “free care” charges in approved hospital budgets was \$53,034,419.00 in fiscal year 2013 and \$58,652,440.00 in fiscal year 2015. The reduction in the number of uninsured Vermonters has increased costs to the General Fund, but the funds allocated in hospital budgets to serve those Vermonters have not “followed the customer.” In essence, these funds are stranded in the hospital budgets to pay for “phantom” uninsured patients.

(b) The Green Mountain Care Board, in its fiscal year 2016 hospital budget review process, shall analyze proposed hospital budgets to identify any stranded dollars and shall report its findings on or before October 15, 2015 to the House Committee on Health Care, the Senate Committees on Health and Welfare and on Finance, the Health Reform Oversight Committee, and the Joint Fiscal Committee. It is the intent of the General Assembly to repurpose the stranded dollars to enhance State spending on the Blueprint for Health.

* * * Medicaid Rates * * *

Sec. 29. PROVIDER RATE SETTING; MEDICAID

(a) The Department of Disabilities, Aging, and Independent Living and the Division of Rate Setting in the Agency of Human Services shall review current reimbursement rates for providers of enhanced residential care, assistive community care, and other long term home-and community-based care services and shall consider ways to:

(1) ensure that rates are reviewed regularly and are sustainable, reasonable, and adequately reflect economic conditions, new home- and community-based services rules, and health system reforms; and

(2) encourage providers to accept residents without regard to their source of payment.

(b) On or before January 15, 2016, the Department and the Agency shall provide their findings and recommendations to the House Committee on Human Services and the Senate Committees on Health and Welfare and on Finance.

* * * Designated Agency Budgets * * *

Sec. 30. GREEN MOUNTAIN CARE BOARD; DESIGNATED AGENCY BUDGETS

The Green Mountain Care Board shall analyze the budget and Medicaid rates of one or more designated agencies providing services to Vermont residents using criteria similar to the Board's review of hospital budgets pursuant to 18 V.S.A. § 9456. The Board shall also consider whether to include designated and specialized service agencies in the all-payer model. On or before January 31, 2016, the Board shall recommend to the House Committees on Appropriations, on Health Care, and on Human Services and the Senate Committees on Appropriations, on Health and Welfare, and on Finance whether the Board should be responsible for the annual review of all designated agency budgets and whether designated and specialized service agencies should be included in the all-payer model.

* * * Rate Increases for Designated Agencies * * *

Sec. 31. DESIGNATED AGENCIES; SPECIALIZED SERVICE AGENCIES; EFFECT OF MEDICAID RATE INCREASE

(a)(1) A designated agency or specialized service agency shall use any additional funding the agency receives as a result of a Medicaid rate increase to provide additional compensation or benefits, or both, to the agency's direct care workers or other employees.

(2) The designated agency or specialized service agency shall designate the direct care workers or other employees who will receive additional compensation or benefits pursuant to subdivision (1) of this subsection, and shall provide the additional compensation and benefits in a manner that the agency determines will best address its recruitment and retention needs.

(3) If the designated agency or specialized service agency is a party to a collective bargaining agreement for the direct care workers or other employees that the agency has designated to receive an increase in compensation or benefits pursuant to subdivision (1) of this subsection, the amount and terms of the increased compensation or benefits shall be determined through collective bargaining between the agency and the exclusive representative of the workers or employees. Nothing in this subsection is intended to prevent a party to the collective bargaining agreement from indicating during negotiations that its previous or current proposal regarding compensation or benefits accounts for an actual or anticipated increase in funding received by the agency as a result of a Medicaid rate increase.

(b) Each designated agency and specialized service agency shall report to the Agency of Human Services regarding its compliance with this section.

* * * Presuit Mediation for Medical Malpractice Claims * * *

Sec. 32. 12 V.S.A. chapter 215, subchapter 2 is added to read:

Subchapter 2. Mediation Prior to Filing a Complaint of Malpractice

§ 7011. PURPOSE

The purpose of mediation prior to filing a medical malpractice case is to identify and resolve meritorious claims and reduce areas of dispute prior to litigation, which will reduce the litigation costs, reduce the time necessary to resolve claims, provide fair compensation for meritorious claims, and reduce malpractice-related costs throughout the system.

§ 7012. PRESUIT MEDIATION; SERVICE

(a) A potential plaintiff may serve upon each known potential defendant a request to participate in presuit mediation prior to filing a civil action in tort or in contract alleging that an injury or death resulted from the negligence of a health care provider and to recover damages resulting from the personal injury or wrongful death.

(b) Service of the request required in subsection (a) of this section shall be in letter form and shall be served on all known potential defendants by certified mail. The date of mailing such request shall toll all applicable statutes of limitations.

(c) The request to participate in presuit mediation shall name all known potential defendants, contain a brief statement of the facts that the potential plaintiff believes are grounds for relief, and be accompanied by a certificate of merit prepared pursuant to section 1051 of this title, and may include other documents or information supporting the potential plaintiff's claim.

(d) Nothing in this chapter precludes potential plaintiffs and defendants from presuit negotiation or other presuit dispute resolution to settle potential claims.

§ 7013. MEDIATION RESPONSE

(a) Within 60 days of service of the request to participate in presuit mediation, each potential defendant shall accept or reject the potential plaintiff's request for presuit mediation by mailing a certified letter to counsel or if the party is unrepresented to the potential plaintiff.

(b) If the potential defendant agrees to participate, within 60 days of the service of the request to participate in presuit mediation, each potential defendant shall serve a responsive certificate on the potential plaintiff by mailing a certified letter indicating that he or she, or his or her counsel, has consulted with a qualified expert within the meaning of section 1643 of this title and that expert is of the opinion that there are reasonable grounds to defend the potential plaintiff's claims of medical negligence. Notwithstanding the potential defendant's acceptance of the request to participate, if the potential defendant does not serve such a responsive certificate within the 60-day period, then the potential plaintiff need not participate in the presuit mediation under this title and may file suit. If the potential defendant is willing to participate, presuit mediation may take place without a responsive certificate of merit from the potential defendant at the plaintiff's election.

§ 7014. PROCESS; TIME FRAMES

(a) The mediation shall take place within 60 days of the service of all potential defendants' acceptance of the request to participate in presuit mediation. The parties may agree to an extension of time. If in good faith the mediation cannot be scheduled within the 60-day time period, the potential plaintiff need not participate and may proceed to file suit.

(b) If presuit mediation is not agreed to, the mediator certifies that mediation is not appropriate, or mediation is unsuccessful, the potential plaintiff may initiate a civil action as provided in the Vermont Rules of Civil Procedure. The action shall be filed:

(1) within 90 days of the potential plaintiff's receipt of the potential defendant's letter refusing mediation, the failure of the potential defendant to file a responsive certificate of merit within the specified time period, or the

mediator's signed letter certifying that mediation was not appropriate or that the process was complete; or

(2) prior to the expiration of the applicable statute of limitations, whichever is later.

(c) If presuit mediation is attempted unsuccessfully, the parties shall not be required to participate in mandatory mediation under Rule 16.3 of the Vermont Rules of Civil Procedure.

§ 7015. CONFIDENTIALITY

All written and oral communications made in connection with or during the mediation process set forth in this chapter shall be confidential. The mediation process shall be treated as a settlement negotiation under Rule 408 of the Vermont Rules of Evidence.

