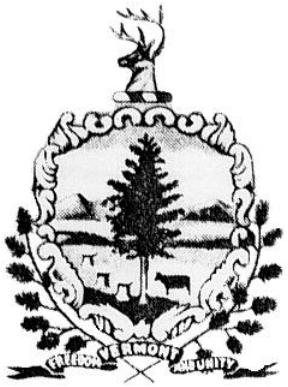
JOURNAL OF THE SENATE

OF THE

STATE OF VERMONT

BIENNIAL SESSION, 2013

VOLUME 2



Published by Authority

STATE OF VERMONT

BUILDINGS AND GENERAL SERVICES, MIDDLESEX, VERMONT

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Mr. President:

I am directed to inform the Senate that:

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

H. 534. An act relating to approval of amendments to the charter of the City of Winooski.

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

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

S. 155. An act relating to creating a strategic workforce development needs assessment and strategic plan.

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 proposals of amendment to the following House bills:

H. 99. An act relating to equal pay.

H. 178. An act relating to anatomical gifts.

And has severally concurred therein.

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

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

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

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

H. 169. An act relating to relieving employers' experience-rating records.

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

Rules Suspended; Bill Committed

Appearing on the Calendar for action, on motion of Senator Ashe the rules were suspended and Senate Committee bill entitled:

H. 295. An act relating to technical tax changes.

Was taken up for immediate consideration.

Thereupon, pending second reading of the bill, on motion of Senator Ashe the bill was committed to the Committee on Finance.

Bill Referred to Committee on Appropriations

H. 515.

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

An act relating to miscellaneous agricultural subjects.

Bills Referred to Committee on Finance

House bills of the following titles, appearing on the Calendar for notice, and affecting the revenue of the state, under the rule were severally referred to the Committee on Finance:

H. 270. An act relating to providing access to publicly funded prekindergarten education.

H. 523. An act relating to jury questionnaires, the filing of foreign child custody determinations, court fees, and judicial record keeping.

H. 524. An act relating to making technical amendments to education laws.

Bill Referred

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

H. 534.

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

To the Committee on Rules.

Bills Passed in Concurrence with Proposals of Amendment

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

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

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

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

Bills Passed in Concurrence

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

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

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

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

Proposals of Amendment; Third Reading Ordered

H. 240.

Senator Ashe, for the Committee on Finance, to which was referred House bill entitled:

An act relating to Executive Branch fees.

Reported recommending that the Senate propose to the House to amend the bill as follows:

First: In Sec. 26, 7 V.S.A. § 231, in subsection (a) subdivision (5), by striking out the following "$130.00" and inserting in lieu thereof the following: $140.00

Second: By striking out Secs. 27 and 28 in their entirety.

Third: By striking out Sec. 30 in its entirety and inserting in lieu thereof a new Sec. 30 to read as follows:

Sec. 30. 7 V.S.A. § 1002 is amended to read:

§ 1002. LICENSE REQUIRED; APPLICATION; FEE; ISSUANCE

* * *

(d) A person applying simultaneously for a tobacco license and a liquor license shall apply to the legislative body of the municipality and shall pay to the ~~department~~ Department only the fee required to obtain the liquor license. A person applying ~~only~~ for a tobacco license shall submit a fee of ~~$10.00~~ $100.00 to the legislative body of the municipality for each tobacco license or renewal. The municipal clerk shall forward the application to the ~~department~~ Department, and the ~~department~~ Department shall issue the tobacco license. ~~The municipal clerk shall retain $5.00 of this fee, and the remainder shall be deposited in the treasury of the municipality~~ The tobacco license fee shall be forwarded to the Commissioner for deposit in the Liquor Control Enterprise Fund.

* * *

Fourth: By adding internal captions and new Secs. 35, 36, 37, 38, and 39 to read as follows:

* * * State Police Dispatch Fees * * *

Sec. 35. UNIFORM DISPATCH FEES

The Commissioner of Public Safety shall adopt rules establishing uniform statewide fees for dispatch services provided by or under the direction of the Department of Public Safety. In setting the fees, the Commissioner shall consult with sheriffs and other entities that provide dispatch services.

* * * Break-Open Tickets * * *

Sec. 36. REPEAL

32 V.S.A. chapter 239 (game of chance) is repealed.

Sec. 37. 7 V.S.A. chapter 26 is added to read:

CHAPTER 26. BREAK-OPEN TICKETS

§ 901. DEFINITIONS

As used in this chapter:

(1) "Break-open ticket" means a lottery using a card or ticket of the so-called pickle card, jar ticket, or break-open variety commonly bearing the name "Lucky 7," "Nevada Club," "Victory Bar," "Texas Poker," "Triple Bingo," or any other name.

(2) "Commissioner" means the Commissioner of Liquor Control.

(3) "Distributor" means a person who purchases break-open tickets from a manufacturer and sells or distributes break-open tickets at wholesale in Vermont. "Distributor" shall include any officer, employee, or agent of a corporation or dissolved corporation who has a duty to act for the corporation in complying with the requirements of this chapter. "Distributor" shall not include a person who distributes only jar tickets which are used only for merchandise prizes.

(4) "Manufacturer" means a person who designs, assembles, fabricates, produces, constructs, or otherwise prepares a break-open ticket for sale to a distributor.

(5) "Nonprofit organization" means a nonprofit corporation which is qualified for tax exempt status under the provisions of 26 U.S.C. § 501(c) and which has engaged, in good faith, in charitable, religious, educational, or civic activities in this State on a regular basis during the preceding year. "Nonprofit

organization" also includes churches, schools, fire departments, municipalities, fraternal organizations, and organizations that operate agricultural fairs or field days and which have engaged, in good faith, in charitable, religious, educational, or civic activities in this State on a regular basis during the preceding year.

(6) "Seller" means a nonprofit organization that sells break-open tickets at retail.

(7) "Seller's agent" means the owner of a premises where alcohol is served who has entered into a written agreement with a nonprofit organization to sell tickets at retail on behalf of the nonprofit organization.

§ 902. LICENSE REQUIRED

(a) Any manufacturer, distributor, seller, or seller's agent shall be licensed by the Commissioner.

(b) Upon application and payment of the fee, the Commissioner may issue the following licenses to qualified applicants:

(1) Manufacturer annual license	$7,500.00
(2) Distributor annual license	$7,500.00
(3) Seller's annual license	$ 50.00
(4) Seller's agent annual license	$ 50.00

(c) A license shall not be granted to an individual who has been convicted of a felony within five years of the license application nor to an entity in which any partner, officer, or director has been convicted of a felony within five years of the application.

(d) Licenses issued under this section may be renewed annually from the date of issue or last renewal, upon reapplication and payment of the licensing fee.

(e) A seller or a seller's agent must display his or her license in a conspicuous public place or in an area near where the break-open tickets are sold.

(f) All fees collected pursuant to this section shall be deposited into the Liquor Control Fund.

§ 903. DISTRIBUTION

(a) Only a licensed seller or licensed seller's agent may sell tickets at retail. A seller or seller's agent shall buy tickets for resale only from a licensed distributor. A distributor shall buy tickets only from a licensed manufacturer, and shall only sell tickets to a licensed seller or seller's agent.

(b) A distributor shall not distribute a box of break-open tickets unless the box bears indicia as required by the Commissioner. A distributor shall not distribute a box of break-open tickets in this State with a prize payout of less than 60 percent. A person shall not distribute or sell a break-open ticket at retail unless the ticket bears a unique serial number.

(c) When making a sale of break-open tickets, a distributor shall require a seller or seller's agent to present evidence of a valid license under this chapter.

(d) A seller may sell break-open tickets on the premises of a club as defined in subdivision 2(7) of this title. All proceeds from the sale of break-open tickets shall be used by the seller exclusively for charitable, religious, educational, and civic undertakings, with only the following costs deducted from the proceeds:

(1) the actual cost of the break-open tickets;

(2) the prizes awarded;

(3) reasonable legal fees necessary to organize the nonprofit organization and to assure compliance with all legal requirements; and

(4) reasonable accounting fees necessary to account for the proceeds from the sale of break-open tickets by the seller.

(e) Notwithstanding 13 V.S.A. § 2143, a seller's agent may sell break-open tickets at premises licensed to sell alcoholic beverages if the seller's agent meets the requirements of section 904 of this title. All proceeds from the sale of break-open tickets by a seller's agent shall be remitted to the seller, except for:

(1) the actual cost of the break-open tickets;

(2) the prizes awarded; and

(3) any taxes due on the sale of break-open tickets under 32 V.S.A. chapter 245.

§ 904. REQUIREMENTS FOR A SELLER'S AGENT

(a) In order to sell break-open tickets, a seller's agent shall enter into a written agreement with the seller. The written agreement shall include the terms required by the Commissioner but at a minimum shall be filed with the Commissioner and include the names of individuals representing the seller and the seller's agent, contact information for those individuals, and the responsibility and duties of each party. The seller's agent shall file a copy of the written agreement with the Commissioner.

(b) The seller's agent must remit to the seller at least quarterly the proceeds owed to the seller under the written agreement, along with a copy of the report due under section 905 of this title.

§ 905. RECORDS; REPORT

(a) Each distributor, manufacturer, seller, and seller's agent licensed under this chapter shall maintain records and books relating to the distribution and sale of break-open tickets and to any other expenditure required by the Commissioner. A licensee shall make its records and books available to the Commissioner for auditing.

(b) Each licensed distributor shall file with the Commissioner on the same schedule as the distributor files sales tax returns the following information for the preceding reporting period:

(1) the names of organizations to which break-open tickets were sold;

(2) the number of break-open tickets sold to each organization; and

(3) the ticket denomination and serial numbers of tickets sold.

(c) Each licensed manufacturer shall file with the Commissioner quarterly reports on or before April 25, July 25, October 25, and January 25 for the quarter ending prior to the month in which the report is due. The reports shall contain the following information for the reporting period:

(1) the names of distributors to which deals of break-open ticket were sold;

(2) the number of deals of break-open tickets sold to each distributor; and

(3) the ticket denomination and serial numbers for each deal.

(d) Each licensed seller that sells tickets shall file with the Commissioner quarterly reports on or before April 25, July 25, October 25, and January 25 for the quarter ending prior to the month in which the report is due. The reports shall contain any information required by the Commissioner, but shall include:

(1) the number of boxes purchased and the actual cost of the break-open tickets;

(2) the prizes awarded;

(3) any reasonable legal fees necessary to organize the nonprofit organization and to assure compliance with all legal requirements;

(4) any reasonable accounting fees necessary to account for the proceeds from the sale of break-open tickets by the seller; and

(5) the amount of proceeds dedicated to the charitable purpose of the organization.

(e) Each licensed seller's agent that sells tickets shall file with the Commissioner quarterly reports on or before April 25, July 25, October 25, and January 25 for the quarter ending prior to the month in which the report is due. The reports shall contain any information required by the Commissioner, but shall include:

(1) the number of boxes purchased, the number of tickets in each box, and the retail sale value of the tickets;

(2) the actual cost of the break-open tickets;

(3) the prizes awarded;

(4) the amount of funds remitted to the seller; and

(5) evidence of taxes paid under 32 V.S.A. chapter 245 on the boxes purchased by the seller's agent.

(f) Records and reports filed under this section shall be subject to the provisions of 32 V.S.A. § 3102, except as necessary for the administration of this chapter.

(g) The Commissioner of Liquor Control shall provide the records and reports filed under this section to the Attorney General and Commissioner of Taxes upon request.

§ 906. RULES

The Department of Liquor Control shall regulate the sale of break-open tickets in this State. The Commissioner may adopt regulations for the licensure and reporting requirements under this chapter to establish indicia for boxes of break-open tickets and to establish reasonable reporting and accounting requirements on manufacturers, distributors, sellers, and seller's agents of break-open tickets to ensure the requirements of this chapter are met.

§ 907. ENFORCEMENT

(a) Any person who intentionally violates section 903 of this title shall be fined not more than $500.00 for each violation.

(b) Any person who intentionally violates section 902, 904, or 905 of this title shall be fined not more than $10,000.00 for the first offense and fined not more than $20,000.00 or imprisoned not more than one year, or both, for each subsequent offense.

(c) In addition to the criminal penalties provided under subsections (a) and (b) of this section, any person who violates a provision of this chapter shall be subject to one or both of the following penalties:

(1) revocation or suspension by the Commissioner of a license granted pursuant to this chapter; or

(2) confiscation of break-open tickets or confiscation of the revenues derived from the sale of those tickets, or both.

§ 908. APPEALS

Any licensee aggrieved by an action taken under this chapter and any person aggrieved by the Commissioner's refusal to issue or renew a license under this chapter may appeal in writing within 30 days of the Commissioner's decision to the Liquor Control Board for review of such action. The Board shall thereafter grant a hearing subject to the provisions of 3 V.S.A. chapter 25 upon the matter and notify the aggrieved person in writing of its determination. The Board's determination may be appealed within 30 days to the Vermont Supreme Court. Appeal pursuant to this section shall be the exclusive remedy for contesting the Commissioner's action under this chapter.

* * * Groundwater extraction * * *

Sec. 38. 3 V.S.A. § 2822 is amended to read:

§ 2822. BUDGET AND REPORT; POWERS

* * *

(j) In accordance with subsection (i) of this section, the following fees are established for permits, licenses, certifications, approvals, registrations, orders, and other actions taken by the ~~agency of natural resources~~ Agency of Natural Resources.

* * *

(7) For public water supply ~~and~~, bottled water permits, and bulk water permits ~~and approvals~~ issued under 10 V.S.A. chapter 56 and ~~interim~~ groundwater withdrawal permits ~~and approvals~~ issued under 10 V.S.A. chapter 48:

(A) For public water supply construction permit applications: $375.00 per application plus $0.0055 per gallon of design capacity. Amendments $150.00 per application.

(B) For water treatment plant applications, except those applications submitted by a municipality as defined in 1 V.S.A. § 126 or a consolidated water district established under 24 V.S.A. § 3342: $0.003 per gallon of design capacity. Amendments $150.00 per application.

(C) For source permit applications:

(i) Community water systems:	$945.00 per source.
(ii) Transient noncommunity:	$385.00 per source.
(iii) Nontransient, noncommunity:	$770.00 per source.
(iv) Amendments.	$150.00 per application.

(D) For public water supplies ~~and,~~ bottled water facilities, and bulk water facilities, annually:

(i) Transient noncommunity:	$50.00
(ii) Nontransient, noncommunity:	$0.0355 per 1,000 gallons of water produced annually or $70.00, whichever is greater.
(iii) Community:	$0.0439 per 1,000 gallons of water produced annually.
(iv) Bottled water:	$1,390.00 per permitted facility.

(E) Amendment to bottled water facility permit, $150.00 per application.

(F) For facilities permitted to withdraw groundwater pursuant to 10 V.S.A. § 1418: $2,300.00 annually per facility.

(G) For facilities that bottle water or sell water in bulk, except for municipalities as defined in 1 V.S.A. § 126 or a consolidated water district established under 24 V.S.A. § 3342: $0.05 per gallon produced annually per permitted facility

~~(G)~~(H) In calculating flow-based fees under this subsection, the ~~secretary~~ Secretary will use metered production flows where available. When metered production flows are not available, the ~~secretary~~ Secretary shall estimate flows based on the standard design flows for new construction.

~~(H)~~(I) The ~~secretary~~ Secretary shall bill public water supplies and bottled water companies for the required fee. Annual fees may be divided into semiannual or quarterly billings.

* * *

Sec. 39. 10 V.S.A. § 1675 is amended to read:

§ 1675. PERMITS; CONDITIONS; DURATION; SUSPENSION OF REVOCATION

* * *

(h) A public water system permitted after the effective date of this act that bottles drinking water for public distribution and sale, including systems that sell water to a different state system that bottles the water, shall obtain from the ~~secretary~~ Secretary a source water permit under subsection 1672(g) of this title upon renewal of its operating permit under this section and every 10 years thereafter.

* * *

And by renumbering the remaining sections to be numerically correct.

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

Thereupon, pending the question, Shall the Senate propose to the House that the bill be amended as recommended by the Committee on Finance?, Senator Ashe moved to amend the proposal of amendment of the Committee on Finance, in the *fourth* proposal of amendment by striking out Secs. 38 and 39 in their entirety.

Which was agreed to.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and the proposal of amendment, as amended, was agreed to, and third reading of the bill was ordered.

House Proposals of Amendment Concurred In; Rules Suspended; Action Messaged

S. 85.

House proposals of amendment to Senate bill entitled:

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

Were taken up.

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

First: By striking out Sec. 2 in its entirety and inserting in lieu thereof a new Sec. 2 to read as follows:

Sec. 2. EDUCATION AND TRAINING

The Department of Health shall provide annual education and training to emergency medical personnel licensed under 18 V.S.A. chapter 17 and the

Vermont Fire Academy shall provide annual education and training to firefighters on the requirements of the Occupational Safety and Health Administration standards 1910.134 (respiratory protection) and 1910.1030 (bloodborne pathogens).

Second: In Sec. 1, 21 V.S.A. § 601, in subdivision (11)(H)(i), after the words "infectious disease" by inserting the following: either one of which is

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

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

Rules Suspended; Bills on Notice Calendar for Immediate Consideration

Senator Campbell, moved the rules be suspended, and the following bills, appearing on the Calendar for notice, be brought up for immediate consideration:

S. 155, H. 101, H. 169, H. 450, H. 536.

Thereupon, pending the question, Shall the rules be suspend to take the bills up for immediate consideration?, Senator Galbraith moved that the question be divided and that **H. 450** and **H. 536** be voted on separately.

Thereupon, the question, Shall the rules be suspended to take up for immediate consideration **H. 450**, was agreed to on a roll call, Yeas 27, Nays 1.

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

Roll Call

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

The Senator who voted in the negative was: Galbraith.

Those Senators absent and not voting were: Benning, Zuckerman.

Thereupon, the question, Shall the rules be suspended to take up for immediate consideration **H. 536**?, Senator Campbell requested and was granted leave to withdraw his motion.

Thereupon, the question, Shall the rules be suspended to take up for immediate consideration **S. 155, H. 101** and **H. 169**?, was agreed to.

Proposals of Amendment; Third Reading Ordered

H. 450.

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

An act relating to expanding the powers of regional planning commissions.

Reported recommending that the Senate propose to the House to amend the bill as follows:

First: In Sec. 1, 24 V.S.A. § 4345, in subdivision (16)(B), by striking out the first sentence and inserting in lieu thereof the following:

borrow money and incur indebtedness for the purposes of purchasing or leasing property for office space, establish and administer a revolving loan fund, or establish a line of credit, if approved by a two-thirds vote of those representatives to the regional planning commission present and voting at a meeting to approve such action.

Second: After Sec. 2, by inserting a new Sec. 3 to read as follows:

Sec. 3. 24 V.S.A. § 4341 is amended to read:

§ 4341. CREATION OF REGIONAL PLANNING COMMISSIONS

(a) A regional planning commission may be created at any time by the act of the voters or the legislative body of each of a number of contiguous municipalities, upon the written approval of the ~~agency of commerce and community development~~ Agency of Commerce and Community Development. Approval of a designated region shall be based on whether the municipalities involved constitute a logical geographic and a coherent ~~socio-economic~~ socioeconomic planning area. All municipalities within a designated region shall be considered members of the regional planning commission. For the purpose of a regional planning commission's carrying out its duties and functions under state law, such a designated region shall be considered a political subdivision of the State.

* * *

And by renumbering the remaining section to be numerically correct.

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

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and the proposals of amendment were collectively agreed to, and third reading of the bill was ordered.

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

S. 155.

House proposal of amendment to Senate bill entitled:

An act relating to creating a strategic workforce development needs assessment and strategic plan.

Was taken up.

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

Sec. 1. FINDINGS AND PURPOSE

(a) Over the years, significant resources have been devoted in Vermont to supporting many workforce development, training, and education opportunities that prepare individuals for employment. Among them are private and public education, social service programs focusing on work readiness, internships, apprenticeships, training programs, and other forms of government support.

(b) Despite these investments, there is a gap between the readiness of individuals for employment and the needs of employers in the State. Graduates, underemployed, and unemployed workers express that they cannot find work, they do not possess adequate work skills and experience, or that jobs for which they are qualified are unavailable. At the same time, employers report difficulty in filling current and projected job openings due in part to the insufficient skills, training, or experience of the available workforce. Consequently, individuals are not advancing their employment interests and businesses are impeded in their success. The combination of these factors negatively impacts the revenues of the State and the well-being of our citizenry.

(c) There is broad agreement in the General Assembly that individuals should have adequate opportunities to engage in the workforce in the way that best suits their needs and wishes. There is also agreement that the workforce needs of our employers must be met in order for our businesses and economy to thrive.

(d) Administrators and policy makers acknowledge that there are both gaps and overlaps among the many workforce development, training, and education activities in the State. There is broad consensus on the need for significantly improved coordination and strategic focus.

(e) In adopting this act, it is the goal of the General Assembly to create a process that will result in a comprehensive compendium of information about

the workforce education and training activities that are taking place in the State. This information, which is not currently compiled in a way that is sufficiently useful to policy makers and administrators, will serve as the basis for the more effective and strategic use of both public and private dollars.

Sec. 2. WORKFORCE DEVELOPMENT WORK GROUP

(a) Creation. There is created a Workforce Development Work Group composed of the following members:

(1) two members of the Senate appointed by the President Pro Tempore of the Senate;

(2) two members of the House of Representatives appointed by the Speaker of the House;

(3) the Secretary of Commerce and Community Development or designee; and

(4) the Commissioner of Labor or designee.

(b) Duties. The Work Group shall:

(1) coordinate with the Workforce Development Council in the performance of the Council's duties under 10 V.S.A. § 541(i);

(2) research, compile, and inventory all workforce education and training programs and activities taking place in Vermont;

(3) identify the number of individuals served by each of the programs and activities, and estimate the number of individuals in the State who could benefit from these programs and activities;

(4) identify the amount and source of financial support for these programs and activities, including financial support that goes directly to the individuals, and, to the extent practicable, the allocation of resources to the direct benefits, management, and overhead costs of each program and activity;

(5) identify the mechanics by which these programs and activities are evaluated for effectiveness and outcomes;

(6) provide a summary for each program or activity of its delivery model, including how the program or activity aligns with employment opportunities located in Vermont;

(7) identify current statutory provisions concerning coordination, integration, and improvement of workforce education and training programs, including identification of the entities responsible for performing those duties;

(8) identify overlaps in existing workforce development programs and activities; and

(9)(A) research and inventory all programs and activities taking place in the State, both public and private, that identify and evaluate employers' needs for employees, including the skills, education, and experience required for available and projected jobs;

(B) indicate who is responsible for these activities and how they are funded;

(C) specify the data collection activities that are taking place; and

(D) identify overlaps in programs, activities, and data collection that identify and evaluate employers' needs for employees.

(c) The Work Group shall meet not more than eight times, and shall have the administrative, legal, and fiscal support of the Office of Legislative Council and the Legislative Joint Fiscal Office.

(d) In order to perform its duties pursuant to this act, the Work Group shall have the authority to request and gather data and information as it determines is necessary from entities that conduct workforce education and training programs and activities, including agencies, departments, and programs within the Executive Branch and from nongovernmental entities that receive state-controlled funding. Unless otherwise exempt from public disclosure pursuant to state or federal law, a workforce education and training provider shall provide the data and information requested by the Work Group within a reasonable time period.

(e) On or before January 15, 2014, the Work Group shall submit its findings and recommendations to the House Committees on Commerce and Economic Development and on Education, and to the Senate Committees on Economic Development, Housing and General Affairs and on Education.

(f) Members of the Work Group shall be eligible for per diem compensation, mileage reimbursement, and other necessary expenses as provided in 2 V.S.A. § 406.

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

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

H. 169.

House proposal of amendment to Senate proposal of amendment to House bill entitled:

An act relating to relieving employers' experience-rating records.

Was taken up.

The House proposes to the Senate to amend the Senate proposal of amendment by striking out Secs. 4 and 5 in their entirety and inserting Secs. 4, 5, and 6 to read as follows:

Sec. 4. DEPARTMENT OF LABOR; ENFORCEMENT OF UNEMPLOYMENT INSURANCE COVERAGE RULE

The Department of Labor shall not implement proposed rule 12P044, unemployment insurance coverage for newspaper carriers, until July 1, 2014.

Sec. 5. STUDY

(a) The Department of Labor shall study the issue of exempting newspaper carriers from unemployment compensation coverage, including its appropriateness and the potential impact of the exemption on the unemployment trust fund.

(b) The study shall include an analysis of:

(1) the average earnings of newspaper carriers and whether based on those earnings they would be eligible for unemployment compensation benefits;

(2) the frequency of layoffs of newspaper carriers;

(3) the history of how newspaper carriers have been treated for purposes of unemployment compensation in Vermont and the history and rationale behind the 2006 Department of Labor bulletin treating newspaper carriers as direct sellers;

(4) the amount of savings realized by newspaper publishers as a result of the 2006 bulletin;

(5) whether newspaper carriers are required to be covered by workers' compensation insurance;

(6) the impact of a newspaper carrier exemption on other public assistance programs;

(7) the approaches taken by other states regarding unemployment compensation for newspaper carriers;

(8) how the unemployment compensation statutes should apply to individuals who do not earn enough wages to qualify for unemployment benefits; and

(9) any other issues relating to unemployment compensation coverage for newspaper carriers and other similar occupations.

(c) The Department shall report its findings to the House Committee on Commerce and Economic Development and the Senate Committee on Finance on or before December 15, 2013.

Sec. 6. EFFECTIVE DATE

This act shall take effect on passage.

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

House Proposals of Amendment to Senate Proposals of Amendment Concurred In

H. 101.

House proposals of amendment to Senate proposal of amendment to House bill entitled:

An act relating to hunting, fishing, and trapping.

Were taken up.

The House proposes to the Senate to amend the Senate proposal of amendment as follows:

First: in Sec. 8, 10 V.S.A. § 4254b, by striking subdivision (a)(4) in its entirety and inserting in lieu thereof the following:

(4) "Long-term care facility" means any facility required to be licensed under 33 V.S.A. chapter 71 or a psychiatric facility with a long-term care unit required to be licensed under 18 V.S.A. chapter 43.

Second: In Sec. 9, by adding subdivision (H) to 10 V.S.A. § 4255(a)(4) to read:

(H) additional deer archery tag	$23.00

Third: In Sec. 9, by adding subdivision (H) to 10 V.S.A. § 4255(b)(6) to read:

(H) additional deer archery tag	$38.00

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

Committee Relieved of Further Consideration; Bill Committed

H. 534.

On motion of Senator Campbell, the Committee on Rules was relieved of further consideration of House bill entitled:

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

and the bill was committed to the Committee on Government Operations.

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:

H. 54, H. 101, H. 299, H. 395, H. 403, H. 405, H. 512.

Adjournment

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

Called to Order

The Senate was called to order by the President.

Message from the Governor

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

Mr. President:

I am directed by the Governor to inform the Senate that on the seventh day of May, 2013, he approved and signed a bill originating in the Senate of the following title:

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

Rules Suspended; Bills Committed

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

H. 226. An act relating to the regulation of underground storage tanks.

Was taken up for immediate consideration.

Thereupon, pending second reading of the bill, on motion of Senator Hartwell the bill was committed to the Committee on Finance with the report of the Committee on Natural Resources and Energy, *intact*.

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

H. 534. An act relating to approval of amendments to the charter of the City of Winooski.

Was taken up for immediate consideration.

Thereupon, pending second reading of the bill, on motion of Senator White the bill was committed to the Committee on Finance with the report of the Committee on Government Operations, *intact*.

Committee of Conference Appointed

S. 155.

An act relating to creating a strategic workforce development needs assessment and strategic plan.

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

Senator Bray
Senator Doyle
Senator Collins

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

House Proposal of Amendment Concurred In With Amendment

S. 150.

House proposal of amendment to Senate bill entitled:

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

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:

* * * Definitions * * *

Sec. 1. 23 V.S.A. § 4(11) is amended to read:

(11) "Enforcement officers" shall include:

(A) the following persons certified pursuant to 20 V.S.A. § 2358: sheriffs, deputy sheriffs, constables whose authority has not been limited under 24 V.S.A. § 1936a, police officers, state's attorneys, capitol police officers, motor vehicle inspectors, state game wardens, and state police~~, and~~;

(B) for enforcement of offenses relating to parking of motor vehicles, meter checkers~~,~~ and other duly authorized employees of a municipality employed to assist in the enforcement of parking regulations~~. "Enforcement officers" shall also include~~;

(C) for enforcement of nonmoving traffic violations enumerated in subdivisions 2302(a)(1), (2), (3), and (4) of this title, duly authorized employees of the ~~department of motor vehicles for the purpose of issuing~~ Department of Motor Vehicles. Such employees may issue complaints ~~related to their administrative duties, pursuant to 4 V.S.A. § 1105,~~ in accordance with 4 V.S.A. § 1105.

Sec. 2. 23 V.S.A. § 4(11) is amended to read:

(11) "Enforcement officers" shall include:

(A) the following persons certified pursuant to 20 V.S.A. § 2358: sheriffs, deputy sheriffs, constables whose authority has not been limited under 24 V.S.A. § 1936a, police officers, state's attorneys, capitol police officers, motor vehicle inspectors, liquor investigators, state game wardens, and state police~~, and~~;

(B) for enforcement of offenses relating to parking of motor vehicles, meter checkers~~,~~ and other duly authorized employees of a municipality employed to assist in the enforcement of parking regulations~~. "Enforcement officers" shall also include~~;

(C) for enforcement of nonmoving traffic violations enumerated in subdivisions 2302(a)(1), (2), (3), and (4) of this title, duly authorized employees of the ~~department of motor vehicles for the purpose of issuing~~ Department of Motor Vehicles. Such employees may issue complaints ~~related to their administrative duties, pursuant to 4 V.S.A. § 1105,~~ in accordance with 4 V.S.A. § 1105.

Sec. 3. 23 V.S.A. § 4(42) is amended to read:

(42) "Transporter" shall mean a person engaged in the business of delivering vehicles of a type required to be registered hereunder from a manufacturing, assembling, or distributing plant to dealers or sales agents of a manufacturer, and includes persons regularly engaged in the business of towing trailer coaches, owned by them or temporarily in their custody, on their own wheels over public highways, persons towing office trailers owned by them or temporarily in their custody, on their own wheels over public highways, persons regularly engaged and properly licensed for the short-term rental of "storage trailers" owned by them and who move these storage trailers on their own wheels over public highways, and persons regularly engaged in the business of moving modular homes over public highways and shall also

include dealers and automobile repair shop owners when engaged in the transportation of motor vehicles to and from their place of business for repair purposes. "Transporter" shall also include ~~other persons, firms or corporations~~ the following, provided that the transportation and delivery of motor vehicles is a common and usual incident to ~~the repossession of motor vehicles in connection with~~ their business: persons towing overwidth trailers owned by them in connection with their business; persons whose business is the repossession of motor vehicles; and persons whose business involves moving vehicles from the place of business of a registered dealer to another registered dealer, leased vehicles to the lessor at the expiration of the lease, or vehicles purchased at the place of auction of an auction dealer to the purchaser. ~~For purposes of~~ As used in this subdivision, "short-term rental" shall mean a period of less than one year. Additionally, as used in this subdivision, "repossession" shall include the transport of a repossessed vehicle to a location specified by the lienholder or owner at whose direction the vehicle was repossessed. Before a person may become licensed as a transporter, he or she shall present proof of compliance with section 800 of this title. He or she shall also either own or lease a permanent place of business located in this ~~state~~ State where business shall be conducted during regularly established business hours and the required records stored and maintained.

* * * Placards for Persons with Disabilities * * *

Sec. 4. 23 V.S.A. § 304a(c) is amended to read:

(c) Vehicles with special registration plates or removable windshield placards from any state ~~or which have a handicapped parking card issued by the commissioner of motor vehicles~~ may use the special parking spaces when:

(1) the ~~card or~~ placard is displayed ~~in the lower right side of the windshield or~~:

(A) by hanging it from the front windshield rearview mirror in such a manner that it may be viewed from the front and rear of the vehicle; or

(B) if the vehicle has no rearview mirror, on the dashboard;

(2) the plate is mounted as provided in section 511 of this title; or

(3) the plate is mounted or the placard displayed as provided by the law of the ~~state~~ jurisdiction where the vehicle is registered.

* * * Temporary Registrations * * *

Sec. 5. 23 V.S.A. § 305(d) is amended to read:

(d) When a registration for a motor vehicle, snowmobile, motorboat, or all-terrain vehicle is processed electronically, a receipt shall be available for printing. The receipt shall serve as a temporary registration. To be valid, the temporary registration shall be in the possession of the operator at all times, and it shall expire ten days after the date of the transaction.

* * * Registration Fees, Taxes on Trailers * * *

Sec. 6. 23 V.S.A. § 371(a) is amended to read:

§ 371. TRAILER AND SEMI-TRAILER

(a)(1) The one-year and two-year fees for registration of a trailer or semi-trailer, except a contractor's trailer or farm trailer, shall be as follows:

(A) $25.00 and $48.00, respectively, when such trailer or semi-trailer has a gross weight of trailer and load of ~~less than~~ 1,500 pounds or less;

(B) $49.00 and $96.00, respectively, when such trailer or semi-trailer has a gross weight of trailer and load of more than 1,500 pounds ~~or more,~~ and is drawn by a vehicle of the pleasure car type;

(C) $49.00 and $96.00, respectively, when such trailer or semi-trailer is drawn by a motor truck or tractor, when such trailer or semi-trailer has a gross weight of more than 1,500 pounds ~~or more,~~ but ~~not in excess of~~ less than 3,000 pounds;

(D) $49.00 and $96.00, respectively, when such trailer or semi-trailer is used in combination with a truck-tractor or motor truck registered at the fee provided for combined vehicles under section 367 of this title. Excepting for the fees, the provisions of this subdivision shall not apply to trailer coaches as defined in section 4 of this title nor to modular homes being transported by trailer or semi-trailer.

(2) The one-year and two-year fees for registration of a contractor's trailer shall be $145.00 and $290.00, respectively.

* * * Biennial Motorboat Registration * * *

Sec. 7. 23 V.S.A. § 3305 is amended to read:

§ 3305. FEES

(a) A person shall not operate a motorboat on the public waters of this state unless the motorboat is registered in accordance with this chapter.

(b) Annually or biennially, the owner of each motorboat required to be registered by this state shall file an application for a number with the ~~commissioner of motor vehicles~~ Commissioner of Motor Vehicles on forms approved by him or her. The application shall be signed by the owner of the motorboat and shall be accompanied by ~~a~~ an annual fee of $22.00 and a surcharge of $5.00, or a biennial fee of $39.00 and a surcharge of $10.00, for a motorboat in class A; by ~~a~~ an annual fee of $33.00 and a surcharge of $10.00, or a biennial fee of $61.00 and a surcharge of $20.00, for a motorboat in class 1; by ~~a~~ an annual fee of $60.00 and a surcharge of $10.00, or a biennial fee of $115.00 and a surcharge of $20.00, for a motorboat in class 2; by ~~a~~ an annual fee of $126.00 and a surcharge of $10.00, or a biennial fee of $247.00 and a surcharge of $20.00, for a motorboat in class 3. Upon receipt of the application in approved form, the ~~commissioner~~ Commissioner shall enter the application upon the records of the ~~department of motor vehicles~~ Department of Motor Vehicles and issue to the applicant a registration certificate stating the number awarded to the motorboat and the name and address of the owner. The owner shall paint on or attach to each side of the bow of the motorboat the identification number in such manner as may be prescribed by rules of the ~~commissioner~~ Commissioner in order that it may be clearly visible. The registration shall be void one year from the first day of the month following the month of issue in the case of annual registrations, or void two years from the first day of the month following the month of issue in the case of biennial registrations. A vessel of less than 10 horsepower used as a tender to a registered vessel shall be deemed registered, at no additional cost, and shall have painted or attached to both sides of the bow, the same registration number as the registered vessel with the number "1" after the number. The number shall be maintained in legible condition. The registration certificate shall be pocket size and shall be available at all times for inspection on the motorboat for which issued, whenever the motorboat is in operation. A duplicate registration may be obtained upon payment of a fee of $2.00 to the ~~commissioner~~ Commissioner. Notwithstanding section 3319 of this chapter, $5.00 of each registration fee shall be allocated to the ~~transportation fund~~ Transportation Fund. The remainder of the fee shall be allocated in accordance with section 3319 of this title.

* * *

(d)(1) Registration of a motorboat ends when the owner transfers title to another. The former owner shall immediately return directly to the ~~commissioner~~ Commissioner the registration certificate previously assigned to the transferred motorboat with the date of sale and the name and residence of the new owner endorsed on the back of the certificate.

(2) When a person transfers the ownership of a registered motorboat to another, files a new application and pays a fee of $5.00, he or she may have registered in his or her name another motorboat of the same class for the remainder of the registration ~~year~~ period without payment of any additional registration fee. However, if the fee for the registration of the motorboat sought to be registered is greater than the registration fee for the transferred motorboat, the applicant shall pay the difference between the fee first paid and the fee for the class motorboat sought to be registered.

* * *

(f) Every registration certificate awarded under this subchapter shall continue in effect ~~for one year from the first day of the month of issue~~ as prescribed in subsection (b) of this section unless sooner ended under this chapter. The registration certificate may be renewed by the owner in the same manner provided for in securing the initial certificate.

* * *

* * * Off-Site Display of Vehicles by Dealers * * *

Sec. 8. 23 V.S.A. § 451(b) is amended to read:

(b) With the prior approval of the ~~commissioner~~ Commissioner, a Vermont dealer may display vehicles on a temporary basis, but in no instance for more than ~~10~~ 14 days, at fairs, shows, exhibitions, and other off-site locations within the manufacturer's stated area of responsibility in the franchise agreement. No sales may be transacted at these ~~off-site~~ off-site locations. A dealer desiring to display vehicles temporarily at an off-site location shall notify the ~~commissioner~~ Commissioner in a manner prescribed by the ~~commissioner~~ Commissioner no less than two days prior to the first day for which approval is requested.

* * * Penalties for Unauthorized Operation by Junior Operators and Learner's Permit Holders * * *

Sec. 9. 23 V.S.A. § 607a is amended to read:

§ 607a. RECALL OF LEARNER'S PERMIT OR JUNIOR OPERATOR'S LICENSE

(a) A learner's permit or junior operator's license shall contain an admonition that it is recallable and that the later procurement of an operator's license is conditional on the establishment of a record which is satisfactory to the ~~commissioner~~ Commissioner and showing compliance with the motor vehicle laws of this and other states. The ~~commissioner~~ Commissioner may recall any permit or license issued to a minor whenever he or she is satisfied, from information provided by a credible person and upon investigation, that

the operator is mentally or physically unfit or, because of his or her habits or record as to accidents or convictions, is unsafe to be trusted with the operation of motor vehicles. On recommendation of a diversion or reparative board, the ~~commissioner~~ Commissioner may recall the learner's permit or junior operator's license of a person in a diversion or reparative program for up to 30 days. The ~~commissioner~~ Commissioner shall also recall any learner's permit or junior operator's license for 30 days when an operator is adjudicated of a single texting violation under section 1099 of this title, 90 days following adjudication of a single speeding violation resulting in a three-point assessment, 90 days when a total of six points has been accumulated, or 90 days when an operator is adjudicated of a violation of ~~section 678~~ subsection 614(c) or 615(a) of this title. When a learner's permit or junior operator's license is so recalled, it shall be reinstated upon expiration of a specific term, and, if required by the ~~commissioner~~ Commissioner, when the person has passed a reexamination approved by the ~~commissioner~~ Commissioner.

(b) When a license or permit is recalled under the provisions of this section, the person whose license or permit is so recalled shall have the same right of hearing before the ~~commissioner~~ Commissioner as is provided in subsection 671(a) of this title.

(c) Except for a recall based solely upon the provisions of subsection (d) of this section, any recall of a license or permit may extend past the operator's 18th birthday. While the recall is still in effect, that operator shall be ineligible for any operator's license.

(d) The ~~commissioner~~ Commissioner shall recall a learner's permit or junior operator's license upon written request of the individual's custodial parent or guardian.

(e) Any recall period under this section shall run concurrently with any suspension period imposed under chapter 13 of this title.

Sec. 10. 23 V.S.A. § 614 is amended to read:

§ 614. RIGHTS UNDER LICENSE

(a) An operator's license shall entitle the holder to operate a registered motor vehicle with the consent of the owner whether employed to do so or not.

(b) A junior operator's license shall entitle the holder to operate a registered motor vehicle~~,~~ with the consent of the owner, but shall not entitle him or her to operate a motor vehicle in the course of his or her employment or for direct or indirect compensation for one year following issuance of the license, except that the holder may operate a farm tractor with or without compensation upon a public highway in going to and from different parts of a

farm of the tractor's owner or to go to any repair shop for repair purposes. A junior operator's license shall not entitle the holder to carry passengers for hire.

(c) During the first three months of operation, the holder of a junior operator's license is restricted to driving alone or with a licensed parent or guardian, licensed or certified driver education instructor, or licensed person at least 25 years of age. During the following three months, a junior operator may additionally transport family members. No person operating with a junior operator's license shall transport more passengers than there are safety belts unless he or she is operating a vehicle that has not been manufactured with a federally approved safety belt system. A person convicted of operating a motor vehicle in violation of this subsection shall be subject to a penalty of not more than $50.00, and his or her license shall be recalled for a period of 90 days. The provisions of this subsection may be enforced only if a law enforcement officer has detained the operator for a suspected violation of another traffic offense.

~~(b) This section shall not prohibit a holder of a junior operator's license from operating a farm tractor with or without compensation upon a public highway in going to and from different parts of a farm of the owner of such tractor and for repair purposes to any repair shop.~~

Sec. 11. 23 V.S.A. § 615 is amended to read:

§ 615. UNLICENSED OPERATORS

(a)(1) An unlicensed person 15 years of age or older~~,~~ may operate a motor vehicle~~,~~ if he or she ~~has in possession,~~ possesses a valid learner's permit issued to him or her by the ~~commissioner~~ Commissioner and if ~~their~~ his or her licensed parent or guardian, licensed or certified driver education instructor, or a licensed person at least 25 years of age rides beside him or her. Nothing in this section shall be construed to permit a person against whom a revocation or suspension of license is in force, or a person less than 15 years of age, or a person who has been refused a license by the ~~commissioner,~~ Commissioner to operate a motor vehicle.

(2) A licensed person who does not possess a valid motorcycle endorsement may operate a motorcycle, with no passengers, only during daylight hours and then only if he or she has upon his or her person a valid motorcycle learner's permit issued to him or her by the ~~commissioner~~ Commissioner.

(b) ~~The commissioner in his or her discretion, may recall a learner's permit in the same circumstances as he or she may recall a provisional license~~ A person convicted of operating a motor vehicle in violation of this section shall be subject to a penalty of not more than $50.00, and his or her learner's permit

shall be recalled for a period of 90 days. No person may be issued traffic complaints alleging a violation of this section and a violation of section 676 of this title from the same incident. The provisions of this section may be enforced only if a law enforcement officer has detained the operator for a suspected violation of another traffic offense.

Sec. 12. REPEAL

23 V.S.A. § 678 (penalties for unauthorized operation) is repealed.

* * * Nondriver Identification Cards * * *

Sec. 13. 23 V.S.A. § 115 is amended to read:

§ 115. NONDRIVER IDENTIFICATION CARDS

(a) Any Vermont resident may make application to the ~~commissioner~~ Commissioner and be issued an identification card which is attested by the ~~commissioner~~ Commissioner as to true name, correct age, residential address unless the listing of another address is requested by the applicant or is otherwise authorized by law, and any other identifying data as the ~~commissioner~~ Commissioner may require which shall include, in the case of minor applicants, the written consent of the applicant's parent, guardian, or other person standing in loco parentis. Every application for an identification card shall be signed by the applicant and shall contain such evidence of age and identity as the ~~commissioner~~ Commissioner may require. New and renewal application forms shall include a space for the applicant to request that a "veteran" designation be placed on his or her identification card. If a veteran, as defined in 38 U.S.C. § 101(2), requests a veteran designation and provides a Department of Defense Form 214 or other proof of veteran status specified by the Commissioner, and the Office of Veterans Affairs confirms his or her status as an honorably discharged veteran or a veteran discharged under honorable conditions, the identification card shall include the term "veteran" on its face. The ~~commissioner~~ Commissioner shall require payment of a fee of $20.00 at the time application for an identification card is made.

* * *

(i) ~~An identification card issued under this subsection to an individual under the age of 30 shall include a magnetic strip that includes only the name, date of birth, height, and weight of the individual identified on the card.~~ Each identification card issued to an initial or renewal applicant shall include a bar code encoded with minimum data elements as prescribed in 6 C.F.R. § 37.19.