Sec. 33. REPORT

On or before December 1, 2019, the Secretary of Administration or designee shall report to the Senate Committees on Health and Welfare and on Judiciary and the House Committees on Health Care and on Judiciary on the impacts of 12 V.S.A. § 1042 (certificate of merit) and 12 V.S.A. chapter 215, subchapter 2 (presuit mediation). The report shall address the impacts that these reforms have had on:

(1) consumers, physicians, and the provision of health care services;

(2) the rights of consumers to due process of law and to access to the court system; and

(3) any other service, right, or benefit that was or may have been affected by the establishment of the medical malpractice reforms in 12 V.S.A. § 1042 and 12 V.S.A. chapter 215, subchapter 2.

* * * Transferring Department of Financial Regulation Duties * * *

Sec. 34. 8 V.S.A. § 4062 is amended to read:

§ 4062. FILING AND APPROVAL OF POLICY FORMS AND PREMIUMS

* * *

(e) Within 30 calendar days after making the rate filing and analysis available to the public pursuant to subsection (d) the time period set forth in subdivision (a)(2)(A) of this section, the Board shall:

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

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

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

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

(3) issue its decision in writing.

* * *

(h)(1) The authority of the Board under this section shall apply only to the rate review process for policies for major medical insurance coverage and shall not apply to the policy forms for major medical insurance coverage or to the rate and policy form review process for policies for specific disease, accident, injury, hospital indemnity, dental care, vision care, disability income, long-term care, student health insurance coverage, Medicare supplemental coverage, or other limited benefit coverage, or to benefit plans that are paid directly to an individual insured or to his or her assigns and for which the amount of the benefit is not based on potential medical costs or actual costs incurred. Premium rates and rules for the classification of risk for Medicare supplemental insurance policies shall be governed by sections 4062b and 4080e of this title.

* * *

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

* * *

Sec. 35. 8 V.S.A. § 4089b(g) is amended to read:

~~(g) On or before July 15 of each year, health insurance companies doing business in Vermont whose individual share of the commercially insured Vermont market, as measured by covered lives, comprises at least five percent of the commercially insured Vermont market, shall file with the Commissioner, in accordance with standards, procedures, and forms approved by the Commissioner:~~

~~(1) A report card on the health insurance plan's performance in relation to quality measures for the care, treatment, and treatment options of mental and substance abuse conditions covered under the plan, pursuant to standards and~~

~~procedures adopted by the Commissioner by rule, and without duplicating any reporting required of such companies pursuant to Rule H-2009-03 of the Division of Health Care Administration and regulation 95-2, "Mental Health Review Agents," of the Division of Insurance, as amended, including:~~

~~(A) the discharge rates from inpatient mental health and substance abuse care and treatment of insureds;~~

~~(B) the average length of stay and number of treatment sessions for insureds receiving inpatient and outpatient mental health and substance abuse care and treatment;~~

~~(C) the percentage of insureds receiving inpatient and outpatient mental health and substance abuse care and treatment;~~

~~(D) the number of insureds denied mental health and substance abuse care and treatment;~~

~~(E) the number of denials appealed by patients reported separately from the number of denials appealed by providers;~~

~~(F) the rates of readmission to inpatient mental health and substance abuse care and treatment for insureds with a mental condition;~~

~~(G) the level of patient satisfaction with the quality of the mental health and substance abuse care and treatment provided to insureds under the health insurance plan; and~~

~~(H) any other quality measure established by the Commissioner.~~

~~(2) The health insurance plan's revenue loss and expense ratio relating to the care and treatment of mental conditions covered under the health insurance plan. The expense ratio report shall list amounts paid in claims for services and administrative costs separately. A managed care organization providing or administering coverage for treatment of mental conditions on behalf of a health insurance plan shall comply with the minimum loss ratio requirements pursuant to the Patient Protection and Affordable Care Act of 2010, Public Law 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Public Law 111-152, applicable to the underlying health insurance plan with which the managed care organization has contracted to provide or administer such services. The health insurance plan shall also bear responsibility for ensuring the managed care organization's compliance with the minimum loss ratio requirement pursuant to this subdivision. [Repealed.]~~

Sec. 36. 18 V.S.A. § 9402 is amended to read:

§ 9402. DEFINITIONS

As used in this chapter, unless otherwise indicated:

* * *

(4) ~~“Division” means the division of health care administration.~~
[Repealed.]

* * *

(10) ~~“Health resource allocation plan” means the plan adopted by the commissioner of financial regulation~~ Green Mountain Care Board under section 9405 of this title.

* * *

Sec. 37. 18 V.S.A. § 9404 is amended to read:

§ 9404. ADMINISTRATION

(a) The Commissioner and the Green Mountain Care Board shall supervise and direct the execution of all laws vested in the Department and the Board, respectively, by this chapter, and shall formulate and carry out all policies relating to this chapter.

(b) The Commissioner and the Board may:

(1) apply for and accept gifts, grants, or contributions from any person for purposes consistent with this chapter;

(2) adopt rules necessary to implement the provisions of this chapter; and

(3) enter into contracts and perform such acts as are necessary to accomplish the purposes of this chapter.

(c) ~~There is hereby created a fund to be known as the Health Care Administration Regulatory and Supervision Fund for the purpose of providing the financial means for the Commissioner of Financial Regulation to administer this chapter and 33 V.S.A. § 6706. All fees and assessments received by the Department pursuant to such administration shall be credited to this Fund. All fines and administrative penalties, however, shall be deposited directly into the General Fund.~~

~~(1) All payments from the Health Care Administration Regulatory and Supervision Fund for the maintenance of staff and associated expenses, including contractual services as necessary, shall be disbursed from the State Treasury only upon warrants issued by the Commissioner of Finance and~~

~~Management, after receipt of proper documentation regarding services rendered and expenses incurred.~~

~~(2) The Commissioner of Finance and Management may anticipate receipts to the Health Care Administration Regulatory and Supervision Fund and issue warrants based thereon. [Repealed.]~~

Sec. 38. 18 V.S.A. § 9410 is amended to read:

§ 9410. HEALTH CARE DATABASE

(a)(1) The Board shall establish and maintain a unified health care database to enable the ~~Commissioner and the~~ Board to carry out ~~their~~ its duties under this chapter, chapter 220 of this title, and Title 8, including:

- (A) determining the capacity and distribution of existing resources;
- (B) identifying health care needs and informing health care policy;
- (C) evaluating the effectiveness of intervention programs on improving patient outcomes;
- (D) comparing costs between various treatment settings and approaches;
- (E) providing information to consumers and purchasers of health care; and
- (F) improving the quality and affordability of patient health care and health care coverage.

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

~~(B) The Commissioner may require a health insurer covering at least five percent of the lives covered in the insured market in this State to file with the Commissioner a consumer health care price and quality information plan in accordance with rules adopted by the Commissioner.~~

~~(C) The Board shall adopt such rules as are necessary to carry out the purposes of this subdivision. The Board's rules may permit the gradual implementation of the consumer health care price and quality information system over time, beginning with health care price and quality information that the Board determines is most needed by consumers or that can be most practically provided to the consumer in an understandable manner. The rules shall permit health insurers to use security measures designed to allow~~

~~subscribers access to price and other information without disclosing trade secrets to individuals and entities who are not subscribers. The rules shall avoid unnecessary duplication of efforts relating to price and quality reporting by health insurers, health care providers, health care facilities, and others, including activities undertaken by hospitals pursuant to their community report obligations under section 9405b of this title. [Repealed.]~~

* * *

(i) On or before January 15, ~~2008~~ 2018 and every three years thereafter, the Commissioner ~~of Health~~ shall submit a recommendation to the General Assembly for conducting a survey of the health insurance status of Vermont residents. The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report to be made under this subsection.

* * *

Sec. 39. 18 V.S.A. § 9414 is amended to read:

§ 9414. QUALITY ASSURANCE FOR MANAGED CARE ORGANIZATIONS

(a) The ~~commissioner~~ Commissioner shall have the power and responsibility to ensure that each managed care organization provides quality health care to its members, in accordance with the provisions of this section.

* * *

(4) The Commissioner or designee may resolve any consumer complaint arising out of this subsection as though the managed care organization were an insurer licensed pursuant to Title 8.

* * *

(d)(1) In addition to its internal quality assurance program, each managed care organization shall evaluate the quality of health and medical care provided to members. The organization shall use and maintain a patient record system which will facilitate documentation and retrieval of statistically meaningful clinical information.

(2) A managed care organization may evaluate the quality of health and medical care provided to members through an independent accreditation organization, ~~provided that the commissioner has established criteria for such independent evaluations.~~

~~(e) The commissioner shall review a managed care organization's performance under the requirements of this section at least once every three years and more frequently as the commissioner deems proper. If upon review the commissioner determines that the organization's performance with respect~~

~~to one or more requirements warrants further examination, the commissioner shall conduct a comprehensive or targeted examination of the organization's performance. The commissioner may designate another organization to conduct any evaluation under this subsection. Any such independent designee shall have a confidentiality code acceptable to the commissioner, or shall be subject to the confidentiality code adopted by the commissioner under subdivision (f)(3) of this section. In conducting an evaluation under this subsection, the commissioner or the commissioner's designee shall employ, retain, or contract with persons with expertise in medical quality assurance. [Repealed.]~~

(f)(1) For the purpose of evaluating a managed care organization's performance under the provisions of this section, the ~~commissioner~~ Commissioner may examine and review information protected by the provisions of the patient's privilege under 12 V.S.A. § 1612(a), or otherwise required by law to be held confidential, ~~except that the commissioner's access to and use of minutes and records of a peer review committee established under subsection (c) of this section shall be governed by subdivision (2) of this subsection.~~

(2) ~~Notwithstanding the provisions of 26 V.S.A. § 1443, for the sole purpose of reviewing a managed care organization's internal quality assurance program, and enforcing compliance with the provisions of subsection (c) of this section, the commissioner or the commissioner's designee shall have reasonable access to the minutes or records of any peer review or comparable committee required by subdivision (c)(6) of this section, provided that such access shall not disclose the identity of patients, health care providers, or other individuals. [Repealed.]~~

* * *

(i) ~~Upon review of the managed care organization's clinical data, or after consideration of claims or other data, the commissioner may:~~

~~(1) identify quality issues in need of improvement; and~~

~~(2) direct the managed care organization to propose quality improvement initiatives to remediate those issues. [Repealed.]~~

Sec. 40. 18 V.S.A. § 9418(1) is amended to read:

(1) Nothing in this section shall be construed to prohibit a health plan from applying payment policies that are consistent with applicable federal or State laws and regulations, or to relieve a health plan from complying with payment standards established by federal or State laws and regulations, ~~including rules adopted by the Commissioner pursuant to section 9408 of this title relating to claims administration and adjudication standards, and rules adopted by the~~

~~Commissioner pursuant to section 9414 of this title and 8 V.S.A. § 4088h relating to pay for performance or other payment methodology standards.~~

Sec. 41. 18 V.S.A. § 9418b(f) is amended to read:

(f) Nothing in this section shall be construed to prohibit a health plan from applying payment policies that are consistent with applicable federal or State laws and regulations, or to relieve a health plan from complying with payment standards established by federal or State laws and regulations, ~~including rules adopted by the Commissioner pursuant to section 9408 of this title, relating to claims administration and adjudication standards, and rules adopted by the Commissioner pursuant to section 9414 of this title and 8 V.S.A. § 4088h, relating to pay for performance or other payment methodology standards.~~

Sec. 42. 18 V.S.A. § 9420 is amended to read:

§ 9420. CONVERSION OF NONPROFIT HOSPITALS

(a) Policy and purpose. The ~~state~~ State has a responsibility to assure that the assets of nonprofit entities, which are impressed with a charitable trust, are managed prudently and are preserved for their proper charitable purposes.

(b) Definitions. As used in this section:

* * *

(2) ~~“Commissioner” is the commissioner of financial regulation.~~
[Repealed.]

* * *

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

(c) Approval required for conversion of qualifying amount of charitable assets. A nonprofit hospital may convert a qualifying amount of charitable assets only with the approval of the ~~commissioner~~ Green Mountain Care Board, and either the ~~attorney general~~ Attorney General or the ~~superior court~~ Superior Court, pursuant to the procedures and standards set forth in this section.

(d) Exception for conversions in which assets will be owned and controlled by a nonprofit corporation:

(1) Other than subsection (q) of this section and subdivision (2) of this subsection, this section shall not apply to conversions in which the party receiving assets of a nonprofit hospital is a nonprofit corporation.

(2) In any conversion that would have required an application under subsection (e) of this section but for the exception set forth in subdivision (1)

of this subsection, notice to or written waiver by the ~~attorney general~~ Attorney General shall be given or obtained as if required under 11B V.S.A. § 12.02(g).

(e) Application. Prior to consummating any conversion of a qualifying amount of charitable assets, the parties shall submit an application to the ~~attorney general~~ Attorney General and the ~~commissioner~~ Green Mountain Care Board, together with any attachments complying with subsection (f) of this section. If any material change occurs in the proposal set forth in the filed application, an amendment setting forth such change, together with copies of all documents and other material relevant to such change, shall be filed with the ~~attorney general~~ Attorney General and the ~~commissioner~~ Board within two business days, or as soon thereafter as practicable, after any party to the conversion learns of such change. If the conversion involves a hospital system, and one or more of the hospitals in the system desire to convert charitable assets, the ~~attorney general~~ Attorney General, in consultation with the ~~commissioner~~ Board, shall determine whether an application shall be required from the hospital system.

(f) Completion and contents of application.

(1) Within 30 days of receipt of the application, or within 10 days of receipt of any amendment thereto, whichever is longer, the ~~attorney general~~ Attorney General, with the ~~commissioner's~~ Green Mountain Care Board's agreement, shall determine whether the application is complete. The Attorney General shall promptly notify the parties of the date the application is deemed complete, or of the reasons for a determination that the application is incomplete. A complete application shall include the following:

* * *

(N) any additional information the ~~attorney general~~ Attorney General or ~~commissioner~~ Green Mountain Care Board finds necessary or appropriate for the full consideration of the application.

(2) The parties shall make the contents of the application reasonably available to the public prior to any hearing for public comment described in subsection (g) of this section to the extent that they are not otherwise exempt from disclosure under 1 V.S.A. § 317(b).

(g) Notice and hearing for public comment on application.

(1) The ~~attorney general~~ Attorney General and ~~commissioner~~ the Green Mountain Care Board shall hold one or more public hearings on the transaction or transactions described in the application. A record shall be made of any hearing. The hearing shall commence within 30 days of the determination by the ~~attorney general~~ Attorney General that the application is complete. If a hearing is continued or multiple hearings are held, any hearing shall be

completed within 60 days of the ~~attorney general's~~ Attorney General's determination that an application is complete. In determining the number, location, and time of hearings, the ~~attorney general~~ Attorney General, in consultation with the ~~commissioner~~ Board, shall consider the geographic areas and populations served by the nonprofit hospital and most affected by the conversion and the interest of the public in commenting on the application.