* * *

* * * License Certificates * * *

Sec. 14. 23 V.S.A. § 603 is amended to read:

§ 603. APPLICATION FOR AND ISSUANCE OF LICENSE

(a)(1) The ~~commissioner~~ Commissioner or his or her authorized agent may license operators and junior operators when an application, on a form prescribed by the ~~commissioner~~ Commissioner, signed and sworn to by the applicant for the license, is filed with him or her, accompanied by the required license fee and any valid license from another state or Canadian jurisdiction is surrendered.

(2) The ~~commissioner~~ Commissioner may, however, in his or her discretion, refuse to issue a license to any person whenever he or she is satisfied from information given him or her by credible persons, and upon investigation, that the person is mentally or physically unfit, or because of his or her habits, or record as to accidents or convictions, is unsafe to be trusted with the operation of motor vehicles. A person refused a license, under the provisions of this subsection or section 605 of this title, shall be entitled to hearing as provided in sections 105-107 of this title.

(3) Any new or renewal application form shall include a space for the applicant to request that a "veteran" designation be placed on his or her license certificate. An applicant who requests the designation shall provide a Department of Defense Form 214, or other proof of veteran status specified by the Commissioner.

* * *

Sec. 15. 23 V.S.A. § 610 is amended to read:

§ 610. LICENSE CERTIFICATES

(a) The ~~commissioner~~ Commissioner shall assign a distinguishing number to each licensee and shall furnish the licensee with a license certificate~~,~~ ~~showing~~ that shows the number~~,~~ and the licensee's full name, date of birth, and residential address unless the listing of another address is requested by the applicant or is otherwise authorized by law. The certificate also shall include a brief physical description~~, and mailing address~~ and a space for the signature of the licensee. The license shall be void until signed by the licensee. If a veteran, as defined in 38 U.S.C. § 101(2), requests a veteran designation and provides proof of veteran status as specified in subdivision 603(a)(3) of this title, and the Office of Veterans Affairs confirms his or her status as an honorably discharged veteran or a veteran discharged under honorable conditions, the license certificate shall include the term "veteran" on its face.

* * *

(c) Each license certificate issued to a first-time applicant and each subsequent renewal by that person shall be issued with the photograph or imaged likeness of the licensee included on the certificate. The ~~commissioner~~ Commissioner shall determine the locations where photographic licenses may be issued. ~~A photographic motor vehicle operator's license issued under this subsection to an individual under the age of 30 shall include a magnetic strip that includes only the name, date of birth, height, and weight of the licensee.~~ A person issued a license under this subsection that contains an imaged likeness may renew his or her license by mail. Except that a renewal by a licensee required to have a photograph or imaged likeness under this subsection must be made in person so that an updated imaged likeness of the person is obtained no less often than once every eight years.

(d) Each license certificate issued to an initial or renewal applicant shall include a bar code with minimum data elements as prescribed in 6 C.F.R. § 37.19.

Sec. 16. 23 V.S.A. § 7 is amended to read:

§ 7. ENHANCED DRIVER LICENSE; MAINTENANCE OF DATABASE INFORMATION; FEE

(a) The face of an enhanced license shall contain the individual's name, date of birth, gender, a unique identification number, full facial photograph or imaged likeness, address, signature, issuance and expiration dates, ~~and~~ citizenship, and, if applicable, a veteran designation. The back of the enhanced license shall have a machine-readable zone. A Gen 2 vicinity Radio Frequency Identification chip shall be embedded in the enhanced license in compliance with the security standards of the U.S. Department of Homeland Security. Any additional personal identity information not currently required by the Department of Homeland Security shall need the approval of either the ~~general assembly~~ General Assembly or the ~~legislative committee on administrative rules~~ Legislative Committee on Administrative Rules prior to the implementation of the requirements.

(b) In addition to any other requirement of law or rule, before an enhanced license may be issued to a person, the person shall present for inspection and copying satisfactory documentary evidence to determine identity and United States citizenship. An application shall be accompanied by: a photo identity document, documentation showing the person's date and place of birth, proof of the person's Social Security number, and documentation showing the person's principal residence address. New and renewal application forms shall include a space for the applicant to request that a "veteran" designation be placed on the enhanced license. If a veteran, as defined in 38 U.S.C. § 101(2),

requests a veteran designation and provides a Department of Defense Form 214 or other proof of veteran status specified by the Commissioner, and the Office of Veterans Affairs confirms his or her status as an honorably discharged veteran or a veteran discharged under honorable conditions, the identification card shall include the term "veteran" on its face. To be issued, an enhanced license must meet the same requirements as those for the issuance of a United States passport. Before an application may be processed, the documents and information shall be verified as determined by the ~~commissioner~~ Commissioner. Any additional personal identity information not currently required by the U.S. Department of Homeland Security shall need the approval of either the ~~general assembly~~ General Assembly or the ~~legislative committee on administrative rules~~ Legislative Committee on Administrative Rules prior to the implementation of the requirements.

(c) No person shall compile or maintain a database of electronically readable information derived from an operator's license, junior operator's license, enhanced license, learner permit, or nondriver identification card. This prohibition shall not apply to a person who accesses, uses, compiles, or maintains a database of the information for law enforcement or governmental purposes or for the prevention of fraud or abuse or other criminal conduct.

* * *

* * * Driver Training Instructors * * *

Sec. 17. 23 V.S.A. § 705 is amended to read:

§ 705. QUALIFICATIONS FOR INSTRUCTOR'S LICENSE

In order to qualify for an instructor's license, each applicant shall:

(1) not have been convicted of:

(A) a felony nor incarcerated for a felony within the 10 years prior to the date of application; ~~or~~

(B) a violation of section 1201 of this title~~,~~ or a ~~conviction~~ like offense in another jurisdiction reported to the ~~commissioner~~ Commissioner pursuant to subdivision 3905(a)(2) of this title within the three years prior to the date of application; ~~or~~

(C) a subsequent ~~conviction for an~~ violation of an offense listed in subdivision 2502(a)(5) of this title or of section 674 of this title; or

(D) a sex offense that requires registration pursuant to 13 V.S.A. chapter 167, subchapter 3;

* * *

* * * Operating on Closed Highways * * *

Sec. 18. 23 V.S.A. § 1112 is amended to read:

§ 1112. CLOSED HIGHWAYS

(a) Except by the written permit of the authority responsible for the closing, ~~no~~ a person shall not drive any vehicle over any highway across which there is a barrier or a sign indicating that the highway is closed to public travel.

(b) An authority responsible for closing a highway to public travel may erect a sign, which shall be visible to highway users and proximate to the barrier or sign indicating that the highway is closed to public travel, indicating that violators are subject to penalties and civil damages.

(c) A municipal, county, or state entity that deploys police, fire, ambulance, rescue, or other emergency services in order to aid a stranded operator of a vehicle, or to move a disabled vehicle, operated on a closed highway in violation of this section, may recover from the operator in a civil action the cost of providing the services, if at the time of the violation a sign satisfying the requirements of subsection (b) of this section was installed.

* * * DUI Suspensions; Credit * * *

Sec. 19. 23 V.S.A. § 1205(p) is amended to read:

(p) Suspensions to run concurrently. Suspensions imposed under this section or any comparable statute of any other jurisdiction and sections 1206, 1208, and 1216 of this title or any comparable statutes of any other jurisdiction, or any suspension resulting from a conviction for a violation of section 1091 of this title from the same incident, shall run concurrently and a person shall receive credit for any elapsed period of a suspension served in Vermont against a later suspension imposed in this ~~state~~ State. ~~In order for suspension credit to be available against a later suspension, the suspension issued under this section must appear and remain on the individual's motor vehicle record.~~

Sec. 20. 23 V.S.A. § 1216(i) is amended to read:

(i) Suspensions imposed under this section or any comparable statute of any other jurisdiction shall run concurrently with suspensions imposed under sections 1205, 1206, and 1208 of this title or any comparable statutes of any other jurisdiction or with any suspension resulting from a conviction for a violation of section 1091 of this title from the same incident, and a person shall receive credit for any elapsed period of a suspension served in Vermont against a later suspension imposed in this ~~state~~ State. ~~In order for suspension credit to be available against a later suspension, the suspension issued under this section must appear and remain on the individual's motor vehicle record.~~

* * * Sirens and Lights on Exhibition Vehicles * * *

Sec. 21. 23 V.S.A. § 1252 is amended to read:

§ 1252. ~~USES OF~~ ISSUANCE OF PERMITS FOR SIRENS OR COLORED LAMPS OR BOTH; USE OF AMBER LAMPS

(a) When satisfied as to the condition and use of the vehicle, the ~~commissioner~~ Commissioner shall issue and may revoke, for cause, permits for sirens or colored signal lamps in the following manner:

(1) Sirens or blue or blue and white signal lamps, or a combination of these, may be authorized for all law enforcement vehicles~~,~~ owned or leased by a law enforcement agency ~~or~~, a certified law enforcement officer ~~and if~~, or the Vermont Criminal Justice Training Council. If the applicant is a constable, the application shall be accompanied by a certification by the town clerk that the applicant is the duly elected or appointed constable and attesting that the town has not voted to limit the constable's authority to engage in enforcement activities under 24 V.S.A. § 1936a.

(2) Sirens and red or red and white signal lamps may be authorized for all ambulances, fire apparatus, vehicles used solely in rescue operations, or vehicles owned or leased by, or provided to, volunteer ~~firemen~~ firefighters and voluntary rescue squad members, including a vehicle owned by a volunteer's employer when the volunteer has the written authorization of the employer to use the vehicle for emergency fire or rescue activities ~~and motor vehicles used solely in rescue operations~~.

(3) No vehicle may be authorized a permit for more than one of the combinations described in subdivisions (1) and (2) of this subsection.

(4) ~~Notwithstanding subdivisions (1) and (2) of this subsection, no~~ No motor vehicle, other than one owned by the applicant, shall be issued a permit until ~~such time as~~ the ~~commissioner can adequately record~~ Commissioner has recorded the information regarding both the owner of the vehicle and the applicant for the permit.

(5) Upon application to the ~~commissioner~~ Commissioner, the ~~commissioner~~ Commissioner may issue a single permit for all the vehicles owned or leased by the applicant.

(6) Sirens and red or red and white signal lamps, or sirens and blue or blue and white signal lamps, may be authorized for restored emergency or enforcement vehicles used for exhibition purposes. Sirens and lamps authorized under this subdivision may only be activated during an exhibition, such as a car show or parade.

* * *

* * * Motor Vehicle Arbitration Board; Administrative Support * * *

Sec. 22. 9 V.S.A. § 4174 is amended to read:

§ 4174. VERMONT MOTOR VEHICLE ARBITRATION BOARD

(a) There is created a Vermont ~~motor vehicle arbitration board~~ Motor Vehicle Arbitration Board consisting of five members and three alternate members to be appointed by the ~~governor~~ Governor for terms of three years. Board members may be appointed for two additional three-year terms. One member of the ~~board~~ Board and one alternate shall be new car dealers in Vermont, one member and one alternate shall be persons active as automobile technicians, and three members and one alternate shall be persons having no direct involvement in the design, manufacture, distribution, sales, or service of motor vehicles or their parts. Board members shall be compensated in accordance with the provisions of 32 V.S.A. § 1010. ~~The board shall be attached to the department of motor vehicles and shall receive administrative services from the department of motor vehicles~~ Administrative support for the Board shall be provided as determined by the Secretary of Transportation.

* * *

* * * Traffic Violations; Judicial Bureau * * *

Sec. 23. 4 V.S.A. § 1105 is amended to read:

§ 1105. ANSWER TO COMPLAINT; DEFAULT

(a) A violation shall be charged upon a summons and complaint form approved and distributed by the ~~court administrator~~ Court Administrator. The complaint shall be signed by the issuing officer or by the state's attorney. The original shall be filed with the ~~judicial bureau,~~ Judicial Bureau; a copy shall be retained by the issuing officer or state's attorney and two copies shall be given to the defendant. The Judicial Bureau may, consistent with rules adopted by the Supreme Court pursuant to 12 V.S.A. § 1, accept electronic signatures on any document, including the signatures of issuing officers, state's attorneys, and notaries public. The complaint shall include a statement of rights, instructions, notice that a defendant may admit, not contest, or deny a violation, notice of the fee for failure to answer within 20 days, and other notices as the ~~court administrator~~ Court Administrator deems appropriate. The ~~court administrator~~ Court Administrator, in consultation with appropriate law enforcement agencies, may approve a single form for charging all violations, or may approve two or more forms as necessary to administer the operations of the ~~judicial bureau~~ Judicial Bureau.

* * *

(f) If a person fails to appear or answer a complaint the ~~bureau~~ Bureau shall enter a default judgment against the person. However, no default judgment shall be entered until the filing of a declaration by the issuing officer or state's attorney, under penalty of perjury, setting forth facts showing that the defendant is not a person in military service as defined at 50 App. U.S.C. § 511 (Servicemembers Civil Relief Act definitions), except upon order of the hearing officer in accordance with the Servicemembers Civil Relief Act, 50 App. U.S.C. Titles I–II. The ~~bureau~~ Bureau shall mail a notice to the person that a default judgment has been entered. A default judgment may be set aside by the hearing officer for good cause shown.

* * *

* * * Texting While Driving; Penalties * * *

Sec. 24. 23 V.S.A. § 1099 is amended to read:

§ 1099. TEXTING PROHIBITED

* * *

(c) A person who violates this section commits a traffic violation as defined in section 2302 of this title and shall be subject to a penalty of not less than $100.00 and not more than $200.00 upon adjudication of a first violation, and of not less than $250.00 and not more than $500.00 upon adjudication of a second or subsequent violation within any two-year period.

* * * Portable Electronic Devices in Work Zones * * *

Sec. 25. 23 V.S.A. § 4(5) is amended to read:

(5) "Construction area" ~~shall mean and include all of that portion~~ or "work zone" or "work site" means an area of a highway ~~while under~~ undergoing construction, maintenance, or utility work activities by order or with the permission of the ~~state~~ State or a municipality ~~thereof,~~ that is designated by and located within properly posted warning ~~signs maintained at each end thereof showing such area to have been designated as a "Construction Area"~~ devices.

Sec. 26. 23 V.S.A. § 1095b is added to read:

§ 1095b. HANDHELD USE OF PORTABLE ELECTRONIC DEVICE IN WORK ZONE PROHIBITED

(a) Definition. As used in this section, "hands-free use" means the use of a portable electronic device without use of either hand and outside the immediate proximity of the user's ear, by employing an internal feature of, or an attachment to, the device.

(b) Use of handheld portable electronic device in work zone prohibited. A person shall not use a portable electronic device while operating a moving motor vehicle within a highway work zone. The prohibition of this subsection shall not apply unless the work zone is properly designated with warning devices in accordance with subdivision 4(5) of this title, and shall not apply:

(1) to hands-free use; or

(2) when use of a portable electronic device is necessary to communicate with law enforcement or emergency service personnel under emergency circumstances.

(c) Penalty. A person who violates this section commits a traffic violation and shall be subject to a penalty of not less than $100.00 and not more than $200.00 upon adjudication of a first violation, and of not less than $250.00 and not more than $500.00 upon adjudication of a second or subsequent violation within any two-year period.

* * * Assessment of Points * * *

Sec. 27. 23 V.S.A. § 2502 is amended to read:

§ 2502. POINT ASSESSMENT; SCHEDULE

(a) Any person operating a motor vehicle shall have points assessed against his or her driving record for convictions for moving violations of the indicated motor vehicle statutes in accord with the following schedule: (All references are to Title 23 of the Vermont Statutes Annotated.)

(1) Two points assessed for:

* * *

(LL)(i)	§ 1095.	~~Operating with television set installed~~ Entertainment picture visible to operator;
(ii)	§ 1095b.	Use of portable electronic device in work zone—first offense;
(MM)	~~§ 1099. Texting prohibited—first offense;~~ [Deleted.]	

* * *

(4) Five points assessed for:

* * *

(C)	§ 1099.	Texting prohibited~~—second and subsequent offenses~~;

(D) ~~Deleted~~

§ 1095b. Use of portable electronic device in work zone—second and subsequent offenses;

* * *

* * * Prohibited Idling of Motor Vehicles * * *

Sec. 28. 23 V.S.A. § 1110 is added to subchapter 11 of chapter 13 to read:

§ 1110. PROHIBITED IDLING OF MOTOR VEHICLES

(a)(1) General prohibition. A person shall not cause or permit operation of the primary propulsion engine of a motor vehicle for more than five minutes in any 60-minute period, while the vehicle is stationary.

(2) Exceptions. The five-minute limitation of subdivision (1) of this subsection shall not apply when:

(A) a military vehicle; an ambulance; a police, fire, or rescue vehicle; or another vehicle used in a public safety or emergency capacity idles as necessary for the conduct of official operations;

(B) an armored vehicle idles while a person remains inside the vehicle to guard the contents or while the vehicle is being loaded or unloaded;

(C) a motor vehicle idles because of highway traffic conditions, at the direction of an official traffic control device or signal, or at the direction of a law enforcement official;

(D) the health or safety of a vehicle occupant requires idling, or when a passenger bus idles as necessary to maintain passenger comfort while nondriver passengers are on board;

(E) idling is necessary to operate safety equipment such as windshield defrosters, and operation of the equipment is needed to address specific safety concerns;

(F) idling of the primary propulsion engine is needed to power work-related mechanical, hydraulic, or electrical operations other than propulsion, such as mixing or processing cargo or straight truck refrigeration, and the motor vehicle is idled to power such work-related operations;

(G) a motor vehicle of a model year prior to 2018 with an occupied sleeper berth compartment is idled for purposes of air-conditioning or heating during a rest or sleep period;

(H) a motor vehicle idles as necessary for maintenance, service, repair, or diagnostic purposes or as part of a state or federal inspection; or

(I) a school bus idles on school grounds in compliance with rules adopted pursuant to the provisions of subsection 1282(f) of this title.

(b) Operation of an auxiliary power unit, generator set, or other mobile idle reduction technology is an alternative to operating the primary propulsion engine of a motor vehicle and is not subject to the prohibition of subdivision (a)(1) of this section.

(c) In addition to the exemptions set forth in subdivision (a)(2) of this section, the Commissioner of Motor Vehicles, in consultation with the Secretary of Natural Resources, may adopt rules governing times or circumstances when operation of the primary propulsion engine of a stationary motor vehicle is reasonably required.

(d) A person adjudicated of violating subdivision (a)(1) of this section shall be:

(1) assessed a penalty of not more than $10.00, which penalty shall be exempt from surcharges under 13 V.S.A. § 7282(a), for a first violation;

(2) assessed a penalty of not more than $50.00 for a second violation; and

(3) assessed a penalty of not more than $100.00 for a third or subsequent violation.

Sec. 29. 16 V.S.A. § 1045 is amended to read:

§ 1045. DRIVER TRAINING COURSE

* * *

(d) All driver education courses shall include instruction on the adverse environmental, health, economic, and other effects of unnecessary idling of motor vehicles and on the law governing prohibited idling of motor vehicles.

* * * Veteran Indicator on Commercial Driver Licenses * * *

Sec. 30. 23 V.S.A. § 4110(a)(5) is amended to read:

(5) The person's signature, as well as a space for the applicant to request that a "veteran" designation be placed on a commercial driver license. An applicant who requests a veteran designation shall provide a Department of Defense Form 214, or other proof of veteran status specified by the Commissioner.

Sec. 31. 23 V.S.A. § 4111 is amended to read:

§ 4111. COMMERCIAL DRIVER LICENSE

(a) Contents of license. A commercial driver's license shall be marked "commercial driver license" or "CDL," and shall be, to the maximum extent practicable, tamper proof, and shall include~~, but not be limited to~~ the following information:

* * *

(12) A veteran designation if a veteran, as defined in 38 U.S.C. § 101(2), requests the designation and provides proof of veteran status as specified in subdivision 4110(a)(5) of this title, and if the Office of Veterans Affairs confirms his or her status as an honorably discharged veteran or a veteran discharged under honorable conditions.

* * *

* * * Effective Dates and Sunsets * * *

Sec. 32. EFFECTIVE DATES AND SUNSETS

(a) This section and Sec. 22 of this act (administrative support for the Motor Vehicle Arbitration Board) shall take effect on passage.

(b)(1) Sec. 1 of this act shall take effect on July 1, 2013, if the deletion of "liquor investigators" from the definition of "enforcement officers" provided for in 2011 Acts and Resolves No. 17, Sec. 4 takes effect on or before July 1, 2013.

(2) Sec. 2 of this act shall take effect on July 1, 2013, if the deletion of "liquor investigators" from the definition of "enforcement officers" provided for in 2011 Acts and Resolves No. 17, Sec. 4 does not take effect on or before July 1, 2013.

(c) Secs. 25, 26, and 28, and in Sec. 27, § 2502(a)(1)(LL) and (a)(4)(D) of this act shall take effect on January 1, 2014.

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

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

First: In Sec. 15, 23 V.S.A. § 610, in subsection (a), in the first sentence, by striking out the following: "residential address unless the listing of another address is requested by the applicant or is otherwise authorized by law" and inserting in lieu thereof the following: residential address, except that at the

request of the licensee, the licensee's mailing address may be listed, or an alternative address may be listed if otherwise authorized by law

Second: By striking out Secs. 28–29 and the internal caption preceding Sec. 28 in their entirety and inserting in lieu thereof the following:

* * * Motor Vehicle Moving Violation * * *

Sec. 28. 23 V.S.A. § 1002 is added to read:

§ 1002. MOTOR VEHICLE MOVING VIOLATION; NO POINTS

A person who commits a moving violation under another provision of this title for which no term of imprisonment is provided by law, and for which a penalty of not more than $1,000.00 is provided, commits a traffic violation and may be issued a complaint for a violation of this section in lieu of a complaint for a violation of the predicate moving violation provision. A person convicted of a violation of this section shall not be assessed points against his or her driving record under chapter 25 of this title, but shall be subject to the penalties prescribed in the provision of this title that specifies the predicate moving violation.

* * * Waiver of Assessment of Points * * *

Sec. 29. 23 V.S.A. § 2501 is amended to read:

§ 2501. MOTOR VEHICLE POINT SYSTEM

For the purpose of identifying habitually reckless or negligent drivers and frequent violators of traffic regulations governing the movement of vehicles, a uniform system is established assigning demerit points for convictions of violations of this title or of ordinances adopted by local authorities regulating the operation of motor vehicles. Notice of each assessment of points may be given. No points shall be assessed for violating section 1002 of this title or a provision of a statute or municipal ordinance regulating standing, parking, equipment, size, or weight, or if a superior judge or Judicial Bureau hearing officer has waived the assessment of points in the interest of justice. The conviction report from the court shall be prima facie evidence of the points assessed unless points are specifically waived in the conviction report. The ~~department is~~ Department also is authorized to suspend the license of a driver when the driver's driving record identifies the driver as an habitual offender under section 673a of this title.

Sec. 29a. 23 V.S.A. § 2502 is amended to read:

§ 2502. POINT ASSESSMENT; SCHEDULE

(a) ~~Any~~ Unless the assessment of points is waived by a superior judge or a Judicial Bureau hearing officer in the interests of justice, or unless a person is

convicted of violating section 1002 of this title, a person operating a motor vehicle shall have points assessed against his or her driving record for convictions for moving violations of the indicated motor vehicle statutes in accord with the following schedule: (All references are to Title 23 of the Vermont Statutes Annotated.)

* * *

Third: In Sec. 32, in subsection (c), by striking out the following: "and 28,"

Which was agreed to.

Bill Passed in Concurrence with Proposal of Amendment

H. 200.

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

An act relating to civil penalties for possession of marijuana.

Consideration Resumed; Consideration Interrupted by Recess

S. 77.

House proposal of amendment to Senate bill entitled:

An act relating to patient choice and control at end of life.

Was taken up.

Thereupon, pending the question, Shall the Senate concur in the House proposal of amendment?, Senator Ayer 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:

Sec. 1. 18 V.S.A. chapter 113 is added to read:

CHAPTER 113. PATIENT CHOICE AT END OF LIFE

§ 5281. DEFINITIONS

(a) As used in this chapter:

(1) "Bona fide physician–patient relationship" means a treating or consulting relationship in the course of which a physician has completed a full assessment of the patient's medical history and current medical condition, including a personal physical examination.

(2) "Capable" means that a patient has the ability to make and communicate health care decisions to a physician, including communication

through persons familiar with the patient's manner of communicating if those persons are available.

(3) "Health care facility" shall have the same meaning as in section 9432 of this title.

(4) "Health care provider" means a person, partnership, corporation, facility, or institution, licensed or certified or authorized by law to administer health care or dispense medication in the ordinary course of business or practice of a profession.

(5) "Impaired judgment" means that a person does not sufficiently understand or appreciate the relevant facts necessary to make an informed decision.

(6) "Interested person" means:

(A) the patient's physician;

(B) a person who knows that he or she is a relative of the patient by blood, civil marriage, civil union, or adoption;

(C) a person who knows that he or she would be entitled upon the patient's death to any portion of the estate or assets of the patient under any will or trust, by operation of law, or by contract; or

(D) an owner, operator, or employee of a health care facility, nursing home, or residential care facility where the patient is receiving medical treatment or is a resident.

(7) "Palliative care" shall have the same definition as in section 2 of this title.

(8) "Patient" means a person who is 18 years of age or older, a resident of Vermont, and under the care of a physician.

(9) "Physician" means an individual licensed to practice medicine under 26 V.S.A. chapter 23 or 33.

(10) "Terminal condition" means an incurable and irreversible disease which would, within reasonable medical judgment, result in death within six months.

§ 5282. RIGHT TO INFORMATION

The rights of a patient under section 1871 of this title to be informed of all available options related to terminal care and under 12 V.S.A. § 1909(d) to receive answers to any specific question about the foreseeable risks and benefits of medication without the physician's withholding any requested information exist regardless of the purpose of the inquiry or the nature of the

information. A physician who engages in discussions with a patient related to such risks and benefits in the circumstances described in this chapter shall not be construed to be assisting in or contributing to a patient's independent decision to self-administer a lethal dose of medication, and such discussions shall not be used to establish civil or criminal liability or professional disciplinary action.

§ 5283. REQUIREMENTS FOR PRESCRIPTION AND DOCUMENTATION; IMMUNITY

(a) A physician shall not be subject to any civil or criminal liability or professional disciplinary action if the physician prescribes to a patient with a terminal condition medication to be self-administered for the purpose of hastening the patient's death and the physician affirms by documenting in the patient's medical record that all of the following occurred:

(1) The patient made an oral request to the physician in the physician's physical presence for medication to be self-administered for the purpose of hastening the patient's death.

(2) No fewer than 15 days after the first oral request, the patient made a second oral request to the physician in the physician's physical presence for medication to be self-administered for the purpose of hastening the patient's death.

(3) At the time of the second oral request, the physician offered the patient an opportunity to rescind the request.

(4) The patient made a written request for medication to be self-administered for the purpose of hastening the patient's death that was signed by the patient in the presence of two or more witnesses who were not interested persons, who were at least 18 years of age, and who signed and affirmed that the patient appeared to understand the nature of the document and to be free from duress or undue influence at the time the request was signed.

(5) The physician determined that the patient:

(A) was suffering a terminal condition, based on the physician's physical examination of the patient and review of the patient's relevant medical records;

(B) was capable;

(C) had executed an advance directive in accordance with chapter 231 of this title;

(D) was making an informed decision;

(E) had made a voluntary request for medication to hasten his or her death; and

(F) was a Vermont resident.

(6) The physician informed the patient in person, both verbally and in writing, of all the following:

(A) the patient's medical diagnosis;

(B) the patient's prognosis, including an acknowledgement that the physician's prediction of the patient's life expectancy was an estimate based on the physician's best medical judgment and was not a guarantee of the actual time remaining in the patient's life, and that the patient could live longer than the time predicted;

(C) the range of treatment options appropriate for the patient and the patient's diagnosis;

(D) if the patient was not enrolled in hospice care, all feasible end-of-life services, including palliative care, comfort care, hospice care, and pain control;

(E) the range of possible results, including potential risks associated with taking the medication to be prescribed; and

(F) the probable result of taking the medication to be prescribed.

(7) The physician referred the patient to a second physician for medical confirmation of the diagnosis, prognosis, and a determination that the patient was capable, was acting voluntarily, and had made an informed decision.

(8) The physician either verified that the patient did not have impaired judgment or referred the patient for an evaluation by a psychiatrist, psychologist, or clinical social worker licensed in Vermont for confirmation that the patient was capable and did not have impaired judgment.

(9) If applicable, the physician consulted with the patient's primary care physician with the patient's consent.

(10) The physician informed the patient that the patient may rescind the request at any time and in any manner and offered the patient an opportunity to rescind after the patient's second oral request.

(11) The physician ensured that all required steps were carried out in accordance with this section and confirmed, immediately prior to writing the prescription for medication, that the patient was making an informed decision.

(12) The physician wrote the prescription no fewer than 48 hours after the last to occur of the following events:

(A) the patient's written request for medication to hasten his or her death;

(B) the patient's second oral request; or

(C) the physician's offering the patient an opportunity to rescind the request.

(13) The physician either:

(A) dispensed the medication directly, provided that at the time the physician dispensed the medication, he or she was licensed to dispense medication in Vermont, had a current Drug Enforcement Administration certificate, and complied with any applicable administrative rules; or

(B) with the patient's written consent:

(i) contacted a pharmacist and informed the pharmacist of the prescription; and

(ii) delivered the written prescription personally or by mail or facsimile to the pharmacist, who dispensed the medication to the patient, the physician, or an expressly identified agent of the patient.

(14) The physician recorded and filed the following in the patient's medical record:

(A) the date, time, and wording of all oral requests of the patient for medication to hasten his or her death;

(B) all written requests by the patient for medication to hasten his or her death;

(C) the physician's diagnosis, prognosis, and basis for the determination that the patient was capable, was acting voluntarily, and had made an informed decision;

(D) the second physician's diagnosis, prognosis, and verification that the patient was capable, was acting voluntarily, and had made an informed decision;

(E) a copy of the patient's advance directive;

(F) the physician's attestation that the patient was enrolled in hospice care at the time of the patient's oral and written requests for medication to hasten his or her death or that the physician informed the patient of all feasible end-of-life services;

(G) the physician's verification that the patient either did not have impaired judgment or that the physician referred the patient for an evaluation

and the person conducting the evaluation has determined that the patient did not have impaired judgment;

(H) a report of the outcome and determinations made during any evaluation which the patient may have received;

(I) the date, time, and wording of the physician's offer to the patient to rescind the request for medication at the time of the patient's second oral request; and

(J) a note by the physician indicating that all requirements under this section were satisfied and describing all of the steps taken to carry out the request, including a notation of the medication prescribed.

(15) After writing the prescription, the physician promptly filed a report with the Department of Health documenting completion of all of the requirements under this section.

(b) This section shall not be construed to limit civil or criminal liability for gross negligence, recklessness, or intentional misconduct.

§ 5284. NO DUTY TO AID

A patient with a terminal condition who self-administers a lethal dose of medication shall not be considered to be a person exposed to grave physical harm under 12 V.S.A. § 519, and no person shall be subject to civil or criminal liability solely for being present when a patient with a terminal condition self-administers a lethal dose of medication or for not acting to prevent the patient from self-administering a lethal dose of medication.

§ 5285. LIMITATIONS ON ACTIONS

(a) A physician, nurse, pharmacist, or other person shall not be under any duty, by law or contract, to participate in the provision of a lethal dose of medication to a patient.

(b) A health care facility or health care provider shall not subject a physician, nurse, pharmacist, or other person to discipline, suspension, loss of license, loss of privileges, or other penalty for actions taken in good faith reliance on the provisions of this chapter or refusals to act under this chapter.

(c) Except as otherwise provided in this section and sections 5283, 5289, and 5290 of this title, nothing in this chapter shall be construed to limit liability for civil damages resulting from negligent conduct or intentional misconduct by any person.

§ 5286. HEALTH CARE FACILITY EXCEPTION

A health care facility may prohibit a physician from writing a prescription for a dose of medication intended to be lethal for a patient who is a resident in

its facility and intends to use the medication on the facility's premises, provided the facility has notified the physician in writing of its policy with regard to the prescriptions. Notwithstanding subsection 5285(b) of this title, any physician who violates a policy established by a health care facility under this section may be subject to sanctions otherwise allowable under law or contract.

§ 5287. INSURANCE POLICIES; PROHIBITIONS

(a) A person and his or her beneficiaries shall not be denied benefits under a life insurance policy, as defined in 8 V.S.A. § 3301, for actions taken in accordance with this chapter.

(b) The sale, procurement, or issue of any medical malpractice insurance policy or the rate charged for the policy shall not be conditioned upon or affected by whether the physician is willing or unwilling to participate in the provisions of this chapter.

§ 5288. NO EFFECT ON PALLIATIVE SEDATION

This chapter shall not limit or otherwise affect the provision, administration, or receipt of palliative sedation consistent with accepted medical standards.

§ 5289. PROTECTION OF PATIENT CHOICE AT END OF LIFE

A physician with a bona fide physician–patient relationship with a patient with a terminal condition shall not be considered to have engaged in unprofessional conduct under 26 V.S.A. § 1354 if:

(1) the physician determines that the patient is capable and does not have impaired judgment;

(2) the physician informs the patient of all feasible end-of-life services, including palliative care, comfort care, hospice care, and pain control;

(3) the physician prescribes a dose of medication that may be lethal to the patient;

(4) the physician advises the patient of all foreseeable risks related to the prescription; and

(5) the patient makes an independent decision to self-administer a lethal dose of the medication.

§ 5290. IMMUNITY FOR PHYSICIANS

A physician shall be immune from any civil or criminal liability or professional disciplinary action for actions performed in good faith compliance with the provisions of this chapter.

§ 5291. SAFE DISPOSAL OF UNUSED MEDICATIONS

The Department of Health shall adopt rules providing for the safe disposal of unused medications prescribed under this chapter.

§ 5292. STATUTORY CONSTRUCTION

Nothing in this chapter shall be construed to authorize a physician or any other person to end a patient's life by lethal injection, mercy killing, or active euthanasia. Action taken in accordance with this chapter shall not be construed for any purpose to constitute suicide, assisted suicide, mercy killing, or homicide under the law. This section shall not be construed to conflict with section 1553 of the Patient Protection and Affordable Health Care Act, Pub.L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub.L. No. 111-152.

Sec. 2. REPEAL

18 V.S.A. § 5283 (immunity for prescription and documentation) is repealed on July 1, 2016.

Sec. 3. EFFECTIVE DATES

(a) Sec. 1 (18 V.S.A. chapter 113) of this act shall take effect on passage, except that 18 V.S.A. §§ 5289 (protection of patient choice at end of life) and 5290 (immunity for physicians) shall take effect on July 1, 2016.

(b) The remaining sections of this act shall take effect on passage.

Thereupon, pending the question, Shall the Senate concur in the House proposal of amendment with further proposal of amendment?, Senator Sears moved that the Senate recess until 4:00 P.M.

Which was agreed to.

Called to Order

The Senate was called to order by the President.

Message from the House No. 64

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

Mr. President:

I am directed to inform the Senate that:

The House has passed House bills of the following titles:

H. 537. An act relating to approval of amendments to the charter of the Town of Brattleboro.

H. 541. An act relating to approval of amendments to the charter of the Village of Essex Junction.

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. 7. An act relating to social networking privacy protection.

S. 81. An act relating to the regulation of octaBDE, pentaBDE, decaBDE, and the flame retardant known as Tris in consumer products .

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

S. 99. An act relating to the standard measure of recidivism.

S. 132. An act relating to sheriffs, deputy sheriffs, and the service of process.

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

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

Consideration Resumed; Consideration Interrupted by Recess

S. 77.

Consideration was resumed on Senate bill entitled:

An act relating to patient choice and control at end of life.

Thereupon, the question, Shall the Senate concur in the House proposal of amendment with further proposal of amendment?, Senator Sears moved that the Senate take a 30 minute recess, which was disagreed to on a division of the Senate, Yeas 7, Nays 17.

Thereupon, the question, Shall the Senate concur in the House proposal of amendment with further proposal of amendment?, Senator Campbell moved that the Senate recess for 10 minutes.

Which was agreed to.

Called to Order

The Senate was called to order by the President.

Consideration Resumed; House Proposal of Amendment Concurred In with Amendment

S. 77.

Consideration was resumed on Senate bill entitled:

An act relating to patient choice and control at end of life.

Thereupon, the question, Shall the Senate concur in the House proposal of amendment with further proposal of amendment?, Senator Ayer requested and was granted leave to withdraw her proposal of amendment.

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

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

Sec. 1. 18 V.S.A. chapter 113 is added to read:

CHAPTER 113. PATIENT CHOICE AT END OF LIFE

§ 5281. DEFINITIONS

(a) As used in this chapter:

(1) "Bona fide physician–patient relationship" means a treating or consulting relationship in the course of which a physician has completed a full assessment of the patient's medical history and current medical condition, including a personal physical examination.

(2) "Capable" means that a patient has the ability to make and communicate health care decisions to a physician, including communication through persons familiar with the patient's manner of communicating if those persons are available.

(3) "Health care facility" shall have the same meaning as in section 9432 of this title.

(4) "Health care provider" means a person, partnership, corporation, facility, or institution, licensed or certified or authorized by law to administer health care or dispense medication in the ordinary course of business or practice of a profession.

(5) "Impaired judgment" means that a person does not sufficiently understand or appreciate the relevant facts necessary to make an informed decision.

(6) "Interested person" means:

(A) the patient's physician;

(B) a person who knows that he or she is a relative of the patient by blood, civil marriage, civil union, or adoption;

(C) a person who knows that he or she would be entitled upon the patient's death to any portion of the estate or assets of the patient under any will or trust, by operation of law, or by contract; or

(D) an owner, operator, or employee of a health care facility, nursing home, or residential care facility where the patient is receiving medical treatment or is a resident.

(7) "Palliative care" shall have the same definition as in section 2 of this title.

(8) "Patient" means a person who is 18 years of age or older, a resident of Vermont, and under the care of a physician.

(9) "Physician" means an individual licensed to practice medicine under 26 V.S.A. chapter 23 or 33.

(10) "Terminal condition" means an incurable and irreversible disease which would, within reasonable medical judgment, result in death within six months.

§ 5282. RIGHT TO INFORMATION

The rights of a patient under section 1871 of this title to be informed of all available options related to terminal care and under 12 V.S.A. § 1909(d) to receive answers to any specific question about the foreseeable risks and benefits of medication without the physician's withholding any requested information exist regardless of the purpose of the inquiry or the nature of the information. A physician who engages in discussions with a patient related to such risks and benefits in the circumstances described in this chapter shall not be construed to be assisting in or contributing to a patient's independent decision to self-administer a lethal dose of medication, and such discussions shall not be used to establish civil or criminal liability or professional disciplinary action.

§ 5283. REQUIREMENTS FOR PRESCRIPTION AND DOCUMENTATION; IMMUNITY

(a) A physician shall not be subject to any civil or criminal liability or professional disciplinary action if the physician prescribes to a patient with a terminal condition medication to be self-administered for the purpose of hastening the patient's death and the physician affirms by documenting in the patient's medical record that all of the following occurred:

(1) The patient made an oral request to the physician in the physician's physical presence for medication to be self-administered for the purpose of hastening the patient's death.

(2) No fewer than 15 days after the first oral request, the patient made a second oral request to the physician in the physician's physical presence for medication to be self-administered for the purpose of hastening the patient's death.

(3) At the time of the second oral request, the physician offered the patient an opportunity to rescind the request.

(4) The patient made a written request for medication to be self-administered for the purpose of hastening the patient's death that was signed by the patient in the presence of two or more witnesses who were not interested persons, who were at least 18 years of age, and who signed and affirmed that the patient appeared to understand the nature of the document and to be free from duress or undue influence at the time the request was signed.

(5) The physician determined that the patient:

(A) was suffering a terminal condition, based on the physician's physical examination of the patient and review of the patient's relevant medical records;

(B) was capable;

(C) was making an informed decision;

(D) had made a voluntary request for medication to hasten his or her death; and

(E) was a Vermont resident.

(6) The physician informed the patient in person, both verbally and in writing, of all the following:

(A) the patient's medical diagnosis;

(B) the patient's prognosis, including an acknowledgement that the physician's prediction of the patient's life expectancy was an estimate based on the physician's best medical judgment and was not a guarantee of the actual time remaining in the patient's life, and that the patient could live longer than the time predicted;

(C) the range of treatment options appropriate for the patient and the patient's diagnosis;

(D) if the patient was not enrolled in hospice care, all feasible end-of-life services, including palliative care, comfort care, hospice care, and pain control;

(E) the range of possible results, including potential risks associated with taking the medication to be prescribed; and

(F) the probable result of taking the medication to be prescribed.

(7) The physician referred the patient to a second physician for medical confirmation of the diagnosis, prognosis, and a determination that the patient was capable, was acting voluntarily, and had made an informed decision.

(8) The physician either verified that the patient did not have impaired judgment or referred the patient for an evaluation by a psychiatrist, psychologist, or clinical social worker licensed in Vermont for confirmation that the patient was capable and did not have impaired judgment.

(9) If applicable, the physician consulted with the patient's primary care physician with the patient's consent.

(10) The physician informed the patient that the patient may rescind the request at any time and in any manner and offered the patient an opportunity to rescind after the patient's second oral request.

(11) The physician ensured that all required steps were carried out in accordance with this section and confirmed, immediately prior to writing the prescription for medication, that the patient was making an informed decision.

(12) The physician wrote the prescription no fewer than 48 hours after the last to occur of the following events:

(A) the patient's written request for medication to hasten his or her death;

(B) the patient's second oral request; or

(C) the physician's offering the patient an opportunity to rescind the request.

(13) The physician either:

(A) dispensed the medication directly, provided that at the time the physician dispensed the medication, he or she was licensed to dispense medication in Vermont, had a current Drug Enforcement Administration certificate, and complied with any applicable administrative rules; or

(B) with the patient's written consent:

(i) contacted a pharmacist and informed the pharmacist of the prescription; and

(ii) delivered the written prescription personally or by mail or facsimile to the pharmacist, who dispensed the medication to the patient, the physician, or an expressly identified agent of the patient.

(14) The physician recorded and filed the following in the patient's medical record:

(A) the date, time, and wording of all oral requests of the patient for medication to hasten his or her death;

(B) all written requests by the patient for medication to hasten his or her death;

(C) the physician's diagnosis, prognosis, and basis for the determination that the patient was capable, was acting voluntarily, and had made an informed decision;

(D) the second physician's diagnosis, prognosis, and verification that the patient was capable, was acting voluntarily, and had made an informed decision;

(E) the physician's attestation that the patient was enrolled in hospice care at the time of the patient's oral and written requests for medication to hasten his or her death or that the physician informed the patient of all feasible end-of-life services;

(F) the physician's verification that the patient either did not have impaired judgment or that the physician referred the patient for an evaluation and the person conducting the evaluation has determined that the patient did not have impaired judgment;

(G) a report of the outcome and determinations made during any evaluation which the patient may have received;

(H) the date, time, and wording of the physician's offer to the patient to rescind the request for medication at the time of the patient's second oral request; and

(I) a note by the physician indicating that all requirements under this section were satisfied and describing all of the steps taken to carry out the request, including a notation of the medication prescribed.

(15) After writing the prescription, the physician promptly filed a report with the Department of Health documenting completion of all of the requirements under this section.

(b) This section shall not be construed to limit civil or criminal liability for gross negligence, recklessness, or intentional misconduct.

§ 5284. NO DUTY TO AID

A patient with a terminal condition who self-administers a lethal dose of medication shall not be considered to be a person exposed to grave physical harm under 12 V.S.A. § 519, and no person shall be subject to civil or criminal

liability solely for being present when a patient with a terminal condition self-administers a lethal dose of medication or for not acting to prevent the patient from self-administering a lethal dose of medication.

§ 5285. LIMITATIONS ON ACTIONS

(a) A physician, nurse, pharmacist, or other person shall not be under any duty, by law or contract, to participate in the provision of a lethal dose of medication to a patient.

(b) A health care facility or health care provider shall not subject a physician, nurse, pharmacist, or other person to discipline, suspension, loss of license, loss of privileges, or other penalty for actions taken in good faith reliance on the provisions of this chapter or refusals to act under this chapter.

(c) Except as otherwise provided in this section and sections 5283, 5289, and 5290 of this title, nothing in this chapter shall be construed to limit liability for civil damages resulting from negligent conduct or intentional misconduct by any person.

§ 5286. HEALTH CARE FACILITY EXCEPTION

A health care facility may prohibit a physician from writing a prescription for a dose of medication intended to be lethal for a patient who is a resident in its facility and intends to use the medication on the facility's premises, provided the facility has notified the physician in writing of its policy with regard to the prescriptions. Notwithstanding subsection 5285(b) of this title, any physician who violates a policy established by a health care facility under this section may be subject to sanctions otherwise allowable under law or contract.

§ 5287. INSURANCE POLICIES; PROHIBITIONS

(a) A person and his or her beneficiaries shall not be denied benefits under a life insurance policy, as defined in 8 V.S.A. § 3301, for actions taken in accordance with this chapter.

(b) The sale, procurement, or issue of any medical malpractice insurance policy or the rate charged for the policy shall not be conditioned upon or affected by whether the physician is willing or unwilling to participate in the provisions of this chapter.

§ 5288. NO EFFECT ON PALLIATIVE SEDATION

This chapter shall not limit or otherwise affect the provision, administration, or receipt of palliative sedation consistent with accepted medical standards.

§ 5289. PROTECTION OF PATIENT CHOICE AT END OF LIFE

A physician with a bona fide physician–patient relationship with a patient with a terminal condition shall not be considered to have engaged in unprofessional conduct under 26 V.S.A. § 1354 if:

(1) the physician determines that the patient is capable and does not have impaired judgment;

(2) the physician informs the patient of all feasible end-of-life services, including palliative care, comfort care, hospice care, and pain control;

(3) the physician prescribes a dose of medication that may be lethal to the patient;

(4) the physician advises the patient of all foreseeable risks related to the prescription; and

(5) the patient makes an independent decision to self-administer a lethal dose of the medication.

§ 5290. IMMUNITY FOR PHYSICIANS

A physician shall be immune from any civil or criminal liability or professional disciplinary action for actions performed in good faith compliance with the provisions of this chapter.

§ 5291. SAFE DISPOSAL OF UNUSED MEDICATIONS

The Department of Health shall adopt rules providing for the safe disposal of unused medications prescribed under this chapter.

§ 5292. STATUTORY CONSTRUCTION

Nothing in this chapter shall be construed to authorize a physician or any other person to end a patient's life by lethal injection, mercy killing, or active euthanasia. Action taken in accordance with this chapter shall not be construed for any purpose to constitute suicide, assisted suicide, mercy killing, or homicide under the law. This section shall not be construed to conflict with section 1553 of the Patient Protection and Affordable Health Care Act, Pub.L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub.L. No. 111-152.

Sec. 2. REPEAL

18 V.S.A. § 5283 (immunity for prescription and documentation) is repealed on July 1, 2016.

Sec. 3. EFFECTIVE DATES

(a) Sec. 1 (18 V.S.A. chapter 113) of this act shall take effect on passage, except that 18 V.S.A. §§ 5289 (protection of patient choice at end of life) and 5290 (immunity for physicians) shall take effect on July 1, 2016.

(b) The remaining sections of this act shall take effect on passage.

Which was agreed to on a roll call, Yeas 17, Nays 13.

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

Roll Call

Those Senators who voted in the affirmative were: Ashe, Ayer, Baruth, Bray, Collins, Fox, French, Galbraith, Hartwell, Lyons, MacDonald, McCormack, Pollina, Rodgers, Snelling, White, Zuckerman.

Those Senators who voted in the negative were: Benning, Campbell, Cummings, Doyle, Flory, Kitchel, Mazza, McAllister, Mullin, Nitka, Sears, Starr, Westman.

Committee of Conference Appointed

H. 169.

An act relating to relieving employers' experience-rating records.

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

Senator Mullin
Senator Bray
Senator Galbraith

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

Message from the House No. 65

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

Mr. President:

I am directed to inform the Senate that:

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

H. 441. An act relating to changing provisions within the Vermont Common Interest Ownership Act related to owners of time-shares.

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

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

S. 38. An act relating to expanding eligibility for driving and identification privileges in Vermont.

And has passed the same in concurrence.

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

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

S. 11. An act relating to the Austine School.

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

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

H. 50. An act relating to the sale, transfer, or importation of pets.

H. 136. An act relating to cost-sharing for preventive services.

H. 182. An act relating to search and rescue.

And has severally concurred therein.

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

H. 377. An act relating to neighborhood planning and development for municipalities with designated centers.

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

Adjournment

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

THURSDAY, MAY 9, 2013

The Senate was called to order by the President.

Devotional Exercises

A moment of silence was observed in lieu of devotions.

Bills Referred

House bills of the following titles were severally read the first time and referred:

H. 441.

An act relating to changing provisions within the Vermont Common Interest Ownership Act related to owners of time-shares.

To the Committee on Rules.

H. 537.

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

To the Committee on Rules.

H. 541.

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

To the Committee on Rules.

Proposals of Amendment; Third Reading Ordered

H. 521.

Senator McCormack, for the Committee on Education, to which was referred House bill entitled:

An act relating to making miscellaneous amendments to education law.

Reported recommending that the Senate propose to the House to amend the bill as follows:

First: By deleting Sec. 2 in its entirety.

Second: After Sec. 7, by inserting three new sections to be Secs. 7a through 7c to read as follows:

Sec. 7a. 33 V.S.A. § 6911(a)(1) is amended to read:

(1) The investigative report shall be disclosed only to: the ~~commissioner~~ Commissioner or person designated to receive such records; persons assigned by the ~~commissioner~~ 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~~ Office of Professional Regulation when deemed appropriate by the ~~commissioner~~ Commissioner; the Secretary of Education when deemed appropriate by the Committioner; a law enforcement agency, the ~~state's attorney, or the office of~~

~~the attorney general~~ State's Attorney, or the Office of the Attorney General, when the ~~department~~ 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.

Sec. 7b. 33 V.S.A. § 6911(c) is amended to read:

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

* * *

(7) upon request or when relevant to other states' adult protective services offices; ~~and~~

(8) the ~~board of medical practice~~ Board of Medical Practice for the purpose of evaluating an applicant, licensee, or holder of certification pursuant to 26 V.S.A. § 1353; and

(9) the Secretary of Education or the Secretary's designee, for purposes related to the licensing of professional educators pursuant to 16 V.S.A. chapter 5, subchapter 4 and chapter 51.

Sec. 7c. 16 V.S.A. § 253 is amended to read:

§ 253. CONFIDENTIALITY OF RECORDS

(a) Criminal records and criminal record information received under this subchapter are designated confidential unless, under state or federal law or regulation, the record or information may be disclosed to specifically designated persons.

(b) The Secretary, a superintendent, or a headmaster may disclose criminal records and criminal record information received under this subchapter to a qualified entity upon request, provided that the qualified entity has signed a user agreement and received authorization from the subject of the record request. As used in this section, "qualified entity" means an individual, organization, or governmental body doing business in Vermont that has one or more individuals performing services for it within the State and that provides care or services to children, persons who are elders, or persons with disabilities as defined in 42 U.S.C. § 5119c.

Third: By deleting Sec. 11 in its entirety

Fourth: By striking out Secs. 16 through 18 in their entirety and inserting in lieu thereof three new sections to be Secs. 16 through 18 to read as follows:

* * * Creation of New Independent Schools * * *

Sec. 16. 16 V.S.A. § 821(e) is added to read:

(e) Notwithstanding the authority of a school district to cease operation of an elementary school and to begin paying tuition on behalf of its resident elementary students pursuant to subdivision (a)(1) or subsection (d) of this section, a school district shall not cease operation of an elementary school with the intention, for the purpose, or with the result of having the school building or buildings reopen as an independent school serving essentially the same population of students.

Sec. 17. 16 V.S.A. § 822(d) is added to read:

(d) Notwithstanding the authority of a school district to cease operation of a secondary school and to begin paying tuition on behalf of its resident secondary students pursuant to subdivision (a)(1) of this section, a school district shall not cease operation of a secondary school with the intention, for the purpose, or with the result of having the school building or buildings reopen as an independent school serving essentially the same population of students.

Sec. 18. 16 V.S.A. § 166(b)(8) is added to read:

(8) Notwithstanding any other provision of law, approval under this subsection of a new or existing independent school that proposes to operate in a building in which a school district operated a school is subject to either subsection 821(e) or 822(d) of this title, as appropriate for the grades operated.

Fifth: By striking out Sec. 20 and inserting in lieu thereof 14 new sections to be Secs. 20 through 33 and related reader assistance headings to read as follows:

* * * Transportation Grants * * *

Sec. 20. 16 V.S.A. § 4016(c) is amended to read:

(c) ~~A district may apply and the commissioner may pay for extraordinary transportation expenditures incurred due to geographic or other conditions such as the need to transport students out of the school district to attend another school because the district does not maintain a public school. The state board of education shall define extraordinary transportation expenditures by rule. The total amount of base year extraordinary transportation grant expenditures shall be $250,000.00 for fiscal year 1997, increased each year thereafter by the annual price index for state and local government purchases of goods and~~

~~services. Extraordinary transportation expenditures shall not be paid out of the funds appropriated under subsection (b) of this section for other transportation expenditures. Grants paid under this section shall be paid from the education fund and shall be added to adjusted education payment receipts paid under section 4011 of this title.~~ [Repealed.]

* * * Compact for Military Children * * *

Sec. 21. 16 V.S.A. § 806m.E is amended to read:

E. The Interstate Commission may not assess, levy, or collect from Vermont in its annual assessment more than ~~$100~~ $2,000.00 per year. Other funding sources may be accepted and used to offset expenses related to the ~~state's~~ State's participation in the compact.

Sec. 22. AGENCY OF EDUCATION BUDGET

There shall be no separate or additional General Fund appropriation to the Agency of Education in fiscal year 2014 for purposes of funding the increased assessment to be paid pursuant to Sec. 21 of this act.

* * * Adult Basic Education * * *

Sec. 23. 16 V.S.A. § 164 is amended to read:

§ 164. STATE BOARD; GENERAL POWERS AND DUTIES

The ~~state board~~ State Board shall evaluate education policy proposals, including timely evaluation of policies presented by the ~~governor~~ Governor and ~~secretary~~ Secretary; engage local school board members and the broader education community; and establish and advance education policy for the ~~state~~ State of Vermont. In addition to other specified duties, the ~~board~~ Board shall:

* * *

(13) ~~Constitute~~ Be the ~~state board~~ State Board for the program of adult education and literacy and perform all the duties and powers prescribed by law pertaining to adult education and literacy and to act as the state approval agency for educational institutions conducting programs of adult education and literacy.

* * *

* * * Special Education Employees; Transition to Employment by Supervisory Unions * * *

Sec. 24. 2010 Acts and Resolves No. 153, Sec. 18, as amended by 2011 Acts and Resolves No. 58, Sec. 18, is further amended to read:

Sec. 18. TRANSITION

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

(1) providing that the supervisory union assumes all obligations of each existing collective bargaining agreement in effect between the member districts and their special education employees and their transportation employees until the agreement's expiration, subject to employee compliance with performance standards and any lawful reduction in force, layoff, nonrenewal, or dismissal;

(2) providing, in the absence of an existing recognized representative of its employees, for the immediate and voluntary recognition by the supervisory union of the recognized representatives of the employees of the member districts as the recognized representatives of the employees of the supervisory union;

(3) ensuring that an employee of a member district who is not a probationary employee shall not be considered a probationary employee upon transition to the supervisory union; and

(4) ~~containing an agreement~~ negotiating a collective bargaining agreement, addressing special education employees, with the recognized representatives of the employees of the member districts ~~that is effective on the day the supervisory union assumes obligations of existing agreements regarding how the supervisory union, prior to reaching its first collective bargaining agreement with its special education employees and with its transportation employees, will address issues of seniority, reduction in force, layoff, and recall~~ , which, for the purposes of this section, shall be: the exclusive representative of special education teachers; the exclusive representative of the special education administrators; and the exclusive bargaining agent for special education paraeducators if the supervisory union has elected to employ special education paraeducators pursuant to subdivision (b)(3) of this section. The supervisory union shall become the employer of these employees on the date specified in the ratified agreement.

(b) For purposes of this section and Sec. 9 of this act, "special education employee" shall include a special education teacher, a special education administrator, and a special education paraeducator, which means a teacher, administrator, or paraeducator whose job assignment consists of providing special education services directly related to students' individualized education programs or to the administration of those services. Provided, however, that "special education employee" shall include a "special education paraeducator" only if the supervisory union board elects to employ some or all special

education paraeducators because it determines that doing so will lead to more effective and efficient delivery of special education services to students. If the supervisory union board does not elect to employ all special education paraeducators, it must use objective, nondiscriminatory criteria and identify specific duties to be performed when determining which categories of special education paraeducators to employ.

(c) Education-related parties to negotiations under either Title 16 or 21 shall incorporate in their current or next negotiations matters addressing the terms and conditions of special education employees.

(d) If a supervisory union has not entered into a collective bargaining agreement with the representative of its prospective special education employees by August 15, 2015, it shall provide the Secretary of Education with a report identifying the reasons for not meeting the deadline and an estimated date by which it expects to ratify the agreement.

Sec. 25. 16 V.S.A. § 1981(8) is amended to read:

(8) "School board negotiations council" means, for a supervisory district, its school board, and, for school districts within a supervisory union, the body comprising representatives designated by each school board within the supervisory union and by the supervisory union board to engage in professional negotiations with a teachers' or administrators' organization.

Sec. 26. 21 V.S.A. § 1722(18) is amended to read:

(18) "School board negotiations council" means, for a supervisory district, its school board, and, for school districts within a supervisory union, the body comprising representatives designated by each school board within the supervisory union and by the supervisory union board to engage in collective bargaining with their school employees' negotiations council.

Sec. 27. EXCESS SPENDING; TRANSITION

For purposes of calculating excess spending pursuant to 32 V.S.A. § 5401(12) in fiscal years 2014 through 2017, "education spending" shall not include the portion of a district's proposed budget that is directly attributable to assessments from the supervisory union for special education services that exceeds the portion of the district's proposed budget in the year prior to transition for special education services provided by the district.

Sec. 28. APPLICABILITY

Only school districts and supervisory unions that have not completed the transition of special education employees to employment by the supervisory union or have not negotiated transition provisions into current master

agreements as of the effective dates of Secs. 24 through 27 of this act are subject to the employment transition provisions of those sections.

Sec. 29. REPORT

On or before January 1, 2017, the Secretary of Education shall report to the House and Senate Committees on Education regarding the decisions of supervisory unions to exercise or not to exercise the flexibility regarding employment of special education paraeducators provided in Sec. 24 of this act and may propose amendments to Sec. 24 or to related statutes as he or she deems appropriate.

* * * Early Education; Labor Relations * * *

Sec. 30. FINDINGS

The General Assembly finds:

(1) The early education a child receives before school age, particularly before the age of three, has a profound effect on a child's development during this critical stage of life. Investments in the consistency and quality of early education lay a vital foundation for the future cognitive, social, and academic success of Vermont children.

(2) Early education providers should have the opportunity to work collectively with the State to enhance professional development and educational opportunities for early educators, to increase child care subsidy funding to enable more children to receive critical early education opportunities, and to ensure the continual improvement of early education in Vermont.

Sec. 31. 33 V.S.A. chapter 36 is added to read:

CHAPTER 36. EARLY CARE AND EDUCATION PROVIDERS LABOR RELATIONS ACT

§ 3601. PURPOSE

(a) The General Assembly recognizes the right of all early care and education providers to bargain collectively with the State over matters within the State's control and identified as subjects of bargaining pursuant to subsection 3603(b) of this chapter.

(b) The General Assembly intends to create an opportunity for early care and education providers to choose to form a union and bargain with the State over matters within the State's control and identified as subjects of bargaining pursuant to subsection 3603(b) of this chapter.

(c) Specific terms and conditions of employment at individual child care centers, which are the subject of traditional collective bargaining between employers and employees, are outside the limited scope of this act.

(d) The matters subject to this chapter are those within the control of the State of Vermont and relevant to all early care and education providers.

(e) Early care and education providers do not forfeit their rights under the National Labor Relations Act, 29 U.S.C. § 151, et seq., or the Vermont State Labor Relations Act, 21 V.S.A. § 1501, et seq., by becoming members of an organization that represents them in their dealings with the State. The terms and conditions of employment with individual early care and education providers, which are the subjects of traditional collective bargaining between employers and employees and which are governed by federal law, fall outside the limited scope of bargaining defined in this chapter.

§ 3602. DEFINITIONS

As used in this chapter:

(1) "Board" means the State Labor Relations Board established under 3 V.S.A. § 921.

(2) "Early care and education provider" means a licensed child care home provider, a registered child care home provider, or a legally exempt child care home provider who provides child care services as defined in subdivision 3511(3) of this title.

(3) "Subsidy payment" means any payment made by the State to assist families in paying for child care services through the State's child care financial assistance program.

(4) "Collective bargaining" or "bargaining collectively" means the process by which the State and the exclusive representative of early care and education providers negotiate terms or conditions related to the subjects of collective bargaining identified in subsection 3603(b) of this title which when reached and funded shall be legally binding.

(5) "Exclusive representative" means the labor organization that has been elected or recognized and certified by the Board under this chapter and consequently has the exclusive right under section 3608 of this title to represent early care and education providers for the purpose of collective bargaining and the enforcement of any contract provisions.

(6) "Grievance" means the exclusive representative's formal written complaint regarding an improper application of one or more terms of the collective bargaining agreement.

§ 3603. ESTABLISHMENT OF COLLECTIVE BARGAINING

(a) Early care and education providers, through their exclusive representative, shall have the right to bargain collectively with the State through the Governor's designee.

(b) Mandatory subjects of bargaining are limited to child care subsidy reimbursement rates and payment procedures, professional development, the collection of dues or agency fees and disbursement to the exclusive representative, and procedures for resolving grievances. The parties may also negotiate on any mutually agreed matters that are not in conflict with state or federal law.

(c) The State, acting through the Governor's designee, shall meet with the exclusive representative for the purpose of entering into a written agreement.

(d) Early care and education providers shall be considered employees and the State shall be considered the employer solely for the purpose of collective bargaining under this chapter. Early care and education providers shall not be considered state employees other than for purposes of collective bargaining, including for purposes of vicarious liability in tort, and for purposes of unemployment compensation or workers' compensation. Early care and education providers shall not be eligible for participation in the state employees' retirement system or the health insurance plans available to executive branch employees solely by virtue of bargaining under this chapter.

(e) Agency fees may be collected only from early care and education providers who receive subsidy payments from the State.

§ 3604. RIGHTS OF EARLY CARE AND EDUCATION PROVIDERS

Early care and education providers shall have the right to:

(1) organize, form, join, or assist any union or labor organization for the purpose of collective bargaining without any interference, restraint, or coercion;

(2) bargain collectively through a representative of their own choice;

(3) engage in concerted activities for the purpose of supporting or engaging in collective bargaining;

(4) pursue grievances through the exclusive representative as negotiated pursuant to this chapter; and

(5) refrain from any or all such activities.

§ 3605. RIGHTS OF THE STATE

Nothing in this chapter shall be construed to interfere with right of the State to:

(1) take necessary actions to carry out the mission of the Agency of Human Services;

(2) comply with federal and state laws and regulations regarding child care and child care subsidies;

(3) enforce child care regulations and regulatory processes including regulations regarding the qualifications of early care and education providers and the prevention of abuse in connection with the provisions of child care services;

(4) develop child care regulations and regulatory processes subject to the rulemaking authority of the General Assembly and the Human Services Board;

(5) establish and administer quality standards under the Step Ahead Recognition system;

(6) solicit and accept for use any grant of money, services, or property from the federal government, the State, or any political subdivision or agency of the State, including federal matching funds, and to cooperate with the federal government or any political subdivision or agency of the State in making an application for any grant; and

(7) refuse to take any action that would diminish the quantity or quality of child care provided under existing law.

§ 3606. UNIT

(a) The bargaining unit shall be composed of licensed home child care providers, registered home child care providers, and legally exempt child care providers as defined in this chapter.

(b) Early care and education providers may select an exclusive representative for the purpose of collective bargaining by using the procedures in sections 3607 and 3608 of this title.

(c) The exclusive representative of the early care and education providers is required to represent all of the providers in the unit without regard to membership in the union.

§ 3607. PETITIONS FOR ELECTION; FILING; INVESTIGATIONS; HEARINGS; DETERMINATIONS

(a) A petition may be filed with the Board in accordance with regulations prescribed by the Board:

(1) By an early care and education provider or group of providers or any individual or labor organization acting on the providers' behalf:

(A) alleging that not less than 30 percent of the providers in the petitioned bargaining unit wish to be represented for collective bargaining and that the State declines to recognize their representative as the representative defined in this chapter; or

(B) asserting that the labor organization that has been certified as the bargaining representative no longer represents a majority of early care and education providers.

(2) By the State alleging that one or more individuals or labor organizations has presented a claim to be recognized as the exclusive representative defined in this chapter.

(b) The Board shall investigate the petition and, if it has reasonable cause to believe that a question concerning representation exists, shall conduct a hearing. The hearing shall be held before the Board, a member of the Board, or its agents appointed for that purpose upon due notice. Written notice of the hearing shall be mailed by certified mail to the parties named in the petition not less than seven days before the hearing. If the Board finds upon the record of the hearing that a question of representation exists, it shall conduct an election by secret ballot and certify to the parties, in writing, the results thereof.

(c) In determining whether or not a question of representation exists, the Board shall apply the same regulations and rules of decision regardless of the identity of the persons filing the petition or the kind of relief sought.

(d) Nothing in this chapter prohibits the waiving of hearings by stipulation for a consent election in conformity with regulations and rules of the Board.

(e) For the purposes of this chapter, the State may voluntarily recognize the exclusive representative of a unit of early care and education providers if the labor organization demonstrates that it has the support of a majority of the providers in the unit it seeks to represent and no other employee organization seeks to represent the providers.

§ 3608. ELECTION; RUNOFF ELECTIONS

(a) If a question of representation exists, the Board shall conduct a secret ballot election to determine the exclusive representative of the unit of early care and education providers. The original ballot shall be prepared to permit a vote against representation by anyone named on the ballot. The labor organization receiving a majority of votes cast shall be certified by the Board as the exclusive representative of the unit of early care and education providers. In any election in which there are three or more choices, including the choice of "no union," and none of the choices on the ballot receives a majority, a runoff election shall be conducted by the Board. The ballot shall provide for a selection between the two choices receiving the largest and second largest number of valid votes cast in the election.

(b) An election shall not be directed if in the preceding 12 months a valid election has been held.

§ 3609. POWERS OF REPRESENTATIVES

The exclusive representative shall be the exclusive representative of all the early care and education providers in the unit for the purposes of collective bargaining and the resolution of grievances.

§ 3610. NEGOTIATED AGREEMENT; FUNDING

If the State and the exclusive representative reach an agreement, the Governor shall request from the General Assembly an appropriation sufficient to fund the agreement in the next operating budget. If the General Assembly appropriates sufficient funds, the negotiated agreement shall become effective and binding at the beginning of the next fiscal year. If the General Assembly appropriates a different amount of funds, the terms of the agreement affected by that appropriation shall be renegotiated based on the amount of funds actually appropriated by the General Assembly and shall become effective and legally binding in the next fiscal year.

§ 3611. MEDIATION; FACT-FINDING; LAST BEST OFFER

(a) If after a reasonable period of negotiation, the exclusive representative and the State reach an impasse, the Board upon petition of either party may authorize the parties to submit their differences to mediation. Within five days after receipt of the petition, the Board shall appoint a mediator who shall communicate with the parties and attempt to mediate an amicable settlement. A mediator shall be of high standing and not affiliated with either labor or management.

(b) If after a minimum of 15 days after the appointment of a mediator, the impasse is not resolved, the mediator shall certify to the Board that the impasse continues.

(c) Upon the request of either party, the Board shall appoint a fact finder who has been mutually agreed upon by the parties. If the parties fail to agree on a fact finder within five days, the Board shall appoint a fact finder who shall be a person of high standing and shall not be affiliated with either labor or management. A member of the Board or any individual who has actively participated in mediation proceedings for which fact-finding has been called shall not be eligible to serve as a fact finder under this section unless agreed upon by the parties.

(d) The fact finder shall conduct hearings pursuant to rules of the Board. Upon request of either party or of the fact finder, the Board may issue subpoenas of persons and documents for the hearings and the fact finder may require that testimony be given under oath and may administer oaths.

(e) Nothing in this section shall prohibit the fact finder from mediating the dispute at any time prior to issuing recommendations.

(f) In making a recommendation, the fact finder shall consider whether the proposal increases the amount and quality of care provided to children and families in a manner that is more affordable for Vermont families and citizens and whether the subsidies provided are consistent with federal guidance.

(g) Upon completion of the hearings, the fact finder shall file written findings and recommendations with both parties.

(h) The costs of witnesses and other expenses incurred by either party in fact-finding proceedings shall be paid directly by the parties incurring them, and the costs and expenses of the fact finder shall be paid equally by the parties. The fact finder shall be paid a rate mutually agreed upon by the parties for each day or any part of a day while performing fact-finding duties and shall be reimbursed for all reasonable and necessary expenses incurred in the performance of his or her duties. A statement of fact-finding per diem and expenses shall be certified by the fact finder and submitted to the Board for approval. The Board shall provide a copy of approved fact-finding costs to each party with its order apportioning half of the total to each party for payment. Each party shall pay its half of the total within 15 days after receipt of the order. Approval by the Board of the fact finder's costs and expenses and its order for payment shall be final as to the parties.

(i) If the dispute remains unresolved 15 days after transmittal of findings and recommendations, each party shall submit to the Board its last best offer on all disputed issues as a single package. Each party's last best offer shall be

filed with the Board under seal and shall be unsealed and placed in the public record only when both parties' last best offers are filed with the Board. The Board may hold hearings and consider the recommendations of the fact finder. Within 30 days of the certifications, the Board shall select between the last best offers of the parties, considered in their entirety without amendment, and shall determine that selection's cost. The Board shall not issue an order under this subsection that is in conflict with any law or rule or that relates to an issue that is not a mandatory subject of collective bargaining. The Board shall determine the cost of the agreement selected and recommend to the General Assembly its choice with a request for appropriation. If the General Assembly appropriates sufficient funds, the agreement shall become effective and legally binding at the beginning of the next fiscal year. If the General Assembly appropriates a different amount of funds, the terms of the agreement affected by that appropriation shall be renegotiated based on the amount of funds actually appropriated by the General Assembly, and the agreement with the negotiated changes shall become effective and binding at the beginning of the next fiscal year.

§ 3612. GENERAL DUTIES AND PROHIBITED CONDUCT

(a) The State and all early care and education providers and their representatives shall exert every reasonable effort to make and maintain agreements concerning matters allowable under this chapter and to settle all disputes, whether arising out of the application of those agreements or growing out of any disputes concerning those agreements. However, this obligation does not compel either party to agree to a proposal or make a concession.

(b) It shall be an unfair labor practice for the State to:

(1) interfere with, restrain, or coerce early care and education providers in the exercise of their rights under this chapter or by any other law, rule, or regulation;

(2) discriminate against an early care and education provider because of the provider's affiliation with a labor organization or because a provider has filed charges or complaints or has given testimony under this chapter;

(3) take negative action against an early care and education provider because the provider has taken actions such as signing a petition, grievance, or affidavit that demonstrates the provider's support for a labor organization;

(4) refuse to bargain collectively in good faith with the exclusive representative;

(5) discriminate against an early care and education provider based on race, color, religion, ancestry, age, sex, sexual orientation, gender identity,

national origin, place of birth, marital status, or against a qualified disabled individual; or

(6) request or require an early care and education provider to have an HIV-related blood test or discriminate against a provider on the basis of HIV status of the provider.

(c) It shall be an unfair labor practice for the exclusive representative to:

(1) restrain or coerce early care and education providers in the exercise of the rights guaranteed to them under this chapter or by law, rule, or regulation. However, a labor organization may prescribe its own rules with respect to the acquisition or retention of membership provided such rules are not discriminatory;

(2) cause or attempt to cause the State to discriminate against an early care and education provider or to discriminate against a provider;

(3) refuse to bargain collectively in good faith with the State; or

(4) threaten to or cause a provider to strike or curtail the provider's services in recognition of a picket line of any employee or labor organization.

(d) Early care and education providers shall not strike or curtail their services in recognition of a picket line of any employee or labor organization.

(e) Complaints related to this section shall be made and resolved in accordance with procedures set forth in 3 V.S.A. § 965.

§ 3613. ANTITRUST EXEMPTION

The activities of early care and education providers and their exclusive representatives that are necessary for the exercise of their rights under this chapter shall be afforded state action immunity under applicable federal and state antitrust laws. The State intends that the "state action" exemption to federal antitrust laws be available only to the State, to early care and education providers, and to their exclusive representative in connection with these necessary activities. Exempt activities shall be actively supervised by the State.

§ 3614. RIGHTS UNALTERED

(a) This chapter does not alter or infringe upon the rights of:

(1) a parent or legal guardian to select and discontinue child care services of any early care and education provider;

(2) an early care and education provider to choose, direct, and terminate the services of any employee that provides care in that home; or

(3) the Judiciary and General Assembly to make programmatic modifications to the delivery of state services through child care subsidy programs, including standards of eligibility for families, legal guardians, and providers participating in child care subsidy programs, and to the nature of services provided.

(b) Nothing in this chapter shall affect the rights and obligations of private sector employers and employees under the National Labor Relations Act, 29 U.S.C. § 151, et seq., or the Vermont State Labor Relations Act, 21 V.S.A. § 1501, et seq. The terms and conditions of employment at individual centers, which are the subjects of traditional collective bargaining between employers and their employees and which are governed by federal laws, fall outside the limited scope of bargaining defined in this chapter.

Sec. 32. NEGOTIATIONS; EARLY CARE AND EDUCATION ROVIDERS

The State's costs of negotiating an agreement pursuant to 33 V.S.A. chapter 36 shall be borne by the State out of existing appropriations made to it by the General Assembly.

* * * Effective Dates * * *

Sec. 33. EFFECTIVE DATES

(a) Sec. 20 of this act (extraordinary transportation aid) shall take effect on July 1, 2014 and shall apply to grants that would have been made in fiscal year 2015 and after.

(b) This section and all other sections of this act shall take effect on passage; provided, however, that Sec. 14 of this act (salary) shall apply retroactively beginning on January 2, 2013.

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

Thereupon, pending the question, Shall the Senate propose to the House to amend the bill as proposed by the Committee on Education?, Senator Mullin raised a *point of order* under Sec. 402 of Mason's Manual of Legislative Procedure on the grounds that the proposal of amendment offered by the Committee on Education in Secs. 30 through 32 was *not germane* to the bill and therefore could not be considered by the Senate.

Thereupon, the President *sustained* the point of order and ruled that the proposal of amendment in Secs. 30 through 32 recommended by the Committee on Education was *not germane* to the bill. Mason's Manual of Legislative Procedure, Sec. 402.

Whether a proposed amendment is germane is not always an easy question. Generally speaking, the following factors are considered:

1. Is the proposed amendment relevant, appropriate, and in a natural or logical sequence to the subject matter of the original proposal?

2. Does the proposed amendment introduce an independent question?

3. Does the proposed amendment unreasonably or unduly expand the subject matter of the bill?

4. Does the proposed amendment deal with a different topic or subject?

5. Does the proposed amendment change the purpose, scope or object of the original bill?

In deciding a question of germaneness, the threshold determination must be that of the subject matter of the bill or amendment under consideration and its scope. In determining whether an amendment is germane to the bill or amendment the earlier listed factors are considered. After weighing these factors, the President ruled the proposed Secs. 30 through 32 ***not germane*** to H. 521.

The President thereupon declared that Sections 30 through 32 of the recommendation of proposal of amendment of the Committee on Education could *not* be considered by the Senate.

Thereupon, Senator McCormack moved the rules be suspended so that the Senate may consider Secs. 30 through 32 which was disagreed to on a roll call, Yes 17, Nays 12.

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, Cummings, Doyle, Fox, French, Kitchel, Lyons, MacDonald, McCormack, Pollina, Sears, Snelling, Starr, Westman, White, Zuckerman.

Those Senators who voted in the negative were: Baruth, Benning, Campbell, Collins, Flory, *Galbraith, Hartwell, Mazza, McAllister, Mullin, Nitka, Rodgers.

The Senator absent and not voting was: Bray.

*Senator Galbraith explained his vote as follows:

"I support the right of early childhood educators to unionize. The Senate rules exist to protect the rights of those who hold minority on less popular

views. I cannot insist on following the rules, as I do, except when I disagree with the results."

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

First: By striking out the *fourth* proposal of amendment in its entirety

Second: In the *fifth* proposal of amendment, by striking out Sec. 20 (transportation grants) and its related reader assistance heading in their entirety

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

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

Thereupon, pending the question, Shall the Senate propose to the House that the bill be amended as recommended by the Committee on Education as amended?, Senator White, Hartwell and Sears moved to amend the proposal of amendment of the Committee on Education, as amended, as follows:

By striking out Sec. 33 (effective dates) in its entirety and inserting in lieu thereof three new sections to be Secs. 33 through 35 and related reader assistance headings to read:

* * * Out-of-State Career Technical Education * * *

Sec. 33. 16 V.S.A. § 1531(c) is amended to read:

(c) For a school district ~~which~~ that is geographically isolated from a Vermont technical center, the ~~state board~~ State Board may approve a technical center in another state as the technical center ~~which~~ that district students may attend. In this case, the school district shall receive transportation assistance pursuant to section 1563 of this title and tuition assistance pursuant to section 1561(c) of this title. Any student who is a resident in the Windham Southwest ~~supervisory union~~ Supervisory Union and who is enrolled at public expense in the Charles H. McCann Technical School ~~at public expense~~ or the Franklin County Technical School shall be considered to be attending an approved technical center in another state pursuant to this subsection, and, if the student is from a school district eligible for a small schools support grant pursuant to section 4015 of this title, the student's full-time equivalency shall be computed according to time attending the school.

Sec. 34. INSTRUCTIONAL HOURS; DATA COLLECTION

(a) Survey and data compilation. On or before March 15, 2014, the Secretary of Education shall survey all public schools and approved independent schools receiving public tuition dollars regarding the areas identified in subsections (b) and (c) of this section and shall present compiled data to the House and Senate Committees on Education.

(b) Elementary education.

(1) The total number of instruction hours per year for each elementary student in each of the following subjects: art, music, physical education, foreign language information technology, and library or media studies.

(2) The combined per student cost of providing all subjects identified in subdivision (1) of this subsection (b), including materials and the salaries and benefits for necessary employees.

(3) The combined per student cost of providing all subjects not identified in subdivision (1) of this subsection (b), including materials and the salaries and benefits for necessary employees.

(c) Secondary education.

(1) Considering science, math, technology and engineering, foreign languages, and business as distinct categories:

(A) The total number of Advanced Placement courses offered in each category.

(B) The total number of courses, exclusive of Advanced Placement courses, offered in each category.

(C) The total annual budgeted cost of materials for each category.

(D) The total number of faculty employed to provide instruction in each category.

(E) The total salary and benefits for faculty employed to provide instruction in each category.

(F) The complete list of all courses offered in each category.

(2) The total number of laptop computers provided for student use.

(3) The total annual budgeted cost of learning experiences occurring outside the classroom, including field trips, dual enrollment courses, and internships.

(4) The total annual budgeted cost for all courses and programs in the fine arts.

(5) The total annual budget for "enrichment" and other after-school activities.

(6) The total annual budget for physical education courses offered during the school day.

(7) The total annual budget for extracurricular athletic opportunities.

Sec. 35. EFFECTIVE DATES

(a) Sec. 33 of this act (out-of-state career technical education) shall take effect on July 1, 2013 and shall apply to enrollments in academic year 2013–2014 and after.

(b) This section and all other sections of this act shall take effect on passage; provided, however, that Sec. 14 of this act (salary) shall apply retroactively beginning on January 2, 2013.

Thereupon, pending the question, Shall the recommendation of the Committee on Education be amended as recommended by Senators White, Hartwell and Sears?, Senator Collins requested the question be divided.

Thereupon, the question, Shall the recommendation of the Committee on Education, be amended as recommended by Senators White, Hartwell and Sears in the Sec. 33 was agreed to.

Thereupon, pending the question, Shall the report of the Committee on Education, as amended, be amended as recommended by Senators White, Hartwell and Sears?, Senator White requested and was granted leave to withdraw Secs. 34 and 35.

Thereupon, pending the question, Shall the Senate propose to the House that the bill be amended as recommended by the Committee on Education as amended?, Senator Baruth moved to amend the proposal of amendment of the Committee on Education, as amended, by striking out Sec. 27 (excess spending; transition) in its entirety and inserting in lieu thereof:

Sec. 27. [Deleted.]

Which was agreed to.

Thereupon, the question, Shall the Senate propose to the House that the bill be amended as recommended by the Committee on Education, as amended?, was agreed to.

Thereupon, pending the question, Shall the bill be read a third time?, Senator Collins moved to amend the Senate proposal of amendment by adding a new section to be Sec. 16a to read as follows:

Sec. 16a. CREATION OF NEW INDEPENDENT SCHOOLS; MORATORIUM; SUNSET

(a) The State Board of Education shall not approve any independent school under 16 V.S.A. § 166 if, on or after the effective date of this act, the school district for the municipality in which the independent school proposes to operate voted to cease operating a school that at the time of the vote served essentially the same population of students as the independent school proposes to serve.

(b) This section is repealed on July 1, 2014.

Which was disagreed to on a roll call, Yeas 12, Nays 14.

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, Ayer, Baruth, Collins, Cummings, Fox, French, Galbraith, Lyons, MacDonald, McCormack, White.

Those Senators who voted in the negative were: Benning, Doyle, Flory, Hartwell, Kitchel, Mazza, McAllister, Mullin, Nitka, Rodgers, Sears, Snelling, Starr, Westman.

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

Thereupon, third reading of the bill was ordered.

Bills Passed in Concurrence with Proposals of Amendment

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

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

H. 450. An act relating to expanding the powers of regional planning commissions.

Proposals of Amendment; Third Reading Ordered

H. 65.

Senator Sears, for the Committee on Judiciary, to which was referred House bill entitled:

An act relating to limited immunity from liability for reporting a drug or alcohol overdose.

Reported recommending that the Senate propose to the House to amend the bill as follows:

First: In Sec. 2, 18 V.S.A. § 4254(b), after the word "faith" by adding the words and in a timely manner

Second: By adding a 2a to read as follows:

Sec. 2a. REPORT

The Executive Director of the Department of State's Attorneys and Sheriffs and the Defender General shall each report to the Senate and House Committees on Judiciary on the implementation and effect of Sec. 2 of this act no later than November 2015.

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

Sec. 2b. 12 V.S.A. § 5784 is added to read:

§ 5784. VOLUNTEER ATHLETIC OFFICIALS

(a) A person providing services or assistance without compensation, except for reimbursement of expenses, in connection with the person's duties as an athletic coach, manager, or official for a sports team that is organized as a nonprofit corporation, or which is a member team in a league organized by or affiliated with a county or municipal recreation department, shall not be held personally liable for damages to a player, participant, or spectator incurred as a result of the services or assistance provided. This section shall apply to acts and omissions made during sports competitions, practices, and instruction.

(b) This section shall not protect a person from liability for damages resulting from reckless or intentional conduct, or the negligent operation of a motor vehicle.

(c) Nothing in this section shall be construed to affect the liability of any nonprofit or governmental entity with respect to harm caused to any person.

(d) Any sports team organized as described in subsection (a) of this section shall be liable for the acts and omissions of its volunteer athletic coaches, managers, and officials to the same extent as an employer is liable for the acts and omissions of its employees.

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

Thereupon, pending the question, Shall the Senate propose to the House to amend the bill as proposed by the Committee on Judiciary?, Senator Sears, requested and was granted leave to withdraw the *third* proposal of amendment.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and the proposals of amendment were collectively agreed to, and third reading of the bill was ordered.

Proposal of Amendment; Third Reading Ordered

H. 107.

Senator Lyons, for the Committee on Health and Welfare, to which was referred House bill entitled:

An act relating to health insurance, Medicaid, and the Vermont Health Benefit Exchange.

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:

* * * Health Insurance * * *

Sec. 1. 8 V.S.A. § 4079 is amended to read:

§ 4079. GROUP INSURANCE POLICIES; DEFINITIONS

Group health insurance is hereby declared to be that form of health insurance covering one or more persons, with or without their dependents, and issued upon the following basis:

(1)(A) Under a policy issued to an employer, who shall be deemed the policyholder, insuring at least one employee of such employer, for the benefit of persons other than the employer. The term "employees," as used herein, shall be deemed to include the officers, managers, and employees of the employer, the partners, if the employer is a partnership, the officers, managers, and employees of subsidiary or affiliated corporations of a corporation employer, and the individual proprietors, partners, and employees of individuals and firms, the business of which is controlled by the insured employer through stock ownership, contract, or otherwise. The term "employer," as used herein, may be deemed to include any municipal or governmental corporation, unit, agency, or department thereof and the proper officers as such, of any unincorporated municipality or department thereof, as well as private individuals, partnerships, and corporations.

(B) In accordance with section 3368 of this title, an employer domiciled in another jurisdiction that has more than 25 certificate-holder employees whose principal worksite and domicile is in Vermont and that is defined as a large group in its own jurisdiction and under the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, § 1304, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152, may purchase insurance in the large group health insurance market for its Vermont-domiciled certificate-holder employees.

* * *

Sec. 2. 8 V.S.A. § 4089a is amended to read:

§ 4089a. MENTAL HEALTH CARE SERVICES REVIEW

* * *

(b) Definitions. As used in this section:

* * *

(4) "Review agent" means a person or entity performing service review activities within one year of the date of a fully compliant application for licensure who is either affiliated with, under contract with, or acting on behalf of a business entity in this ~~state; or a third party~~ State and who provides or administers mental health care benefits to ~~citizens of Vermont~~ members of health benefit plans subject to the Department's jurisdiction, including a health insurer, nonprofit health service plan, health insurance service organization, health maintenance organization or preferred provider organization, including organizations that rely upon primary care physicians to coordinate delivery of services~~, authorized to offer health insurance policies or contracts in Vermont~~.

* * *

(g) ~~Members of the independent panel of mental health care providers shall be compensated as provided in 32 V.S.A. § 1010(b) and (c).~~ [Deleted.]

* * *

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

(d) For prescription drug benefits offered in conjunction with a high-deductible health plan (HDHP), the plan may not provide prescription drug benefits until the expenditures applicable to the deductible under the HDHP have met the amount of the minimum annual deductibles in effect for self-only and family coverage under Section 223(c)(2)(A)(i) of the Internal Revenue Code of 1986 for self-only and family coverage, respectively, except that a plan may offer first-dollar prescription drug benefits to the extent permitted under federal law. Once the foregoing expenditure amount has been

met under the HDHP, coverage for prescription drug benefits shall begin, and the limit on out-of-pocket expenditures for prescription drug benefits shall be as specified in subsection (c) of this section.

Sec. 4. 8 V.S.A. § 4092(b) is amended to read:

(b) Coverage for a newly born child shall be provided without notice or additional premium for no less than ~~31~~ 60 days after the date of birth. If payment of a specific premium or subscription fee is required in order to have the coverage continue beyond such ~~31-day~~ 60-day period, the policy may require that notification of birth of newly born child and payment of the required premium or fees be furnished to the insurer or nonprofit service or indemnity corporation within a period of not less than ~~31~~ 60 days after the date of birth.

Sec. 5. 18 V.S.A. § 9418 is amended to read:

§ 9418. PAYMENT FOR HEALTH CARE SERVICES

(a) Except as otherwise specified, as used in this subchapter:

* * *

(17) "Product" means, to the extent permitted by state and federal law, one of the following types of categories of coverage for which a participating provider may be obligated to provide health care services pursuant to a health care contract:

(A) ~~Health~~ health maintenance organization;

(B) ~~Preferred~~ preferred provider organization;

(C) ~~Fee-for-service~~ fee-for-service or indemnity plan;

(D) Medicare Advantage HMO plan;

(E) Medicare Advantage private fee-for-service plan;

(F) Medicare Advantage special needs plan;

(G) Medicare Advantage PPO;

(H) Medicare supplement plan;

(I) ~~Workers~~ workers compensation plan; or

(J) ~~Catamount Health; or~~

~~(K)~~ ~~Any~~ any other commercial health coverage plan or product.

(b) No later than 30 days following receipt of a claim, a health plan, contracting entity, or payer shall do one of the following:

(1) Pay or reimburse the claim.

(2) Notify the claimant in writing that the claim is contested or denied. The notice shall include specific reasons supporting the contest or denial and a description of any additional information required for the health plan, contracting entity, or payer to determine liability for the claim.

(3) Pend a claim for services rendered to an enrollee during the second and third months of the consecutive three-month grace period required for recipients of advance payments of premium tax credits pursuant to 26 U.S.C. § 36B. In the event the enrollee pays all outstanding premiums prior to the exhaustion of the grace period, the health plan, contracting entity, or payer shall have 30 days following receipt of the outstanding premiums to proceed as provided in subdivision (1) or (2) of this subsection, as applicable.