(2) The ~~attorney general~~ Attorney General shall provide reasonable notice of any hearing to the parties, the ~~commissioner~~ Board, and the public, and may order that the parties bear the cost of notice to the public. Notice to the public shall be provided in newspapers having general circulation in the region affected and shall identify the applicants and the proposed conversion. A copy of the public notice shall be sent to the ~~state~~ State health care and long-term care ombudspersons and to the ~~senators~~ Senators and members of the ~~house of representatives~~ House of Representatives representing the county and district and to the ~~clerk, chief municipal officer~~ Clerk, Chief Municipal Officer, and legislative body, of the municipality in which the nonprofit hospital is principally located. Upon receipt, the ~~clerk~~ Clerk shall post notice in or near the ~~clerk's~~ Clerk's office and in at least two other public places in the municipality. Any person may testify at a hearing under this section and, within such reasonable time as the ~~attorney general~~ Attorney General may prescribe, file written comments with the ~~attorney general~~ Attorney General and ~~commissioner~~ Board concerning the proposed conversion.

(h) Determination by ~~commissioner~~ the Green Mountain Care Board.

(1) The ~~commissioner~~ Green Mountain Care Board shall consider the application, together with any report and recommendations from the Board's staff ~~of the department~~ requested by the ~~commissioner~~ Board, and any other information submitted into the record, and approve or deny it within 50 days following the last public hearing held pursuant to subsection (g) of this section, unless the ~~commissioner~~ Board extends such time up to an additional 60 days with notice prior to its expiration to the ~~attorney general~~ Attorney General and the parties.

(2) The ~~commissioner~~ Board shall approve the proposed transaction if the ~~commissioner~~ Board finds that the application and transaction will satisfy the criteria established in section 9437 of this title. For purposes of applying the criteria established in section 9437, the term "project" shall include a conversion or other transaction subject to the provisions of this subchapter.

(3) A denial by the ~~commissioner~~ Board may be appealed to the ~~supreme court~~ Supreme Court pursuant to ~~the procedures and standards set forth in 8 V.S.A. § 16 section 9381~~ of this title. If no appeal is taken or if the ~~commissioner's~~ Board's order is affirmed by the ~~supreme court~~ supreme court,

the application shall be terminated. A failure of the ~~commissioner~~ Board to approve of an application in a timely manner shall be considered a final order in favor of the applicant.

(i) Determination by ~~attorney-general~~ Attorney General. The ~~attorney-general~~ Attorney General shall make a determination as to whether the conversion described in the application meets the standards provided in subsection (j) of this section.

(1) If the ~~attorney-general~~ Attorney General determines that the conversion described in the application meets the standards set forth in subsection (j) of this section, the ~~attorney-general~~ Attorney General shall approve the conversion and so notify the parties in writing.

(2) If the ~~attorney-general~~ Attorney General determines that the conversion described in the application does not meet such standards, the ~~attorney-general~~ Attorney General may not approve the conversion and shall so notify the parties of such disapproval and the basis for it in writing, including identification of the standards listed in subsection (j) of this section that the ~~attorney-general~~ Attorney General finds not to have been met by the proposed conversion. Nothing in this subsection shall prevent the parties from amending the application to meet any objections of the ~~attorney-general~~ Attorney General.

(3) The notice of approval or disapproval by the ~~attorney-general~~ Attorney General under this subsection shall be provided no later than either 60 days following the date of the last hearing held under subsection (g) of this section or ten days following approval of the conversion by the ~~commissioner~~ Board, whichever is later. The ~~attorney-general~~ Attorney General, for good cause, may extend this period an additional 60 days.

(j) Standards for ~~attorney-general's~~ Attorney General's review. In determining whether to approve a conversion under subsection (i) of this section, the ~~attorney-general~~ Attorney General shall consider whether:

* * *

(7) the application contains sufficient information and data to permit the ~~attorney-general~~ Attorney General and ~~commissioner~~ the Green Mountain Care Board to evaluate the conversion and its effects on the public's interests in accordance with this section; and

(8) the conversion plan has made reasonable provision for reports, upon request, to the ~~attorney-general~~ Attorney General on the conduct and affairs of any person that, as a result of the conversion, is to receive charitable assets or proceeds from the conversion to carry on any part of the public purposes of the nonprofit hospital.

(k) Investigation by ~~attorney general~~ Attorney General. The ~~attorney general~~ Attorney General may conduct an investigation relating to the conversion pursuant to the procedures set forth generally in 9 V.S.A. § 2460. The ~~attorney general~~ Attorney General may contract with such experts or consultants the ~~attorney general~~ Attorney General deems appropriate to assist in an investigation of a conversion under this section. The ~~attorney general~~ Attorney General may order any party to reimburse the ~~attorney general~~ Attorney General for all reasonable and actual costs incurred by the ~~attorney general~~ Attorney General in retaining outside professionals to assist with the investigation or review of the conversion.

(l) Superior ~~court~~ Court action. If the ~~attorney general~~ Attorney General does not approve the conversion described in the application and any amendments, the parties may commence an action in the ~~superior court~~ Superior Court of Washington County, or with the agreement of the ~~attorney general~~ Attorney General, of any other county, within 60 days of the ~~attorney general's~~ Attorney General's notice of disapproval provided to the parties under subdivision (i)(2) of this section. The parties shall notify the ~~commissioner~~ Green Mountain Care Board of the commencement of an action under this subsection. The ~~commissioner~~ Board shall be permitted to request that the ~~court~~ Court consider the ~~commissioner's~~ Board's determination under subsection (h) of this section in its decision under this subsection.

(m) Court determination and order.

* * *

(4) Nothing herein shall prevent the ~~attorney general~~ Attorney General, while an action brought under subsection (l) of this section is pending, from approving the conversion described in the application, as modified by such terms as are agreed between the parties, the ~~attorney general~~ Attorney General, and the ~~commissioner~~ Green Mountain Care Board to bring the conversion into compliance with the standards set forth in subsection (j) of this section.

(n) Use of converted assets or proceeds of a conversion approved pursuant to this section. If at any time following a conversion, the ~~attorney general~~ Attorney General has reason to believe that converted assets or the proceeds of a conversion are not being held or used in a manner consistent with information provided to the ~~attorney general~~ Attorney General, the ~~commissioner~~ Board, or a court in connection with any application or proceedings under this section, the ~~attorney general~~ Attorney General may investigate the matter pursuant to procedures set forth generally in 9 V.S.A. § 2460 and may bring an action in Washington ~~superior court~~ Superior Court or in the ~~superior court~~ Superior Court of any county where one of the parties has a principal place of business. The ~~court~~ Court may order appropriate relief

in such circumstances, including avoidance of the conversion or transfer of the converted assets or proceeds or the amount of any private inurement to a person or party for use consistent with the purposes for which the assets were held prior to the conversion, and the award of costs of investigation and prosecution under this subsection, including the reasonable value of legal services.

(o) Remedies and penalties for violations.

(1) The ~~attorney general~~ Attorney General may bring or maintain a civil action in the Washington ~~superior court~~ Superior Court, or any other county in which one of the parties has its principal place of business, to enjoin, restrain, or prevent the consummation of any conversion which has not been approved in accordance with this section or where approval of the conversion was obtained on the basis of materially inaccurate information furnished by any party to the ~~attorney general~~ Attorney General or the ~~commissioner~~ Board.

* * *

(p) Conversion of less than a qualifying amount of assets.

(1) The ~~attorney general~~ Attorney General may conduct an investigation relating to a conversion pursuant to the procedures set forth generally in 9 V.S.A. § 2460 if the ~~attorney general~~ Attorney General has reason to believe that a nonprofit hospital has converted or is about to convert less than a qualifying amount of its assets in such a manner that would:

(A) if it met the qualifying amount threshold, require an application under subsection (e) of this section; and

(B) constitute a conversion that does not meet one or more of the standards set forth in subsection (j) of this section.

(2) The ~~attorney general~~ Attorney General, in consultation with the ~~commissioner~~ Green Mountain Care Board, may bring an action with respect to any conversion of less than a qualifying amount of assets, according to the procedures set forth in subsection (n) of this section. The ~~attorney general~~ Attorney General shall notify the ~~commissioner~~ Board of any action commenced under this subsection. The ~~commissioner~~ Board shall be permitted to investigate and determine whether the transaction satisfies the criteria established in subdivision (g)(2) of this section, and to request that the ~~court~~ Court consider the ~~commissioner's~~ Board's recommendation in its decision under this subsection. In such an action, the ~~superior court~~ Superior Court may enjoin or void any transaction and may award any other relief as provided under subsection (n) of this section.

(3) In any action brought by the ~~attorney general~~ Attorney General under this subdivision, the ~~attorney general~~ Attorney General shall have the burden to establish that the conversion:

(A) violates one or more of the standards listed in subdivision (j)(1), (3), (4), or (6); or

(B) substantially violates one or more of the standards set forth in subdivisions (j)(2) and (5) of this section.

(q) Other preexisting authority.

(1) Nothing in this section shall be construed to limit the authority of the ~~commissioner Green Mountain Care Board, attorney general~~ Attorney General, department of health Department of Health, or a court of competent jurisdiction under existing law, or the interpretation or administration of a charitable gift under 14 V.S.A. § 2328.

(2) This section shall not be construed to limit the regulatory and enforcement authority of the ~~commissioner Board~~, or exempt any applicant or other person from requirements for licensure or other approvals required by law.

Sec. 43. 18 V.S.A. § 9440 is amended to read:

§ 9440. PROCEDURES

* * *

(c) The application process shall be as follows:

(1) Applications shall be accepted only at such times as the Board shall establish by rule.

(2)(A) Prior to filing an application for a certificate of need, an applicant shall file an adequate letter of intent with the Board no less than 30 days or, in the case of review cycle applications under section 9439 of this title, no less than 45 days prior to the date on which the application is to be filed. The letter of intent shall form the basis for determining the applicability of this subchapter to the proposed expenditure or action. A letter of intent shall become invalid if an application is not filed within six months of the date that the letter of intent is received or, in the case of review cycle applications under section 9439 of this title, within such time limits as the Board shall establish by rule. ~~Except for requests for expedited review under subdivision (5) of this subsection, The Board shall post public notice of such letters of intent shall be provided in newspapers having general circulation in the region of the State affected by the letter of intent on its website electronically within five business days of receipt.~~ The public notice shall identify the applicant, the proposed

new health care project, and the date by which a competing application or petition to intervene must be filed. ~~In addition, a copy of the public notice shall be sent to the clerk of the municipality in which the health care facility is located. Upon receipt, the clerk shall post the notice in or near the clerk's office and in at least two other public places in the municipality.~~

(B) Applicants who agree that their proposals are subject to jurisdiction pursuant to section 9434 of this title shall not be required to file a letter of intent pursuant to subdivision (A) of this subdivision (2) and may file an application without further process. Public notice of the application shall be ~~provided upon filing~~ posted electronically on the Board's website as provided for in subdivision (A) of this subdivision (2) for letters of intent.

* * *

(5) An applicant seeking expedited review of a certificate of need application may simultaneously file ~~a letter of intent and~~ with the Board a request for expedited review and an application ~~with the Board. Upon~~ After receiving the request and an application, the Board shall issue public notice of the request and application in the manner set forth in subdivision (2) of this subsection. At least 20 days after the public notice was issued, if no competing application has been filed and no party has sought and been granted, nor is likely to be granted, interested party status, the Board, upon making a determination that the proposed project may be uncontested and does not substantially alter services, as defined by rule, or upon making a determination that the application relates to a health care facility affected by bankruptcy proceedings, ~~the Board shall issue public notice of the application and the request for expedited review and identify a date by which a competing application or petition for interested party status must be filed. If a competing application is not filed and no person opposing the application is granted interested party status, the Board may formally declare the application uncontested and may issue a certificate of need without further process, or with such abbreviated process as the Board deems appropriate. If a competing application is filed or a person opposing the application is granted interested party status, the applicant shall follow the certificate of need standards and procedures in this section, except that in the case of a health care facility affected by bankruptcy proceedings, the Board after notice and an opportunity to be heard may issue a certificate of need with such abbreviated process as the Board deems appropriate, notwithstanding the contested nature of the application.~~

* * *

Sec. 44. 18 V.S.A. § 9445 is amended to read:

§ 9445. ENFORCEMENT

(a) Any person who offers or develops any new health care project within the meaning of this subchapter without first obtaining a certificate of need as required herein, or who otherwise violates any of the provisions of this subchapter, may be subject to the following administrative sanctions by the Board, after notice and an opportunity to be heard:

(1) The Board may order that no license or certificate permitted to be issued by ~~the Department~~ or any other State agency may be issued to any health care facility to operate, offer, or develop any new health care project for a specified period of time, or that remedial conditions be attached to the issuance of such licenses or certificates.

(2) The Board may order that payments or reimbursements to the entity for claims made under any health insurance policy, subscriber contract, or health benefit plan offered or administered by any public or private health insurer, including the Medicaid program and any other health benefit program administered by the State be denied, reduced, or limited, and in the case of a hospital that the hospital's annual budget approved under subchapter 7 of this chapter be adjusted, modified, or reduced.

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

* * *

Sec. 45. 18 V.S.A. § 9456(h) is amended to read:

(h)(1) If a hospital violates a provision of this section, the Board may maintain an action in the Superior Court of the county in which the hospital is located to enjoin, restrain, or prevent such violation.

* * *

(3)(A) The Board shall require the officers and directors of a hospital to file under oath, on a form and in a manner prescribed by the ~~Commissioner~~ Board, any information designated by the Board and required pursuant to this subchapter. The authority granted to the Board under this subsection is in addition to any other authority granted to the Board under law.

(B) A person who knowingly makes a false statement under oath or who knowingly submits false information under oath to the Board or to a hearing officer appointed by the Board or who knowingly testifies falsely in any proceeding before the Board or a hearing officer appointed by the Board shall be guilty of perjury and punished as provided in 13 V.S.A. § 2901.

Sec. 46. SUSPENSION; PROHIBITION ON MODIFICATION OF UNIFORM FORMS

The Department of Financial Regulation shall not modify the existing common forms, procedures, and rules based on 18 V.S.A. §§ 9408, 9408a(b), 9408a(e), and 9418(f) prior to January 1, 2017. The Commissioner of Financial Regulation may review and examine, at his or her own discretion or in response to a complaint, a managed care organization's administrative policies and procedures, quality management and improvement procedures, credentialing practices, members' rights and responsibilities, preventive health services, medical records practices, member services, financial incentives or disincentives, disenrollment, provider contracting, and systems and data reporting capacities described in 18 V.S.A. § 9414(a)(1).

Sec. 47. UNIFORM FORMS; EVALUATION

(a) The Director of Health Care Reform in the Agency of Administration, in collaboration with the Green Mountain Care Board and the Department of Financial Regulation, shall evaluate:

(1) the necessity of maintaining provisions regarding common claims forms and procedures, uniform provider credentialing, and suspension of interest accrual for failure to pay claims if the failure was not within the insurer's control, as those provisions are codified in 18 V.S.A. §§ 9408, 9408a(b), 9408a(e), and 9418(f);

(2) the necessity of maintaining provisions requiring the Commissioner to review and examine a managed care organization's administrative policies and procedures, quality management and improvement procedures, credentialing practices, members' rights and responsibilities, preventive health services, medical records practices, member services, financial incentives or disincentives, disenrollment, provider contracting, and systems and data reporting capacities, as those provisions are codified in 18 V.S.A. § 9414(a)(1);

(3) the appropriate entity to assume responsibility for any such function that should be retained and the appropriate enforcement process; and

(4) the requirements in federal law applicable to the Department of Vermont Health Access in its role as a public managed care organization in order to identify opportunities for greater alignment between federal law and 18 V.S.A. § 9414(a)(1).