* * *

* * * Catamount Health and VHAP * * *

Sec. 6. 8 V.S.A. § 4080d is amended to read:

§ 4080d. COORDINATION OF INSURANCE COVERAGE WITH MEDICAID

Any insurer as defined in section 4100b of this title is prohibited from considering the availability or eligibility for medical assistance in this or any other state under 42 U.S.C. § 1396a (Section 1902 of the Social Security Act), herein referred to as Medicaid, when considering eligibility for coverage or making payments under its plan for eligible enrollees, subscribers, policyholders, or certificate holders. ~~This section shall not apply to Catamount Health, as established by section 4080f of this title.~~

Sec. 7. 8 V.S.A. § 4080g(b) is amended to read:

(b) Small group plans.

* * *

(11)(A) A registered small group carrier may require that 75 percent or less of the employees or members of a small group with more than 10 employees participate in the carrier's plan. A registered small group carrier may require that 50 percent or less of the employees or members of a small group with 10 or fewer employees or members participate in the carrier's plan. A small group carrier's rules established pursuant to this subdivision shall be applied to all small groups participating in the carrier's plans in a consistent and nondiscriminatory manner.

(B) For purposes of the requirements set forth in subdivision (A) of this subdivision (11), a registered small group carrier shall not include in its calculation an employee or member who is already covered by another group

health benefit plan as a spouse or dependent or who is enrolled in ~~Catamount Health,~~ Medicaid~~, the Vermont health access plan,~~ or Medicare. Employees or members of a small group who are enrolled in the employer's plan and receiving premium assistance under ~~33 V.S.A. chapter 19~~ the Health Insurance Premium Payment program established pursuant to Section 1906 of the Social Security Act, 42 U.S.C. § 1396e, shall be considered to be participating in the plan for purposes of this subsection. If the small group is an association, trust, or other substantially similar group, the participation requirements shall be calculated on an employer-by-employer basis.

* * *

Sec. 8. 8 V.S.A. § 4088i is amended to read:

§ 4088i. COVERAGE FOR DIAGNOSIS AND TREATMENT OF EARLY CHILDHOOD DEVELOPMENTAL DISORDERS

(a)(1) A health insurance plan shall provide coverage for the evidence-based diagnosis and treatment of early childhood developmental disorders, including applied behavior analysis supervised by a nationally board-certified behavior analyst, for children, beginning at birth and continuing until the child reaches age 21.

(2) Coverage provided pursuant to this section by Medicaid~~, the Vermont health access plan,~~ or any other public health care assistance program shall comply with all federal requirements imposed by the Centers for Medicare and Medicaid Services.

* * *

(f) As used in this section:

* * *

(7) "Health insurance plan" means Medicaid~~, the Vermont health access plan,~~ and any other public health care assistance program, any individual or group health insurance policy, any hospital or medical service corporation or health maintenance organization subscriber contract, or any other health benefit plan offered, issued, or renewed for any person in this ~~state~~ State by a health insurer, as defined in 18 V.S.A. § 9402. The term does not include benefit plans providing coverage for specific diseases or other limited benefit coverage.

* * *

Sec. 9. 8 V.S.A. § 4089j is amended to read:

§ 4089j. RETAIL PHARMACIES; FILLING OF PRESCRIPTIONS

* * *

(c) This section shall apply to Medicaid~~, the Vermont health access plan, the VScript pharmaceutical assistance program,~~ and any other public health care assistance program.

Sec. 10. 8 V.S.A. § 4089w is amended to read:

§ 4089w. OFFICE OF HEALTH CARE OMBUDSMAN

* * *

(h) As used in this section, "health insurance plan" means a policy, service contract or other health benefit plan offered or issued by a health insurer, as defined by 18 V.S.A. § 9402, and includes ~~the Vermont health access plan and~~ beneficiaries covered by the Medicaid program unless such beneficiaries are otherwise provided ombudsman services.

Sec. 11. 8 V.S.A. § 4099d is amended to read:

§ 4099d. MIDWIFERY COVERAGE; HOME BIRTHS

* * *

(d) As used in this section, "health insurance plan" means any health insurance policy or health benefit plan offered by a health insurer, as defined in 18 V.S.A. § 9402, as well as Medicaid~~, the Vermont health access plan,~~ and any other public health care assistance program offered or administered by the ~~state~~ State or by any subdivision or instrumentality of the ~~state~~ State. The term shall not include policies or plans providing coverage for specific disease or other limited benefit coverage.

Sec. 12. 8 V.S.A. § 4100b is amended to read:

§ 4100b. COVERAGE OF CHILDREN

(a) As used in this subchapter:

(1) "Health plan" shall include~~, but not be limited to,~~ a group health plan as defined under Section 607(1) of the Employee Retirement Income Security Act of 1974~~,~~ and a nongroup plan as defined in section 4080b of this title~~, and a Catamount Health plan as defined in section 4080f of this title~~.

* * *

Sec. 13. 8 V.S.A. § 4100e is amended to read:

§ 4100e. REQUIRED COVERAGE FOR OFF-LABEL USE

* * *

(b) As used in this section, the following terms have the following meanings:

(1) "Health insurance plan" means a health benefit plan offered, administered, or issued by a health insurer doing business in Vermont.

(2) "Health insurer" is defined by ~~section~~ 18 V.S.A. § 9402 ~~of Title 18~~. As used in this subchapter, the term includes the ~~state~~ State of Vermont and any agent or instrumentality of the ~~state~~ State that offers, administers, or provides financial support to state government, including Medicaid~~, the Vermont health access plan, the VScript pharmaceutical assistance program,~~ or any other public health care assistance program.

* * *

Sec. 14. 8 V.S.A. § 4100j is amended to read:

§ 4100j. COVERAGE FOR TOBACCO CESSATION PROGRAMS

* * *

(b) As used in this subchapter:

(1) "Health insurance plan" means any health insurance policy or health benefit plan offered by a health insurer, as defined in 18 V.S.A. § 9402, as well as Medicaid~~, the Vermont health access plan,~~ and any other public health care assistance program offered or administered by the ~~state~~ State or by any subdivision or instrumentality of the ~~state~~ State. The term does not include policies or plans providing coverage for specified disease or other limited benefit coverage.

* * *

Sec. 15. 8 V.S.A. § 4100k is amended to read:

§ 4100k. COVERAGE FOR TELEMEDICINE SERVICES

* * *

(g) As used in this subchapter:

(1) "Health insurance plan" means any health insurance policy or health benefit plan offered by a health insurer, as defined in 18 V.S.A. § 9402, as well as Medicaid~~, the Vermont health access plan,~~ and any other public health care assistance program offered or administered by the ~~state~~ State or by any subdivision or instrumentality of the ~~state~~ State. The term does not include policies or plans providing coverage for specified disease or other limited benefit coverage.

* * *

Sec. 16. 13 V.S.A. § 5574(b) is amended to read:

(b) A claimant awarded judgment in an action under this subchapter shall be entitled to damages in an amount to be determined by the trier of fact for each year the claimant was incarcerated, provided that the amount of damages shall not be less than $30,000.00 nor greater than $60,000.00 for each year the claimant was incarcerated, adjusted proportionally for partial years served. The damage award may also include:

(1) Economic damages, including lost wages and costs incurred by the claimant for his or her criminal defense and for efforts to prove his or her innocence.

(2) ~~Notwithstanding the income eligibility requirements of the Vermont Health Access Plan in section 1973 of Title 33, and notwithstanding the requirement that the individual be uninsured, up~~ Up to 10 years of eligibility for ~~the Vermont Health Access Plan using state-only funds~~ state-funded health coverage equivalent to Medicaid services.

* * *

Sec. 17. 18 V.S.A. § 1130 is amended to read:

§ 1130. IMMUNIZATION PILOT PROGRAM

(a) As used in this section:

* * *

(5) "State health care programs" shall include Medicaid, ~~the Vermont health access plan,~~ Dr. Dynasaur, and any other health care program providing immunizations with funds through the Global Commitment for Health waiver approved by the Centers for Medicare and Medicaid Services under Section 1115 of the Social Security Act.

* * *

Sec. 18. 18 V.S.A. § 3801 is amended to read:

§ 3801. DEFINITIONS

As used in this subchapter:

(1)(A) "Health insurer" shall have the same meaning as in section 9402 of this title and shall include:

(i) a health insurance company, a nonprofit hospital and medical service corporation, and health maintenance organizations;

(ii) an employer, a labor union, or another group of persons organized in Vermont that provides a health plan to beneficiaries who are employed or reside in Vermont; and

(iii) except as otherwise provided in section 3805 of this title, the ~~state~~ State of Vermont and any agent or instrumentality of the ~~state~~ State that offers, administers, or provides financial support to state government.

(B) The term "health insurer" shall not include Medicaid~~, the Vermont health access plan, Vermont Rx,~~ or any other Vermont public health care assistance program.

* * *

Sec. 19. 18 V.S.A. § 4474c(b) is amended to read:

(b) This chapter shall not be construed to require that coverage or reimbursement for the use of marijuana for symptom relief be provided by:

(1) a health insurer as defined by section 9402 of this title, or any insurance company regulated under Title 8;

(2) Medicaid~~, Vermont health access plan, and~~ or any other public health care assistance program;

(3) an employer; or

(4) for purposes of workers' compensation, an employer as defined in 21 V.S.A. § 601(3).

Sec. 20. 18 V.S.A. § 9373 is amended to read:

§ 9373. DEFINITIONS

As used in this chapter:

* * *

(8) "Health insurer" means any health insurance company, nonprofit hospital and medical service corporation, managed care organization, and, to the extent permitted under federal law, any administrator of a health benefit plan offered by a public or a private entity. The term does not include Medicaid~~, the Vermont health access plan,~~ or any other state health care assistance program financed in whole or in part through a federal program.

* * *

Sec. 21. 18 V.S.A. § 9471 is amended to read:

§ 9471. DEFINITIONS

As used in this subchapter:

* * *

(2) "Health insurer" is defined by section 9402 of this title and shall include:

(A) a health insurance company, a nonprofit hospital and medical service corporation, and health maintenance organizations;

(B) an employer, labor union, or other group of persons organized in Vermont that provides a health plan to beneficiaries who are employed or reside in Vermont;

(C) the ~~state~~ State of Vermont and any agent or instrumentality of the ~~state~~ State that offers, administers, or provides financial support to state government; and

(D) Medicaid, ~~the Vermont health access plan, Vermont Rx,~~ and any other public health care assistance program.

* * *

Sec. 22. 33 V.S.A. § 1807(b) is amended to read:

(b) Navigators shall have the following duties:

* * *

(3) ~~Facilitate~~ facilitate enrollment in qualified health benefit plans, Medicaid, Dr. Dynasaur, VPharm, ~~VermontRx,~~ and other public health benefit programs;

* * *

(5) ~~Provide~~ provide information in a manner that is culturally and linguistically appropriate to the needs of the population being served by the Vermont health benefit exchange; ~~and~~

(6) ~~Distribute~~ distribute information to health care professionals, community organizations, and others to facilitate the enrollment of individuals who are eligible for Medicaid, Dr. Dynasaur, VPharm, ~~VermontRx,~~ other public health benefit programs, or the Vermont health benefit exchange in order to ensure that all eligible individuals are enrolled~~.~~; and

(7) ~~Provide~~ provide information about and facilitate employers' establishment of cafeteria or premium-only plans under Section 125 of the Internal Revenue Code that allow employees to pay for health insurance premiums with pretax dollars.

Sec. 23. 33 V.S.A. § 1901(b) is amended to read:

(b) ~~The secretary may charge a monthly premium, in amounts set by the general assembly, to each individual 18 years or older who is eligible for enrollment in the health access program, as authorized by section 1973 of this title and as implemented by rules. All premiums collected by the agency of human services or designee for enrollment in the health access program shall be deposited in the state health care resources fund established in section 1901d of this title. Any co-payments, coinsurance, or other cost sharing to be charged shall also be authorized and set by the general assembly.~~ [Deleted.]

Sec. 24. 33 V.S.A. § 1903a is amended to read:

§ 1903a. CARE MANAGEMENT PROGRAM

(a) The ~~commissioner~~ Commissioner of Vermont ~~health access~~ Health Access shall coordinate with the ~~director~~ Director of the Blueprint for Health to provide chronic care management through the Blueprint and, as appropriate, create an additional level of care coordination for individuals with one or more chronic conditions who are enrolled in Medicaid~~, the Vermont health access plan (VHAP),~~ or Dr. Dynasaur. The program shall not include individuals who are in an institute for mental disease as defined in 42 C.F.R. § 435.1009.

* * *

Sec. 25. 33 V.S.A. § 1997 is amended to read:

§ 1997. DEFINITIONS

As used in this subchapter:

* * *

(7) "State public assistance program"~~,~~ includes~~, but is not limited to,~~ the Medicaid program, ~~the Vermont health access plan,~~ VPharm, ~~VermontRx,~~ the ~~state children's health insurance program~~ State Children's Health Insurance Program, the ~~state~~ State of Vermont AIDS ~~medication assistance program~~ Medication Assistance Program, the General Assistance program, the ~~pharmacy discount plan program~~ Pharmacy Discount Plan Program, and the out-of-state counterparts to such programs.

Sec. 26. 33 V.S.A. § 1998(c)(1) is amended to read:

(c)(1) The ~~commissioner~~ Commissioner may implement the ~~pharmacy best practices and cost control program~~ Pharmacy Best Practices and Cost Control Program for any other health benefit plan within or outside this ~~state~~ State that agrees to participate in the program. For entities in Vermont, the ~~commissioner~~ Commissioner shall directly or by contract implement the program through a joint pharmaceuticals purchasing consortium. The joint

pharmaceuticals purchasing consortium shall be offered on a voluntary basis no later than January 1, 2008, with mandatory participation by state or publicly funded, administered, or subsidized purchasers to the extent practicable and consistent with the purposes of this chapter, by January 1, 2010. If necessary, the ~~department of Vermont health access~~ Department of Vermont Health Access shall seek authorization from the Centers for Medicare and Medicaid to include purchases funded by Medicaid. "State or publicly funded purchasers" shall include the ~~department of corrections~~ Department of Corrections, the ~~department of mental health~~ Department of Mental Health, Medicaid, ~~the Vermont Health Access Program (VHAP),~~ Dr. Dynasaur, ~~VermontRx,~~ VPharm, Healthy Vermonters, workers' compensation, and any other state or publicly funded purchaser of prescription drugs.

Sec. 27. 33 V.S.A. § 2004(a) is amended to read:

(a) Annually, each pharmaceutical manufacturer or labeler of prescription drugs that are paid for by the ~~department of Vermont health access~~ Department of Vermont Health Access for individuals participating in Medicaid, ~~the Vermont Health Access Program,~~ Dr. Dynasaur, or VPharm~~, or VermontRx~~ shall pay a fee to the ~~agency of human services~~ Agency of Human Services. The fee shall be 0.5 percent of the previous calendar year's prescription drug spending by the ~~department~~ Department and shall be assessed based on manufacturer labeler codes as used in the Medicaid rebate program.

* * * Vermont Health Benefit Exchange * * *

Sec. 28. 33 V.S.A. § 1804 is amended to read:

§ 1804. QUALIFIED EMPLOYERS

(a)(1) Until January 1, 2016, a qualified employer shall be an ~~employer~~ entity which~~, on at least 50 percent of its~~ employed an average of not more than 50 employees on working days during the preceding calendar year, ~~employed at least one and no more than 50 employees,~~ and the term "qualified employer" includes self-employed persons to the extent permitted under the Affordable Care Act. Calculation of the number of employees of a qualified employer shall not include a part-time employee who works fewer than 30 hours per week or a seasonal worker as defined in 26 U.S.C. § 4980H(c)(2)(B).

* * *

(b)(1) From January 1, 2016 until January 1, 2017, a qualified employer shall be an ~~employer~~ entity which~~, on at least 50 percent of its~~ employed an average of not more than 100 employees on working days during the preceding calendar year~~, employed at least one and no more than 100 employees,~~ and the term "qualified employer" includes self-employed persons to the extent

permitted under the Affordable Care Act. ~~Calculation of the number of employees of a qualified employer shall not include a part-time employee who works fewer than 30 hours per week~~ The number of employees shall be calculated using the method set forth in 26 U.S.C. § 4980H(c)(2).

* * *

Sec. 29. 33 V.S.A. § 1805 is amended to read:

§ 1805. DUTIES AND RESPONSIBILITIES

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

* * *

(2) Determining eligibility for and enrolling individuals in Medicaid, Dr. Dynasaur, and VPharm~~, and VermontRx~~ pursuant to chapter 19 of this title, as well as any other public health benefit program.

* * *

(12) ~~Consistent with federal law, crediting the amount of any free choice voucher provided pursuant to Section 10108 of the Affordable Care Act to the monthly premium of the plan in which a qualified employee is enrolled and collecting the amount credited from the offering employer.~~ [Deleted.]

* * *

Sec. 30. 33 V.S.A. § 1811(a) is amended to read:

(a) As used in this section:

* * *

(3)(A) Until January 1, 2016, "small employer" means an ~~employer~~ entity which~~, on at least 50 percent of its~~ employed an average of not more than 50 employees on working days during the preceding calendar year, ~~employs at least one and no more than 50 employees~~. The term includes self-employed persons to the extent permitted under the Affordable Care Act. Calculation of the number of employees of a small employer shall not include a part-time employee who works fewer than 30 hours per week or a seasonal worker as defined in 26 U.S.C. § 4980H(c)(2)(B). An employer may continue to participate in the ~~exchange~~ Exchange even if the employer's size grows beyond 50 employees as long as the employer continuously makes qualified health benefit plans in the Vermont ~~health benefit exchange~~ Health Benefit Exchange available to its employees.

(B) Beginning on January 1, 2016, "small employer" means an ~~employer~~ entity which~~, on at least 50 percent of its~~ employed an average of not more than 100 employees on working days during the preceding calendar year, ~~employs at least one and no more than 100 employees~~. The term includes self-employed persons to the extent permitted under the Affordable Care Act. ~~Calculation of the number of employees of a small employer shall not include a part-time employee who works fewer than 30 hours per week~~ The number of employees shall be calculated using the method set forth in 26 U.S.C. § 4980H(c)(2). An employer may continue to participate in the ~~exchange~~ Exchange even if the employer's size grows beyond 100 employees as long as the employer continuously makes qualified health benefit plans in the Vermont ~~health benefit exchange~~ Health Benefit Exchange available to its employees.

* * * Medicaid and CHIP * * *

Sec. 31. 33 V.S.A. § 2003(c) is amended to read:

(c) As used in this section:

(1) "Beneficiary" means any individual enrolled in the Healthy Vermonters program.

(2) "Healthy Vermonters beneficiary" means any individual Vermont resident without adequate coverage:

(A) who is at least 65 years of age, or is disabled and is eligible for Medicare or Social Security disability benefits, with household income equal to or less than 400 percent of the federal poverty level, as calculated ~~under the rules of the Vermont health access plan, as amended~~ using modified adjusted gross income as defined in 26 U.S.C. § 36B(d)(2)(B); or

(B) whose household income is equal to or less than 350 percent of the federal poverty level, as calculated ~~under the rules of the Vermont Health access plan, as amended~~ using modified adjusted gross income as defined in 26 U.S.C. § 36B(d)(2)(B).

* * *

Sec. 32. 33 V.S.A. § 2072(a) is amended to read:

(a) An individual shall be eligible for assistance under this subchapter if the individual:

(1) is a resident of Vermont at the time of application for benefits;

(2) is at least 65 years of age or is an individual with disabilities as defined in subdivision 2071(1) of this title; and

(3) has a household income, when calculated ~~in accordance with the rules adopted for the Vermont health access plan under No. 14 of the Acts of~~

~~1995, as amended~~ using modified adjusted gross income as defined in 26 U.S.C. § 36B(d)(2)(B), no greater than 225 percent of the federal poverty level.

Sec. 32a. MODIFIED ADJUSTED GROSS INCOME; LEGISLATIVE INTENT

It is the intent of the General Assembly that individuals receiving benefits under the Healthy Vermonters and VPharm programs on the date that the method of income calculation changes from VHAP rules to modified adjusted gross income as described in Secs. 31 and 32 of this act should not lose eligibility for the applicable program solely as a result of the change in the income calculation method.

* * * Health Information Exchange * * *

Sec. 33. 18 V.S.A. § 707(a) is amended to read:

(a) No later than July 1, 2011, hospitals shall participate in the Blueprint for Health by creating or maintaining connectivity to the ~~state's~~ State's health information exchange network as provided ~~for~~ in this section and in section 9456 of this title. ~~The director of health care reform or designee and the director of the Blueprint shall establish criteria by rule for this requirement consistent with the state health information technology plan required under section 9351 of this title. The criteria shall not require a hospital to create a level of connectivity that the state's exchange is not able to support.~~

Sec. 34. 18 V.S.A. § 9456 is amended to read:

§ 9456. BUDGET REVIEW

(a) The ~~board~~ Board shall conduct reviews of each hospital's proposed budget based on the information provided pursuant to this subchapter~~,~~ and in accordance with a schedule established by the ~~board~~ Board. ~~The board shall require the submission of documentation certifying that the hospital is participating in the Blueprint for Health if required by section 708 of this title.~~

(b) In conjunction with budget reviews, the ~~board~~ Board shall:

* * *

(10) require each hospital to provide information on administrative costs, as defined by the ~~board~~ Board, including specific information on the amounts spent on marketing and advertising costs; and

(11) require each hospital to create or maintain connectivity to the State's health information exchange network in accordance with the criteria established by the Vermont Information Technology Leaders, Inc., pursuant to subsection 9352(i) of this title, provided that the Board shall not require a

hospital to create a level of connectivity that the State's exchange is unable to support.

* * *

Sec. 34a. 18 V.S.A. § 9352(i) is amended to read:

(i) Certification of meaningful use and connectivity.

(1) To the extent necessary to support Vermont's health care reform goals or as required by federal law, VITL shall be authorized to certify the meaningful use of health information technology and electronic health records by health care providers licensed in Vermont.

(2) VITL, in consultation with health care providers and health care facilities, shall establish criteria for creating or maintaining connectivity to the State's health information exchange network. VITL shall provide the criteria annually by March 1 to the Green Mountain Care Board established pursuant to chapter 220 of this title.

* * * Special Funds * * *

Sec. 35. [DELETED.]

Sec. 36. 18 V.S.A. § 9404 is amended to read:

§ 9404. ADMINISTRATION ~~OF THE DIVISION~~

(a) The ~~commissioner~~ Commissioner shall supervise and direct the execution of all laws vested in the ~~division~~ Department by ~~virtue of~~ this chapter, and shall formulate and carry out all policies relating to this chapter.

~~(b) The commissioner may delegate the powers and assign the duties required by this chapter as the commissioner may deem appropriate and necessary for the proper execution of the provisions of this chapter, including the review and analysis of certificate of need applications and hospital budgets; however, the commissioner shall not delegate the commissioner's quasi-judicial and rulemaking powers or authority, unless the commissioner has a personal or financial interest in the subject matter of the proceeding.~~

~~(c) The commissioner may employ professional and support staff necessary to carry out the functions of the commissioner, and may employ consultants and contract with individuals and entities for the provision of services.~~

~~(d)~~ The ~~commissioner~~ Commissioner may:

(1) ~~Apply~~ apply for and accept gifts, grants, or contributions from any person for purposes consistent with this chapter~~.~~;

(2) ~~Adopt~~ adopt rules necessary to implement the provisions of this chapter~~.~~; and

(3) ~~Enter~~ enter into contracts and perform such acts as are necessary to accomplish the purposes of this chapter.

~~(e)~~(c) There is hereby created a fund to be known as the ~~division of health care administration regulatory and supervision fund~~ Health Care Administration Regulatory and Supervision Fund for the purpose of providing the financial means for the ~~commissioner of financial regulation~~ Commissioner of Financial Regulation to administer this chapter and 33 V.S.A. § 6706. All fees and assessments received by the ~~department~~ Department pursuant to such administration shall be credited to this ~~fund~~ Fund. All fines and administrative penalties, however, shall be deposited directly into the ~~general fund~~ General Fund.

(1) All payments from the ~~division of health care administration regulatory and supervision fund~~ 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~~ State Treasury only upon warrants issued by the ~~commissioner of finance and management~~ Commissioner of Finance and Management, after receipt of proper documentation regarding services rendered and expenses incurred.

(2) The ~~commissioner of finance and management~~ Commissioner of Finance and Management may anticipate receipts to the ~~division of health care administration regulatory and supervision fund~~ Health Care Administration Regulatory and Supervision Fund and issue warrants based thereon.

* * * Health Resource Allocation Plan * * *

Sec. 37. 18 V.S.A. § 9405 is amended to read:

§ 9405. STATE HEALTH PLAN; HEALTH RESOURCE ALLOCATION PLAN

(a) No later than January 1, 2005, the ~~secretary of human services~~ Secretary of Human Services or designee, in consultation with the ~~commissioner~~ Chair of the Green Mountain Care Board and health care professionals and after receipt of public comment, shall adopt a ~~state health plan~~ State Health Plan that sets forth the health goals and values for the ~~state~~ State. The ~~secretary~~ Secretary may amend the ~~plan~~ Plan as the ~~secretary~~ Secretary deems necessary and appropriate. The ~~plan~~ Plan shall include health promotion, health protection, nutrition, and disease prevention priorities for the ~~state~~ State, identify available human resources as well as human resources needed for achieving the ~~state's~~ State's health goals and the planning required to meet those needs, and identify geographic parts of the ~~state~~ State needing investments of additional resources in order to improve the health of the

population. The ~~plan~~ Plan shall contain sufficient detail to guide development of the ~~state health resource allocation plan~~ State Health Resource Allocation Plan. Copies of the ~~plan~~ Plan shall be submitted to members of the ~~senate and house committees on health and welfare~~ Senate and House Committees on Health and Welfare no later than January 15, 2005.

(b) On or before July 1, 2005, the ~~commissioner~~ Green Mountain Care Board, in consultation with the ~~secretary of human services~~ Secretary of Human Services, shall submit to the ~~governor~~ Governor a four-year ~~health resource allocation plan~~ Health Resource Allocation Plan. The ~~plan~~ Plan shall identify Vermont needs in health care services, programs, and facilities; the resources available to meet those needs; and the priorities for addressing those needs on a statewide basis.

(1) The ~~plan~~ Plan shall include:

(A) A statement of principles reflecting the policies enumerated in sections 9401 and 9431 of this chapter to be used in allocating resources and in establishing priorities for health services.

(B) Identification of the current supply and distribution of hospital, nursing home, and other inpatient services; home health and mental health services; treatment and prevention services for alcohol and other drug abuse; emergency care; ambulatory care services, including primary care resources, federally qualified health centers, and free clinics; major medical equipment; and health screening and early intervention services.

(C) Consistent with the principles set forth in subdivision (A) of this subdivision (1), recommendations for the appropriate supply and distribution of resources, programs, and services identified in subdivision (B) of this subdivision (1), options for implementing such recommendations and mechanisms which will encourage the appropriate integration of these services on a local or regional basis. To arrive at such recommendations, the ~~commissioner~~ Green Mountain Care Board shall consider at least the following factors:

(i) the values and goals reflected in the ~~state health plan~~ State Health Plan;

(ii) the needs of the population on a statewide basis;

(iii) the needs of particular geographic areas of the ~~state~~ State, as identified in the ~~state health plan~~ State Health Plan;

(iv) the needs of uninsured and underinsured populations;

(v) the use of Vermont facilities by out-of-state residents;

(vi) the use of out-of-state facilities by Vermont residents;

(vii) the needs of populations with special health care needs;

(viii) the desirability of providing high quality services in an economical and efficient manner, including the appropriate use of midlevel practitioners;

(ix) the cost impact of these resource requirements on health care expenditures; ~~the services appropriate for the four categories of hospitals described in subdivision 9402(12) of this title;~~

(x) the overall quality and use of health care services as reported by the Vermont ~~program for quality in health care~~ Program for Quality in Health Care and the Vermont ~~ethics network~~ Ethics Network;

(xi) the overall quality and cost of services as reported in the annual hospital community reports;

(xii) individual hospital four-year capital budget projections; and

(xiii) the four-year projection of health care expenditures prepared by the ~~division~~ Board.

(2) In the preparation of the ~~plan~~ Plan, the ~~commissioner shall assemble an advisory committee of no fewer than nine nor more than 13 members who shall reflect a broad distribution of diverse perspectives on the health care system, including health care professionals, payers, third-party payers, and consumer representatives~~ Green Mountain Care Board shall convene the Green Mountain Care Board General Advisory Committee established pursuant to subdivision 9374(e)(1) of this title. The ~~advisory committee~~ Green Mountain Care Board General Advisory Committee shall review drafts and provide recommendations to the ~~commissioner~~ Board during the development of the ~~plan~~ Plan. ~~Upon adoption of the plan, the advisory committee shall be dissolved.~~

(3) The ~~commissioner~~ Board, with the ~~advisory committee~~ Green Mountain Care Board General Advisory Committee, shall conduct at least five public hearings, in different regions of the state, on the ~~plan~~ Plan as proposed and shall give interested persons an opportunity to submit their views orally and in writing. To the extent possible, the ~~commissioner~~ Board shall arrange for hearings to be broadcast on interactive television. Not less than 30 days prior to any such hearing, the ~~commissioner~~ Board shall publish in the manner prescribed in 1 V.S.A. § 174 the time and place of the hearing and the place and period during which to direct written comments to the ~~commissioner~~ Board. In addition, the ~~commissioner~~ Board may create and maintain a

website to allow members of the public to submit comments electronically and review comments submitted by others.

(4) The ~~commissioner~~ Board shall develop a mechanism for receiving ongoing public comment regarding the ~~plan~~ Plan and for revising it every four years or as needed.

(5) The ~~commissioner~~ Board in consultation with appropriate health care organizations and state entities shall inventory and assess existing state health care data and expertise, and shall seek grants to assist with the preparation of any revisions to the ~~health resource allocation plan~~ Health Resource Allocation Plan.

(6) The ~~plan~~ Plan or any revised ~~plan~~ Plan proposed by the ~~commissioner~~ Board shall be the ~~health resource allocation plan~~ Health Resource Allocation Plan for the ~~state~~ State after it is approved by the ~~governor~~ Governor or upon passage of three months from the date the ~~governor~~ Governor receives the ~~plan~~ proposed Plan, whichever occurs first, unless the ~~governor~~ Governor disapproves the ~~plan~~ proposed Plan, in whole or in part. If the ~~governor~~ Governor disapproves, he or she shall specify the sections of the ~~plan~~ proposed Plan which are objectionable and the changes necessary to meet the objections. The sections of the ~~plan~~ proposed Plan not disapproved shall become part of the ~~health resource allocation plan~~ Health Resource Allocation Plan.

* * * Hospital Community Reports * * *

Sec. 38. 18 V.S.A. § 9405b is amended to read:

§ 9405b. HOSPITAL COMMUNITY REPORTS

(a) The ~~commissioner~~ Commissioner of Health, in consultation with representatives from hospitals, other groups of health care professionals, and members of the public representing patient interests, shall adopt rules establishing a standard format for community reports, as well as the contents, which shall include:

* * *

(b) On or before January 1, 2005, and annually thereafter beginning on June 1, 2006, the board of directors or other governing body of each hospital licensed under chapter 43 of this title shall publish on its website, making paper copies available upon request, its community report in a uniform format approved by the ~~commissioner,~~ Commissioner of Health and in accordance with the standards and procedures adopted by rule under this section~~, and shall hold one or more public hearings to permit community members to comment on the report. Notice of meetings shall be by publication, consistent with 1~~

~~V.S.A. § 174~~. Hospitals located outside this ~~state~~ State which serve a significant number of Vermont residents, as determined by the ~~commissioner~~ Commissioner of Health, shall be invited to participate in the community report process established by this subsection.

(c) The community reports shall be provided to the ~~commissioner~~ Commissioner of Health. The ~~commissioner~~ Commissioner of Health shall publish the reports on a public website and shall develop and include a format for comparisons of hospitals within the same categories of quality and financial indicators.

Sec. 39. EXTENSION FOR PUBLICATION OF 2013 HOSPITAL COMMUNITY REPORTS

Notwithstanding the June 1 publication date specified in 18 V.S.A. § 9405b(b), hospitals shall publish their 2013 hospital community reports on or before October 1, 2013. Following publication of the hospital reports, the Department of Financial Regulation shall publish hospital comparison information as required under 18 V.S.A. § 9405b(c).

* * * VHCURES * * *

Sec. 40. 18 V.S.A. § 9410 is amended to read:

§ 9410. HEALTH CARE DATABASE

(a)(1) The ~~commissioner~~ Board shall establish and maintain a unified health care database to enable the ~~commissioner and the Green Mountain Care board~~ Commissioner and the Board to carry out their duties under this chapter, chapter 220 of this title, and Title 8, including:

(A) ~~Determining~~ determining the capacity and distribution of existing resources~~.~~;

(B) ~~Identifying~~ identifying health care needs and informing health care policy~~.~~;

(C) ~~Evaluating~~ evaluating the effectiveness of intervention programs on improving patient outcomes~~.~~;

(D) ~~Comparing~~ comparing costs between various treatment settings and approaches~~.~~;

(E) ~~Providing~~ providing information to consumers and purchasers of health care~~.~~; and

(F) ~~Improving~~ 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 ~~commissioner~~ Board determines is necessary to empower individuals, including uninsured individuals, to make economically sound and medically appropriate decisions.

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

~~(C)~~ The ~~commissioner~~ 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~~ Commissioner a consumer health care price and quality information plan in accordance with rules adopted by the ~~commissioner~~ Commissioner.

~~(D)~~(C) The ~~commissioner~~ Board shall adopt such rules as are necessary to carry out the purposes of this subdivision. The ~~commissioner's~~ 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 ~~commissioner~~ 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 ~~regulations~~ 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.

(b) The database shall contain unique patient and provider identifiers and a uniform coding system, and shall reflect all health care utilization, costs, and resources in this ~~state~~ State, and health care utilization and costs for services provided to Vermont residents in another ~~state~~ State.

(c) Health insurers, health care providers, health care facilities, and governmental agencies shall file reports, data, schedules, statistics, or other

information determined by the ~~commissioner~~ Board to be necessary to carry out the purposes of this section. Such information may include:

(1) health insurance claims and enrollment information used by health insurers;

(2) information relating to hospitals filed under subchapter 7 of this chapter (hospital budget reviews); and

(3) any other information relating to health care costs, prices, quality, utilization, or resources required by the Board to be filed ~~by the commissioner~~.

(d) The ~~commissioner~~ Board may by rule establish the types of information to be filed under this section, and the time and place and the manner in which such information shall be filed.

(e) Records or information protected by the provisions of the physician-patient privilege under 12 V.S.A. § 1612(a), or otherwise required by law to be held confidential, shall be filed in a manner that does not disclose the identity of the protected person.

(f) The ~~commissioner~~ Board shall adopt a confidentiality code to ensure that information obtained under this section is handled in an ethical manner.

(g) Any person who knowingly fails to comply with the requirements of this section or rules adopted pursuant to this section shall be subject to an administrative penalty of not more than $1,000.00 per violation. The ~~commissioner~~ Board may impose an administrative penalty of not more than $10,000.00 each for those violations the ~~commissioner~~ Board finds were willful. In addition, any person who knowingly fails to comply with the confidentiality requirements of this section or confidentiality rules adopted pursuant to this section and uses, sells, or transfers the data or information for commercial advantage, pecuniary gain, personal gain, or malicious harm shall be subject to an administrative penalty of not more than $50,000.00 per violation. The powers vested in the ~~commissioner~~ Board by this subsection shall be in addition to any other powers to enforce any penalties, fines, or forfeitures authorized by law.

(h)(1) All health insurers shall electronically provide to the ~~commissioner~~ Board in accordance with standards and procedures adopted by the ~~commissioner~~ Board by rule:

(A) their health insurance claims data, provided that the ~~commissioner~~ Board may exempt from all or a portion of the filing requirements of this subsection data reflecting utilization and costs for services provided in this ~~state~~ State to residents of other states;

(B) cross-matched claims data on requested members, subscribers, or policyholders; and

(C) member, subscriber, or policyholder information necessary to determine third party liability for benefits provided.

(2) The collection, storage, and release of health care data and statistical information that is subject to the federal requirements of the Health Insurance Portability and Accountability Act ("HIPAA") shall be governed exclusively by the ~~rules~~ regulations adopted thereunder in 45 ~~CFR~~ C.F.R. Parts 160 and 164.

(A) All health insurers that collect the Health Employer Data and Information Set (HEDIS) shall annually submit the HEDIS information to the ~~commissioner~~ Board in a form and in a manner prescribed by the ~~commissioner~~ Board.

(B) All health insurers shall accept electronic claims submitted in Centers for Medicare and Medicaid Services format for UB-92 or HCFA-1500 records, or as amended by the Centers for Medicare and Medicaid Services.

(3)(A) The ~~commissioner~~ Board shall collaborate with the ~~agency of human services~~ Agency of Human Services and participants in ~~agency of human services~~ the Agency's initiatives in the development of a comprehensive health care information system. The collaboration is intended to address the formulation of a description of the data sets that will be included in the comprehensive health care information system, the criteria and procedures for the development of ~~limited use~~ limited-use data sets, the criteria and procedures to ensure that HIPAA compliant ~~limited use~~ limited-use data sets are accessible, and a proposed time frame for the creation of a comprehensive health care information system.

(B) To the extent allowed by HIPAA, the data shall be available as a resource for insurers, employers, providers, purchasers of health care, and state agencies to continuously review health care utilization, expenditures, and performance in Vermont. In presenting data for public access, comparative considerations shall be made regarding geography, demographics, general economic factors, and institutional size.

(C) Consistent with the dictates of HIPAA, and subject to such terms and conditions as the ~~commissioner~~ Board may prescribe by ~~regulation~~ rule, the Vermont ~~program for quality in health care~~ Program for Quality in Health Care shall have access to the unified health care database for use in improving the quality of health care services in Vermont. In using the database, the Vermont ~~program for quality in health care~~ Program for Quality in Health Care shall agree to abide by the rules and procedures established by the

~~commissioner~~ Board for access to the data. The ~~commissioner's~~ Board's rules may limit access to the database to limited-use sets of data as necessary to carry out the purposes of this section.

(D) Notwithstanding HIPAA or any other provision of law, the comprehensive health care information system shall not publicly disclose any data that contains direct personal identifiers. For the purposes of this section, "direct personal identifiers" include information relating to an individual that contains primary or obvious identifiers, such as the individual's name, street address, e-mail address, telephone number, and Social Security number.

(i) On or before January 15, 2008 and every three years thereafter, the ~~commissioner~~ Commissioner shall submit a recommendation to the ~~general assembly~~ General Assembly for conducting a survey of the health insurance status of Vermont residents.

(j)(1) As used in this section, and without limiting the meaning of subdivision 9402(8) of this title, the term "health insurer" includes:

(A) any entity defined in subdivision 9402(8) of this title;

(B) any third party administrator, any pharmacy benefit manager, any entity conducting administrative services for business, and any other similar entity with claims data, eligibility data, provider files, and other information relating to health care provided to a Vermont resident, and health care provided by Vermont health care providers and facilities required to be filed by a health insurer under this section;

(C) any health benefit plan offered or administered by or on behalf of the ~~state~~ State of Vermont or an agency or instrumentality of the ~~state~~ State; and

(D) any health benefit plan offered or administered by or on behalf of the federal government with the agreement of the federal government.

(2) The ~~commissioner~~ Board may adopt rules to carry out the provisions of this subsection, including ~~standards and procedures requiring the registration of persons or entities not otherwise licensed or registered by the commissioner and~~ criteria for the required filing of such claims data, eligibility data, provider files, and other information as the ~~commissioner~~ Board determines to be necessary to carry out the purposes of this section and this chapter.

* * * Cost-Shift Reporting * * *

Sec. 41. 18 V.S.A. § 9375(d) is amended to read:

(d) Annually on or before January 15, the ~~board~~ Board shall submit a report of its activities for the preceding ~~state fiscal~~ calendar year to the ~~house committee on health care and the senate committee on health and welfare~~ House Committee on Health Care and the Senate Committee on Health and Welfare.

(1) The report shall include:

(A) any changes to the payment rates for health care professionals pursuant to section 9376 of this title~~,~~;

(B) any new developments with respect to health information technology~~,~~;

(C) the evaluation criteria adopted pursuant to subdivision (b)(8) of this section and any related modifications~~,~~;

(D) the results of the systemwide performance and quality evaluations required by subdivision (b)(8) of this section and any resulting recommendations~~,~~;

(E) the process and outcome measures used in the evaluation~~,~~;

(F) any recommendations on mechanisms to ensure that appropriations intended to address the Medicaid cost shift will have the intended result of reducing the premiums imposed on commercial insurance premium payers below the amount they otherwise would have been charged;

(G) any recommendations for modifications to Vermont statutes~~,~~; and

(H) any actual or anticipated impacts on the work of the ~~board~~ Board as a result of modifications to federal laws, regulations, or programs.

(2) The report shall identify how the work of the ~~board~~ Board comports with the principles expressed in section 9371 of this title.

Sec. 42. 2000 Acts and Resolves No. 152, Sec. 117b is amended to read:

Sec. 117b. MEDICAID COST SHIFT REPORTING

(a) It is the intent of this section to measure the elimination of the Medicaid cost shift. For hospitals, this measurement shall be based on a comparison of the difference between Medicaid and Medicare reimbursement rates. For other health care providers, an appropriate measurement shall be developed that includes an examination of the Medicare rates for providers. In order to achieve the intent of this section, it is necessary to establish a reporting and tracking mechanism to obtain the facts and information necessary to quantify

the Medicaid cost shift, to evaluate solutions for reducing the effect of the Medicaid cost shift in the commercial insurance market, to ensure that any reduction in the cost shift is passed on to the commercial insurance market, to assess the impact of such reductions on the financial health of the health care delivery system, and to do so within a sustainable utilization growth rate in the Medicaid program.

(b) ~~By~~ Notwithstanding 2 V.S.A. § 20(d), annually on or before December 15, ~~2000, and annually thereafter, the commissioner of banking, insurance, securities, and health care administration, the secretary of human services~~ the chair of the Green Mountain Care Board, the Commissioner of Vermont Health Access, and each acute care hospital shall file with the ~~joint fiscal committee~~ Joint Fiscal Committee**,** the House Committee on Health Care, and the Senate Committee on Health and Welfare, in the manner required by the ~~committee~~ Joint Fiscal Committee, such information as is necessary to carry out the purposes of this section. Such information shall pertain to the provider delivery system to the extent it is available.

(c) ~~By December 15, 2000, and annually thereafter, the~~ The report of hospitals to the ~~joint fiscal committee~~ Joint Fiscal Committee and the standing committees under subsection (b) of this section shall include information on how they will manage utilization in order to assist the ~~agency of human services~~ Department of Vermont Health Access in developing sustainable utilization growth in the Medicaid program.

~~(d) By December 15, 2000, the commissioner of banking, insurance, securities, and health care administration shall report to the joint fiscal committee with recommendations on mechanisms to assure that appropriations intended to address the Medicaid cost shift will result in benefits to commercial insurance premium payers in the form of lower premiums than they otherwise would be charged.~~

~~(e) The first $250,000.00 resulting from declines in caseload and utilization related to hospital costs, as determined by the commissioner of social welfare, from the funds allocated within the Medicaid program appropriation for hospital costs in fiscal year 2001 shall be reserved for cost shift reduction for hospitals.~~

* * * Workforce Planning Data * * *

Sec. 43. 26 V.S.A. § 1353 is amended to read:

§ 1353. POWERS AND DUTIES OF THE BOARD

The ~~board~~ Board shall have the following powers and duties to:

* * *

(10) As part of the license application or renewal process, collect data necessary to allow for workforce strategic planning required under 18 V.S.A. chapter 222.

Sec. 44. WORKFORCE PLANNING; DATA COLLECTION

(a) The Board of Medical Practice shall collaborate with the Director of Health Care Reform in the Agency of Administration, the Vermont Medical Society, and other interested stakeholders to develop data elements for the Board to collect pursuant to 26 V.S.A. § 1353(10) to allow for the workforce strategic planning required under 18 V.S.A. chapter 222. The data elements shall be consistent with any nationally developed or required data in order to simplify collection and minimize the burden on applicants.

(b) The Office of Professional Regulation, the Board of Nursing, and other relevant professional boards shall collaborate with the Director of Health Care Reform in the Agency of Administration in the collection of data necessary to allow for workforce strategic planning required under 18 V.S.A. chapter 222. The boards shall develop the data elements in consultation with the Director and with interested stakeholders. The data elements shall be consistent with any nationally developed or required data elements in order to simplify collection and minimize the burden on applicants. Data shall be collected as part of the licensure process to minimize administrative burden on applicants and the State.

* * * Administration * * *

Sec. 45. 8 V.S.A. § 11(a) is amended to read:

(a) General. The ~~department of financial regulation~~ Department of Financial Regulation created by 3 V.S.A. ~~section 212,~~ § 212 shall have jurisdiction over and shall supervise:

(1) Financial institutions, credit unions, licensed lenders, mortgage brokers, insurance companies, insurance agents, broker-dealers, investment advisors, and other similar persons subject to the provisions of this title and 9 V.S.A. chapters 59, 61, and 150.

(2) The administration of health care~~, including oversight of the quality and cost containment of health care provided in this state, by conducting and supervising the process of health facility certificates of need, hospital budget reviews, health care data system development and maintenance, and funding and cost containment of health care~~ as provided in 18 V.S.A. chapter 221.

* * * Miscellaneous Provisions * * *

Sec. 46. 33 V.S.A. § 1901(h) is added to read:

(h) To the extent required to avoid federal antitrust violations, the Department of Vermont Health Access shall facilitate and supervise the participation of health care professionals and health care facilities in the planning and implementation of payment reform in the Medicaid and SCHIP programs. The Department shall ensure that the process and implementation include sufficient state supervision over these entities to comply with federal antitrust provisions and shall refer to the Attorney General for appropriate action the activities of any individual or entity that the Department determines, after notice and an opportunity to be heard, violate state or federal antitrust laws without a countervailing benefit of improving patient care, improving access to health care, increasing efficiency, or reducing costs by modifying payment methods.

Sec. 46a. STUDY OF FEES FOR COPIES OF ELECTRONIC MEDICAL RECORDS

The Green Mountain Care Board shall study the costs and fees associated with providing copies, pursuant to 18 V.S.A. § 9419, of medical records maintained and provided to patients in a paperless format. The Department shall consult with interested stakeholders, including the Vermont Association of Hospitals and Health Systems and the Vermont Association for Justice, and shall review related laws and policies in other states. On or before January 15, 2014 the Board shall report the results of its study to the House Committees on Health Care and on Human Services and the Senate Committee on Health and Welfare.

Sec. 47. 33 V.S.A. § 1901b is amended to read:

§ 1901b. PHARMACY PROGRAM ENROLLMENT

(a) The ~~department of Vermont health access~~ Department of Vermont Health Access and the ~~department for children and families~~ Department for Children and Families shall monitor actual caseloads, revenue, and expenditures~~;~~; anticipated caseloads, revenue, and expenditures~~;~~; and actual and anticipated savings from implementation of the preferred drug list, supplemental rebates, and other cost containment activities in each state pharmaceutical assistance program, including VPharm ~~and VermontRx~~. ~~The departments~~ When applicable, the Departments shall allocate supplemental rebate savings to each program proportionate to expenditures in each program. ~~During the second week of each month, the department of Vermont health access shall report such actual and anticipated caseload, revenue, expenditure,~~

~~and savings information to the joint fiscal committee and to the health care oversight committee.~~

(b)~~(1) If at any time expenditures for VPharm and VermontRx are anticipated to exceed the aggregate amount of state funds expressly appropriated for such state pharmaceutical assistance programs during any fiscal year, the department of Vermont health access shall recommend to the joint fiscal committee and notify the health care oversight committee of a plan to cease new enrollments in VermontRx for individuals with incomes over 225 percent of the federal poverty level.~~

~~(2) If at any time expenditures for VPharm and VermontRx are anticipated to exceed the aggregate amount of state funds expressly appropriated for such state pharmaceutical assistance programs during any fiscal year, even with the cessation of new enrollments as provided for in subdivision (1) of this subsection, the department of Vermont health access shall recommend to the joint fiscal committee and notify the health health care oversight committee of a plan to cease new enrollments in the VermontRx for individuals with incomes more than 175 percent and less than 225 percent of the federal poverty level.~~

~~(3) The determinations of the department of Vermont health access under subdivisions (1) and (2) of this subsection shall be based on the information and projections reported monthly under subsection (a) of this section, and on the official revenue estimates under 32 V.S.A. § 305a. An enrollment cessation plan shall be deemed approved unless the joint fiscal committee disapproves the plan after 21 days notice of the recommendation and financial analysis of the department of Vermont health access.~~

~~(4) Upon the approval of or failure to disapprove an enrollment cessation plan by the joint fiscal committee, the department of Vermont health access shall cease new enrollment in VermontRx for the individuals with incomes at the appropriate level in accordance with the plan.~~

~~(c)~~(1) ~~If at any time after enrollment ceases under subsection (b) of this section expenditures for VermontRx, including expenditures attributable to renewed enrollment, are anticipated, by reason of increased federal financial participation or any other reason, to be equal to or less than the aggregate amount of state funds expressly appropriated for such state pharmaceutical assistance programs during any fiscal year, the department of Vermont health access shall recommend to the joint fiscal committee and notify the health care oversight committee of a plan to renew enrollment in VermontRx, with priority given to individuals with incomes more than 175 percent and less than 225 percent, if adequate funds are anticipated to be available for each program for the remainder of the fiscal year.~~

~~(2) The determination of the department of Vermont health access under subdivision (1) of this subsection shall be based on the information and projections reported monthly under subsection (a) of this section, and on the official revenue estimates under 32 V.S.A. § 305a. An enrollment renewal plan shall be deemed approved unless the joint fiscal committee disapproves the plan after 21 days notice of the recommendation and financial analysis of the department of Vermont health access.~~

~~(3) Upon the approval of, or failure to disapprove an enrollment renewal plan by the joint fiscal committee, the department of Vermont health access shall renew enrollment in VermontRx in accordance with the plan.~~

~~(d)~~ As used in this section~~:~~.

~~(1) "State~~ "state pharmaceutical assistance program" means any health assistance programs administered by the ~~agency of human services~~ Agency of Human Services providing prescription drug coverage, including the Medicaid program, ~~the Vermont health access plan,~~ VPharm, ~~VermontRx,~~ the ~~state children's health insurance program~~ State Children's Health Insurance Program, the ~~state~~ State of Vermont AIDS ~~medication assistance program~~ Medication Assistance Program, the General Assistance program, the ~~pharmacy discount plan program~~ Pharmacy Discount Plan Program, and any other health assistance programs administered by the ~~agency~~ Agency providing prescription drug coverage.

~~(2) "VHAP" or "Vermont health access plan" means the programs of health care assistance authorized by federal waivers under Section 1115 of the Social Security Act, by No. 14 of the Acts of 1995, and by further acts of the General Assembly.~~

~~(3) "VHAP-Pharmacy" or "VHAP-Rx" means the VHAP program of state pharmaceutical assistance for elderly and disabled Vermonters with income up to and including 150 percent of the federal poverty level (hereinafter "FPL").~~

~~(4) "VScript" means the Section 1115 waiver program of state pharmaceutical assistance for elderly and disabled Vermonters with income over 150 and less than or equal to 175 percent of FPL, and administered under subchapter 4 of chapter 19 of this title.~~

~~(5) "VScript Expanded" means the state-funded program of pharmaceutical assistance for elderly and disabled Vermonters with income over 175 and less than or equal to 225 percent of FPL, and administered under subchapter 4 of chapter 19 of this title.~~

Sec. 48. 2012 Acts and Resolves No. 171, Sec. 2c, is amended to read:

Sec. 2c. EXCHANGE OPTIONS

In approving benefit packages for the Vermont health benefit exchange pursuant to 18 V.S.A. ~~§ 9375(b)(7)~~ § 9375(b)(9), the Green Mountain Care ~~board~~ Board shall approve a full range of cost-sharing structures for each level of actuarial value. To the extent permitted under federal law, the ~~board~~ Board shall also allow health insurers 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 an insured to programs of health promotion and disease prevention pursuant to 33 V.S.A. § 1811(f)(2)(B).

Sec. 49. 2012 Acts and Resolves No. 171, Sec. 41(e), is amended to read:

(e) ~~33~~ 18 V.S.A. chapter 13, subchapter 2 (payment reform pilots) is repealed on passage.

Sec. 49a. 16 V.S.A. § 3851 is amended to read:

§ 3851. DEFINITIONS

* * *

(c) "Eligible institution" means any:

* * *

(5) any:

* * *

(D) nonprofit assisted living facility, nonprofit continuing care retirement facility, nonprofit residential care facility or similar nonprofit facility for the continuing care of the elderly or the infirm, provided that such facility is owned by or under common ownership with an otherwise eligible institution, and in the case of facilities to be financed for an eligible institution provided by this subdivision (5) of this subsection, for which the ~~department of financial regulation~~ Green Mountain Care Board, if required, has issued a certificate of need.

* * *

Sec. 49b. 18 V.S.A. § 9351(d) is amended to read:

(d) The health information technology plan shall serve as the framework within which the ~~commissioner of financial regulation~~ Green Mountain Care Board reviews certificate of need applications for information technology under section 9440b of this title. In addition, the ~~commissioner of information and innovation~~ Commissioner of Information and Innovation shall use the

health information technology plan as the basis for independent review of state information technology procurements.

Sec. 49c. 33 V.S.A. § 6304(c) is amended to read:

(c) Designations for new home health agencies shall be established pursuant to certificates of need approved by the ~~commissioner of financial regulation~~ Green Mountain Care Board. Thereafter, designations shall be subject to the provisions of this subchapter.

* * * Transfer of Positions * * *

Sec. 50. TRANSFER OF POSITIONS

(a) On or before July 1, 2013, the Department of Financial Regulation shall transfer positions numbered 290071, 290106, and 290074 and associated funding to the Green Mountain Care Board for the administration of the health care database.

(b) On or before July 1, 2013, the Department of Financial Regulation shall transfer position number 297013 and associated funding to the Agency of Administration.

(c) On or after July 1, 2013, the Department of Financial Regulation shall transfer one position and associated funding to the Department of Health for the purpose of administering the hospital community reports in 18 V.S.A. § 9405b. The Department of Financial Regulation shall continue to collect funds for the publication of the reports pursuant to 18 V.S.A. § 9415 and shall transfer the necessary funds annually to the Department of Health.

* * * Emergency Rulemaking * * *

Sec. 51. EMERGENCY RULEMAKING

The Agency of Human Services may adopt emergency rules pursuant to 3 V.S.A. § 844 prior to April 1, 2014 to conform Vermont's rules regarding operation of the Vermont Health Benefit Exchange to federal guidance and regulations implementing the provisions of the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the federal Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152. The Agency may also adopt emergency rules in order to implement the provisions of 2011 Acts and Resolves No. 48 and 2012 Acts and Resolves No. 171 regarding changes to eligibility, enrollment, renewals, grievances and appeals, public availability of program information, and coordination across health benefit programs, as well as to revise and coordinate existing agency health benefit program rules into a single integrated and updated code. The need for timely compliance with state and federal laws and guidance, in addition to the need to coordinate and consolidate the Agency's current health benefit

program eligibility rules, for the effective launch and operation of the Vermont Health Benefit Exchange shall be deemed to meet the standard for the adoption of emergency rules required pursuant to 3 V.S.A. § 844(a).

* * * Repeals * * *

Sec. 52. REPEALS

(a) 8 V.S.A. § 4080f (Catamount Health) is repealed on January 1, 2014, except that current enrollees may continue to receive transitional coverage from the Department of Vermont Health Access as authorized by the Centers on Medicare and Medicaid Services.

(b) 18 V.S.A. § 708 (health information technology certification process) is repealed on passage.

(c) 33 V.S.A. § chapter 19, subchapter 3a (Catamount Health Assistance) is repealed January 1, 2014, except that current enrollees may continue to receive transitional coverage from the Department of Vermont Health Access as authorized by the Centers for Medicare and Medicaid Services.

(d) 33 V.S.A. § 2074 (VermontRx) is repealed on January 1, 2014.

(e) 18 V.S.A. § 9403 (Division of Health Care Administration) is repealed on July 1, 2013.

* * * Effective Dates * * *

Sec. 53. EFFECTIVE DATES

(a) Secs. 2 (mental health care services review), 3 (prescription drug deductibles), 33–34a (health information exchange), 39 (publication extension for 2013 hospital reports), 40 (VHCURES), 43 and 44 (workforce planning), 46 (DVHA antitrust provision), 48 (Exchange options), 49 (correction to payment reform pilot repeal), 50 (transfer of positions), 51 (emergency rules), and 52 (repeals) of this act and this section shall take effect on passage.

(b) Sec. 1 (interstate employers) and Secs. 28–30 (employer definitions) shall take effect on October 1, 2013 for the purchase of insurance plans effective for coverage beginning January 1, 2014.

(c) Secs. 4 (newborn coverage), 5 (grace period for premium payment), 6–27 (Catamount and VHAP), and 47 (pharmacy program enrollment) shall take effect on January 1, 2014.

(d) Secs. 31 (Healthy Vermonters) and 32 (VPharm) shall take effect on January 1, 2014, except that the Department of Vermont Health Access may continue to calculate household income under the rules of the Vermont Health Access Plan after that date if the system for calculating modified adjusted

gross income for the Healthy Vermonters and VPharm programs is not operational by that date, but no later than December 31, 2014.

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

(Committee vote: 5-0-0)

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

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

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

Sec. 3. 8 V.S.A. § 4089i is amended to read:

* * *

(d) For prescription drug benefits offered in conjunction with a high-deductible health plan (HDHP), the plan may not provide prescription drug benefits until the expenditures applicable to the deductible under the HDHP have met the amount of the minimum annual deductibles in effect for self-only and family coverage under Section 223(c)(2)(A)(i) of the Internal Revenue Code of 1986 for self-only and family coverage, respectively, except that a plan may offer first-dollar prescription drug benefits to the extent permitted under federal law. Once the foregoing expenditure amount has been met under the HDHP, coverage for prescription drug benefits shall begin, and the limit on out-of-pocket expenditures for prescription drug benefits shall be as specified in subsection (c) of this section.

(e)(1) A health insurance or other health benefit plan offered by a health insurer or pharmacy benefit manager that provides coverage for prescription drugs and uses step-therapy protocols shall not require failure on the same medication on more than one occasion for continuously enrolled members or subscribers.

(2) Nothing in this subsection shall be construed to prohibit the use of tiered co-payments for members or subscribers not subject to a step-therapy protocol.

(f)(1) A health insurance or other health benefit plan offered by a health insurer or pharmacy benefit manager that provides coverage for prescription drugs shall not require, as a condition of coverage, use of drugs not indicated

by the federal Food and Drug Administration for the condition diagnosed and being treated under supervision of a health care professional.

(2) Nothing in this subsection shall be construed to prevent a health care professional from prescribing a medication for off-label use.

(g) As used in this section:

(1) "Health care professional" means an individual licensed to practice medicine under 26 V.S.A. chapter 23 or 33, an individual certified as a physician assistant under 26 V.S.A. chapter 31, or an individual licensed as an advanced practice registered nurse under 26 V.S.A. chapter 28.

(2) "Health insurer" shall have the same meaning as in 18 V.S.A. § 9402.

~~(2)~~(3) "Out-of-pocket expenditure" means a co-payment, coinsurance, deductible, or other cost-sharing mechanism.

~~(3)~~(4) "Pharmacy benefit manager" shall have the same meaning as in section 4089j of this title.

(5) "Step therapy" means protocols that establish the specific sequence in which prescription drugs for a specific medical condition are to be prescribed.

~~(f)~~(h) The ~~department of financial regulation~~ Department of Financial Regulation shall enforce this section and may adopt rules as necessary to carry out the purposes of this section.

Second: By adding a Sec. 5a to read as follows:

Sec. 5a. 18 V.S.A. § 9418b(g)(4) is amended to read:

(4) A health plan shall respond to a completed prior authorization request from a prescribing health care provider within 48 hours ~~for urgent requests and within 120 hours for non-urgent requests~~ of receipt. The health plan shall notify a health care provider of or make available to a health care provider a receipt of the request for prior authorization and any needed missing information within 24 hours of receipt. If a health plan does not, within the time limits set forth in this section, respond to a completed prior authorization request, acknowledge receipt of the request for prior authorization, or request missing information, the prior authorization request shall be deemed to have been granted.

Third: By adding a Sec. 5b to read as follows:

* * * Standardized Claims and Edits * * *

Sec. 5b. STANDARDIZED HEALTH INSURANCE CLAIMS AND EDITS

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

(2) The Green Mountain Care Board and the Department of Vermont Health Access shall report to the General Assembly on or before February 15, 2014 on the progress toward a complete set of standardized edits and payment rules.

(b) The Department of Vermont Health Access's request for proposals for the Medicaid Management Information System (MMIS) claims payment system shall ensure that the MMIS will:

(1) have the capability to include uniform edit standards and payment rules developed pursuant to this section; and

(2) include full transparency of edit standards, payment rules, prior authorization guidelines, and other utilization review provisions, including the source or basis in evidence for the standards and guidelines.

(c)(1) The Department of Vermont Health Access shall ensure that contracts for benefit management and claims management systems in effect on January 1, 2015 include full transparency of edit standards, payment rules, prior authorization guidelines, and other utilization review provisions, including the source or basis in evidence for the standards and guidelines.

(2) The Department of Financial Regulation shall ensure that beginning on January 1, 2015, health insurers and their subcontractors for benefit management and claim management systems include full transparency of edit standards, payment rules, prior authorization guidelines, and other utilization review provisions, including the source or basis in evidence for the standards and guidelines. In addition to any other remedy available to the Commissioner under Title 8 or Title 18, a health insurer, subcontractor, or other person who violates the requirements of this section may be assessed an administrative penalty of not more than $2,000.00 for each day of noncompliance.

(d) As used in this section:

(1) "Health care provider" means a person, partnership, corporation, facility, or institution licensed or certified or authorized by law to administer health care in this State.

(2) "Health insurer" means a health insurance company, nonprofit hospital or medical service corporation, managed care organization, or third-party administrator as well as Medicaid and any other public health care assistance program offered or administered by the State or by any subdivision or instrumentality of the State.

Fourth: By adding Secs. 5c–5n to read as follows:

* * * Health Insurance Rate Review * * *

Sec. 5c. 8 V.S.A. § 4062 is amended to read:

§ 4062. FILING AND APPROVAL OF POLICY FORMS AND PREMIUMS

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

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

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

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

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

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

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

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

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

~~(c)~~ In conjunction with a rate filing required by subsection (a) of this section, an insurer shall file a plain language summary of ~~any requested rate~~

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

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

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

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

(3) In addition to the public comment provisions set forth in this subsection, the Health Care Ombudsman, acting on behalf of health insurance consumers in this State, may, within 30 calendar days after the Board receives an insurer's rate request pursuant to this section, submit to the Board, in

writing, suggested questions regarding the filing for the Board to provide to its contracting actuary, if any.

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

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

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

(B) all questions the Board, the Board's contracting actuary, if any, or the Department poses to the insurer and the insurer's responses to those questions.

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

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

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

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

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

(3) issue its decision in writing.

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

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

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

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

(h)~~(1) The following provisions of this~~ This section shall apply only to policies for major medical insurance coverage and shall not apply to policies for specific disease, accident, injury, hospital indemnity, dental care, vision care, disability income, long-term care, or other limited benefit coverage~~:~~; to Medicare supplemental insurance; or

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

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

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

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

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

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

Sec. 5d. 8 V.S.A. § 4062a is amended to read:

§ 4062a. FILING FEES

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

Sec. 5e. 8 V.S.A. § 4089b(d)(1)(A) is amended to read:

(d)(1)(A) A health insurance plan that does not otherwise provide for management of care under the plan, or that does not provide for the same degree of management of care for all health conditions, may provide coverage for treatment of mental health conditions through a managed care organization provided that the managed care organization is in compliance with the rules adopted by the ~~commissioner~~ Commissioner that assure that the system for delivery of treatment for mental health conditions does not diminish or negate the purpose of this section. In reviewing rates and forms pursuant to section 4062 of this title, the ~~commissioner~~ Commissioner or the Green Mountain Care Board established in 18 V.S.A. chapter 220, as appropriate, shall consider the compliance of the policy with the provisions of this section.

Sec. 5f. 8 V.S.A. § 4512(b) is amended to read:

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

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

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

Sec. 5h. 8 V.S.A. § 4515a is amended to read:

§ 4515a. FORM AND RATE FILING; FILING FEES

Every contract or certificate form, or amendment thereof, including the rates charged therefor by the corporation shall be filed with the ~~commissioner~~ Commissioner or the Green Mountain Care Board established in 18 V.S.A. chapter 220, as appropriate, for ~~his or her~~ the Commissioner's or the Board's approval prior to issuance or use. Prior to approval, there shall be a public comment period pursuant to section 4062 of this title. In addition, each such filing shall be accompanied by payment to the ~~commissioner~~ Commissioner or the Board, as appropriate, of a nonrefundable fee of ~~$50.00~~ $150.00 and the plain language summary of rate increases pursuant to section 4062 of this title.

Sec. 5i. 8 V.S.A. § 4584(c) is amended to read:

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

Sec. 5j. 8 V.S.A. § 4587 is amended to read:

§ 4587. FILING AND APPROVAL OF CONTRACTS

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

a plain language summary of rate increases pursuant to section 4062 of this title.

Sec. 5k. 8 V.S.A. § 5104 is amended to read:

§ 5104. FILING AND APPROVAL OF RATES AND FORMS; SUPPLEMENTAL ORDERS

(a)(1) A health maintenance organization which has received a certificate of authority under section 5102 of this title shall file and obtain approval of all policy forms and rates as provided in sections 4062 and 4062a of this title. This requirement shall include the filing of administrative retentions for any business in which the organization acts as a third party administrator or in any other administrative processing capacity. The ~~commissioner~~ Commissioner or the Green Mountain Care Board, as appropriate, may request and shall receive any information that the ~~commissioner~~ Commissioner or the Board deems necessary to evaluate the filing. In addition to any other information requested, the ~~commissioner~~ Commissioner or the Board shall require the filing of information on costs for providing services to the organization's Vermont members affected by the policy form or rate, including Vermont claims experience, and administrative and overhead costs allocated to the service of Vermont members. Prior to approval, there shall be a public comment period pursuant to section 4062 of this title. A health maintenance organization shall file a summary of rate filings pursuant to section 4062 of this title.

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

(b) In connection with a rate decision, the ~~commissioner~~ Board may also~~, with the prior approval of the Green Mountain Care board established in 18 V.S.A. chapter 220,~~ make reasonable supplemental orders and may attach reasonable conditions and limitations to such orders as the ~~commissioner~~ Board finds, on the basis of competent and substantial evidence, necessary to ~~insure~~ ensure that benefits and services are provided at reasonable cost under efficient and economical management of the organization. The ~~commissioner~~ Commissioner and, except as otherwise provided by 18 V.S.A. §§ 9375 and

9376, the Green Mountain Care Board, shall not set the rate of payment or reimbursement made by the organization to any physician, hospital, or health care provider.

Sec. 5l. 18 V.S.A. § 9375(b) is amended to read:

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

* * *

(6) Approve, modify, or disapprove requests for health insurance rates pursuant to 8 V.S.A. § 4062 ~~within 30 days of receipt of a request for approval from the commissioner of financial regulation~~, taking into consideration the requirements in the underlying statutes, changes in health care delivery, changes in payment methods and amounts, protecting insurer solvency, and other issues at the discretion of the ~~board~~ Board;

* * *

Sec. 5m. 18 V.S.A. § 9381 is amended to read:

§ 9381. APPEALS

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

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

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

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

(d) A decision of the Board approving, modifying, or disapproving a health insurer's proposed rate pursuant to 8 V.S.A. § 4062 shall be considered a final

action of the Board and may be appealed to the Supreme Court pursuant to subsection (b) of this section.

Sec. 5n. 33 V.S.A. § 1811(j) is amended to read:

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

Fifth: By adding a Sec. 35 to read as follows:

* * * Hospital Energy Efficiency * * *

Sec. 35. HOSPITALS; ENERGY EFFICIENCY

(a) In this section, "hospital" shall have the same meaning as in 18 V.S.A. § 1902.

(b) On or before July 1, 2014, each hospital shall present an energy efficiency action plan to the Green Mountain Care Board. The action plan shall include specific measures to be undertaken which may include energy audits, periodic benchmarking to track performance over time, and energy savings goals. The action plan shall be consistent with the hospital's strategic goals, capital plans, and previous energy efficiency initiatives, if any.

(c) When conducting an energy assessment or audit, the hospital shall use assessment and audit methodologies approved by the energy efficiency entity or entities appointed under 30 V.S.A. § 209(d)(2) to serve the area in which the building or structure is located. These methodologies shall meet standards that are consistent with those contained in 30 V.S.A. § 218c.

(d) The energy efficiency entities appointed under 30 V.S.A. § 209(d)(2) to serve the area in which the building or structure is located shall provide assistance to hospitals in the development of their action plans and presentation to the Green Mountain Care Board. This assistance shall be provided pursuant to the entities' obligations under 30 V.S.A. § 209(d) and (e) and implementing Public Service Board orders.

Sixth: By adding Secs. 37a–37c to read as follows:

* * * Allocation of Expenses * * *

Sec. 37a. 18 V.S.A. § 9374(h) is amended to read:

(h)(1) ~~Expenses~~ Except as otherwise provided in subdivision (2) of this subsection, expenses incurred to obtain information, analyze expenditures,

review hospital budgets, and for any other contracts authorized by the ~~board~~ Board shall be borne as follows:

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

(B) 15 percent by the hospitals;

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

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

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

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

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

Sec. 37b. 18 V.S.A. § 9415 is amended to read:

§ 9415. ALLOCATION OF EXPENSES

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

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

(2) 15 percent by the hospitals~~,~~;

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

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

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

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

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

Sec. 37c. BILL-BACK REPORT

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

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

Seventh: By adding a Sec. 42a to read as follows:

Sec. 42a. EXCHANGE IMPACT REPORT

On or before March 15, 2015 and every three years thereafter, the Agency of Administration shall report to the House Committee on Health Care and the Senate Committees on Health and Welfare and on Finance regarding the impact of the Vermont Health Benefit Exchange and the federal individual responsibility requirement on:

(1) the number of uninsured and underinsured Vermonters;

(2) the amount of uncompensated care and bad debt in Vermont; and

(3) the cost shift.

Eighth: By striking out Sec. 51, Emergency Rulemaking, in its entirety and inserting in lieu thereof a new Sec. 51 to read as follows:

* * * Emergency Rulemaking * * *

Sec. 51. EMERGENCY RULEMAKING

The Agency of Human Services shall adopt rules pursuant to 3 V.S.A. chapter 25 prior to April 1, 2014 to conform Vermont's rules regarding operation of the Vermont Health Benefit Exchange to federal guidance and regulations implementing the provisions of the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the federal Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152. The Agency shall also adopt rules in order to implement the provisions of 2011 Acts and Resolves No. 48 and 2012 Acts and Resolves No. 171 regarding changes to eligibility, enrollment, renewals, grievances and appeals, public availability of program information, and coordination across health benefit programs, as well as to revise and coordinate existing agency health benefit program rules into a single integrated and updated code. The rules shall be adopted to achieve timely compliance with state and federal laws and guidance and to coordinate and consolidate the Agency's current health benefit program eligibility rules for the effective launch and operation of the Vermont Health Benefit Exchange and shall be deemed to meet the standard for the adoption of emergency rules required pursuant to 3 V.S.A. § 844(a).

Ninth: By adding Secs. 51a–51c to read as follows:

* * * Cigarette and Snuff Taxes * * *

Sec. 51a. 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 ~~131~~ 171 mills per cigarette or little cigar and for each 0.0325 ounces of roll-your-own tobacco. The interest and penalty provisions of section 3202 of this title shall apply to liabilities under this section.

Sec. 51b. 32 V.S.A. § 7811 is amended to read:

§ 7811. IMPOSITION OF TOBACCO PRODUCTS TAX

There is hereby imposed and shall be paid a tax on all other tobacco products, snuff, and new smokeless tobacco possessed in the State of Vermont by any person for sale on and after July 1, 1959 which were imported into the State or manufactured in the State after that date, except that no tax shall be imposed on tobacco products sold under such circumstances that this State is without power to impose such tax, or sold to the United States, or sold to or by a voluntary unincorporated organization of the Armed Forces of the United

States operating a place for the sale of goods pursuant to regulations promulgated by the appropriate executive agency of the United States. The tax is intended to be imposed only once upon the wholesale sale of any other tobacco product and shall be at the rate of 92 percent of the wholesale price for all tobacco products except snuff, which shall be taxed at ~~$1.87~~ $2.85 per ounce, or fractional part thereof, new smokeless tobacco, which shall be taxed at the greater of ~~$1.87~~ $2.85 per ounce or, if packaged for sale to a consumer in a package that contains less than 1.2 ounces of the new smokeless tobacco, at the rate of ~~$2.24~~ $3.42 per package, and cigars with a wholesale price greater than $2.17, which shall be taxed at the rate of $2.00 per cigar if the wholesale price of the cigar is greater than $2.17 and less than $10.00, and at the rate of $4.00 per cigar if the wholesale price of the cigar is $10.00 or more. Provided, however, that upon payment of the tax within 10 days, the distributor or dealer may deduct from the tax two percent of the tax due. It shall be presumed that all other tobacco products, snuff, and new smokeless tobacco within the State are subject to tax until the contrary is established and the burden of proof that any other tobacco products, snuff, and new smokeless tobacco are not taxable hereunder shall be upon the person in possession thereof. Licensed wholesalers of other tobacco products, snuff, and new smokeless tobacco shall state on the invoice whether the price includes the Vermont tobacco products tax.

Sec. 51c. 32 V.S.A. § 7814 is amended to read:

§ 7814. FLOOR STOCK TAX

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

(b) Cigarettes, little cigars, or roll-your-own tobacco. Notwithstanding the prohibition against further tax on stamped cigarettes, little cigars, or

roll-your-own tobacco under section 7771 of this title, a floor stock tax is hereby imposed upon every dealer of cigarettes, little cigars, or roll-your-own tobacco in this ~~state~~ State who is either a wholesaler, or a retailer who at 12:01 a.m. on July 1, ~~2011,~~ 2013 has more than 10,000 cigarettes or little cigars or who has $500.00 or more of wholesale value of roll-your-own tobacco, for retail sale in his or her possession or control. The amount of the tax shall be the amount by which the new tax exceeds the amount of the tax already paid for each cigarette, little cigar, or roll-your-own tobacco in the possession or control of the wholesaler or retailer at 12:01 a.m. on July 1, ~~2011~~ 2013, and on which cigarette stamps have been affixed before July 1, ~~2011~~ 2013. A floor stock tax is also imposed on each Vermont cigarette stamp in the possession or control of the wholesaler at 12:01 a.m. on July 1, ~~2011~~ 2013, and not yet affixed to a cigarette package, and the tax shall be at the rate of ~~$0.38~~ $0.80 per stamp. Each wholesaler and retailer subject to the tax shall, on or before July 25, ~~2011~~ 2013, file a report to the ~~commissioner~~ Commissioner in such form as the ~~commissioner~~ Commissioner may prescribe showing the cigarettes, little cigars, or roll-your-own tobacco and stamps on hand at 12:01 a.m. on July 1, ~~2011~~ 2013, and the amount of tax due thereon. The tax imposed by this section shall be due and payable on or before July 25, ~~2011,~~ 2013 and thereafter shall bear interest at the rate established under section 3108 of this title. In case of timely payment of the tax, the wholesaler or retailer may deduct from the tax due two and three-tenths of one percent of the tax. Any cigarettes, little cigars, or roll-your-own tobacco with respect to which a floor stock tax has been imposed under this section shall not again be subject to tax under section 7771 of this title.

Tenth: In Sec. 53, effective dates, in subsection (a), following "3 (prescription drug deductibles),", by adding "5a (prior authorization), 5b (standardized claims and edits),"; in subsection (a), following "33–34a (health information exchange),", by adding "35 (hospital energy efficiency),"; and by redesignating the existing subsection (e) to be subsection (g) and adding new subsections (e) and (f) to read as follows:

(e) Secs. 5c–5n (rate review) of this act shall take effect on January 1, 2014 and shall apply to all insurers filing rates and forms for major medical insurance plans on and after January 1, 2014, except that the Green Mountain Care Board and the Department of Financial Regulation may amend their rules and take such other actions before that date as are necessary to ensure that the revised rate review process will be operational on January 1, 2014.

(f) Sec. 42a (Exchange impact report) shall take effect on July 1, 2014.

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

Thereupon, pending the question, Shall the recommendation of proposal of amendment of the Committee on Health and Welfare be amended as recommended by the Committee on Finance?, Senator Cummings raised a *point of order* under Sec. 402 of Mason's Manual of Legislative Procedure on the grounds that the *ninth* proposal of amendment of the Committee on Finance was *not germane* to the bill and therefore could not be considered by the Senate.

Thereupon, the President *sustained* the point of order and ruled that the *ninth* proposal of amendment recommended by the Committee on Finance was *not germane.*

Whether a proposed amendment is germane is not always an easy question. Generally speaking, the following factors are considered:

1. Is the proposed amendment relevant, appropriate, and in a natural or logical sequence to the subject matter of the original proposal?

2. Does the proposed amendment introduce an independent question?

3. Does the proposed amendment unreasonably or unduly expand the subject matter of the bill?

4. Does the proposed amendment deal with a different topic or subject?

5. Does the proposed amendment change the purpose, scope or object of the original bill?

In deciding a question of germaneness, the threshold determination must be that of the subject matter of the bill or amendment under consideration and its scope. In determining whether an amendment is germane to a bill or amendment the earlier listed factors are considered.

After weighing the factors, the President thereupon declared that the proposal of amendment offered by Senator Lyons could *not* be considered by the Senate and the proposal of amendment was ordered stricken.

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

Thereupon, the recommendation of proposal of amendment of the Committee on Health and Welfare was amended as recommended by the Committee on Finance.

Thereupon, the proposal of amendment recommended by the Committee on Health and Welfare, as amended, was agreed to and third reading of the bill was ordered.

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. 150, S. 155, H. 169, H. 200, H. 240, H. 450.

Bill Called Up

S. 165.

Senate bill of the following title was called up by Senator Baruth, and, under the rule, placed on the Calendar for action the next legislative day:

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

Adjournment

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

Afternoon

The Senate was called to order by the President.

Action Reconsidered; Consideration Postponed

S. 77.

Assuring the Chair that he voted with the majority whereby the House proposal of amendment was concurred in with proposal of amendment, Senator Hartwell moved that the Senate reconsider its action on Senate bill entitled:

An act relating to patient choice and control at end of life.

Thereupon, pending the question, Shall the Senate reconsider its action?, Senator Campbell moved that action on the bill be postponed until 2:30 P.M.

Which was agreed to.

Proposals of Amendment; Consideration Interrupted by Recess

H. 520.

Senator Hartwell, for the Committee on Natural Resources and Energy, to which was referred House bill entitled:

An act relating to reducing energy costs and greenhouse gas emissions.

Reported recommending that the Senate propose to the House to amend the bill as follows:

First: In Sec. 1 (findings), by striking out subdivision (1) in its entirety, and in subdivision (9), by striking out the second sentence and inserting in lieu thereof the following: The State must encourage the efficient use of energy to

heat buildings and water in order to reduce Vermont's carbon footprint and fuel costs and make heating more affordable for all Vermonters.

And by renumbering the subdivisions of Sec. 1 to be numerically correct

Second: In Sec. 2, 30 V.S.A. § 209, in subdivision (g)(2), in the second sentence, after the word "appropriate" by inserting the following: to service providers and to entities having information on associated environmental issues such as the presence of asbestos in existing insulation and, in subdivision (g)(4), in the second sentence, after the word "performed" by inserting the following: according to a standard methodology and

Third: In Sec. 3 (appointed entities; initial plan; statutory revision), in subsection (b), in the first sentence, by striking out the word "September" and inserting in lieu thereof the following: November and by striking out the word "annual" and, in the third sentence, by striking out the following: "December 15, 2013" and inserting in lieu thereof the following: February 15, 2014 and by striking out the word "annual" and, in subsection (c), by striking out the following: "December 15, 2013" and inserting in lieu thereof the following: February 15, 2014

Fourth: By striking out Sec. 6 in its entirety and inserting in lieu thereof a new Sec. 6 to read as follows:

Sec. 6. 21 V.S.A. § 266 is amended to read:

§ 266. RESIDENTIAL BUILDING ENERGY STANDARDS; STRETCH CODE

(a) Definitions. ~~For purposes of~~ In this subchapter, the following definitions apply:

* * *

(2) "Residential buildings" means one family dwellings, two family dwellings, and multi-family housing three stories or less in height.

(A) With respect to a structure that is three stories or less in height and is a mixed-use building that shares residential and commercial users, the term "residential building" shall include the living spaces in the structure and the nonliving spaces in the structure that serve only the residential users such as common hallways, laundry facilities, residential management offices, community rooms, storage rooms, and foyers.

(B) "Residential buildings" shall not include hunting camps.

* * *

(5) "Stretch code" means a building energy code for residential buildings that achieves greater energy savings than the RBES and is adopted in accordance with subsection (d) of this section.

* * *

(d) Stretch code. The Commissioner may adopt a stretch code by rule. This stretch code shall meet the requirements of subdivision (c)(1) of this section. The stretch code shall be available for adoption by municipalities under 24 V.S.A. chapter 117 and, on final adoption by the Commissioner, shall apply in proceedings under 10 V.S.A. chapter 151 (Act 250) in accordance with subsection (e) of this section.

(e) Role of RBES and Stretch Code in Act 250. Substantial and reliable evidence of compliance with the RBES and, when adopted, the stretch code established and updated ~~as required~~ under this section shall serve as a presumption of compliance with 10 V.S.A. § 6086(a)(9)(F), except no presumption shall be created insofar as compliance with subdivision (a)(9)(F) involves the role of electric resistance space heating. In attempting to rebut a presumption of compliance created under this subsection, a challenge may only focus on the question of whether or not there will be compliance with the RBES and stretch code established and updated ~~as required~~ under this subsection. A presumption under this subsection may not be overcome by evidence that the RBES and stretch code adopted and updated ~~as required~~ under this section fail to comply with 10 V.S.A. § 6086(a)(9)(F).

~~(e)~~(f) Certification.

(1) Issuance; recording. A certification may be issued by a builder, a licensed professional engineer, a licensed architect or an accredited home energy rating organization. If certification is not issued by a licensed professional engineer, a licensed architect or an accredited home energy rating organization, it shall be issued by the builder. Any certification shall certify that residential construction meets the RBES. The ~~department of public service~~ Department of Public Service will develop and make available to the public a certificate that lists key features of the RBES. Any person certifying shall use this certificate or one substantially like it to certify compliance with RBES. Certification shall be issued by completing and signing a certificate and permanently affixing it to the outside of the heating or cooling equipment, to the electrical service panel located inside the building, or in a visible location in the vicinity of one of these three areas. The certificate shall certify that the residential building has been constructed in compliance with the requirements of the RBES. The person certifying under this subsection shall provide a copy of each certificate to the ~~department of public service~~ Department of Public Service and shall assure that a certificate is recorded and

indexed in the town land records. A builder may contract with a licensed professional engineer, a licensed architect or an accredited home energy rating organization to issue certification and to indemnify the builder from any liability to the owner of the residential construction caused by noncompliance with the RBES.

(2) Condition precedent. Provision of a certificate as required by subdivision (1) of this subsection shall be a condition precedent to:

(A) issuance by the Commissioner of Public Safety or a municipal official acting under 20 V.S.A. § 2736 of any final occupancy permit required by the rules of the Commissioner of Public Safety for use or occupancy of residential construction commencing on or after July 1, 2013 that is also a public building as defined in 20 V.S.A. § 2730(a); and

(B) issuance by a municipality of a certificate of occupancy for residential construction commencing on or after July 1, 2013, if the municipality requires such a certificate under 24 V.S.A. chapter 117.

~~(f)~~(g) Action for damages.

(1) Except as otherwise provided in this subsection, a person aggrieved by noncompliance with this section may bring a civil action against a person who has the obligation of certifying compliance under subsection (e) of this section. This action may seek injunctive relief, damages, court costs, and attorney's fees. As used in this subdivision, "damages" means:

(A) costs incidental to increased energy consumption; and

(B) labor, materials, and other expenses associated with bringing the structure into compliance with RBES in effect on the date construction was commenced.

(2) A person's failure to affix the certification as required by this section shall not be an affirmative defense in such an action against the person.

(3) The rights and remedies created by this section shall not be construed to limit any rights and remedies otherwise provided by law.

~~(g)~~(h) Applicability and exemptions. The construction of a residential addition to a building shall not create a requirement that the entire building comply with this subchapter. The following residential construction shall not be subject to the requirements of this subchapter:

(1) Buildings or additions whose peak energy use design rate for all purposes is less than 3.4 BTUs per hour, per square foot, or less than one watt per square foot of floor area.

(2) Homes subject to Title VI of the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. §§ 5401-5426).

(3) Buildings or additions that are neither heated nor cooled.

(4) Residential construction by an owner, if all of the following apply:

(A) The owner of the residential construction is the builder, as defined under this section.

(B) The residential construction is used as a dwelling by the owner.

(C) The owner in fact directs the details of construction with regard to the installation of materials not in compliance with RBES.

(D) The owner discloses in writing to a prospective buyer, before entering into a binding purchase and sales agreement, with respect to the nature and extent of any noncompliance with RBES. Any statement or certificate given to a prospective buyer shall itemize how the home does not comply with RBES, and shall itemize which measures do not meet the RBES standards in effect at the time construction commenced. Any certificate given under this subsection shall be recorded in the land records where the property is located, and sent to the department of public service, within 30 days following sale of the property by the owner.

~~(h)~~(i) Title validity not affected. A defect in marketable title shall not be created by a failure to issue certification or a certificate, as required under subsection (e) or subdivision (g)(4) of this section, or by a failure under that subsection to: affix a certificate; to provide a copy of a certificate to the department of public service; or to record and index a certificate in the town records.

Fifth: In Sec. 9, 24 V.S.A. § 4449, in subdivision (a)(1), in the third sentence, before the words "building energy standards" by inserting the word applicable and, after the fourth sentence, by inserting the following:

In addition, the administrative officer may provide a copy of the Vermont Residential Building Energy Code Book published by the Department of Public Service in lieu of the full text of the residential building energy standards.

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

Sec. 10. 10 V.S.A. § 6086(a)(9)(F) is amended to read:

(F) Energy conservation. A permit will be granted when it has been demonstrated by the applicant that, in addition to all other applicable criteria, the planning and design of the subdivision or development reflect the

principles of energy conservation, including reduction of greenhouse gas emissions from the use of energy, and incorporate the best available technology for efficient use or recovery of energy. An applicant seeking an affirmative finding under this criterion shall provide evidence that the subdivision or development complies with the applicable building energy standards under 21 V.S.A. § 266 or 268.

Seventh: In Sec. 12 (disclosure tool working group; reports), by striking out subsection (d) and inserting in lieu thereof a new subsection (d) to read as follows:

(d) The Department of Public Service (the Department) shall report to the General Assembly in writing:

(1) on or before December 15, 2013, on the findings of the Working Group with regard to the development of a residential building energy disclosure tool; and

(2) on or before December 15, 2014, on the findings of the Working Group with regard to the development of a commercial building energy disclosure tool.

Eighth: After the internal caption "Other Changes to Title 30" and before Sec. 13, by inserting Sec. 12a to read as follows:

Sec. 12a. 30 V.S.A. § 2(e) is added to read:

(e) The Commissioner of Public Service (the Commissioner) will work with the Director of the Office of Economic Opportunity (the Director), the Commissioner of Housing and Community Development, the Vermont Housing and Conservation Board (VHCB), the Vermont Housing Finance Agency (VHFA), the Vermont Community Action Partnership, and the efficiency entity or entities appointed under subdivision 209(d)(2) of this title and such other affected persons or entities as the Commissioner considers relevant to improve the energy efficiency of both single- and multi-family affordable housing units, including multi-family housing units previously funded by VHCB and VHFA and subject to the Multifamily Energy Design Standards adopted by the VHCB and VHFA. In consultation with the other entities identified in this subsection, the Commissioner and the Director together shall report twice to the House and Senate Committees on Natural Resources and Energy, on or before January 31, 2015 and 2017, respectively, on their joint efforts to improve energy savings of affordable housing units and increase the number of units assisted, including their efforts to:

(1) simplify access to funding and other resources for energy efficiency and renewable energy available for single- and multi-family affordable

housing. For the purpose of this subsection, "renewable energy" shall have the same meaning as under section 8002 of this title;

(2) ensure the delivery of energy services in a manner that is timely, comprehensive, and cost-effective;

(3) implement the energy efficiency standards applicable to single- and multi-family affordable housing;

(4) measure the outcomes and performance of energy improvements;

(5) develop guidance for the owners and residents of affordable housing to maximize energy savings from improvements; and

(6) determine how to enhance energy efficiency resources for the affordable housing sector in a manner that avoids or reduces the need for assistance under 33 V.S.A. chapter 26 (home heating fuel assistance).

Ninth: In Sec. 21 (fuel purchasing; home heating fuel assistance), by striking out subsections (c) and (d) in their entirety

Tenth: By striking out Sec. 22 (workforce development working group; report) and the associated internal caption entitled "Workforce Development" in their entirety and inserting in lieu thereof the following: [Deleted.]

Eleventh: By striking out Sec. 24 (study; renewables; heating and cooling) in its entirety and inserting in lieu thereof the following: [Deleted.]