(b) In performing the evaluation required by subsection (a) of this section, the Director shall consult regularly with interested stakeholders, including health insurance and managed care organizations, as defined in 18 V.S.A. 9402; health care providers; and the Office of the Health Care Advocate.

(c) On or before December 15, 2015, the Director shall provide his or her findings and recommendations to the House Committee on Health Care, the Senate Committees on Health and Welfare and on Finance, and the Health Reform Oversight Committee.

* * * Appropriations * * *

Sec. 48. MAINTAINING EXCHANGE COST-SHARING SUBSIDIES

The sum of \$761,308.00 is appropriated from the General Fund to the Department of Vermont Health Access in fiscal year 2016 for Exchange cost-sharing subsidies for individuals at the actuarial levels in effect on January 1, 2015.

Sec. 49. AREA HEALTH EDUCATION CENTERS

The sum of \$667,111.00 in Global Commitment funds is appropriated to the Department of Health in fiscal year 2016 for a grant to the Area Health Education Centers for repayment of educational loans for health care providers and health care educators.

Sec. 50. OFFICE OF THE HEALTH CARE ADVOCATE; APPROPRIATION; INTENT

(a) The Office of the Health Care Advocate has a critical function in Vermont's health care system. The Health Care Advocate provides information and assistance to Vermont residents who are navigating the health care system and represents their interests in interactions with health insurers, health care providers, Medicaid, the Green Mountain Care Board, the General Assembly, and others. The continuation of the Office of the Health Care Advocate is necessary to achieve additional health care reform goals.

(b) The sum of \$40,000.00 is appropriated from the General Fund to the Agency of Administration in fiscal year 2016 for its contract with the Office of the Health Care Advocate.

(c) It is the intent of the General Assembly that, beginning with the 2017 fiscal year budget, the Governor's budget proposal developed pursuant to 32 V.S.A. chapter 5 should include a separate provision identifying the aggregate sum to be appropriated from all State sources to the Office of the Health Care Advocate.

Sec. 51. GREEN MOUNTAIN CARE BOARD; ALL-PAYER WAIVER; RATE-SETTING; VITL OVERSIGHT

(a) The following appropriations and adjustments are made to the Green Mountain Care Board in fiscal year 2016 for positions, contracts, and operating expenses related to the Board's provider rate-setting authority, the all-payer model, and the Medicaid cost shift:

(1) \$83,054.00 is appropriated from the General Fund;

(2) \$268,524.00 is appropriated from special funds;

(3) \$97,968.00 is appropriated from federal funds;

(4) a negative adjustment in the amount of -\$35,919.00 is made to the Global Commitment funds appropriated; and

(5) a negative adjustment in the amount of -\$128,693.00 is made to the interdepartmental transfer funds appropriated.

(b) The sum of \$60,000.00 is appropriated from the Health-IT Fund to the Green Mountain Care Board in fiscal year 2016 to provide oversight of the budget and activities of the Vermont Information Technology Leaders, Inc.

Sec. 52. BLUEPRINT FOR HEALTH INCREASES

The sum of \$1,402,900.00 in Global Commitment funds is appropriated to the Department of Vermont Health Access in fiscal year 2016 to increase payments to patient-centered medical homes and community health teams pursuant to 18 V.S.A. § 702 beginning on January 1, 2016.

Sec. 53. INVESTING IN PRIMARY CARE SERVICES

The sum of \$2,732,677.00 in Global Commitment funds is appropriated to the Department of Vermont Health Access in fiscal year 2016 to increase reimbursement rates to primary care providers beginning on January 1, 2016 for services provided to Medicaid beneficiaries. It is the intent of the General Assembly that these amounts shall be increased on July 1, 2016 by an amount sufficient to provide a cumulative annualized increase of \$7,500,000.00.

Sec. 54. RATE INCREASES FOR OTHER MEDICAID PROVIDERS

(a) The sum of \$3,394,058.00 in Global Commitment funds is appropriated to the Agency of Human Services in fiscal year 2016 for the purpose of

increasing reimbursement rates beginning on January 1, 2016 for providers under contract with the Departments of Disabilities, Aging, and Independent Living, of Mental Health, of Corrections, of Health, and for Children and Families to provide services to Vermont Medicaid beneficiaries. In allocating the Global Commitment funds appropriated pursuant to this section, the Agency shall direct:

(1) \$1,180,989.00 to the Department of Mental Health;

(2) \$284,376.00 to the Department of Health, Division of Alcohol and Drug Abuse Programs;

(3) \$1,458,931.00 to the Department of Disabilities, Aging, and Independent Living for developmental disability services; and

(4) the remaining \$469,763.00 for distribution to other departments' appropriation line items within the Agency for Medicaid-eligible services from contract providers.

(b) The sum of \$569,543.00 in Global Commitment funds is appropriated to the Department of Vermont Health Access in fiscal year 2016 for the purpose of increasing reimbursement rates for home- and community-based services in the Choices for Care program beginning on January 1, 2016.

Sec. 55. INDEPENDENT MENTAL HEALTH PROFESSIONALS

The sum of \$421,591.00 in Global Commitment funds is appropriated to the Department of Vermont Health Access in fiscal year 2016 for the purpose of increasing Medicaid reimbursement rates beginning on January 1, 2016 to mental health professionals not affiliated with a designated agency who provide mental health services to Medicaid beneficiaries.

Sec. 56. RATE INCREASES FOR DENTAL SERVICES; INTENT

It is the intent of the General Assembly that Medicaid reimbursement rates for providers of dental services to Medicaid beneficiaries shall be increased by an amount estimated to be equivalent to \$485,000.00 beginning on July 1, 2016.

Sec. 57. AGENCY OF HUMAN SERVICES; GLOBAL COMMITMENT APPROPRIATION

(a) The following appropriations and adjustments are made to ensure that the Agency of Human Services' Global Commitment budget line item comports with the appropriations made in Secs. 48-56 of this act:

(1) the sum of \$5,100,000.00 is appropriated from the State Health Care Resources Fund in fiscal year 2016;

(2) the sum of \$5,016,557.00 is appropriated from federal funds in fiscal year 2016; and

(3) a negative adjustment in the amount of -\$968,210.00 to the General Funds appropriated in fiscal year 2016.

(b) The appropriations and adjustments made in Secs. 39–48 of this act shall be in addition to or applied to amounts appropriated for fiscal year 2016 in other acts of the 2015 legislative session and shall be reconciled to the greatest extent possible. Where it is not possible to reconcile, the provisions of this act shall supersede conflicting appropriations and adjustments for fiscal year 2016 in other acts of the 2015 legislative session.

* * * Positions * * *

Sec. 58. GREEN MOUNTAIN CARE BOARD; POSITIONS

(a) On July 1, 2015, two classified positions are created for the Green Mountain Care Board.

(b) On July 1, 2015, one exempt position, attorney, is created for the Green Mountain Care Board.

* * * Repeals * * *

Sec. 59. REPEALS

(a) 18 V.S.A. §§ 9411 (other powers and duties of the Commissioner of Financial Regulation) and 9415 (allocation of expenses) are repealed.

(b) 12 V.S.A. chapter 215, subchapter 2 shall be repealed on July 1, 2020.