Twelfth: By striking out Sec. 25 (Public Service Board; review of cost-effectiveness screening tool) in its entirety and inserting in lieu thereof the following: [Deleted.]

Thirteenth: By striking out Sec. 26 in its entirety and inserting in lieu thereof a new Sec. 26 as follows:

Sec. 26. PELLET STOVE EMISSIONS STANDARDS; REBATES

With respect to pellet stoves eligible for rebates and incentives funded by the State, the Secretary of Natural Resources shall determine whether the State should adopt emissions standards for these pellet stoves that are more stringent than the applicable standards under the Clean Air Act, 42 U.S.C. § 7401 et seq., and shall make this determination in writing on or before November 1, 2013.

Fourteenth: In Sec. 27, 2012 Acts and Resolves No. 170, Sec. 13, in subsection (b), by striking out subdivisions (2) and (3) in their entirety and inserting in lieu thereof new subdivisions (2) and (3) to read as follows:

(2) The group's study and report shall consider currently available information on the economic impacts to the state economy of implementing the policies and funding mechanisms described in this subsection.

(3) The group's report shall ~~include its recommended policy and funding mechanisms and the reasons for the recommendations~~ identify those policies and funding mechanisms described in this subsection that do and do not warrant serious consideration and any areas requiring further analysis and shall include any proposals for legislative action. The report shall be submitted to the ~~general assembly~~ General Assembly by December 15, 2013.

Fifteenth: After Sec. 27, by inserting a Sec. 27a to read as follows:

Sec. 27a. COORDINATION; TOTAL ENERGY AND THERMAL EFFICIENCY FUNDING REPORTS

To the extent feasible, the Department of Public Service and the Public Service Board shall coordinate the total energy study and report to be prepared under 2012 Acts and Resolves No. 170, Sec. 13, as amended by Sec. 27 of this act, and the public process and report on thermal efficiency funding and savings to be prepared under Sec. 29 of this act.

Sixteenth: By striking out Sec. 28 (climate change education; report) in its entirety and inserting in lieu thereof [Deleted.]

Seventeenth: By striking out Sec. 29 (thermal efficiency funding and savings; Public Service Board report) in its entirety and inserting in lieu thereof a new Sec. 29 to read as follows:

Sec. 29. THERMAL EFFICIENCY FUNDING AND SAVINGS; PUBLIC SERVICE BOARD REPORT

(a) On or before December 15, 2013, the Public Service Board shall conduct and complete a public process and submit a report to the House and Senate Committees on Natural Resources and Energy, the House Committee on Commerce and Economic Development, and the Senate Committee on Finance on the efficient use of unregulated fuels. In this section:

(1) "Regulated fuels" means electricity and natural gas delivered by a regulated utility.

(2) "Unregulated fuels" means all fuels used for heating and process fuel customers other than electricity and natural gas delivered by a regulated utility.

(b) During the process and in the report required by this section, the Board shall evaluate whether there are barriers or inefficiencies in the markets for unregulated fuels that inhibit the efficient use of such fuels.

(c) The Board need not conduct the public process under this section as a contested case under 3 V.S.A. chapter 25 but shall provide notice and an

opportunity for written and oral comments to the public and affected parties and state agencies.

Eighteenth: By striking out Sec. 29a (electric vehicles and charging stations, state fleet) in its entirety

Nineteenth: In Sec. 29b, 3 V.S.A. § 2291, in subdivision (c)(6), after the word "incorporate" by inserting the following: conventional hybrid, and after the words "plug-in hybrid" by inserting a comma, and by renumbering the section to be Sec. 29a

Twentieth: By striking out Sec. 29c (promoting the use of electric vehicles) in its entirety

Twenty-first: After Sec. 29c, by inserting two new sections to be Secs. 30 and 31 to read as follows:

* * * State Lands * * *

Sec. 30. 10 V.S.A. chapter 88 is added to read:

CHAPTER 88. PROHIBITION; COMMERCIAL CONSTRUCTION; CERTAIN PUBLIC LANDS

§ 2801. POLICY

Vermont's state parks, forests, natural areas, wilderness areas, wildlife management areas, and wildlife refuges shall be managed to protect their natural or wild state, their recreational uses, and their historic and educational qualities, as appropriate.

§ 2802. PROHIBITION

(a) Construction for any commercial purpose, including the generation of electric power, shall not be permitted within any state park or forest, wilderness area designated by law, or natural area designated under section 2607 of this title.

(b) This section shall not prohibit:

(1) the construction or maintenance of:

(A) a concession or other structure for the use of visitors to state parks or forests;

(B) a recreational trail;

(C) a boat ramp;

(D) a cabin, picnic shelter, interpretive display, or sign;

(E) a sewer or water system at a state park;

(F) a garage, road, or driveway for the purpose of operating or maintaining a state park or forest, or

(G) a net metering system under 30 V.S.A. § 219a to provide electricity to a state park or forest facility;

(2) a modification or improvement to a dam in existence as of the effective date of this section, if the modification or improvement is:

(A) to ensure public safety;

(B) to provide outdoor recreation opportunities or enhance wetlands or habitat for fish or wildlife; or

(C) to allow the dam's use for the generation of electricity, and the construction of any power lines and facilities necessary for such use;

(3) the construction of telecommunications facilities, as defined in 30 V.S.A. § 248a(b) (certificate of public good; communications facilities), in accordance with all other applicable state law;

(4) the harvesting of timber or the construction of a structure, road, or landing for forestry purposes as may be permitted on a state land;

(5) tapping of maple trees and associated activities on state forestland authorized under a license pursuant to section 2606b of this title;

(6) construction on state land that is permitted under a lease or license that was in existence on this section's effective date and, in the case of a ski area, the renewal of such a lease or license or its modification to allow expansion of the ski area; or

(7) the construction or reconstruction of or placement of equipment on utility poles and wires in a right-of-way cleared and in existence as of the effective date of this section.

Sec. 31. REPEAL

10 V.S.A. § 2606(c) (state forests; parks; leases for mining or quarrying) is repealed.

Twenty-second: By striking out Sec. 30 (effective dates) and inserting in lieu thereof a new Sec. 32 to read as follows:

Sec. 32. EFFECTIVE DATES

(a) The following shall take effect on passage: this section and Secs. 1 (findings); 2 (jurisdiction; general scope); 3 (appointed entities; initial plan; statutory revision); 12 (disclosure tool working group; reports); 18 (eligible beneficiaries; requirements); 19 (benefit amounts); 27 (total energy; report); and 29 (thermal efficiency funding and savings; report) of this act.

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

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

Thereupon, Senator Snelling moved that the Senate recess.

Called to Order

The Senate was called to order by the President.

Consideration Resumed; Motion Withdrawn

S. 77.

Consideration was resumed on Senate bill entitled:

An act relating to patient choice and control at end of life.

Thereupon, pending the question, Shall the Senate reconsider its action?, Senator Hartwell requested and was granted leave to withdraw his motion.

Consideration Resumed; Bill Amended; Third Reading Ordered

H. 520.

Consideration was resumed on House bill entitled:

An act relating to reducing energy costs and greenhouse gas emissions.

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

Thereupon, the President *sustained* the point of order and ruled that the *twenty-first* proposal of amendment offered by the Committee on Natural Resources and Energy was *not germane* to the bill.

The President thereupon declared that the *twenty-first* proposal of amendment by the Committee on Natural Resources and Energy could *not* be considered by the Senate and the *twenty-first* proposal of amendment was ordered stricken.

Thereupon, the question, Shall the bill be amended as proposed by the Committee on Natural Resources and Energy?, was agreed to.

Thereupon, third reading of the bill was ordered.

Proposal of Amendment; Third Reading Ordered

H. 536.

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

An act relating to the Adjutant and Inspector General and the Vermont National Guard.

Reported recommending that the Senate propose to the House to amend the bill by striking out Secs. 1, 2, 3, 4, and 6 in their entirety, and by striking out Sec. 8 in its entirety and inserting in lieu thereof a new Sec. 8 to read as follows:

Sec. 8. EFFECTIVE DATE

This act shall take effect on passage.

And by renumbering the remaining sections to be numerically correct.

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

An act relating to the National Guard.

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

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

Thereupon, pending the question, Shall the Senate propose to the House to amend the bill as recommended by the Committee on Government Operations?, Senator Galbraith requested the question be divided and that Sec. 6 be voted on separately. Thereupon, pending the question, Shall the Senate propose to the House to strike out Sec. 6?, Senator Galbraith moved that the bill be committed to the Committee on Judiciary which was disagreed to.

Thereupon, the question, Shall the Senate propose to the House that the bill be amended by striking out Sec. 6?, was agreed to.

Thereupon, the question, Shall the bill be amended as recommended by the Committee on Government Operations?, was agreed to.

Thereupon, third reading of the bill was ordered.

Rules Suspended; Bills Passed in Concurrence with Proposals of Amendment

H. 65.

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

An act relating to limited immunity from liability for reporting a drug or alcohol overdose.

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

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

H. 536.

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

An act relating to the Adjutant and Inspector General and the Vermont National Guard.

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

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

H. 520.

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

An act relating to reducing energy costs and greenhouse gas emissions.

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

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

Rules Suspended; Third Reading Ordered

H. 517.

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

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

Was taken up for immediate consideration.

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

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and third reading of the bill was ordered.

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

S. 4.

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

An act relating to concussions and school athletic activities.

Was taken up for immediate consideration.

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

Sec. 1. 16 V.S.A. § 1431 is amended to read:

§ 1431. CONCUSSIONS AND OTHER HEAD INJURIES

(a) Definitions. For purposes of this subchapter:

(1) "School athletic team" means an interscholastic athletic team or club sponsored by a public or approved independent school for elementary or secondary students.

(2) "Coach" means a person who instructs or trains students on a school athletic team.

(3) "Health care provider" means an athletic trainer, or other health care provider, licensed pursuant to Title 26, who has within the preceding five years been specifically trained in the evaluation and management of concussions and other head injuries. Training pursuant to this subdivision shall include training materials and guidelines for practicing physicians provided by the Centers for Disease Control and Prevention, if available.

(4) "Youth athlete" means an elementary or secondary student who is a member of a school athletic team.

(b) Guidelines and other information. The ~~commissioner of education~~ Secretary of Education or designee, assisted by members of the Vermont Principals' Association selected by that association, members of the Vermont School Boards Insurance Trust, and others as the Secretary deems appropriate, shall develop statewide guidelines, forms, and other materials, and update them

when necessary, that are designed to educate coaches, youth athletes, and the parents and guardians of youth athletes regarding:

(1) the nature and risks of concussions and other head injuries;

(2) the risks of premature participation in athletic activities after receiving a concussion or other head injury; ~~and~~

(3) the importance of obtaining a medical evaluation of a suspected concussion or other head injury and receiving treatment when necessary;

(4) effective methods to reduce the risk of concussions occurring during athletic activities; and

(5) protocols and standards for clearing a youth athlete to return to play following a concussion or other head injury, including treatment plans for such athletes.

(c) Notice and training. The principal or headmaster of each public and approved independent school in the ~~state~~ State, or a designee, shall ensure that:

(1) the information developed pursuant to subsection (b) of this section is provided annually to each youth athlete and the athlete's parents or guardians;

(2) each youth athlete and a parent or guardian of the athlete annually sign a form acknowledging receipt of the information provided pursuant to subdivision (1) of this subsection and return it to the school prior to the athlete's participation in training or competition associated with a school athletic team;

(3)(A) each coach of a school athletic team receive training no less frequently than every two years on how to recognize the symptoms of a concussion or other head injury, how to reduce the risk of concussions during athletic activities, and how to teach athletes the proper techniques for avoiding concussions; and

(B) each coach who is new to coaching at the school receive training prior to beginning his or her first coaching assignment for the school; and

(4) each referee of a contest involving a high school athletic team participating in a collision sport receive training not less than every two years on how to recognize concussions when they occur during athletic activities.

(d) Participation in athletic activity.

(1) ~~A~~ Neither a coach nor a health care provider shall ~~not~~ permit a youth athlete to continue to participate in any training session or competition associated with a school athletic team if the coach ~~has reason to believe~~ or

health care provider knows or should know that the athlete has sustained a concussion or other head injury during the training session or competition.

(2) ~~A~~ Neither a coach nor health care provider shall ~~not~~ permit a youth athlete who has been prohibited from training or competing pursuant to subdivision (1) of this subsection to train or compete with a school athletic team until the athlete has been examined by and received written permission to participate in athletic activities from a health care provider ~~licensed pursuant to Title 26 and trained in the evaluation and management of concussions and other head injuries~~.

(e) Action plan.

(1) The principal or headmaster of each public and approved independent school in the State or a designee shall ensure that each school has a concussion management action plan that describes the procedures the school shall take when a student athlete suffers a concussion. The action plan shall include policies on:

(A) who makes the initial decision to remove a student athlete from play when it is suspected that the athlete has suffered a concussion;

(B) what steps the student athlete must take in order to return to any athletic or learning activity;

(C) who makes the final decision that a student athlete may return to athletic activity; and

(D) who has the responsibility to inform a parent or guardian when a student on that school's athletic team suffers a concussion.

(2) The action plan required by subdivision (1) of this subsection shall be provided annually to each youth athlete and the athlete's parents or guardians.

(3) Each youth athlete and a parent or guardian of the athlete shall annually sign a form acknowledging receipt of the information provided pursuant to subdivision (2) of this subsection and return it to the school prior to the athlete's participation in training or competition associated with a school athletic team.

Sec. 2. 16 V.S.A. § 1388 is added to read:

§ 1388. STOCK SUPPLY AND EMERGENCY ADMINISTRATION OF EPINEPHRINE AUTO-INJECTORS

(a) As used in this section:

(1) "Designated personnel" means a school employee, agent, or volunteer who has been authorized by the school administrator to provide and

administer epinephrine auto-injectors under this section and who has completed the training required by the State Board by rule.

(2) "Epinephrine auto-injector" means a single-use device that delivers a premeasured dose of epinephrine.

(3) "Health care professional" means a physician licensed pursuant to 26 V.S.A. chapter 23 or 33, an advanced practice registered nurse licensed to prescribe drugs and medical devices pursuant to 26 V.S.A. chapter 28, or a physician assistant licensed to prescribe drugs and medical devices pursuant to 26 V.S.A. chapter 31.

(4) "School" means a public or approved independent school and extends to school grounds, school-sponsored activities, school-provided transportation, and school-related programs.

(5) "School administrator" means a school's principal or headmaster.

(b)(1) A health care professional may prescribe an epinephrine auto-injector in a school's name, which may be maintained by the school for use as described in subsection (d) of this section. The health care professional shall issue to the school a standing order for the use of an epinephrine auto-injector prescribed under this section, including protocols for:

(A) assessing whether an individual is experiencing a potentially life-threatening allergic reaction;

(B) administering an epinephrine auto-injector to an individual experiencing a potentially life-threatening allergic reaction;

(C) caring for an individual after administering an epinephrine auto-injector to him or her, including contacting emergency services personnel and documenting the incident; and

(D) disposing of used or expired epinephrine auto-injectors.

(2) A pharmacist licensed pursuant to 26 V.S.A. chapter 36 or a health care professional may dispense epinephrine auto-injectors prescribed to a school.

(c) A school may maintain a stock supply of epinephrine auto-injectors. A school may enter into arrangements with epinephrine auto-injector manufacturers or suppliers to acquire epinephrine auto-injectors for free or at reduced or fair market prices.

(d) The school administrator may authorize a school nurse or designated personnel or both to:

(1) provide an epinephrine auto-injector to a student for self-administration according to a plan of action for managing the student's

life-threatening allergy maintained in the student's school health records pursuant to section 1387 of this title;

(2) administer a prescribed epinephrine auto-injector to a student according to a plan of action maintained in the student's school health records; and

(3) administer an epinephrine auto-injector, in accordance with the protocol issued under subsection (b) of this section, to a student or other individual at a school if the nurse or designated personnel believe in good faith that the student or individual is experiencing anaphylaxis, regardless of whether the student or individual has a prescription for an epinephrine auto-injector.

(e) Designated personnel, a school, and a health care professional prescribing an epinephrine auto-injector to a school shall be immune from any civil or criminal liability arising from the administration or self-administration of an epinephrine auto-injector under this section unless the person's conduct constituted intentional misconduct. Providing or administering an epinephrine auto-injector under this section does not constitute the practice of medicine.

(f) On or before January 1, 2014, the State Board, in consultation with the Department of Health, shall adopt rules pursuant to 3 V.S.A. chapter 25 for managing students with life-threatening allergies and other individuals with life-threatening allergies who may be present at a school. The rules shall:

(1) establish protocols to prevent exposure to allergens in schools;

(2) establish procedures for responding to life-threatening allergic reactions in schools, including post-emergency procedures;

(3) implement a process for schools and the parents or guardians of students with a life-threatening allergy to jointly develop a written individualized allergy management plan of action that:

(A) incorporates instructions from a student's physician regarding the student's life-threatening allergy and prescribed treatment;

(B) includes the requirements of section 1387 of this title, if a student is authorized to possess and self-administer emergency medication at school;

(C) becomes part of the student's health records maintained by the school; and

(D) is updated each school year;

(4) require education and training for school nurses and designated personnel, including training related to storing and administering an

epinephrine auto-injector and recognizing and responding to a life-threatening allergic reaction;

(5) require each school to make publicly available protocols and procedures developed in accordance with the rules adopted by the State Board under this section; and

(6) require each school to submit to the Agency a standardized report of each incident at the school involving a life-threatening allergic reaction or administration or self-administration of an epinephrine auto-injector.

(g) Annually on or before January 15, the Secretary shall submit a report to the House and Senate Committees on Education that summarizes and analyzes the incident reports submitted by schools in accordance with the rules adopted by the State Board and that makes recommendations to improve schools' responses to life-threatening allergic reactions.

Sec. 3. CONCUSSION TASK FORCE

(a) Creation. There is created a Concussion Task Force to study concussions resulting from school athletic activities and to provide recommendations for further action.

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

(1) the Secretary of Education or designee;

(2) the Commissioner of Health or designee;

(3) a representative of the Vermont Principals' Association;

(4) a representative of the Vermont Athletic Trainers' Association;

(5) a representative of the Vermont Traumatic Brain Injury Advisory Board;

(6) a representative of the School Nurses Division of the Department of Health;

(7) a student athlete appointed by the Vermont Principals' Association; and

(8) a representative of the Vermont School Boards Insurance Trust.

(c) Powers and duties. The Concussion Task Force shall study issues related to concussions resulting from school athletic activities and make recommendations, including:

(1) what sports necessitate on-site trained medical personnel at athletic events based on data from public high schools and independent schools participating in interscholastic sports;

(2) the availability of trained medical personnel and whether school athletic events could be adequately covered; and

(3) the financial impact on schools of requiring medical personnel to be present at some athletic activities.

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

(e) Report. On or before December 15, the Concussion Task Force shall report to the House and Senate Committees on Education, the House Committee on Health Care, the Senate Committee on Health and Welfare, and the House and Senate Committees on Judiciary its findings and any recommendations for legislative action.

(f) Meetings.

(1) The Secretary of Education or designee shall call the first meeting of the Concussion Task Force to occur on or before July 15, 2013.

(2) The Secretary of Education or designee shall be the chair.

(3) A majority of the members of the Concussion Task Force shall be physically present at the same location to constitute a quorum.

(4) Action shall be taken only if there is both a quorum and a majority vote of all members of the Concussion Task Force.

(5) The Concussion task Force shall cease to exist on December 31, 2013.

Sec. 4. REPORT

To the extent permitted by applicable state and federal law, the Vermont Traumatic Brain Injury Advisory Board (the Board) shall obtain information necessary to create an annual report on the incidences of concussions sustained by student athletes in Vermont in the previous school year. To the extent such information is available, the report shall include the number of concussions sustained by student athletes in Vermont, the sport the student athlete was playing when he or she sustained the concussion, the number of Vermont student athletes treated in emergency rooms for concussions received while participating in school athletics, and who made the decision that a student athlete was able to return to play. For purposes of the report, the Board shall consult with the Vermont Principals' Association and the Vermont Association of Athletic Trainers. If the Board obtains information sufficient to create the

report, it shall report on or before December 15 of each year starting in 2014 to the Senate and House Committees on Judiciary and on Education.

Sec. 5. SCHOOL-BASED MENTAL HEALTH SERVICES

(a) It is estimated that 10 percent of children need mental health services nationally, but that only 20 percent of this 10 percent receive treatment.

(b) Children who need mental health services are at a higher risk of dropping out of school than those who do not have mental health needs.

(c) Untreated mental health conditions have been linked to higher rates of juvenile incarceration, drug abuse, and unemployment.

(d) Early intervention decreases subsequent expenditures for special education and increases the likelihood of academic success.

(e) School-based mental health services increase access to and use of mental health services and improve coordination of services.

(f) School-based mental health services increase student and parental awareness of available services.

Sec. 6. SCHOOL-BASED MENTAL HEALTH SERVICES; STUDY

(a) The Secretaries of Education and of Human Services, in consultation with the Green Mountain Care Board, the Department of State's Attorneys, the Juvenile Division of the Office of the Defender General, and other interested parties, shall:

(1) catalogue the type and scope of mental health and substance abuse services provided in or in collaboration with Vermont public schools;

(2) determine the number of students who are currently receiving mental health or substance abuse services through Vermont public schools and identify the sources of payment for these services;

(3) estimate the number of students enrolled in Vermont public schools who are not receiving the mental health or substance abuse services they need and, in particular, the number of students who were referred for services but are not receiving them, identifying whenever possible the barriers to the receipt of services;

(4) identify successful programs and practices related to providing mental health and substance abuse services in Vermont public schools and nationally, and determine which, if any, could be replicated in other areas of the State;

(5) determine how the provision of health insurance in Vermont may affect the availability of mental health or substance abuse services to Vermont students;

(6) detail the costs and sources of funding for mental health and substance abuse services provided by or through Vermont public schools during the two most recent fiscal years for which data is available; and

(7) develop a proposal based on the information collected pursuant to this subsection to ensure that clinically-appropriate and sufficient school-based mental health and substance abuse services are available to students in Vermont public schools.

(b) On or before January 15, 2014, the Secretaries shall present their research, findings, and proposals to the House Committees on Education and on Human Services and the Senate Committees on Education and on Health and Welfare.

Sec. 7. EFFECTIVE DATE

This act shall take effect on July 1, 2013, except that the reporting requirement under Sec. 2, 16 V.S.A. § 1388(g), shall take effect on July 1, 2014.

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

An act relating to health and schools.

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.

Rules Suspended; Proposal of Amendment; Third Reading Ordered

H. 515.

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

An act relating to miscellaneous agricultural subjects.

Was taken up for immediate consideration.

Senator Starr, for the Committee on Agriculture, 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:

* * * Livestock and Poultry Products * * *

Sec. 1. 6 V.S.A. § 3302 is amended to read:

§ 3302. DEFINITIONS

As used in this chapter, except as otherwise specified, the following terms shall have the meanings stated below:

* * *

(10) "Custom slaughterhouse" means a person who maintains a slaughtering establishment under this chapter for the purposes of slaughtering livestock or poultry for another person's exclusive use by him or her and members of his or her household and his or her nonpaying guests and employees ~~and who is not engaged in the business of buying or selling carcasses, parts of carcasses, meat or meat food products or any cattle, sheep, swine, goats, domestic rabbits, equines, or poultry, capable of use as human food~~.

* * *

(43) "Itinerant livestock slaughter" means slaughter, in accordance with the requirements of subsection 3311a(e) of this title, of livestock owned by a person for his or her exclusive use or for use by members of his or her household and his or her nonpaying guests and employees.

(44) "Itinerant poultry slaughter" means the slaughter of poultry:

(A) at a person's home or farm in accordance with subsection 3312(b) of this title; or

(B) at a facility approved by the Secretary for the slaughtering of poultry.

(45) "Itinerant slaughterer" means a person, who for compensation or gain, engages in itinerant livestock slaughter or itinerant poultry slaughter.

Sec. 2. 6 V.S.A. § 3305 is amended to read:

§ 3305. ADDITIONAL POWERS OF THE SECRETARY

In order to accomplish the objectives stated in section 3303 of this title, the ~~secretary~~ Secretary may:

* * *

(18) sell or lease a mobile slaughtering unit, and may retain any proceeds therefrom in a ~~revolving~~ fund designated for the purpose of purchasing additional mobile slaughtering units ~~by the agency~~ or providing

matching grants for capital investments to increase poultry slaughter or poultry processing capacity.

Sec. 3. 6 V.S.A. § 3306 is amended to read:

§ 3306. LICENSING

(a) No person ~~may~~ shall engage in intrastate commerce in the business of buying, selling, preparing, processing, packing, storing, transporting, or otherwise handling meat, meat food products, or poultry products, unless that person holds a valid license issued under this chapter. Categories of licensure shall include: commercial slaughterers, custom slaughterers, commercial processors, custom processors, wholesale distributors, retail vendors, meat and poultry product brokers, renderers, public ~~warehousemen~~ warehouse operators, animal food manufacturers, handlers of dead, dying, disabled, or diseased animals, and any other category which the ~~secretary~~ Secretary may by rule establish.

(b) The owner or operator of each plant or establishment of the kind specified in subsection (a) of this section shall apply in writing to the ~~secretary~~ Secretary on a form prescribed by him or her for a license to operate the plant or establishment. In case of change of ownership or change of location, a new application shall be made. Any person engaged in more than one licensed activity shall obtain separate licenses for each activity.

(c) The head of service shall investigate all circumstances in connection with the application for license to determine whether the applicable requirements of this chapter and rules made under it have been complied with. The ~~secretary~~ Secretary shall grant, condition, or refuse the license upon the basis of all information available to him or her including all facts disclosed by investigation. Each license shall bear an identifying number.

(d) The annual fee for a license for a retail vendor is $15.00 for vendors without meat cutting operations, $30.00 for vendors with meat cutting space of less than 300 square feet or meat display space of less than 20 linear feet, and $60.00 for vendors with 300 or more square feet of meat cutting space and 20 or more linear feet of meat display space. Fees collected under this section shall be deposited in a special fund managed pursuant to 32 V.S.A. chapter 7, subchapter 5 ~~of chapter 7 of Title 32~~, and shall be available to the ~~agency~~ Agency to offset the cost of administering chapter 204 of this title. For all other plants, establishments, and related businesses listed under subsection (a) of this section, except for a public warehouse licensed under chapter 67 of this title, the annual license fee shall be $50.00.

* * *

(f) ~~Itinerant custom slaughterers, who slaughter solely at a person's home or farm and who do not own, operate or work at a slaughtering plant shall be exempt from the licensing provisions of this section. An itinerant custom slaughterer may slaughter livestock owned by an individual who has entered into a contract with a person to raise the livestock on the farm where it is intended to be slaughtered.~~ [Repealed.]

Sec. 4. 6 V.S.A. § 3311a is added to read:

§ 3311a. LIVESTOCK; INSPECTION; LICENSING; PERSONAL SLAUGHTER; ITINERANT SLAUGHTER

(a) As used in this section:

(1) "Assist in the slaughter of livestock" means the act of slaughtering or butchering an animal and shall not mean the farmer's provision of a site on the farm for slaughter, provision of implements for slaughter, or the service of disposal of the carcass or offal from slaughter.

(2) "Sanitary conditions" means a site on a farm that is:

(A) clean and free of contaminants; and

(B) located or designed in a way to prevent:

(i) the occurrence of water pollution; and

(ii) the adulteration of the livestock or the slaughtered meat.

(b) The requirement for a license under section 3306 of this title or for inspection under this chapter shall not apply to the slaughter by an individual of livestock that the individual raised for the individual's exclusive use or for the use of members of his or her household and his or her nonpaying guests and employees.

(c) The requirement for a license under section 3306 of this title or for inspection under this chapter shall not apply to the slaughter of livestock that occurs in a manner that meets all of the following requirements:

(1) an individual purchases livestock from a farmer that raised the livestock;

(2) the individual who purchased the livestock performs the act of slaughtering the livestock;

(3) the act of slaughter occurs, after approval from the farmer who sold the livestock, on a site on the farm where the livestock was purchased;

(4) the slaughter is conducted under sanitary conditions;

(5) the farmer who sold the livestock to the individual does not assist in the slaughter of the livestock; and

(6) no more than the following number of livestock per year are slaughtered under this subsection:

(A) 10 swine;

(B) three cattle;

(C) 25 sheep or goats; or

(D) any combination of swine, cattle, sheep, or goats, provided that no more than 3,500 pounds of the live weight of livestock are slaughtered per year; and

(7) the farmer who sold the livestock to the individual maintains a record of each slaughter conducted under this subsection and reports to the Secretary on or before the 15th day of each month regarding all slaughter activity conducted under this subsection in the previous month.

(d) The requirement for a license under section 3306 of this title or for inspection under this chapter shall not apply to an itinerant slaughterer engaged in the act of itinerant livestock slaughter or itinerant poultry slaughter.

(e) An itinerant slaughterer may slaughter livestock owned by a person on the farm where the livestock was raised under the following conditions:

(1) the meat from the slaughter of the livestock is distributed only as whole or half carcasses to the person who owned the animal for their personal use or for use by members of their households or nonpaying guests; and

(2) the slaughter is conducted under sanitary conditions.

(f) A carcass or offal from slaughter conducted under this section shall be disposed of according to the requirements under the accepted agricultural practices for the management of agricultural waste.

* * * Public Warehouses that Store Farm Products * * *

Sec. 5. 6 V.S.A. § 891 is amended to read:

§ 891. LICENSE

Excepting frozen food locker plants, any person, as defined in 9A V.S.A. §§ 1-201 and 7-102, who stores milk, cream, butter, cheese, eggs, ~~dressed~~ meat, poultry and fruit for hire in quantities of 1,000 pounds or more of ~~each~~ any commodity shall first be licensed by the ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets. Each separate place of business shall be licensed.

* * * Commerce and Trade; Weights and Measures * * *

Sec. 6. 9 V.S.A. § 2697 is amended to read:

§ 2697. LIQUID FUELS

(a) Liquid fuels including motor fuels, furnace oils, stove oils, ~~liquified~~ liquefied petroleum gas, and other liquid fuels used for similar purposes shall be sold by liquid measure or by net weight in accordance with the provisions of section 2671 of this title. In the case of each delivery of liquid fuel not in package form, and in an amount greater than 10 gallons in the case of sale by liquid measure or 99 pounds in the case of sale by weight, there shall be rendered to the purchaser, either:

(1) at the time of delivery; or

(2) within a period mutually agreed upon in writing or otherwise between the vendor and the purchaser, a delivery ticket or a written statement on which, in ink, or other indelible substance, there shall be clearly and legibly stated:

(A) the name and address of the vendor;

(B) the name and address of the purchaser;

(C) the identity of the type of fuel comprising the delivery;

(D) the unit price (that is, the price per gallon or per pound, as the case may be) of the fuel delivered;

(E) in the case of sale by liquid measure, the liquid volume of the delivery shall be determined by a meter with a register printing the meter readings on a ticket, a copy of which shall be given to the purchaser, from which such liquid volume shall be computed, expressed in terms of the gallon and its binary or decimal subdivisions (the ticket shall not be inserted into the register until immediately before delivery is begun, and in no case shall a ticket be in the register when the vehicle is in motion); or the liquid volume may be determined by a vehicle tank used as a measure when in full compliance with Handbook H-44 and calibrated by a weights and measures official. Sale by a liquid measuring device as defined in Handbook H-44, and sale by a vapor meter are excluded from this section. The volume of liquid fuels delivered on consignment shall be computed and charged for only from the totalizers on the devices dispensing the product;

(F) in the case of sale by weight, the net weight of the delivery, together with any weighing scale readings from which that net weight has been computed, expressed in terms of tons or pounds avoirdupois.

(b) The use of temperature compensation during delivery of all liquid fuels, with the exception of the delivery of liquefied petroleum gas, is prohibited. The Secretary shall enforce this prohibition in the same manner as other violations of this chapter.

* * * Dairy Operations * * *

Sec. 7. 6 V.S.A. § 2672 is amended to read:

§ 2672. DEFINITIONS

As used in this part, the following terms have the following meanings:

* * *

(7) "Milk," ~~;~~ unless preceded or succeeded by an explanatory term, means the pure lacteal secretion of ~~a type of~~ dairy cattle. Milk from other dairy livestock listed in this subdivision shall be preceded by the common name for the type of livestock that produced the milk. Such milk may be standardized by the addition of pure, fresh skim milk or cream as defined by regulation.

* * *

(10) "Fluid dairy products" are milk and fluid dairy products derived from milk, including cultured products, as defined by regulations ~~made under this part~~ adopted by federal entities and published in the Code of Federal Regulations.

* * *

Sec. 8. 6 V.S.A. § 2723a is added to read:

§ 2723a. DISTRIBUTOR'S LICENSES

(a) It shall be unlawful for any person to distribute fluid dairy products without a license issued by the Secretary. The Secretary shall license all distributors at least annually and for a term of up to three years and shall issue and renew such licenses on any calendar cycle. Application for the license and renewal shall be made in the manner and form prescribed by the Secretary and shall be accompanied by a license fee of $15.00 per annum or any part thereof.

(b) No person shall be granted a license under this section unless the distributor first agrees to withhold the state tax on producers whose milk has been received by the distributor imposed under chapter 161 of this title.

(c) As used in this section, the term "distributor" has the same meaning as set forth in section 2672 of this chapter, which includes the retail distribution or sale of milk, except the sale of milk to be consumed on the premises.

(d) Any distributor who carries on a business without a license shall be subject to penalty under sections 2678 and 2679 of this title.

* * * Mosquito Abatement * * *

Sec. 9. 6 V.S.A. § 1085 is amended to read:

§ 1085. MOSQUITO CONTROL GRANT PROGRAM

(a) A mosquito control district formed pursuant to 24 V.S.A. chapter 121 ~~of Title 24~~ may apply, in a manner prescribed by the ~~secretary~~ Secretary, in writing to the ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets, for a state assistance grant for mosquito control activities.

(b) After submission of an application under subsection (a) of this section, the ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets may award a grant of 75 percent or less of the project costs for the purchase and application of larvicide and the costs associated with required larval survey activities within a mosquito control district. The mosquito control district may provide 25 percent of the project costs through in-kind services, including adulticide application or the purchase of capital equipment used for mosquito control activities.

* * *

* * * Agricultural Water Quality; Nutrient Management Planning * * *

Sec. 10. 6 V.S.A. § 4801 is amended to read:

§ 4801. PURPOSE; STATE POLICY

It is the purpose of this chapter to ensure that agricultural animal wastes do not enter the waters of this ~~state~~ State. Therefore, it is state policy that:

(1) All farms meet certain standards in the handling and disposal of animal wastes, as provided by this chapter and the cost of meeting these standards shall not be borne by farmers only, but rather by all members of society, who are in fact the beneficiaries. Accordingly, state and federal funds shall be made available to farms, regardless of size, to defray the major cost of complying with the ~~animal waste~~ requirements of this chapter. State and federal conservation programs to assist farmers should be directed to those farms that need to improve their infrastructure to prohibit direct discharges or bring existing water pollution control structures into compliance with United States Department of Agriculture (U.S.D.A.) Natural Resources Conservation Service standards. Additional resources should be directed to education and technical assistance for farmers to improve the management of agricultural wastes and protect water quality.

(2) Officials who administer the provisions of this chapter:

(A) shall educate farmers and other affected citizens on requirements of this chapter through an outreach collaboration with farm associations and other community groups; ~~and~~

(B) shall, in the process of rendering official decisions, afford farmers and other affected citizens an opportunity to be heard and give consideration to all interests expressed; and

(C) may provide grants from a program established under this chapter to eligible Vermont municipalities, local or regional governmental agencies, nonprofit organizations, and citizen groups in order to provide direct financial assistance to farms in implementing conservation practices.

Sec. 11. 6 V.S.A. § 4827 is amended to read:

§ 4827. NUTRIENT MANAGEMENT PLANNING; INCENTIVE GRANTS

(a) A farm developing or implementing a nutrient management plan under chapter 215 of this title or federal regulations may apply to the ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets for financial assistance. The financial assistance shall be in the form of incentive grants. Annually, after consultation with the Natural Resources Conservation Service of the U.S. Department of Agriculture, natural resources conservation districts, the University of Vermont extension service and others, the ~~secretary~~ Secretary shall determine the average cost of developing and implementing a nutrient management plan in Vermont. The dollar amount of an incentive grant awarded under this section shall be equal to the average cost of developing a nutrient management plan as determined by the ~~secretary~~ Secretary or the cost of complying with the nutrient management planning requirements of chapter 215 of this title or federal regulations, whichever is less.

(b) Application for a state assistance grant shall be made in a manner prescribed by the ~~secretary~~ Secretary and shall include, at a minimum:

(1) an estimated cost of developing and implementing a nutrient management plan for the applicant;

(2) the amount of incentive grant requested; and

(3) a schedule for development and implementation of the nutrient management plan.

(c) The ~~secretary~~ Secretary annually shall prepare a list of farms ranked, regardless of size, in priority order that have applied for an incentive grant under this section. The priority list shall be established according to factors

that the ~~secretary~~ Secretary determines are relevant to protect the quality of waters of the ~~state~~ State, including:

(1) the proximity of a farm to a water listed as impaired for agricultural runoff, pathogens, phosphorus, or sediment by the ~~agency of natural resources~~ Agency of Natural Resources;

(2) the proximity of a farm to an unimpaired water of the ~~state~~ State;

(3) the proximity of a drinking water well to land where a farm applies manure; and

(4) the risk of discharge to waters of the ~~state~~ State from the land application of manure by a farm.

(d) Assistance in accordance with this section shall be provided from state funds appropriated to the ~~agency of agriculture, food and markets~~ Agency of Agriculture, Food and Markets for integrated crop management.

(e) If the ~~secretary~~ Secretary lacks adequate funds necessary for the financial assistance required by subsection (a) of this section, the requirement to develop and implement a nutrient management plan under state statute or state regulation shall be suspended until adequate funding becomes available. Suspension of a state-required nutrient management plan does not relieve an owner or operator of a farm permitted under section 4858 of this title of the remaining requirements of a state permit, including discharge standards, groundwater protection, and land application of manure. This subsection does not apply to farms permitted under 10 V.S.A. § 1263 or farms permitted under section 4851 of this title.

(f) The ~~secretary~~ Secretary may contract with natural resources conservation districts, the University of Vermont extension service, and other persons and organizations to aid in the implementation of the incentive grants program under subsection (a) of this section and to assist farmers in the development and implementation of nutrient management plans.

(g) ~~Notwithstanding the requirements of subsection (c) of this section, the secretary may, as general funds are appropriated for this purpose, provide a one-time incentive payment under this section to encourage farmers to inject manure on grass or crop land over one growing season.~~ [Repealed.]

Sec. 12. 6 V.S.A. § 4951 is amended to read:

§ 4951. FARM AGRONOMIC PRACTICES PROGRAM

(a) The ~~farm agronomic practices assistance program~~ Farm Agronomic Practices Assistance Program is created in the ~~agency of agriculture, food and markets~~ Agency of Agriculture, Food and Markets to provide the farms of

Vermont with state financial assistance for the implementation of soil-based practices that improve soil quality and nutrient retention, increase crop production, minimize erosion potential, and reduce agricultural waste discharges. The following practices shall be eligible for assistance to farms under the grant program:

(1) conservation crop rotation;

(2) cover cropping;

(3) strip cropping;

(4) cross-slope tillage;

(5) zone or no-tillage;

(6) pre-sidedress nitrate tests;

(7) annual maintenance of a nutrient management plan that is no longer receiving funding under a state or federal contract, provided the maximum assistance provided to a farmer under this subdivision shall be ~~$1,000.00~~ $2,000.00 per year;

(8) educational and instructional activities to inform the farmers and citizens of Vermont of:

(A) the impact on Vermont waters of agricultural waste discharges;

(B) the federal and state requirements for controlling agricultural waste discharges;

(9) implementing alternative manure application techniques; and

(10) additional soil erosion reduction practices.

(b) Funding available under section 4827 of this title for nutrient management planning may be used to fund practices under this section.

* * * Sunset; Livestock Slaughter Exemptions * * *

Sec. 13. REPEAL; LIVESTOCK SLAUGHTER EXEMPTIONS

6 V.S.A. § 3311a (livestock slaughter inspection and license exemptions) shall be repealed on July 1, 2016.

* * * Effective Date * * *

Sec. 14. EFFECTIVE DATE

This act shall take effect on passage.

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

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 Agriculture with the following amendment thereto:

In Sec. 8, 6 V.S.A. § 2723a, in subsection (a), in the third sentence, by striking out the following: "$15.00" and inserting in lieu thereof the following: $20.00

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

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

Thereupon, the proposal of amendment recommended by the Committee on Agriculture, as amended, was agreed to and third reading of the bill was ordered.

Rules Suspended; House Proposal of Amendment Concurred In

S. 81.

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

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

Was taken up for immediate consideration.

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

Sec. 1. 9 V.S.A. chapter 80 is amended to read:

CHAPTER 80. FLAME RETARDANTS

§ 2971. ~~BROMINATED FLAME RETARDANTS~~

~~(a) As used in this section:~~

~~(1) "Brominated flame retardant" means any chemical containing the element bromine that is added to plastic, foam, or textile to inhibit flame formation.~~

~~(2) "Congener" means a specific PBDE molecule.~~

~~(3) "DecaBDE" means decabromodiphenyl ether or any technical mixture in which decabromodiphenyl ether is a congener.~~

(4) "Flame retardant" means any chemical that is added to a plastic, foam, or textile to inhibit flame formation.

(5) "Manufacturer" means any person who manufactures a final product containing a regulated brominated flame retardant or any person whose brand name is affixed to a product containing a regulated brominated flame retardant.

(6) "Motor vehicle" means every vehicle intended primarily for use and operation on the public highways, and shall include farm tractors and other machinery used in the production, harvesting, and care of farm products.

(7) "OctaBDE" means octabromodiphenyl ether or any technical mixture in which octabromodiphenyl ether is a congener.

(8) "PentaBDE" means pentabromodiphenyl ether or any technical mixture in which a pentabromodiphenyl ether is a congener.

(9) "PBDE" means polybrominated diphenyl ether.

(10) "Technical mixture" means a PBDE mixture that is sold to a manufacturer. A technical mixture is named for the predominant congener in the mixture, but is not exclusively made up of that congener.

(b) As of July 1, 2010, no person may offer for sale, distribute for sale, distribute for promotional purposes, or knowingly sell at retail a product containing octaBDE or pentaBDE in a concentration greater than 0.1 percent by weight.

(c) Except for inventory purchased prior to July 1, 2009, a person may not, as of July 1, 2010, manufacture, offer for sale, distribute for sale, or knowingly sell at retail the following products containing decaBDE in a concentration greater than 0.1 percent by weight:

(1) A mattress or mattress pad; or

(2) Upholstered furniture.

(d) Except for inventory purchased prior to July 1, 2009, a person may not, as of July 1, 2012, manufacture, offer for sale, distribute for sale, or knowingly sell at retail a television or computer with a plastic housing containing decaBDE in a concentration greater than 0.1 percent by weight.

(e) This section shall not apply to:

(1) the sale or resale of used products; or

(2) motor vehicles or parts for use on motor vehicles.

(f) As of July 1, 2010, a manufacturer of a product that contains decaBDE and that is prohibited under subsection (c) or (d) of this section shall notify persons that sell the manufacturer's product of the requirements of this section.

~~(g) A manufacturer shall not replace decaBDE, pursuant to this section, with a chemical that is:~~

~~(1) Classified as "known to be a human carcinogen" or "reasonably anticipated to be a human carcinogen" in the most recent report on carcinogens by the National Toxicology Program in the U.S. Department of Health and Human Services;~~

~~(2) Classified as "carcinogenic to humans" or "likely to be carcinogenic to humans" in the U.S. Environmental Protection Agency's most recent list of chemicals evaluated for carcinogenic potential; or~~

~~(3) Identified by the U.S. Environmental Protection Agency as causing birth defects, hormone disruption, or harm to reproduction or development.~~

~~(h) A violation of this section shall be deemed a violation of the Consumer Protection Act, chapter 63 of this title. The attorney general has the same authority to make rules, conduct civil investigations, enter into assurances of discontinuance, and bring civil actions, and private parties have the same rights and remedies as provided under subchapter 1 of chapter 63 of this title.~~

~~(i) In addition to any other remedies and procedures authorized by this section, the attorney general may request a manufacturer of upholstered furniture, mattresses, mattress pads, computers, or televisions offered for sale or distributed for sale in this state to provide the attorney general with a certificate of compliance with this section with respect to such products. Within 30 days of receipt of the request for a certificate of compliance, the manufacturer shall:~~

~~(1) Provide the attorney general with a certificate declaring that its product complies with the requirements of this section; or~~

~~(2) Notify persons who sell in this state a product of the manufacturer's which does not comply with this section that sale of the product is prohibited, and submit to the attorney general a list of the names and addresses of those notified.~~

~~(j) The attorney general shall consult with retailers and retailer associations in order to assist retailers in complying with the requirements of this section.~~ [Repealed.]