* * * Effective Dates * * *

Sec. 60. EFFECTIVE DATES

(a) Secs. 1 (all-payer model), 2 and 3 (pharmacy benefit managers), 6 (report on observation status), 9 and 10 (Green Mountain Care Board duties), 11 (VITL), 12 (ambulance reimbursement), 13 and 14 (direct enrollment in Exchange plans), 15–17 (large group market), 18–20 (universal primary care study), 23 (public employees' health benefits), 24 (provider payment parity), 25 (Green Mountain Care Board; payment reform), 26–28 (reports), 29 (provider rate setting), 30 (designated agency budgets), 32 and 33 (presuit mediation), and this section shall take effect on passage.

(b) Secs. 21 (universal primary care appropriation), 31 (effect of designated agency rate increase), 34–45 (transfer of DFR duties), 46 and 47 (suspension and review of uniform forms), 48–57 (appropriations), 58 (positions), and 59 (repeals) shall take effect on July 1, 2015.

(c) Secs. 7 and 8 (telemedicine) shall take effect on October 1, 2015.

(d) Secs. 4 and 5 (notice of hospital observation status) shall take effect on December 1, 2015.

(e) Sec. 22 (consumer price comparison) shall take effect on July 1, 2016.

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

An act relating to health care.

Thereupon, pending the question, Shall the Senate concur in the House proposal of amendment with further proposal of amendment?, Senator Mullin moved to amend the proposal of amendment of Senator Kitchel as follows:

First: By striking out Sec. 14, 33 V.S.A. § 1811(b), in its entirety and inserting in lieu thereof a reader assistance heading and five new sections to be numbered Secs. 14–14d to read as follows:

* * * Allowing Purchase of Non-Exchange Plans * * *

Sec. 14. 8 V.S.A. § 4080g(a) is amended to read:

(a) Application. Notwithstanding the provisions of ~~33 V.S.A. § 1811~~ section 4080h of this title, on and after January 1, 2014, the provisions of this section shall apply to an individual, small group, or association plan that qualifies as a grandfathered health plan under Section 1251 of the Patient Protection and Affordable Care Act (Public Law 111-148), as amended by the Health Care and Education Reconciliation Act of 2010 (Public Law 111-152) (Affordable Care Act). In the event that a plan no longer qualifies as a grandfathered health plan under the Affordable Care Act, the provisions of this section shall not apply and the provisions of ~~33 V.S.A. § 1811~~ section 4080h of this title shall govern the plan.

Sec. 14a. 8 V.S.A. § 4080h is added to read:

§ 4080h. INDIVIDUAL AND SMALL GROUP PLANS

(a) As used in this section:

(1) “Affordable Care Act” means the federal Patient Protection and Affordable Care Act (Public Law 111-148), as amended by the federal Health Care and Education Reconciliation Act of 2010 (Public Law 111-152), and as may be further amended.

(2) “Health benefit plan” means a health insurance policy, a nonprofit hospital or medical service corporation service contract, or a health maintenance organization health benefit plan issued to an individual or to an employee of a small employer. The term does not include coverage only for accident or disability income insurance, liability insurance, coverage issued as a supplement to liability insurance, workers’ compensation or similar insurance, automobile medical payment insurance, credit-only insurance,

coverage for on-site medical clinics, or other similar insurance coverage in which benefits for health services are secondary or incidental to other insurance benefits as provided under the Affordable Care Act. The term also does not include stand-alone dental or vision benefits, long-term care insurance, specific disease or other limited benefit coverage, Medicare supplemental health benefits, Medicare Advantage plans, and other similar benefits excluded under the Affordable Care Act.

(3) “Qualified employer” shall have the same meaning as in 33 V.S.A. § 1802.

(4) “Qualified health benefit plan” means a health benefit plan that meets the requirements set forth in 33 V.S.A. § 1806.

(5) “Registered carrier” means any person, except an insurance agent, broker, appraiser, or adjuster, that issues a health benefit plan and that has a registration in effect with the Commissioner of Financial Regulation as required by this section.

(6) “Small employer” means an entity that employed an average of not more than 100 employees on working days during the preceding calendar year, using the methodology set forth in 26 U.S.C. § 4980H(c)(2). The term includes self-employed persons to the extent permitted under the Affordable Care Act. A small employer may be a qualified employer or a nonqualified employer.

(7) “Vermont Health Benefit Exchange” or “Exchange” means the Vermont Health Benefit Exchange established pursuant to 33 V.S.A. chapter 18, subchapter 1.

(b)(1) A health benefit plan shall comply with the requirements of the Affordable Care Act, including providing the essential health benefits package, offering only plans with at least a 60 percent actuarial value, adhering to limitations on deductibles and out-of-pocket expenses, and offering plans with a bronze-, silver-, gold-, or platinum-level actuarial value. A health benefit plan available for purchase through the Vermont Health Benefit Exchange shall also comply with the requirements of 33 V.S.A. § 1806.

(2) To the extent permitted by the U.S. Department of Health and Human Services, an individual may purchase a qualified health benefit plan through the Exchange website, through navigators, by telephone, or directly from a registered carrier under contract with the Vermont Health Benefit Exchange, if the carrier elects to make direct enrollment available. A registered carrier enrolling individuals in qualified health benefit plans directly shall comply with all open enrollment and special enrollment periods applicable to the Vermont Health Benefit Exchange.

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

(4) An individual, small employer, or employee of a small employer may purchase a nonqualified health benefit plan directly from a registered carrier, through an agent or broker, or by other lawful means.

(c) No person may provide a qualified or nonqualified health benefit plan to an individual or small employer unless such person is a registered carrier. The Commissioner of Financial Regulation shall establish, by rule, the minimum financial, marketing, service, and other requirements for registration. Such registration shall be effective upon approval by the Commissioner and shall remain in effect until revoked or suspended by the Commissioner for cause or until withdrawn by the carrier. A carrier may withdraw its registration upon at least six months' prior written notice to the Commissioner. A registration filed with the Commissioner shall be deemed to be approved unless it is disapproved by the Commissioner within 30 days of filing.

(d) A registered carrier shall guarantee acceptance of all individuals, small employers, and employees of small employers, and each dependent of such individuals and employees, for any qualified or nonqualified health benefit plan offered by the carrier.

(e) A registered carrier shall offer a health benefit plan rate structure that at least differentiates between single-person, two-person, and family rates.

(f)(1) A registered carrier shall use a community rating method acceptable to the Green Mountain Care Board for determining premiums for health benefit plans. Except as provided in subdivision (2) of this subsection, the following risk classification factors are prohibited from use in rating individuals, small employers, or employees of small employers, or the dependents of such individuals or employees:

(A) demographic rating, including age and gender rating;

(B) geographic area rating;

(C) industry rating;

(D) medical underwriting and screening;

(E) experience rating;

(F) tier rating; or

(G) durational rating.

(2)(A) The Green Mountain Care Board may, by rule, adopt standards and a process for permitting registered carriers to use one or more risk classifications in their community rating method, provided that the Board's rules shall not permit any medical underwriting and screening, shall give due consideration to the need for affordability and accessibility of health insurance, and shall comply with the provisions of 45 C.F.R. § 147.102.