§ 2972. DEFINITIONS

(a) As used in this chapter:

(1) "Article" means an object that during production is given a special shape, surface, or design which determines its function to a greater degree than its chemical composition.

(2) "Brominated flame retardant" means any chemical containing the element bromine that is added to plastic, foam, or textile to inhibit flame formation.

(3) "Children's product" means a consumer product:

(A) marketed for use by children under 12 years of age; or

(B) the substantial use of which by a child under 12 years of age is reasonably foreseeable.

(4) "Commissioner" means the Commissioner of Health.

(5) "Congener" means a specific PBDE molecule.

(6) "DecaBDE" means decabromodiphenyl ether or any technical mixture in which decabromodiphenyl ether is a congener.

(7) "Flame retardant" means any chemical that is added to a plastic, foam, or textile to inhibit flame formation.

(8) "Manufacturer" means any person:

(A) who manufactures a final product containing a flame retardant regulated under this chapter; or

(B) whose brand name is affixed to a final product containing a flame retardant regulated under this chapter.

(9) "Motor vehicle" means every vehicle intended primarily for use and operation on the public highways and shall include farm tractors and other machinery used in the production, harvesting, and care of farm products.

(10) "OctaBDE" means octabromodiphenyl ether or any technical mixture in which octabromodiphenyl ether is a congener.

(11) "PBDE" means polybrominated diphenyl ether.

(12) "PentaBDE" means pentabromodiphenyl ether or any technical mixture in which pentabromodiphenyl ether is a congener.

(13) "Residential upholstered furniture" means furniture intended for personal use that includes cushioning material covered by fabric or similar material.

(14) "TCEP" means tris(2-chloroethyl) phosphate, chemical abstracts service number 115-96-8 (as of the effective date of this section).

(15) "TCPP" means tris(2-chloro-1-methylethyl) phosphate, chemical abstracts service number 13674-84-5 (as of the effective date of this section).

(16) "TDCPP" means tris(1,3-dichloro-2-propyl) phosphate, chemical abstracts service number 13674-87-8 (as of the effective date of this section).

(17) "Technical mixture" means a PBDE mixture that is sold to a manufacturer. A technical mixture is named for the predominant congener in the mixture but is not exclusively made up of that congener.

§ 2973. BROMINATED FLAME RETARDANTS; PROHIBITION

(a) As of July 1, 2010, no person may offer for sale, distribute for sale, distribute for promotional purposes, or knowingly sell at retail a product containing octaBDE or pentaBDE in a concentration greater than 0.1 percent by weight.

(b) Except for inventory purchased prior to July 1, 2009, a person may not, as of July 1, 2010, manufacture, offer for sale, distribute for sale, or knowingly sell at retail the following products containing decaBDE in a concentration greater than 0.1 percent by weight:

(1) a mattress or mattress pad; or

(2) upholstered furniture.

(c) Except for inventory purchased prior to July 1, 2009, a person may not, as of July 1, 2012, manufacture, offer for sale, distribute for sale, or knowingly sell at retail a television or computer with a plastic housing containing decaBDE in a concentration greater than 0.1 percent by weight.

(d)(1) Except as provided in subdivision (2) of this subsection, beginning July 1, 2013, no person may manufacture, sell or offer for sale, or distribute for sale or use in the State plastic shipping pallets that contain decaBDE in a concentration greater than 0.1 percent by weight.

(2) Subdivision (1) of this subsection shall not apply to the sale, lease, distribution, or use in the State of:

(A) plastic shipping pallets manufactured prior to January 1, 2011; or

(B) plastic shipping pallets manufactured from recycled shipping pallets that contain decaBDE in a concentration that is no greater than the concentration of decaBDE in the recycled pallets from which the plastic pallets were manufactured.

§ 2974. CHLORINATED FLAME RETARDANTS

(a) Except for inventory manufactured prior to January 1, 2014, no person, other than a retailer, shall, as of January 1, 2014, manufacture, offer for sale, distribute for sale, or knowingly sell in or into this State any children's product or residential upholstered furniture that contains a concentration of TCEP or TDCPP that is greater than 0.1 percent by weight in any product component.

(b) A retailer shall not, as of July 1, 2014, knowingly sell or offer for sale in or into this State any children's product or residential upholstered furniture that contains a concentration of TCEP or TDCPP that is greater than 0.1 percent by weight in any product component.

(c)(1) Notwithstanding the requirements of subsections (a) and (b) of this section, the 0.1 percent-by-weight thresholds under this section for TCEP and TDCPP shall be applied to an individual article and not to individual product components for the following:

(A) personal computers, audio and video equipment, calculators, wireless telephones, game consoles, handheld devices incorporating a screen that are used to access interactive software and their associated peripherals, and cable and other similar connecting devices; and

(B) interactive software intended for leisure and entertainment, such as computer games, and their storage media, such as compact discs.

(2) In applying the requirements of the 0.1 percent-by-weight thresholds under this section for TCEP and TDCPP to an individual article under this subsection, the Attorney General shall interpret what constitutes an "article" in a manner that is consistent with industry practices and guidance, including the European Union's Registration, Evaluation, and Restriction on Chemical Substances regulation, known as "REACH," Regulation (EC) Number 1907/2006, Art. 3(3).

§ 2975. NOTICE TO RETAILERS; DISCLOSURE OF PRODUCT CONTENT; CONSULTATION

(a) As of July 1, 2010, a manufacturer of a product that contains decaBDE and that is prohibited under subsection 2973(c) or (d) of this chapter shall notify persons that sell the manufacturer's product of the requirements of this chapter.

(b) As of July 1, 2013, a manufacturer of a product that contains TCEP or TDCPP and that is prohibited under subsection 2974(a) or (b) of this chapter shall notify persons that sell the manufacturer's product of the requirements of this chapter.

(c) As of March 31, 2014, a person other than a retailer who, since July 1, 2013, has manufactured, distributed, or sold in or into this State any product containing TCEP or TDCPP that is prohibited under subsection 2974(a) or (b) of this chapter shall notify persons who sell the manufacturer's product of the fact that the product sold to the person selling the manufacturer's product contains TCEP or TDCPP. The notification shall be sent by mail and shall notify the person selling the manufacturer's product of the concentration of

TCEP or TDCPP in the product sold in percent by weight of each product component.

(d) The Attorney General shall consult with retailers and retailer associations to assist retailers in complying with the requirements of this chapter.

§ 2976. REPLACEMENT OF REGULATED FLAME RETARDANTS

A manufacturer shall not replace decaBDE, TCEP or TDCPP with a chemical that is:

(1) classified as "known to be a human carcinogen" or "reasonably anticipated to be a human carcinogen" in the most recent report on carcinogens by the National Toxicology Program in the U.S. Department of Health and Human Services;

(2) classified as "carcinogenic to humans" or "likely to be carcinogenic to humans" in the U.S. Environmental Protection Agency's most recent list of chemicals evaluated for carcinogenic potential; or

(3) identified by the U.S. Environmental Protection Agency or National Institutes of Health as causing birth defects, hormone disruption, neurotoxicity, or harm to reproduction or development.

§ 2977. EXEMPTIONS

The requirements and prohibitions of this chapter shall not apply to:

(1) the sale or resale of used products;

(2) motor vehicles or parts for use on motor vehicles; and

(3) building insulation materials.

§ 2978. VIOLATIONS; ENFORCEMENT

A violation of this chapter shall be considered a violation of the Consumer Protection Act, chapter 63 of this title. The Attorney General has the same authority to make rules, conduct civil investigations, enter into assurances of discontinuance, and bring civil actions and private parties have the same rights and remedies as provided under subchapter 1 of chapter 63 of this title.

§ 2979. PRODUCTION OF INFORMATION

In addition to any other remedies and procedures authorized by this chapter, the Attorney General may request a manufacturer of upholstered furniture, mattresses, mattress pads, computers, televisions, children's products, or residential upholstered furniture offered for sale or distributed for sale in this State to provide the Attorney General with a certificate of compliance with this

chapter with respect to such products. Within 30 days of receipt of the request for a certificate of compliance, the manufacturer shall:

(1) provide the Attorney General with a certificate declaring that its product complies with the requirements of this chapter; or

(2) notify persons who sell in this State a product of the manufacturer's which does not comply with this chapter that sale of the product is prohibited and submit to the Attorney General a list of the names and addresses of those notified.

§ 2980. DEPARTMENT OF HEALTH RULEMAKING; TCPP

(a) The Commissioner may adopt by rule a prohibition on the manufacture, offer for sale, distribution for sale, or knowing sale at retail in or into the State of the flame retardant TCPP in children's products and residential upholstered furniture if the Commissioner determines, based on the weight of available, scientific studies, that the toxicity of TCPP and its potential exposure pathways in those products pose a significant public health risk as that term is defined in 18 V.S.A. § 2(12).

(b) The rule shall not regulate TCPP in a manner that is materially different from the requirements of sections 2972 (definitions), 2974 (chlorinated flame retardants), 2975 (notice to retailers; disclosure of product content; consultation), 2976 (replacement of regulated flame retardants), 2977 (exemptions), 2978 (violations; enforcement), and 2979 (production of information) of this title regarding the regulation of TCEP and TDCPP. The Commissioner shall adopt reasonable time frames for manufacturers, distributors, and retailers to comply with such provisions that are comparable to the time frames for the regulation of TCEP and TDCPP.

(c) A violation of a prohibition or requirement adopted by rule under this section shall be enforceable by the Attorney General under section 2978 of this title as a violation of this chapter.

(d) In addition to the public participation requirements of 3 V.S.A. chapter 25 and prior to submitting a rule authorized under this section to the Secretary of State under 3 V.S.A. § 838, the Commissioner shall make reasonable efforts to consult with interested parties within the State regarding a proposed prohibition on the manufacture, offer for sale, distribution for sale, or knowing sale at retail in the State of the flame retardant TCPP. The Commissioner may satisfy the consultation requirement of this section through the use of one or more workshops, focused work groups, dockets, meetings, or other forms of communication.

(e) A rule adopted by the Commissioner under this section shall become effective according to the following:

(1) A proposed rule filed with the Secretary of State under 3 V.S.A. § 838 on or before July 1, 2014 shall not go into effect earlier than one calendar year after the Commissioner files the adopted rule under 3 V.S.A. chapter 25.

(2) A proposed rule filed with the Secretary of State under 3 V.S.A. § 838 after July 1, 2014 shall not go into effect earlier than one calendar year after the Commissioner files the adopted rule under 3 V.S.A. chapter 25, unless the Commissioner determines that an earlier effective date is required to protect human health, the Commissioner notifies interested parties of the determination, and the new effective date is established by rule.

Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2013.

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

S. 11.

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

An act relating to the Austine School.

Was taken up for immediate consideration.

The House proposes to the Senate to amend the bill by inserting a new Sec. 2, after Sec. 1, to read as follows:

Sec. 2. SERVICE PLAN; AUSTINE SCHOOL

On or before January 15, 2014, the Secretary of Education, in consultation with the President and Board of Trustees of the Austine School, shall develop and present to the House Committees on Corrections and Institutions and on Education and the Senate Committees on Institutions and on Education a service plan to meet the needs of Vermont students served by the Austine School.

And by renumbering the remaining section to be numerically correct.

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

S. 99.

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

An act relating to the standard measure of recidivism.

Was taken up for immediate consideration.

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

First: By adding Sec. 1a to read as follows:

Sec. 1a. Sec. 22(a) of No. 179 of the Acts of the 2007 Adj. Sess. (2008), as amended by Sec. 14 of No. 157 of the Acts of the 2009 Adj. Sess. (2010), as further amended by Sec. 38 of No. 104 of the Acts of the 2011 Adj. Sess. (2012), is amended to read:

(a) Secs. 11 and 12 of this act shall take effect on July 1, ~~2013~~ 2014.

Second: By striking out Sec. 2 in its entirety and inserting in lieu thereof the following:

Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.

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

Rules Suspended; Joint Resolution Amended; Rules Suspended; Joint Resolution Adopted

J.R.H. 11.

Pending entry on the Calendar for notice, on motion of Senator Flory, the rules were suspended and Joint House resolution entitled:

Joint resolution approving a land exchange or sale in the town of Plymouth and a land transfer in the town of Grand Isle.

Was taken up for immediate consideration.

Senator Rodgers, for the Committee on Institutions, to which the joint House resolution was referred recommended that the Senate propose to the House that the resolution be amended by striking out all and inserting in lieu thereof:

Joint resolution approving a land sale in the town of Plymouth and a land transfer in the town of Grand Isle

Whereas, 29 V.S.A. § 166(b) authorizes the Commissioner of Buildings and General Services to sell state lands with the approval of the General Assembly, and

Whereas, 10 V.S.A. § 2606(b) authorizes the Commissioner of Forests, Parks and Recreation to exchange or lease certain lands with the approval of the General Assembly, and

Whereas, the General Assembly considers the following actions to be in the best interest of the State, now therefore be it

Resolved by the Senate and House of Representatives:

First: That notwithstanding the provisions of 29 V.S.A. § 166(b), the General Assembly authorizes the Department of Buildings and General Services, in consultation with the Department of Forests, Parks and Recreation, to sell a 38-acre portion of Coolidge State Forest (Coolidge parcel), in the town of Plymouth, to Markowski Excavation for the sum of $275,000.00 contingent on the following: (1) The Department of Buildings and General Services and the Department of Forests, Parks and Recreation shall each be reimbursed for all costs that each Department may incur; (2) the Coolidge parcel sold to Markowski Excavation shall not include any land that, in the opinion of the Agency of Natural Resources, includes important wildlife habitat, ecological or other significant natural resources, or outdoor recreation values; (3) the Department of Buildings and General Services shall hold a public meeting in the town of Plymouth on this proposal and gain the support of the Plymouth Selectboard for the sale; (4) upon the sale of the Coolidge parcel, Markowski Excavation shall convey to the State of Vermont a permanent access easement providing access from Route 100, across lands of Markowski Excavation, to adjacent state forestland located in the Calvin Coolidge State Forest; (5) the sale of the Coolidge parcel to Markowski Excavation shall be subject to restrictions that ensure that a 100-foot undeveloped buffer is retained around the perimeter of the parcel that abuts state forestland; (6) Markowski Excavation shall be responsible for all associated costs, including surveying, permitting, and legal; (7) Markowski Excavation shall be responsible for securing all permits and approvals necessary for any subsequent development of the Coolidge parcel; and (8) authorization to enter into this sale shall not be interpreted as state approval of any development proposal for the Coolidge parcel;

Second: That the General Assembly authorizes the Department of Forests, Parks and Recreation to convey for public outdoor recreational purposes to the town of Grand Isle a parcel of up to 23.4 acres of Grand Isle State Park, currently licensed to the town of Grand Isle. Any conveyance of this parcel to the town shall be contingent on the following: (1) the town of Grand Isle shall not further subdivide or convey the parcel to another party, or develop or use the parcel for any purposes other than public outdoor recreational purposes; (2) the State shall retain a reversionary interest in the parcel, and the parcel shall revert to state ownership should the parcel not be used for public outdoor recreational purposes; (3) the conveyance to the town of Grand Isle shall include any covenants or deed restrictions the Vermont Division for Historic Preservation deems necessary to protect potential historic or archeological

resources on the transferred parcel; (4) the National Park Service shall approve this conveyance; (5) the transfer to the town of Grand Isle shall include all responsibilities for this parcel that are associated with the federal Land and Water Conservation Fund program; and (6) the town of Grand Isle shall be responsible for all associated costs of the exchange, including surveying, permitting, and legal.

And that the joint resolution ought to be adopted in concurrence with such proposal of amendment.

Thereupon, the joint resolution was read the second time by title only pursuant to Rule 43, the proposal of amendment was agreed to, and third reading of the joint resolution was ordered.

Thereupon, on motion of Senator Campbell, the rules were suspended and the joint resolution was placed on all remaining stages of its adoption in concurrence with proposal of amendment.

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

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

H. 377.

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

An act relating to neighborhood planning and development for municipalities with designated centers.

Was taken up for immediate consideration.

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

First: In Sec. 8, 24 V.S.A. § 2793e, by striking out subsection (h) in its entirety and inserting in lieu thereof a new subsection (h) to read as follows:

(h) Alternative designation. If a municipality has completed all of the planning and assessment steps of this section but has not requested designation of a neighborhood development area, an owner of land within a neighborhood planning area may apply to the State Board for neighborhood development area designation status for a portion of land within the neighborhood planning area. The applicant shall have the responsibility to demonstrate that all of the requirements for a neighborhood development area designation have been satisfied and to notify the municipality that the applicant is seeking the

designation. The State Board shall provide the municipality with at least 14 days' prior notice of the Board's meeting to consider the application, and the municipality shall submit to the State Board the municipality's response, if any, to the application before or during that meeting. On approval of a neighborhood development area designation under this subsection, the applicant may proceed to obtain a jurisdictional opinion from the district coordinator under subsection (f) of this section in order to obtain the benefits granted to neighborhood development areas.

Second: By striking out Sec. 14a (blighted property improvement program) in its entirety

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

Rules Suspended; Bill Passed

H. 517.

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

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

Was placed on all remaining stages of its passage forthwith.

Thereupon, the bill was read the third time and passed.

Rules Suspended; Bills and Joint Resolution Messaged

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

H. 65, H. 517, H. 520, H. 536, J.R.H. 11.

Rules Suspended; Bill Committed

H. 226.

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

An act relating to the regulation of underground storage tanks.

Was taken up for immediate consideration.

Thereupon, pending the reading of the report of the Committee on Natural Resources and Energy and Finance, Senator MacDonald moved that Senate

Rule 49 be suspended in order to commit the bill to the Committee on Appropriations with the report of the Committee on Natural Resources and Energy and Finance *intact*,

Which was agreed to.

Message from the House No. 66

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

Mr. President:

I am directed to inform the Senate that:

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

S. 61. An act relating to alcoholic beverages.

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 adopted joint resolution of the following title:

J.R.H. 12. Joint resolution expressing concern regarding the public policy implications of the proposed Trans-Pacific Partnership Agreement.

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

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

H. 169. An act relating to relieving employers' experience-rating records.

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

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

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

S. 155. An act relating to creating a strategic workforce development needs assessment and strategic plan.

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

Rep. Kupersmith of South Burlington
Rep. Marcotte of Coventry
Rep. Young of Glover

Adjournment

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

FRIDAY, MAY 10, 2013

The Senate was called to order by the President.

Devotional Exercises

A moment of silence was observed in lieu of devotions.

Committee of Conference Appointed

S. 4.

An act relating to concussions and school athletic activities.

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

Senator Sears
Senator Benning
Senator McCormack

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

Joint Resolution Referred

J.R.S. 31.

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

By Senators Lyons, Ashe, Mullin, and Starr,

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

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

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

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

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

Whereas, in 1992, Congress amended the Natural Gas Act, Pub.L. No. 102-486, including 15 U.S.C. § 717b(c), and

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

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

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

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

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

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

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

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

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

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

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

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

Resolved by the Senate and House of Representatives:

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

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

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

Joint Resolution Referred

J.R.H. 12.

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

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

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

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

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

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

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

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

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

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

Whereas, according to a TPPA analysis from Georgetown Law's Harrison Institute for Public Law (Harrison Institute), if the TPPA follows the model of other free trade agreements, the threats to domestic control of tobacco regulations would include: (1) increased rights for foreign investors to challenge regulations outside domestic courts; (2) new rights to use elements of a tobacco product's trademarks; (3) expansion of the use of trade rules that

limit regulation of tobacco-related services such as advertising, distribution, and display of products; and (4) new obligations to involve tobacco companies in policy-making, and

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

Whereas, the Harrison Institute's analysis finds that the USTR proposal is problematic because the proposed TPPA exception for health-related tobacco regulations would not cover: (1) statutory provisions; (2) enforcement of regulations adopted before the TPPA takes effect; (3) regulations that nonhealth regulatory authorities adopt; and (4) investment and trade rules that are currently being used to challenge tobacco controls, and

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

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

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

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

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

Resolved by the Senate and House of Representatives:

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

pharmaceutical pricing, and the use of place names in products, and be it further

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

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

Bill Passed in Concurrence with Proposal of Amendment

H. 515.

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

An act relating to miscellaneous agricultural subjects.

Further Proposal of Amendment; Bill Passed in Concurrence with Proposal of Amendment

H. 521.

House bill entitled:

An act relating to making miscellaneous amendments to education law.

Was taken up.

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

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

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

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

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

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

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

(6) the Secretary of Education or designee; and

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

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

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

And by renumbering the remaining subdivision to be numerically correct.

Which was agreed to.

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

* * * Data Collection * * *

Sec. 34. INSTRUCTIONAL HOURS; DATA COLLECTION

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

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

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

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

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

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

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

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

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

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

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

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

S. 82.

House proposal of amendment to Senate bill entitled:

An act relating to campaign finance law.

Was taken up.

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

Sec. 1. FINDINGS

The General Assembly finds that:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(18) This act is necessary in order to implement more fully the provisions of Article 8 of Chapter I of the Constitution of the State of Vermont, which declares "That all elections ought to be free and without corruption, and that all voters, having a sufficient, evident, common interest with, and attachment to the community, have a right to elect officers, and be elected into office, agreeably to the regulations made in this constitution."

Sec. 2. REPEAL

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

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

CHAPTER 61. CAMPAIGN FINANCE

Subchapter 1. General Provisions

§ 2901. DEFINITIONS

As used in this chapter:

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

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

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

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

(2) "Candidate's committee" means the candidate's campaign staff, whether paid or unpaid.

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

(A) the name of the candidate appears;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(D) is limited to:

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

(ii) the offices sought;

(iii) the offices currently held by the candidates;

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

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

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

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

(13) "Political party" means a political party organized under chapter 45 of this title and any committee established, financed, maintained, or controlled by the party, including any subsidiary, branch, or local unit thereof, and shall

be considered a single, unified political party. The national affiliate of the political party shall be considered a separate political party.

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

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

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

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

§ 2902. EXCEPTIONS

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

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

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

§ 2903. PENALTIES

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

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

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

§ 2904. CIVIL INVESTIGATION

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

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

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

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

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

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

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

(2) Any person who, with intent to avoid, evade, or prevent compliance, in whole or in part, with any civil investigation under this section, removes from any place; conceals, withholds, or destroys; or mutilates, alters, or by any other means falsifies any documentary material in the possession, custody, or control of any person subject to such notice or mistakes or conceals any information shall be fined not more than $5,000.00.

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

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

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

§ 2905. ADJUSTMENTS FOR INFLATION

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

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

election cycles. On or before the beginning of each second subsequent two-year general election cycle, the Secretary shall publish the amount of each adjusted monetary amount that shall apply for that two-year general election cycle and the next two-year general election cycle.

§ 2906. CAMPAIGN DATABASE; CANDIDATE INFORMATION WEB PAGE

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

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

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

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

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

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

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

(b) Candidate information web page.

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

(2) Without making any substantive changes in the material presented, the Secretary shall prepare a candidate information web page on the Secretary's website, which includes the candidates' photographs, biographies, and position statements; a brief explanation of the process used to obtain candidate submissions; and, with respect to offices for which public financing is available, an indication of which candidates are receiving Vermont

campaign finance grants and which candidates are not receiving Vermont campaign finance grants.

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

§ 2907. ADMINISTRATION

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

Subchapter 2. Registration and Maintenance Requirements

§ 2921. CANDIDATES; REGISTRATION; CHECKING ACCOUNT; TREASURER

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

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

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

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

and the name and address of the treasurer responsible for maintaining the checking account.

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

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

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

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

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

(b) All expenditures by a political party or its subsidiary, branch, or local unit shall be paid by either a credit card or a debit card, check, or other electronic transfer from the single campaign checking account in the bank designated by the political party, subsidiary, branch, or local unit under subsection (a) of this section, or if under $250.00, the political party,

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

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

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

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

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

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

(2) contributed to a charity;

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

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

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

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

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

(2) A candidate who rolls over surplus contributions into a new campaign account shall be required to file a new bank designation form only if

there has been a change in the treasurer or the location of the campaign account.

§ 2925. POLITICAL COMMITTEES; SURPLUS CAMPAIGN FUNDS

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

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

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

(2) contributed to a charity;

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

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

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

Subchapter 3. Contribution Limitations

§ 2941. LIMITATIONS OF CONTRIBUTIONS

In any two-year general election cycle:

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

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

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

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

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

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

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

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

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

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

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

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

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

(A) $5,000.00 from a single source;

(B) $5,000.00 from a political committee; or

(C) $5,000.00 from a political party.

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

(A) $5,000.00 from a single source;

(B) $5,000.00 from a political committee; or

(C) $30,000.00 from a political party.

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

§ 2942. EXCEPTIONS

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

§ 2943. LIMITATIONS ADJUSTED FOR INFLATION

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

§ 2944. ACCOUNTABILITY FOR RELATED EXPENDITURES

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

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

(c)(1) An expenditure made by a political party or by a political committee that recruits or endorses candidates that primarily benefits six or fewer

candidates who are associated with the political party or political committee making the expenditure is presumed to be a related expenditure made on behalf of those candidates, except that the acquisition, use, or dissemination of the images of those candidates by the political party or political committee shall not be presumed to be a related expenditure made on behalf of those candidates.

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

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

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

(B) the expenditure was made for:

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

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

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

(2) For the purposes of this subsection:

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

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

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

(2) Within 24 hours of the filing of a petition, the court shall schedule the petition for hearing. Except as to cases the court considers of greater

importance, proceedings before the superior court, as authorized by this section, and appeals therefrom take precedence on the docket over all other cases and shall be assigned for hearing and trial or for argument at the earliest practicable date and expedited in every way.

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

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

§ 2945. ACCEPTING CONTRIBUTIONS

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

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

§ 2946. CANDIDATE'S ATTRIBUTION TO PREVIOUS CYCLE

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

§ 2947. CONTRIBUTIONS FROM A CANDIDATE OR IMMEDIATE FAMILY

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

§ 2948. PROHIBITION ON TRANSFERRING CONTRIBUTIONS

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

make a contribution with the explicit or implicit understanding that the contribution will be transferred in violation of this section.

§ 2949. USE OF TERM "CANDIDATE"

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

Subchapter 4. Reporting Requirements; Disclosures

§ 2961. SUBMISSION OF REPORTS TO THE SECRETARY OF STATE

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

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

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

§ 2962. REPORTS; GENERAL PROVISIONS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a)(1) Each candidate for state office, the General Assembly, and a two-year-term county office who has made expenditures or accepted contributions of $500.00 or more during a two-year general election cycle and, except as provided in subsection (b) of this section, each political committee that has made expenditures or accepted contributions of $500.00 or more in the current two-year general election cycle and each political party required to register under section 2923 of this chapter shall file with the Secretary of State campaign finance reports as follows:

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

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

(i) on March 15;

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

(iii) on September 1;

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

(v) two weeks after the general election.

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

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

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

(I) on March 15;

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

(III) on September 1;

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

(V) two weeks after the general election.

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

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

(b) A political committee or a political party which has accepted contributions or made expenditures of $1,000.00 or more in any two-year general election cycle for the purpose of influencing a local election or supporting or opposing one or more candidates in a local election shall file with the Secretary of State campaign finance reports regarding that election 30 days before, 10 days before, and two weeks after the local election.

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

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

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

§ 2966. REPORTS BY CANDIDATES NOT REACHING MONETARY REPORTING THRESHOLD

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

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

or accepted contributions of $500.00 or more during the four-year general election cycle.

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

(a) In addition to any other reports required to be filed under this chapter, a candidate for state office or for the General Assembly who accepts a monetary contribution in an amount over $2,000.00 within 10 days of a primary or general election shall report the contribution to the Secretary of State within 24 hours of receiving the contribution.

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

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

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

§ 2968. CAMPAIGN REPORTS; LOCAL CANDIDATES

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

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

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

§ 2969. REPORTING OF SURPLUS

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

§ 2970. CAMPAIGN REPORTS; OTHER ENTITIES; PUBLIC QUESTIONS

Any formal or informal committee of two or more individuals or a corporation, labor organization, public interest group, or other entity, not including a political party, which makes expenditures of $1,000.00 or more in any two-year general election cycle for the purpose of advocating a position on a public question in any election shall file a report of its expenditures 30 days before, 10 days before, and two weeks after the election with the Secretary of State.

§ 2971. REPORT OF MASS MEDIA ACTIVITIES

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

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

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

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

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

§ 2972. IDENTIFICATION IN ELECTIONEERING COMMUNICATIONS

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

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

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

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

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

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

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

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

Subchapter 5. Public Financing Option

§ 2981. DEFINITIONS

As used in this subchapter:

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

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

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

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

§ 2982. FILING OF VERMONT CAMPAIGN FINANCE AFFIDAVIT

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

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

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

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

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

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

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

§ 2983. VERMONT CAMPAIGN FINANCE GRANTS; CONDITIONS

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

contributions totaling $2,000.00 or more or by making expenditures totaling $2,000.00 or more.

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

(1) not solicit, accept, or expend any contributions except qualifying contributions, Vermont campaign finance grants, and contributions authorized under section 2985 of this chapter, which contributions may be solicited, accepted, or expended only in accordance with the provisions of this subchapter;

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

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

§ 2984. QUALIFYING CONTRIBUTIONS

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

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

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

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

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

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

§ 2985. VERMONT CAMPAIGN FINANCE GRANTS; AMOUNTS; TIMING

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

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

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

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

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

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

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

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

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

(f) If the Secretary of State Services Fund contains insufficient revenues to provide Vermont campaign finance grants to all candidates under this section, the available funds shall be distributed proportionately among all qualifying candidates. If grants are reduced under this subsection, a candidate may solicit and accept additional contributions equal to the amount of the difference between the amount of the Vermont campaign finance grants authorized and the amount received under this section. Additional contributions authorized under this subsection shall be governed by the provisions of sections 2941 and 2983 of this chapter.

§ 2986. MONETARY AMOUNTS ADJUSTED FOR INFLATION

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

Sec. 4. EVALUATION OF 2014 PRIMARY AND GENERAL ELECTIONS

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

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

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

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

Sec. 6. INTERIM REPORTING; METHOD OF REPORTING

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

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

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

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

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

Sec. 7. EFFECTIVE DATES; TRANSITIONAL PROVISIONS

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

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

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

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

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

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

Roll Call

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

The Senator who voted in the negative was: Galbraith.

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

Message from the House No. 67

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

Mr. President:

I am directed to inform the Senate that:

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

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

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

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

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

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

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

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

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

Rules Suspended; Consideration Postponed

H. 534.

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

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

Was taken up for immediate consideration.

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

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

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

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

Third Reading Ordered

H. 535.

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

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

Reported that the bill ought to pass in concurrence.

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

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

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

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

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

Thereupon, third reading of the bill was ordered.

House Proposals of Amendment Concurred In

S. 7.

House proposal of amendment to Senate bill entitled:

An act relating to social networking privacy protection.

Was taken up.

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

* * * Social Networking Privacy Protection Study * * *

Sec. 1. SOCIAL NETWORKING PRIVACY PROTECTION STUDY COMMITTEE

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

(b) The Committee shall examine:

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

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

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

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

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

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

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

(3) the Attorney General or designee;

(4) the Commissioner of Labor or designee;

(5) the Commissioner of Financial Regulation or designee;

(6) the Commissioner of Human Resources or designee;

(7) the Commissioner of Public Safety or designee;

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

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

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

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

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

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

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

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

CHAPTER 120. BAD FAITH ASSERTIONS OF PATENT INFRINGEMENT

§ 4195. LEGISLATIVE FINDINGS AND STATEMENT OF PURPOSE

(a) The General Assembly finds that:

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

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

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

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

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

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

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

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

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

§ 4196. DEFINITIONS

In this chapter:

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

(2) "Target" means a Vermont person:

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

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

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

§ 4197. BAD FAITH ASSERTIONS OF PATENT INFRINGEMENT

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

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

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

(A) the patent number;

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

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

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

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

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

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

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

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

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

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

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

(9) Any other factor the court finds relevant.

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

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

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

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

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

(5) The person is:

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

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

(6) The person has:

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

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

(7) Any other factor the court finds relevant.

§ 4198. BOND

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

§ 4199. ENFORCEMENT; REMEDIES; DAMAGES

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

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

(1) equitable relief;

(2) damages;

(3) costs and fees, including reasonable attorney's fees; and

(4) exemplary damages in an amount equal to $50,000.00 or three times the total of damages, costs, and fees, whichever is greater.

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

* * * Effective Date * * *

Sec. 3. EFFECTIVE DATE

This act shall take effect on passage.

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

S. 132.

House proposal of amendment to Senate bill entitled:

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

Was taken up.

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

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

§ 367. DEPARTMENT OF STATE'S ATTORNEYS AND SHERIFFS

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

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

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

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

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

(e) [Repealed.]

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

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

S. 148.

House proposal of amendment to Senate bill entitled:

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

Was taken up.

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

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

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

* * *

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

* * *

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

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

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

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

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

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

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

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

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

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

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

* * *

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

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

Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2013.

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

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

Bill Ordered to Lie

S. 165.

Senate bill entitled:

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

Was taken up.

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

Pages Honored

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

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

Adjournment

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

Afternoon

The Senate was called to order by the President.

Committee of Conference Appointed

S. 148.

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

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

Senator White
Senator Benning
Senator Sears

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

Bill Referred to Committee on Appropriations

H. 270.

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

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

Bill Referred

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

H. 543.

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

To the Committee on Rules.

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

S. 61.

House proposal of amendment to Senate bill entitled:

An act relating to alcoholic beverages.

Was taken up.

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

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

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

§ 2. DEFINITIONS

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

* * *

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

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

* * *

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

* * *

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

* * *

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

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

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

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

§ 222a. LIMITED FIRST CLASS LICENSE

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

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

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

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

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

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

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

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

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

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

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

§ 231. FEES FOR LICENSES; DISPOSITION OF FEES

(a) The following fees shall be paid:

* * *

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

* * *

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

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

* * *

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

* * *

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

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

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

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

* * *

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

* * *

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

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

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

* * *

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

Fifth: By adding Sec. 6a to read to read as follows:

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

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

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

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

* * *

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

Rules Suspended; Bills Messaged

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

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

Rules Suspended; Proposals of Amendment; Third Reading Ordered

H. 295.

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

An act relating to technical tax changes.

Was taken up for immediate consideration.

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

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

Sec. 12. [Deleted.]

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

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

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

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

(i) income from United States government obligations;

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

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

* * *

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

* * * Health Insurance Claims Tax * * *

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

CHAPTER 243. HEALTH CARE CLAIMS TAX

§ 10401. DEFINITIONS

As used in this section:

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

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

§ 10402. HEALTH CARE CLAIMS TAX

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

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

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

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

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

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

§ 10403. ADMINISTRATION OF TAX

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

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

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

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

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

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

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

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

* * *

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

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

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

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

§ 10301. HEALTH IT-FUND

* * *

(c) Into the fund shall be deposited:

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

* * *

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

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

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

§ 10301. HEALTH IT-FUND

* * *

(c) Into the fund shall be deposited:

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

* * *

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

§ 10402. HEALTH CARE CLAIMS TAX

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

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

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

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

* * *

Sec. 43. REPEAL

8 V.S.A. § 4089l (health care claims assessment) is repealed on July 1, 2013.

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

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

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

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

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

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

And by renumbering the remaining section to be numerically correct

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

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

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

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

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

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

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

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

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

Roll Call

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

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

Those Senators who voted in the negative were: None.

The Senator absent and not voting was: Campbell.

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

Sec. 18b. H-2A PAYMENTS

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

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

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

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

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

Roll Call

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

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

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

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

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

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

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

Roll Call

Those Senators who voted in the affirmative were: Baruth, Benning, Cummings, Doyle, Fox, French, MacDonald, McAllister, McCormack, Nitka, Pollina, Rodgers, Starr, Westman, White, Zuckerman.

Those Senators who voted in the negative were: Ashe, Bray, Collins, Flory, Galbraith, Hartwell, Kitchel, Lyons, Mazza, Mullin, Sears, Snelling.

Those Senators absent and not voting were: Ayer, Campbell.

Thereupon, Senator Zuckerman, moved that the Senate propose to the House that the bill be amended as follows:

First: By adding Secs. 7a–7c to read as follows:

* * * Cigarette and Snuff Taxes * * *

Sec. 7a. 32 V.S.A. § 7771 is amended to read:

§ 7771. RATE OF TAX

* * *

(d) The tax imposed under this section shall be at the rate of ~~131~~ 171 mills per cigarette or little cigar and for each 0.0325 ounces of roll-your-own tobacco. The interest and penalty provisions of section 3202 of this title shall apply to liabilities under this section.

Sec. 7b. 32 V.S.A. § 7811 is amended to read:

§ 7811. IMPOSITION OF TOBACCO PRODUCTS TAX

There is hereby imposed and shall be paid a tax on all other tobacco products, snuff, and new smokeless tobacco possessed in the State of Vermont by any person for sale on and after July 1, 1959 which were imported into the State or manufactured in the State after that date, except that no tax shall be imposed on tobacco products sold under such circumstances that this State is without power to impose such tax, or sold to the United States, or sold to or by a voluntary unincorporated organization of the Armed Forces of the United States operating a place for the sale of goods pursuant to regulations promulgated by the appropriate executive agency of the United States. The tax is intended to be imposed only once upon the wholesale sale of any other tobacco product and shall be at the rate of 92 percent of the wholesale price for all tobacco products except snuff, which shall be taxed at ~~$1.87~~ $2.85 per ounce, or fractional part thereof, new smokeless tobacco, which shall be taxed at the greater of ~~$1.87~~ $2.85 per ounce or, if packaged for sale to a consumer in a package that contains less than 1.2 ounces of the new smokeless tobacco, at the rate of ~~$2.24~~ $3.42 per package, and cigars with a wholesale price greater than $2.17, which shall be taxed at the rate of $2.00 per cigar if the wholesale price of the cigar is greater than $2.17 and less than $10.00, and at the rate of $4.00 per cigar if the wholesale price of the cigar is $10.00 or more. Provided, however, that upon payment of the tax within 10 days, the distributor or dealer may deduct from the tax two percent of the tax due. It shall be presumed that

all other tobacco products, snuff, and new smokeless tobacco within the State are subject to tax until the contrary is established and the burden of proof that any other tobacco products, snuff, and new smokeless tobacco are not taxable hereunder shall be upon the person in possession thereof. Licensed wholesalers of other tobacco products, snuff, and new smokeless tobacco shall state on the invoice whether the price includes the Vermont tobacco products tax.

Sec. 7c. 32 V.S.A. § 7814 is amended to read:

§ 7814. FLOOR STOCK TAX

(a) Snuff. A floor stock tax is hereby imposed upon every retailer of snuff in this ~~state~~ State in the amount by which the new tax exceeds the amount of the tax already paid on the snuff. The tax shall apply to snuff in the possession or control of the retailer at 12:01 a.m. ~~o'clock~~ on July 1, ~~2006~~ 2013, but shall not apply to retailers who hold less than $500.00 in wholesale value of such snuff. Each retailer subject to the tax shall, on or before July 25, ~~2006~~ 2013 file a report to the ~~commissioner~~ Commissioner in such form as the ~~commissioner~~ Commissioner may prescribe showing the snuff on hand at 12:01 a.m. ~~o'clock~~ on July 1, ~~2006~~ 2013, and the amount of tax due thereon. The tax imposed by this section shall be due and payable on or before ~~August 25, 2006~~ July 25, 2013, and thereafter shall bear interest at the rate established under section 3108 of this title. In case of timely payment of the tax, the retailer may deduct from the tax due two percent of the tax. Any snuff with respect to which a floor stock tax has been imposed and paid under this section shall not again be subject to tax under section 7811 of this title.

(b) Cigarettes, little cigars, or roll-your-own tobacco. Notwithstanding the prohibition against further tax on stamped cigarettes, little cigars, or roll-your-own tobacco under section 7771 of this title, a floor stock tax is hereby imposed upon every dealer of cigarettes, little cigars, or roll-your-own tobacco in this ~~state~~ State who is either a wholesaler, or a retailer who at 12:01 a.m. on July 1, ~~2011,~~ 2013 has more than 10,000 cigarettes or little cigars or who has $500.00 or more of wholesale value of roll-your-own tobacco, for retail sale in his or her possession or control. The amount of the tax shall be the amount by which the new tax exceeds the amount of the tax already paid for each cigarette, little cigar, or roll-your-own tobacco in the possession or control of the wholesaler or retailer at 12:01 a.m. on July 1, ~~2011~~ 2013, and on which cigarette stamps have been affixed before July 1, ~~2011~~ 2013. A floor stock tax is also imposed on each Vermont cigarette stamp in the possession or control of the wholesaler at 12:01 a.m. on July 1, ~~2011~~ 2013, and not yet affixed to a cigarette package, and the tax shall be at the rate of ~~$0.38~~ $0.80 per stamp. Each wholesaler and retailer subject to the tax shall, on

or before July 25, ~~2011~~ 2013, file a report to the ~~commissioner~~ Commissioner in such form as the ~~commissioner~~ Commissioner may prescribe showing the cigarettes, little cigars, or roll-your-own tobacco and stamps on hand at 12:01 a.m. on July 1, ~~2011~~ 2013, and the amount of tax due thereon. The tax imposed by this section shall be due and payable on or before July 25, ~~2011,~~ 2013 and thereafter shall bear interest at the rate established under section 3108 of this title. In case of timely payment of the tax, the wholesaler or retailer may deduct from the tax due two and three-tenths of one percent of the tax. Any cigarettes, little cigars, or roll-your-own tobacco with respect to which a floor stock tax has been imposed under this section shall not again be subject to tax under section 7771 of this title.

Second: By adding a Sec. 7d to read as follows:

Sec. 7d. 33 V.S.A. § 1812 is added to read:

§ 1812. FINANCIAL ASSISTANCE TO INDIVIDUALS

(a)(1) An individual or family eligible for federal premium tax credits under 26 U.S.C. § 36B with income less than or equal to 300 percent of federal poverty level shall be eligible for premium assistance from the State of Vermont.

(2) The Department of Vermont Health Access shall establish a premium schedule on a sliding scale based on modified adjusted gross income for the individuals and families described in subdivision (1) of this subsection. The Department shall reduce the premium contribution for these individuals and families by 1.5 percent below the premium amount established in 26 U.S.C. § 36B.

(3) Premium assistance shall be available for the same qualified health benefit plans for which federal premium tax credits are available.

(b)(1) An individual or family with income at or below 300 percent of the federal poverty guideline shall be eligible for cost-sharing assistance, including a reduction in the out-of-pocket maximums established under Section 1402 of the Affordable Care Act.

(2) The Department of Vermont Health Access shall establish cost-sharing assistance on a sliding scale based on modified adjusted gross income for the individuals and families described in subdivision (1) of this subsection. Cost-sharing assistance shall be established as follows:

(A) for households with income at or below 150 percent of the federal poverty level (FPL): 94 percent actuarial value;

(B) for households with income above 150 percent FPL and at or below 200 percent FPL: 87 percent actuarial value;

(C) for households with income above 200 percent FPL and at or below 250 percent FPL: 87 percent actuarial value;

(D) for households with income above 250 percent FPL and at or below 300 percent FPL: 78 percent actuarial value.

(3) Cost-sharing assistance shall be available for the same qualified health benefit plans for which federal cost-sharing assistance is available and administered using the same methods as set forth in Section 1402 of the Affordable Care Act.

(c) To the extent feasible, the Department shall use the same mechanisms provided in the Affordable Care Act to establish financial assistance under this section in order to minimize confusion and complication for individuals, families, and health insurers.

Third: In Sec. 46 (effective dates), by adding a subsection (10) to read as follows:

(10) Sec. 7a through 7d shall take effect July 1, 2013.

Thereupon, pending the question, Shall the Senate propose to the House to amend the bill as moved by Senator Zuckerman? Senator Galbraith raised a *point of order* under Sec. 402 of Mason's Manual of Legislative Procedure on the grounds that the proposal of amendment offered by Senator Zuckerman in the *second* proposal of amendment was *not germane* to the bill and therefore could not be considered by the Senate.

Thereupon, the President *sustained* the point of order and ruled that the proposal of amendment offered by Senator Zuckerman in the *second* proposal of amendment was *not germane* to the bill as it was not a tax provision but rather an expenditure of funds provision.

The President thereupon declared that the *second* proposal of amendment offered by Senator Zuckerman could *not* be considered by the Senate and the proposal of amendment was ordered stricken.

Thereupon, Senator Sears, moved the bill be ordered to lie.

Which was disagreed to.

Thereupon, pending the question, Shall the Senate propose to the House that the bill be amended as moved by Senator Zuckerman?, Senator Zuckerman requested and was granted leave to withdraw the proposal of amendment.