(B) The Board may adopt, to the extent permitted under federal law, rules to permit a carrier, including a hospital or medical service corporation and a health maintenance organization, to establish rewards, premium discounts, split benefit designs, rebates, or otherwise waive or modify applicable co-payments, deductibles, or other cost-sharing amounts in return for adherence by a member or subscriber to programs of health promotion and disease prevention. The Board shall consult with the Commissioner of Health, the Director of the Blueprint for Health, and the Commissioner of Vermont Health Access in the development of health promotion and disease prevention rules that are consistent with the Blueprint for Health. Such rules shall, to the extent permitted under federal law:

(i) limit any reward, discount, rebate, or waiver or modification of cost-sharing amounts to not more than a total of 15 percent of the cost of the premium for the applicable coverage tier, provided that the sum of any rate deviations under subdivision (A) of this subdivision (2) does not exceed 30 percent;

(ii) be designed to promote good health or prevent disease for individuals in the program and not be used as a subterfuge for imposing higher costs on an individual based on a health factor;

(iii) provide that the reward under the program is available to all similarly situated individuals and shall comply with the nondiscrimination provisions of the federal Health Insurance Portability and Accountability Act of 1996; and

(iv) provide a reasonable alternative standard to obtain the reward to any individual for whom it is unreasonably difficult due to a medical condition or other reasonable mitigating circumstance to satisfy the otherwise applicable standard for the discount and disclose in all plan materials that describe the discount program the availability of a reasonable alternative standard.

(C) The Board's rules shall include:

(i) standards and procedures for health promotion and disease prevention programs based on the best scientific, evidence-based medical practices as recommended by the Commissioner of Health;

(ii) standards and procedures for evaluating an individual's adherence to programs of health promotion and disease prevention; and

(iii) any other standards and procedures necessary or desirable to carry out the purposes of this subdivision (2).

(D) The Green Mountain Care Board may require a registered carrier to identify the percentage of a requested premium increase that is attributed to the following categories: hospital inpatient costs, hospital outpatient costs, pharmacy costs, primary care, other medical costs, administrative costs, and projected reserves or profit. Reporting of this information shall occur at the time a rate increase is sought and shall be in the manner and form directed by the Board. Such information shall be made available to the public in a manner that is easy to understand.

(g) A registered carrier shall file with the Commissioner an annual certification by a member of the American Academy of Actuaries of the carrier's compliance with this section. The requirements for certification shall be as the Commissioner prescribes by rule.

(h) A registered carrier shall notify an applicant for individual coverage of the income thresholds for eligibility for State and federal premium tax credits and cost-sharing subsidies in qualified health benefit plans purchased through the Vermont Health Benefit Exchange.

(i) The plan year for a qualified or nonqualified health benefit plan shall begin on January 1. A registered carrier shall guarantee the rates on a health benefit plan for a minimum of 12 months.

(j) The Green Mountain Care Board shall disapprove any rates filed by any registered carrier, whether initial or revised, for insurance policies unless the anticipated medical loss ratios for the entire period for which rates are computed are at least 80 percent, as required by the Affordable Care Act.

(k) The guaranteed acceptance provision of subsection (d) of this section shall not be construed to limit an employer's discretion in contracting with his or her employees for insurance coverage.

Sec. 14b. 8 V.S.A. § 4085 is amended to read:

§ 4085. REBATES AND COMMISSIONS PROHIBITED FOR NONGROUP AND SMALL GROUP POLICIES AND PLANS OFFERED THROUGH THE VERMONT HEALTH BENEFIT EXCHANGE

(a) No insurer doing business in this State and no insurance agent or broker shall offer, promise, allow, give, set off, or pay, directly or indirectly, any rebate of or part of the premium payable on a plan issued pursuant to section 4080g or 4080h of this title or 33 V.S.A. § 1811 or earnings, profits, dividends,

or other benefits founded, arising, accruing or to accrue thereon or therefrom, or any special advantage in date of policy or age of issue, or any paid employment or contract for services of any kind or any other valuable consideration or inducement to or for insurance on any risk in this State, now or hereafter to be written, or for or upon any renewal of any such insurance, which is not specified in the policy contract of insurance, or offer, promise, give, option, sell, purchase any stocks, bonds, securities, or property or any dividends or profits accruing or to accrue thereon, or other thing of value whatsoever as inducement to insurance or in connection therewith, or any renewal thereof, which is not specified in the plan.

(b) No person insured under a plan issued pursuant to section 4080g or 4080h of this title ~~or 33 V.S.A. § 1811~~ or party or applicant for such plan shall directly or indirectly receive or accept or agree to receive or accept any rebate of premium or of any part thereof, or any favor or advantage, or share in any benefit to accrue under any plan issued pursuant to section 4080g or 4080h of this title ~~or 33 V.S.A. § 1811~~, or any valuable consideration or inducement, other than such as is specified in the plan.

(c) Nothing in this section shall be construed as prohibiting any insurer from allowing or returning to its participating policyholders dividends, savings, or unused premium deposits; or as prohibiting any insurer from returning or otherwise abating, in full or in part, the premiums of its policyholders out of surplus accumulated from nonparticipating insurance; or as prohibiting the taking of a bona fide obligation, with interest not exceeding six percent per annum, in payment of any premium.

(d)(1) No insurer shall pay any commission, fee, or other compensation, directly or indirectly, to a licensed or unlicensed agent, broker, or other individual in connection with the sale of a health insurance plan issued pursuant to section 4080g or 4080h of this title ~~or 33 V.S.A. § 1811~~, nor shall an insurer include in an insurance rate for a health insurance plan issued pursuant to section 4080g or 4080h of this title ~~or 33 V.S.A. § 1811~~ any sums related to services provided by an agent, broker, or other individual. A health insurer may provide to its employees wages, salary, and other employment-related compensation in connection with the sale of health insurance plans, but may not structure any such compensation in a manner that promotes the sale of particular health insurance plans over other plans offered by that insurer.

(2) Nothing in this subsection shall be construed to prohibit the Vermont Health Benefit Exchange established in 33 V.S.A. chapter 18, subchapter 1 from structuring compensation for agents or brokers in the form of an additional commission, fee, or other compensation outside insurance rates or

from compensating agents, brokers, or other individuals through the procedures and payment mechanisms established pursuant to 33 V.S.A. § 1805(17).

Sec. 14c. 8 V.S.A. § 4085a(a) is amended to read:

(a) As used in this section, “group insurance” means any policy described in section 4079 of this title, except that it shall not include any small group policy issued pursuant to section ~~4080a or 4080g or 4080h~~ of this title ~~or to 33 V.S.A. § 1811~~.

Sec. 14d. 33 V.S.A. § 1802 is amended to read:

§ 1802. DEFINITIONS

As used in this subchapter:

* * *

(7) “Qualified health benefit plan” means a health benefit plan ~~which~~ that meets the requirements set forth in 8 V.S.A. § 4080h and section 1806 of this title.

* * *

Second: In Sec. 59, repeals, by adding a subsection (c) to read as follows:

(c) 33 V.S.A. § 1811 (Exchange plans) is repealed on January 1, 2017.

Third: In Sec. 60, effective dates, in subsection (a), following the number “13”, by striking out “and 14”, and by adding a subsection (f) to read as follows:

(f) Secs. 14–14d shall take effect on July 1, 2015 for coverage beginning on January 1, 2017.

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: Ashe, Benning, Collamore, Degree, Doyle, Flory, Mullin, Snelling, Westman.

Those Senators who voted in the negative were: Ayer, Balint, Baruth, Bray, Campbell, Campion, Cummings, Kitchel, Lyons, MacDonald, Mazza, McCormack, Nitka, Rodgers, Sears, Sirotkin, Starr, White, Zuckerman.

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

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

Committee of Conference Appointed

S. 9.

An act relating to improving Vermont's system for protecting children from abuse and neglect.

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

Senator Sears
Senator Flory
Senator Lyons

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

Committee of Conference Appointed

S. 122.

An act relating to miscellaneous changes to laws related to motor vehicles, motorboats, and other vehicles.

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

Senator Mazza
Senator Degree
Senator Westman

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

Rules Suspended; Bills Messaged

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

S. 9, S. 122, S. 139, H. 18.

Adjournment

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