Thereupon, Senators Kitchel and MacDonald, moved that the Senate propose to the House that the bill be amended by adding a Sec. 30a to read as follows:

Sec. 30a. 32 V.S.A. § 3802(18) is added to read:

(18) Any parcel of land that provides public access to public waters, as defined in 10 V.S.A. § 1422(6), and that is also:

(A) owned by the Town of Hardwick and located in Greensboro, Vermont; or

(B) owned by the Town of Thetford and located in Fairlee, Vermont, and West Fairlee, Vermont.

And in Sec. 46 by adding a subsection (10) to read:

(10) Sec. 30a (water access) of this act shall take effect on January 1, 2014.

Which was agreed to.

Thereupon, Senator Rodgers, moved that the Senate propose to the House that the bill be amended by adding Sec. 43a to read as follows:

Sec.43a. 32 V.S.A. § 3201(8) is added to read:

§ 3201. ADMINISTRATION OF TAXES

(a) In the administration of taxes, the ~~commissioner~~ Commissioner may:

* * *

(9) When the Commissioner determines that a class of taxpayers has a common compliance problem or a common question about compliance with this title, the Commissioner shall exercise his or her discretion under this section to waive any past liability, penalty, or interest for taxpayers within that class. The Commissioner's decision to grant or deny relief under this subsection is final and not subject to subsequent review.

Thereupon, the question, Shall the Senate propose to the House to amend the bill as recommended by Senator Rodgers?, Senator Rodgers requested and was granted leave to withdraw the proposal of amendment.

Thereupon, third reading of the bill was ordered.

Committees of Conference Appointed

S. 61.

An act relating to alcoholic beverages.

Was taken up. Pursuant to the request of the Senate, the President announced the appointment of

Senator Mullin
Senator Baruth
Senator Cummings

as members of the Committee of Conference on the part of the Senate to consider the disagreeing votes of the two Houses.

S. 82.

An act relating to campaign finance law.

Was taken up. Pursuant to the request of the Senate, the President announced the appointment of

Senator White
Senator French
Senator Westman

as members of the Committee of Conference on the part of the Senate to consider the disagreeing votes of the two Houses.

Rules Suspended; Bills Messaged

On motion of Senator Baruth, the rules were suspended, and the following bills were severally ordered messaged to the House forthwith:

S. 4, S. 61, S. 82.

Rules Suspended; Action Messaged

On motion of Senator Baruth, the rules were suspended, and the action on the following bills was ordered messaged to the House forthwith:

S. 7, S. 132.

Recess

On motion of Senator Baruth the Senate recessed until 4:45 P.M..

Called to Order

The Senate was called to order by the President.

Recess

On motion of Senator Baruth the Senate recessed until 5:15 P.M.

Called to Order

The Senate was called to order by the President.

Message from the House No. 68

A message was received from the House of Representatives by Ms. H. Gwynn Zakov, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has considered bills originating in the Senate of the following titles:

S. 20. An act relating to increasing the statute of limitations for certain sex offenses against children.

S. 129. An act relating to workers' compensation liens.

S. 156. An act relating to home visiting standards.

S. 157. An act relating to modifying the requirements for hemp production in the State of Vermont.

And has passed the same in concurrence with proposals of amendment in the adoption of which the concurrence of the Senate is requested.

Pursuant to the request of the Senate for a Committee of Conference upon the disagreeing votes of the two Houses on Senate bill of the following title:

S. 148. An act relating to criminal investigation records and the Vermont Public Records Act.

The Speaker has appointed as members of such committee on the part of the House:

Rep. Lippert of Hinesburg
Rep. Grad of Moretown
Rep. Koch of Barre Town

Appointments Confirmed

The following Gubernatorial appointments were confirmed separately by the Senate, upon full reports given by the Committees to which they were referred:

Spaulding, George (Jeb) of Montpelier - Secretary, Administration, Agency of – March 1, 2013, to February 28, 2015.

Boes, Richard of Montpelier - Commissioner, Information and Innovation, Department of – March 1, 2013, to February 28, 2015.

Reardon, James of Essex Junction - Commissioner, Finance and Management, Department of - March 1, 2013, to February 28, 2015.

Appointments Confirmed

Under suspension of the rules (and particularly, Senate Rule 93), as moved by Senator White, the following Gubernatorial appointments were confirmed together as a group by the Senate, without reports given by the Committees to which they were referred and without debate:

Marzec-Gerrior, Mary of Pittsford - Member, Human Rights Commission – April 18, 2013, to February 28, 2018.

Fraser, Richard of South Ryegate - Member, Community High School of Vermont Board – April 18, 2013, to February 29, 2016.

Perrin, Mark of Middlebury - Member, Education, State Board of – April 18, 2013, to February 28, 2019.

Consideration Resumed; Third Reading Ordered

H. 534.

Consideration was resumed on House bill entitled:

An act relating to approval of amendments to the charter of the City of Winooski.

Thereupon, the recurring question, Shall the bill be read the third time?, was decided in the affirmative.

Appointments Confirmed

The following Gubernatorial appointments were confirmed separately by the Senate, upon full reports given by the Committees to which they were referred:

Pallito, Andrew of Jericho - Commissioner, Corrections, Department of – March 1, 2013, to January 15, 2015.

Duffy, Kate of Williston - Commissioner, Human Resources, Department of – March 1, 2013, to February 28, 2015.

Message from the House No. 69

A message was received from the House of Representatives by Ms. H. Gwynn Zakov, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has considered Senate proposals of amendment to the following House bills:

H. 26. An act relating to technical corrections.

H. 405. An act relating to manure management and anaerobic digesters.

And has severally concurred therein.

The House has considered a bill originating in the Senate of the following title:

S. 152. An act relating to the Green Mountain Care Board's rate review authority.

And has passed the same in concurrence with proposal of amendment in the adoption of which the concurrence of the Senate is requested.

The House has considered Senate proposal of amendment to House proposal of amendment to Senate bill of the following title:

S. 31. An act relating to prohibiting a court from consideration of interests in revocable trusts or wills when making a property settlement in a divorce proceeding.

And has concurred therein.

The House has considered Senate proposal of amendment to House bill of the following title:

H. 515. An act relating to miscellaneous agricultural subjects.

And has severally concurred therein with a further proposal of amendment thereto, in the adoption of which the concurrence of the Senate is requested.

The House has considered Senate proposal of amendment to House bill of the following title:

H. 522. An act relating to strengthening Vermont's response to opioid addiction and methamphetamine abuse.

And has severally concurred therein with a further proposal of amendment thereto, in the adoption of which the concurrence of the Senate is requested.

Pursuant to the request of the Senate for a Committee of Conference upon the disagreeing votes of the two Houses on Senate bill of the following title:

S. 4. An act relating to concussions and school athletic activities.

The Speaker has appointed as members of such committee on the part of the House:

Rep. Donovan of Burlington
Rep. Christie of Hartford
Rep. Rachelson of Burlington.

Pursuant to the request of the Senate for a Committee of Conference upon the disagreeing votes of the two Houses on Senate bill of the following title:

S. 61. An act relating to alcoholic beverages.

The Speaker has appointed as members of such committee on the part of the House:

Rep. Head of South Burlington
Rep. Stevens of Waterbury
Rep. O'Sullivan of Burlington.

Pursuant to the request of the Senate for a Committee of Conference upon the disagreeing votes of the two Houses on Senate bill of the following title:

S. 82. An act relating to campaign finance law.

The Speaker has appointed as members of such committee on the part of the House:

Rep. Evans of Essex
Rep. Martin of Wolcott
Rep. Consejo of Sheldon.

The House has considered Senate proposal of amendment to House proposal of amendment to Senate bill entitled:

S. 150. An act relating to miscellaneous amendments to laws related to motor vehicles.

And has refused to concur therein and asks for a Committee of Conference upon the disagreeing votes of the two Houses.

The Speaker appointed as members of such Committee on the part of the House:

Rep. Brennan of Colchester
Rep. Potter of Clarendon
Rep. Koch of Barre Town.

The House has adopted House concurrent resolutions of the following titles:

H.C.R. 141. House concurrent resolution honoring Dr. Kevin Daniel Crowley.

H.C.R. 142. House concurrent resolution honoring Bennington College President Elizabeth Coleman for her visionary academic leadership and scholarship.

H.C.R. 143. House concurrent resolution congratulating the Brattleboro Museum & Art Center on its 40th anniversary.

H.C.R. 144. House concurrent resolution honoring the military valor of the Shores brothers in defending the Union during the Civil War.

H.C.R. 145. House concurrent resolution recognizing the importance for U.S. military personnel of the award-winning documentary film *The Invisible War*.

H.C.R. 146. House concurrent resolution honoring Dianne Jaquith for her exemplary career at the Barstow Memorial School in Chittenden.

H.C.R. 147. House concurrent resolution honoring Stafford Technical Center Director Lyle Jepson on being named the 2013 Technical Director of the Year.

H.C.R. 148. House concurrent resolution commemorating the opening of the new Adult Intensive Unit at the Brattleboro Retreat in partnership with the Department of Mental Health.

H.C.R. 149. House concurrent resolution in memory of retired Vermont State Police Sgt. Harold Ackerman.

H.C.R. 150. House concurrent resolution congratulating Mikaela Shiffrin on her international alpine ski racing achievements.

H.C.R. 151. House concurrent resolution congratulating the Bennington Rural Fire Department on its 60th anniversary.

H.C.R. 152. House concurrent resolution congratulating the Green Street School 2012 Vermont State Spelling Bee championship team.

H.C.R. 153. House concurrent resolution congratulating the Bennington Children's Chorus on its silver anniversary.

H.C.R. 154. House concurrent resolution congratulating the 2013 South Burlington High School Rebels Division I championship boys' ice hockey team.

H.C.R. 155. House concurrent resolution congratulating the Vermont Shamrocks on winning the New England and National 2013 USA Hockey Tier II-U16 championships.

H.C.R. 156. House concurrent resolution congratulating the Lake Champlain Committee on its 50th anniversary.

H.C.R. 157. House concurrent resolution commemorating the bicentennial anniversary of the birth of Stephen A. Douglas, Brandon's most famous native son.

H.C.R. 158. House concurrent resolution designating the week of May 5–11 as Vermont Organ Donor Awareness Week in honor of Jason Perry and Christian Stromberg.

H.C.R. 159. House concurrent resolution congratulating the Puffer United Methodist Church of Morrisville on its bicentennial anniversary.

H.C.R. 160. House concurrent resolution honoring John Hasen on his outstanding career as an attorney dedicated to serving the public.

H.C.R. 161. House concurrent resolution honoring the civic and community leadership of the Montagne family of St. Albans.

H.C.R. 162. House concurrent resolution designating May 13–19, 2013 as American Craft Beer Week in Vermont and celebrating Gregfest.

H.C.R. 163. House concurrent resolution honoring Patricia Rocheleau Harper for her outstanding work on the restoration of the House committee rooms.

H.C.R. 164. House concurrent resolution congratulating the Plainfield Fire Department on its centennial anniversary.

H.C.R. 165. House concurrent resolution honoring the retiring educators and support staff in the Southwest Vermont Supervisory Union.

H.C.R. 166. House concurrent resolution honoring the Civil War-era musical drama *Ransom* on its professional premiere as the opening production of Lost Nation Theater's 25th anniversary season.

H.C.R. 167. House concurrent resolution honoring Robert Stannard on his retirement as a legislative lobbyist.

H.C.R. 168. House concurrent resolution commemorating the placement of an historic marker at the Rutland fairgrounds honoring aviation pioneer George Schmitt.

H.C.R. 169. House concurrent resolution congratulating the Pittsford Fire Department on its 65th anniversary.

H.C.R. 170. House concurrent resolution honoring the Giancola family for their foresight in the transformation of the Howe Scale Company to the Howe Center.

H.C.R. 171. `House concurrent resolution congratulating Windsor High School boys' Basketball Coach Harry Ladue on his induction into the New England Basketball Hall of Fame.

H.C.R. 172. House concurrent resolution honoring the Joslin Memorial Library in Waitsfield on the occasion of its 100th anniversary.

In the adoption of which the concurrence of the Senate is requested.

The House has considered concurrent resolutions originating in the Senate of the following titles:

S.C.R. 25. Senate concurrent resolution designating May 7, 2013 as Senior Center Awareness Day.

S.C.R. 26. Senate concurrent resolution honoring Charles Browne for his extraordinary leadership of the Fairbanks Museum & Planetarium..

S.C.R. 27. Senate concurrent resolution honoring Hanford Biron for exemplary public service in the town of Norton.

And has adopted the same in concurrence.

Senate Concurrent Resolutions

The following joint concurrent resolutions, having been placed on the consent calendar on the preceding legislative day, and no Senator having requested floor consideration as provided by the Joint Rules of the Senate and House of Representatives, were severally adopted on the part of the Senate:

By Senators Collins and McAllister,

By Representative Consejo,

S.C.R. 25.

Senate concurrent resolution designating May 7, 2013 as Senior Center Awareness Day.

By Senators Kitchel and Benning,

By Representative Fay and others,

S.C.R. 26.

Senate concurrent resolution honoring Charles Browne for his extraordinary leadership of the Fairbanks Museum & Planetarium..

By Senators Rodgers and Starr,

By Representative Johnson,

S.C.R. 27.

Senate concurrent resolution honoring Hanford Biron for exemplary public service in the town of Norton.

House Concurrent Resolutions

The following joint concurrent resolutions having been placed on the consent calendar on the preceding legislative day, and no Senator having requested floor consideration as provided by the Joint Rules of the Senate and House of Representatives, were severally adopted in concurrence:

By Representatives Donahue and Lewis,

By Senators Doyle, Cummings and Pollina,

H.C.R. 141.

House concurrent resolution honoring Dr. Kevin Daniel Crowley.

By Representative Campion and others,

By Senators Hartwell and Sears,

H.C.R. 142.

House concurrent resolution honoring Bennington College President Elizabeth Coleman for her visionary academic leadership and scholarship.

By Representative Stuart and others,

H.C.R. 143.

House concurrent resolution congratulating the Brattleboro Museum & Art Center on its 40th anniversary.

By Representative Quimby and others,

By Senators Benning, Kitchel, Rodgers and Starr,

H.C.R. 144.

House concurrent resolution honoring the military valor of the Shores brothers in defending the Union during the Civil War.

By Representative O'Sullivan and others,

H.C.R. 145.

House concurrent resolution recognizing the importance for U.S. military personnel of the award-winning documentary film *The Invisible War*.

By Representative Gallivan,

H.C.R. 146.

House concurrent resolution honoring Dianne Jaquith for her exemplary career at the Barstow Memorial School in Chittenden.

By Representative Cupoli and others,

By Senators Flory, French and Mullin,

H.C.R. 147.

House concurrent resolution honoring Stafford Technical Center Director Lyle Jepson on being named the 2013 Technical Director of the Year.

By Representative Stuart and others,

H.C.R. 148.

House concurrent resolution commemorating the opening of the new Adult Intensive Unit at the Brattleboro Retreat in partnership with the Department of Mental Health.

By Representative Quimby and others,

By Senators Benning, Kitchel, Rodgers and Starr,

H.C.R. 149.

House concurrent resolution in memory of retired Vermont State Police Sgt. Harold Ackerman.

By All Members of the House,

H.C.R. 150.

House concurrent resolution congratulating Mikaela Shiffrin on her international alpine ski racing achievements.

By Representative Morrissey and others,

By Senators Hartwell and Sears,

H.C.R. 151.

House concurrent resolution congratulating the Bennington Rural Fire Department on its 60th anniversary.

By Representative Toleno and others,

H.C.R. 152.

House concurrent resolution congratulating the Green Street School 2012 Vermont State Spelling Bee championship team.

By Representative Morrissey and others,

By Senators Hartwell and Sears,

H.C.R. 153.

House concurrent resolution congratulating the Bennington Children's Chorus on its silver anniversary.

By Representative Pugh and others,

H.C.R. 154.

House concurrent resolution congratulating the 2013 South Burlington High School Rebels Division I championship boys' ice hockey team .

By Representative Till and others,

H.C.R. 155.

House concurrent resolution congratulating the Vermont Shamrocks on winning the New England and National 2013 USA Hockey Tier II-U16 championships.

By Representative Webb and others,

By Senators Lyons, Ashe, Ayer, Baruth, Benning, Bray, Doyle, Fox, French, Galbraith, Hartwell, MacDonald, Mazza, McAllister, Pollina, Rodgers, Snelling, Westman and Zuckerman,

H.C.R. 156.

House concurrent resolution congratulating the Lake Champlain Committee on its 50th anniversary.

By Representatives Carr and Shaw,

By Senators Flory, French and Mullin,

H.C.R. 157.

House concurrent resolution commemorating the bicentennial anniversary of the birth of Stephen A. Douglas, Brandon's most famous native son.

By Representatives Partridge and Trieber,

H.C.R. 158.

House concurrent resolution designating the week of May 5–11 as Vermont Organ Donor Awareness Week in honor of Jason Perry and Christian Stromberg.

By Representative Martin and others,

H.C.R. 159.

House concurrent resolution congratulating the Puffer United Methodist Church of Morrisville on its bicentennial anniversary.

By Representative Deen and others,

By Senators Hartwell and Lyons,

H.C.R. 160.

House concurrent resolution honoring John Hasen on his outstanding career as an attorney dedicated to serving the public.

By Representative Dickinson,

H.C.R. 161.

House concurrent resolution honoring the civic and community leadership of the Montagne family of St. Albans.

By Representative Martin and others,

By Senators Campbell, McCormack and Nitka,

H.C.R. 162.

House concurrent resolution designating May 13–19, 2013 as American Craft Beer Week in Vermont and celebrating Gregfest.

By Committee on Corrections and Institutions,

H.C.R. 163.

House concurrent resolution honoring Patricia Rocheleau Harper for her outstanding work on the restoration of the House committee rooms.

By Representative Ancel,

H.C.R. 164.

House concurrent resolution congratulating the Plainfield Fire Department on its centennial anniversary.

By Representative Mook and others,

By Senators Hartwell and Sears,

H.C.R. 165.

House concurrent resolution honoring the retiring educators and support staff in the Southwest Vermont Supervisory Union.

By Representative Jewett and others,

H.C.R. 166.

House concurrent resolution honoring the Civil War-era musical drama *Ransom* on its professional premiere as the opening production of Lost Nation Theater's 25th anniversary season.

By Representatives Jewett and Taylor,

H.C.R. 167.

House concurrent resolution honoring Robert Stannard on his retirement as a legislative lobbyist.

By Representative Russell,

H.C.R. 168.

House concurrent resolution commemorating the placement of an historic marker at the Rutland fairgrounds honoring aviation pioneer George Schmitt.

By Representatives Shaw and Carr,

By Senators Flory, French and Mullin,

H.C.R. 169.

House concurrent resolution congratulating the Pittsford Fire Department on its 65th anniversary.

By Representative Russell,

H.C.R. 170.

House concurrent resolution honoring the Giancola family for their foresight in the transformation of the Howe Scale Company to the Howe Center.

By Representatives Sweaney and Bartholomew,

By Senators Campbell, McCormack and Nitka,

H.C.R. 171.

`House concurrent resolution congratulating Windsor High School boys' Basketball Coach Harry Ladue on his induction into the New England Basketball Hall of Fame.

By Representatives Greshin and Grad,

By Senators Cummings, Doyle and Pollina,

H.C.R. 172.

House concurrent resolution honoring the Joslin Memorial Library in Waitsfield on the occasion of its 100th anniversary.

Adjournment

On motion of Senator Campbell, the Senate adjourned, to reconvene on Monday, May 13, 2013, at ten o'clock in the forenoon.

MONDAY, MAY 13, 2013

The Senate was called to order by the President.

Devotional Exercises

A moment of silence was observed in lieu of devotions.

Pledge of Allegiance

The President then led the members of the Senate in the pledge of allegiance.

Committee of Conference Appointed

H. 377.

An act relating to neighborhood planning and development for municipalities with designated centers.

Was taken up. Pursuant to the request of the House, the President announced the appointment of

Senator Mullin
Senator Cummings
Senator Collins

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. 150.

An act relating to miscellaneous amendments to laws related to motor vehicles.

Was taken up. Pursuant to the request of the House, the President announced the appointment of

Senator Mazza
Senator Flory
Senator Campbell

as members of the Committee of Conference on the part of the Senate to consider the disagreeing votes of the two Houses.

Bill Passed in Concurrence

House bill of the following title:

H. 534. An act relating to approval of amendments to the charter of the City of Winooski.

Was taken up.

Thereupon, the bill was read the third time and pending the question, Shall the bill pass in concurrence?, Senator Sears moved that the rules be suspended to offer an amendment after third reading.

Which was disagreed to on a roll call, Yeas 3, Nays 19.

Senator Ayer having demanded the yeas and nays, they were taken and are as follows:

Roll Call

Those Senators who voted in the affirmative were: Campbell, Galbraith, Sears.

Those Senators who voted in the negative were: Ashe, Ayer, Baruth, Benning, Collins, Cummings, Doyle, Flory, French, Lyons, MacDonald, Mazza, McCormack, Mullin, Nitka, Pollina, Snelling, Westman, White.

Those Senators absent and not voting were: Bray, Fox, Hartwell, Kitchel, McAllister, Rodgers, Starr, Zuckerman.

Thereupon, the question, Shall the bill pass in concurrence?, was decided in the affirmative on a roll call, Yeas 20, Nays 5.

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, Ayer, Baruth, Benning, Bray, Cummings, Doyle, Flory, French, Galbraith, Kitchel, Lyons, MacDonald, Mazza, McCormack, Nitka, Pollina, Snelling, Starr, White.

Those Senators who voted in the negative were: Campbell, Collins, Mullin, Sears, Westman.

Those Senators absent and not voting were: Fox, Hartwell, McAllister, Rodgers, Zuckerman.

Bill Passed in Concurrence

H. 535.

House bill of the following title was read the third time and passed in concurrence:

An act relating to the approval of the adoption and to the codification of the charter of the Town of Woodford.

Proposal of Amendment; Third Reading Ordered

H. 523.

Senator Ashe, for the Committee on Judiciary, to which was referred House bill entitled:

An act relating to jury questionnaires, the filing of foreign child custody determinations, court fees, and judicial record keeping.

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:

Sec. 1. 4 V.S.A. § 955 is amended to read:

§ 955. QUESTIONNAIRE

The clerk shall send a jury questionnaire prepared by the ~~court administrator~~ Court Administrator to each person selected. When returned, it shall be retained in the ~~superior court clerk's office~~ Office of the Superior Court Clerk. ~~The questionnaire shall at all times during business hours be open to inspection by the court and attorneys of record of the state of Vermont.~~ Pursuant to section 952 of this title, the Court Administrator shall promulgate rules governing the inspection and availability of the juror questionnaires and the information contained in them.

Sec. 2. 15 V.S.A. § 1085 is amended to read:

§ 1085. REGISTRATION OF CHILD CUSTODY DETERMINATION

* * *

(b) On receipt of the documents required by subsection (a) of this section, the ~~court administrator~~ Family Division shall:

(1) ~~cause the determination to be filed~~ send the certified copy of the determination to the Court Administrator who shall file it as a foreign judgment~~, together with one copy of any accompanying documents and information, regardless of their form~~; and

* * *

Sec. 3. 32 V.S.A. § 1431 is amended to read:

§ 1431. FEES IN SUPREME AND SUPERIOR COURTS

* * *

(2) Prior to the entry of any divorce or annulment proceeding in the ~~superior court~~ Superior Court, there shall be paid to the ~~clerk of the court~~ Clerk of the Court for the benefit of the state a fee of $250.00 in lieu of all other fees not otherwise set forth in this section. If the divorce or annulment complaint is filed with a stipulation for a final order ~~acceptable to the court~~, the fee shall be $75.00 if one or both of the parties are residents, and $150.00 if neither party is a resident, except that if the stipulation is not acceptable to the Court or if a matter previously agreed to becomes contested, the difference between the full fee and the reduced fee shall be paid to the Court prior to the issuance of a final order.

(3) Prior to the entry of any parentage or desertion and support proceeding brought under 15 V.S.A. chapter 5 ~~of Title 15~~ in the ~~superior court~~ Superior Court, there shall be paid to the ~~clerk of the court~~ Clerk of the Court for the benefit of the ~~state~~ State a fee of $100.00 in lieu of all other fees not otherwise set forth in this section~~; however, if~~. If the parentage or desertion and support complaint is filed with a stipulation for a final order acceptable to the ~~court~~ Court, the fee shall be $25.00 except that if the stipulation is not acceptable to the Court or if a matter previously agreed to becomes contested, the difference between the full fee and the reduced fee shall be paid to the Court prior to the issuance of a final order.

(4) Prior to the entry of any motion or petition to enforce ~~an~~ a final order for parental rights and responsibilities, parent-child contact, property division, or maintenance in the ~~superior court~~ Superior Court, there shall be paid to the ~~clerk of the court~~ Clerk of the Court for the benefit of the ~~state~~ State a fee of $75.00 in lieu of all other fees not otherwise set forth in this section. Prior to the entry of any motion or petition to vacate or modify ~~an~~ a final order for parental rights and responsibilities, parent-child contact, or maintenance in the ~~superior court~~ Superior Court, there shall be paid to the ~~clerk of the court~~ Clerk of the Court for the benefit of the ~~state~~ State a fee of $100.00 in lieu of all other fees not otherwise set forth in this section. However, if the motion or petition is filed with a stipulation for an order ~~acceptable to the court~~, the fee shall be $25.00~~. All motions or petitions filed by one party at one time shall be assessed one fee~~ except that if the stipulation is not acceptable to the Court or if a matter previously agreed to becomes contested, the difference between the full fee and the reduced fee shall be paid to the Court prior to the issuance of a final order. All motions or petitions filed by one party under this subsection at one time shall be assessed one fee equal to the highest of the filing fees associated with the motions or petitions involved. There are no filing fees for prejudgment motions or petitions filed before a final divorce, legal separation, dissolution of civil union, parentage, desertion, or nonsupport judgment issued.

(5) Prior to the entry of any motion or petition to vacate or modify an order for child support in the ~~superior court~~ Superior Court, there shall be paid to the ~~clerk of the court~~ Clerk of the Court for the benefit of the ~~state~~ State a fee of $35.00 in lieu of all other fees not otherwise set forth in this section~~; however, if~~. If the motion or petition is filed with a stipulation for an order ~~acceptable to the court~~, there shall be no fee except that if the stipulation is not acceptable to the Court or if a matter previously agreed to becomes contested, the difference between the full fee and the reduced fee shall be paid to the Court prior to the issuance of a final order. A motion or petition to enforce an order for child support shall require no fee. All motions or petitions filed by one party at one time shall be assessed one fee; if a simultaneous motion is

filed by a party under subdivision (4) of this subsection, the fee under subdivision (4) shall be the only fee assessed. There are no filing fees for prejudgment motions or petitions filed before a final divorce, legal separation, dissolution of civil union, parentage, desertion, or nonsupport judgment has issued.

(6) Prior to the registration in Vermont of a child custody determination issued by a court of another state, there shall be paid to the Clerk of the Court for the benefit of the State a fee of $75.00 unless the request for registration is filed with a simultaneous motion for enforcement, in which event the fee for registration shall be $30.00 in addition to the fee for the motion as provided in subdivision (4) of this subsection.

* * *

(d) Prior to the entry of any subsequent pleading which sets forth a claim for relief in the supreme court or the superior court, there shall be paid to the clerk of the court for the benefit of the state a fee of $100.00 for every appeal, cross-claim, or third-party claim and a fee of $75.00 for every counterclaim in the superior court in lieu of all other fees not otherwise set forth in this section. The fee for an appeal of a magistrate's decision in the superior court shall be $100.00. The filing fee for civil suspension proceedings filed pursuant to 23 V.S.A § 1205 shall be $75.00, which shall be taxed in the bill of costs in accordance with sections 1433 and 1471 of this title. This subsection does not apply to filing fees in the Family Division, except with respect to the fee for an appeal of a magistrate's decision.

(e) Prior to the filing of any postjudgment motion in the ~~superior court~~ Civil, Criminal, or Environmental Division of the Superior Court, including motions to reopen civil suspensions and motions for sealing or expungement in the criminal division pursuant to 13 V.S.A. § 7602, there shall be paid to the ~~clerk of the court~~ Clerk of the Court for the benefit of the ~~state~~ State a fee of $75.00 except for small claims actions.

* * *

(h) Pursuant to Vermont Rules of Civil Procedure 3.1 or Vermont Rules of Appellate Procedure 24(a), part or all of the filing fee may be waived if the ~~court~~ Court finds that the applicant is unable to pay it. The ~~clerk of the court~~ Clerk of the Court or the clerk's designee shall establish the in forma pauperis fee in accordance with procedures and guidelines established by administrative order of the ~~supreme court~~ Supreme Court. If, during the course of the proceeding and prior to a final judgment, the Court determines that the applicant has the ability to pay all or a part of the waived fee, the Court shall require that payment be made prior to issuing a final judgment. If the applicant

fails to pay the fee within a reasonable time, the Court may dismiss the proceeding.

Sec. 4. 32 V.S.A. § 1434 is amended to read:

§ 1434. PROBATE CASES

* * *

(b) ~~For economic cause, the probate judge may waive this fee.~~ Pursuant to Rule 3.1 of the Vermont Rules of Civil Procedure, part of the filing fee may be waived if the Court finds the applicant is unable to pay it. The Court shall use procedures established in subsection 1431(h) of this title to determine the fee. No fee shall be charged for necessary documents pertaining to the opening of estates, trusts, and guardianships, including the issuance of two certificates of appointment and respective letters. No fee shall be charged for the issuance of two certified copies of adoption decree and two certified copies of instrument changing name.

* * *

Sec. 5. 4 V.S.A. § 657 is amended to read:

§ 657. TRANSCRIBING DAMAGED RECORDS

When records in the ~~court clerk's office~~ Office of the Superior Court Clerk become faded, defaced, torn, or otherwise injured, so as to endanger the permanent legibility or proper preservation of the same, ~~by an order in writing recorded in the court clerk's office, the court administrator shall~~ the Court Administrator may direct the ~~court clerk~~ Court Clerk to provide suitable books and transcribe such records therein. At the end of a transcript of record so made, the ~~clerk~~ Clerk shall certify under official signature and the seal of the ~~court~~ Court that the same is a true transcript of the original record. Such transcript or a duly certified copy thereof shall be entitled to the same faith and credit and have the same force as the original record. The expense of making such transcript shall be paid by the ~~state~~ State.

Sec. 6. 4 V.S.A. § 659 is amended to read:

§ 659. PRESERVATION OF COURT RECORDS

(a) The ~~supreme court~~ Supreme Court by administrative order may provide for permanent preservation of all court records by any photographic or electronic or comparable process ~~which will provide compact records in reduced size,~~ in accordance with standards ~~established by the secretary of state which~~ that shall be no less protective of the records than the standards established by the state archives and records administration programs that take

into account the quality and security of the records, and ready access to the record of any cause so recorded.

(b) After preservation in accordance with subsection (a) of this section, the ~~supreme court~~ Supreme Court by administrative order may provide for the disposition of original court records by destruction or in cases where the original court record may have historical or intrinsic value by transfer to the archives of the ~~secretary of state, the Vermont historical society, or the University of Vermont~~ Secretary of State.

Sec. 7. 4 V.S.A. § 732 is amended to read:

§ 732. LOST ~~WRIT OR COMPLAINT-FILING OF NEW PAPERS~~ DOCUMENT OR RECORD

When ~~the writ or complaint~~ a court document, record, or file in an action pending in court is lost, mislaid, or destroyed, the court~~, on written motion for that purpose,~~ may order a ~~writ or a complaint for the same cause of action~~ duplicate document, record, or file to be filed under such ~~regulations~~ conditions as the court prescribes~~, and the same proceedings shall be had thereon as though it were the original writ or complaint. If the plaintiff refuses to file such writ or complaint, the court shall direct a nonsuit in the action, and tax costs for the defendant~~. A duplicate document or record shall have the same validity and may be used in evidence in the same manner as the original document, record, or file.

Sec. 8. 4 V.S.A. § 740 is amended to read:

§ 740. COURT RECORDS; DOCKETS; CERTIFIED COPIES

The ~~supreme court~~ Supreme Court by administrative order or directive shall provide for the preparation, maintenance, recording, indexing, docketing, preservation, and storage of all court records and the provision, subject to confidentiality requirements of law or court rules, of certified copies of those records to persons requesting them.

Sec. 9. 12 V.S.A. § 5 is amended to read:

§ 5. DISSEMINATION OF ELECTRONIC CASE RECORDS

(a) The court shall not permit public access via the Internet to criminal or family case records. The court may permit criminal justice agencies, as defined in 20 V.S.A. § 2056a, Internet access to criminal case records for criminal justice purposes, as defined in section 2056a.

(b) This section shall not be construed to prohibit the court from providing electronic access to:

(1) court schedules of the superior court, or opinions of the criminal division of the superior court; ~~or~~

(2) state agencies in accordance with data dissemination contracts entered into under Rule 6 of the Vermont Rules of Electronic Access to Court Records; or

(3) decisions, recordings of oral arguments, briefs, and printed cases of the Supreme Court.

Sec. 10. 4 V.S.A. § 908 is amended to read:

§ 908. ATTORNEYS' ADMISSION, LICENSING, AND PROFESSIONAL RESPONSIBILITY SPECIAL FUND

There is established the attorneys' admission, licensing, and professional responsibility special fund which shall be managed in accordance with 32 V.S.A. chapter 7, subchapter 5. Fees collected for licensing of attorneys, administration of the bar examination, admitting attorneys to practice in Vermont, and administration of mandatory continuing legal education shall be deposited and credited to this fund. This fund shall be available to the ~~judicial branch~~ Judicial Branch to offset the cost of operating the ~~professional responsibility board~~ Professional Responsibility Board, the ~~board of bar examiners~~ Board of Bar Examiners, the ~~judicial conduct board~~ Judicial Conduct Board, the ~~committee on character and fitness~~ Committee on Character and Fitness, the mandatory continuing legal education program for attorneys and, at the discretion of the ~~supreme court~~ Supreme Court, to make grants for access to justice programs or to the Vermont ~~bar foundation~~ Bar Foundation to be used to support legal services for the disadvantaged.

Sec. 11. 13 V.S.A. § 7030 is amended to read:

§ 7030. SENTENCING ALTERNATIVES

(a)(1) In determining which of the following should be ordered, the court shall consider the nature and circumstances of the crime, the history and character of the defendant, the need for treatment, and the risk to self, others, and the community at large presented by the defendant:

~~(1)~~(A) ~~A~~ a deferred sentence pursuant to section 7041 of this title.;

~~(2)~~(B) ~~Referral~~ referral to a community reparative board pursuant to 28 V.S.A. chapter 12 in the case of an offender who has pled guilty to a nonviolent felony, a nonviolent misdemeanor, or a misdemeanor that does not involve the subject areas prohibited for referral to a community justice center under 24 V.S.A. § 1967. Referral to a community reparative board pursuant to this subdivision does not require the court to place the offender on probation. The offender shall return to court for further sentencing if the reparative board

does not accept the case or if the offender fails to complete the reparative board program to the satisfaction of the board in a time deemed reasonable by the board.;

(3)(C) Probation probation pursuant to 28 V.S.A. § 205.;

(4)(D) Supervised supervised community sentence pursuant to 28 V.S.A. § 352.; or

(5)(E) Sentence sentence of imprisonment.

(2)(A) In determining a sentence upon conviction for a nonviolent misdemeanor or a nonviolent felony, in addition to the factors identified in subdivision (1) of this subsection, the court shall consider the approximate financial cost of available sentences.

(B) The Department of Corrections shall develop and maintain a database on the approximate costs of sentences, including incarceration, probation, deferred sentence, supervised community sentence, participation in the Restorative Justice Program, and any other possible sentence. The database information shall be made available to the courts for the purposes of this subdivision (2).

(b) When ordering a sentence of probation, the court may require participation in the restorative justice program Restorative Justice Program established by 28 V.S.A. chapter 12 as a condition of the sentence.

Sec. 12. 13 V.S.A. § 15 is added to read:

§ 15. NONVIOLENT MISDEMEANOR AND NONVIOLENT FELONY DEFINED

As used in this title:

(1) "Nonviolent felony" means a felony offense which is not a listed crime as defined in section 5301 of this title or an offense listed in chapter 64 of this title (sexual exploitation of children).

(2) "Nonviolent misdemeanor" means a misdemeanor offense which is not a listed crime as defined in section 5301 of this title or an offense listed in chapter 64 of this title (sexual exploitation of children) or section 1030 of this title (violation of a protection order).

Sec. 13. 13 V.S.A. § 353 is amended to read:

§ 353. DEGREE OF OFFENSE; SENTENCING UPON CONVICTION

(a) Penalties.

* * *

(4)(A) Except as provided in subdivision (B) of this subdivision (4), a person found in violation of subdivision 352(3), (4), or (9) of this title pursuant to this subdivision shall be imprisoned not more than one year or fined not more than $2,000.00, or both. Second and subsequent convictions shall be punishable by a sentence of imprisonment of not more than two years or a fine of not more than $5,000.00, or both.

(B) ~~A~~ In lieu of a criminal citation or arrest, a law enforcement officer ~~shall~~ may issue a civil citation to a person who violates subdivision 352(3), (4), or (9) of this title if the person has not been previously adjudicated in violation of this chapter. A person adjudicated in violation of subdivision 352(3), (4), or (9) of this title pursuant to this subdivision shall be assessed a civil penalty of not more than $500.00. At any time prior to the person admitting the violation and paying the assessed penalty, the state's attorney may withdraw the complaint filed with the ~~judicial bureau~~ Judicial Bureau and file an information charging a violation of subdivision 352(3), (4), or (9) of this title in the ~~criminal division of the superior court~~ Criminal Division of the Superior Court.

(C) Nothing in this subdivision shall be construed to require that a civil citation be issued prior to a criminal charge of violating subdivision 352(3), (4), or (9) of this title.

* * *

Sec. 14. 13 V.S.A. § 354 is amended to read:

§ 354. ENFORCEMENT; POSSESSION OF ABUSED ANIMAL; SEARCHES AND SEIZURES; FORFEITURE

* * *

(a) The ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets shall be consulted prior to any enforcement action brought pursuant to this chapter which involves livestock and poultry.

(b) Any humane officer as defined in section 351 of this title may enforce this chapter. As part of an enforcement action, a humane officer may seize an animal being cruelly treated in violation of this chapter.

(1) Voluntary surrender. A humane officer may accept animals voluntarily surrendered by the owner anytime during the cruelty investigation. The humane officer shall have a surrendered animal examined and assessed within 72 hours by a veterinarian licensed to practice in the ~~state~~ State of Vermont.

(2) Search and seizure using a search warrant. A humane officer having probable cause to believe an animal is being subjected to cruel treatment in

violation of this subchapter may apply for a search warrant pursuant to the Rules of Criminal Procedure to authorize the officer to enter the premises where the animal is kept and seize the animal. The application and affidavit for the search warrant shall be reviewed and authorized by an attorney for the ~~state~~ State when sought by an officer other than an enforcement officer defined in 23 V.S.A. § 4(11). A veterinarian licensed to practice in Vermont must accompany the humane officer during the execution of the search warrant.

(3) Seizure without a search warrant. If the humane officer witnesses a situation in which the humane officer determines that an animal's life is in jeopardy and immediate action is required to protect the animal's health or safety, the officer may seize the animal without a warrant. The humane officer shall immediately take an animal seized under this subdivision to a licensed veterinarian for medical attention to stabilize the animal's condition and to assess the health of the animal.

(c) A humane officer shall provide suitable care at a reasonable cost for an animal seized under this section, and have a lien on the animal for all expenses incurred. A humane officer may arrange for the euthanasia of a severely injured, diseased, or suffering animal upon the recommendation of a licensed veterinarian. A humane officer may arrange for euthanasia of an animal seized under this section when the owner is unwilling or unable to provide necessary medical attention required while the animal is in custodial care or when the animal cannot be safely confined under standard housing conditions. An animal not destroyed by euthanasia shall be kept in custodial care until final disposition of the criminal charges except as provided in subsections (d) through (h) of this section. The custodial caregiver shall be responsible for maintaining the records applicable to all animals seized, including identification, residence, location, medical treatment, and disposition of the animals.

(d) If an animal is seized under this section, the ~~state may~~ State shall institute a civil proceeding for forfeiture of the animal in the territorial unit of the ~~criminal division of the superior court~~ Criminal Division of the Superior Court where the offense is alleged to have occurred. The proceeding shall be instituted by a motion for forfeiture, which shall be filed with the ~~court~~ Court and served upon the animal's owner.

(e) ~~The court shall set a hearing to be held within 21 days after institution of a forfeiture proceeding under this section~~ A preliminary hearing shall be held within 21 days of institution of the civil forfeiture proceeding. If the defendant requests a hearing on the merits, the Court shall schedule a final hearing on the merits to be held within 21 days of the date of the preliminary hearing. In no event shall a final hearing occur more than 42 days after the

date of the commencement of the civil forfeiture proceeding. Time limits under this subsection shall not be construed as jurisdictional.

(f)(1) At the hearing on the motion for forfeiture, the ~~state~~ State shall have the burden of establishing by ~~clear and convincing evidence~~ a preponderance of the evidence that the animal was subjected to cruelty, neglect, or abandonment in violation of section 352 or 352a of this title. The ~~court~~ Court shall make findings of fact and conclusions of law and shall issue a final order. ~~If the state meets its burden of proof, the motion shall be granted and the court shall order the immediate forfeiture of the animal in accordance with the provisions of subsection 353(c) of this title~~ If the Court finds for the petitioner by a preponderance of the evidence, the Court shall order immediate forfeiture of the animal to the petitioner.

(2) No testimony or other information presented by the defendant in connection with a forfeiture proceeding under this section or any information directly or indirectly derived from such testimony or other information may be used for any purpose, including impeachment and cross-examination, against the defendant in any criminal case, except a prosecution for perjury or giving a false statement.

(g)(1) If the defendant is convicted of criminal charges under this chapter or if an order of forfeiture is entered against an owner under this section, the defendant or owner shall be required to repay all reasonable costs incurred by the custodial caregiver for caring for the animal, including veterinary expenses.

(2)(A) If the defendant is acquitted of criminal charges under this chapter and a civil forfeiture proceeding under this section is not pending, an animal that has been taken into custodial care shall be returned to the defendant unless the ~~state~~ State institutes a civil forfeiture proceeding under this section within seven days of the acquittal.

(B) If the ~~court~~ Court rules in favor of the owner in a civil forfeiture proceeding under this section and criminal charges against the owner under this chapter are not pending, an animal that has been taken into custodial care shall be returned to the owner unless the ~~state~~ State files criminal charges under this section within seven days after the entry of final judgment.

(C) If an animal is returned to a defendant or owner under this subdivision, the defendant or owner shall not be responsible for the costs of caring for the animal.

(h) An order of the ~~criminal division of the superior court~~ Criminal Division of the Superior Court under this section may be appealed as a matter of right to the ~~supreme court~~ Supreme Court. The order shall not be stayed pending appeal.

(i) The provisions of this section are in addition to and not in lieu of the provisions of section 353 of this title.

(j) It is unlawful for a person to interfere with a humane officer or the ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets engaged in official duties under this chapter. A person who violates this subsection shall be prosecuted under section 3001 of this title.

Sec. 15. INCIDENT REPORTS OF ANIMAL CRUELTY

(a) The Commissioner of Public Safety, in consultation with the Vermont Center for Justice Research, shall collect data on:

(1) the number and nature of complaints or incident reports to law enforcement based on a suspected violation of 13 V.S.A. chapter 8 (humane and proper treatment of animals); and

(2) how such complaints or incidents are generally addressed, such as referral to others, investigation, civil penalties, or criminal charges.

(b) Based upon examination of the data requested in subsection (a) of this section, the Commissioner shall make recommendations to the Senate and House Committees on Judiciary on or before November 15, 2013 for improving the statewide response to complaints of animal cruelty.

Sec. 16. 4 V.S.A. § 36 is amended to read:

§ 36. COMPOSITION OF THE COURT

(a) Unless otherwise specified by law, when in session, a ~~superior court~~ Superior Court shall consist of:

(1) For cases in the ~~civil~~ Civil or ~~family division~~ Family Division, one presiding superior judge and two assistant judges, if available.

(2)(A) For cases in the ~~family division~~ Family Division, except as provided in subdivision (B) of this subdivision (2), one presiding ~~superior judge~~ judicial officer and two assistant judges, if available.

(B) The ~~family court~~ Family Division shall consist of one presiding ~~superior judge~~ judicial officer sitting alone in the following proceedings:

(i) All juvenile proceedings filed pursuant to 33 V.S.A. chapters 51, 52, and 53 ~~of Title 33~~, including proceedings involving "youthful offenders" pursuant to 33 V.S.A. § 5281, whether the matter originated in the criminal or family division of the superior court.

(ii) All protective services for developmentally disabled persons proceedings filed pursuant to 18 V.S.A. chapter 215 ~~of Title 18~~.

(iii) All mental health proceedings filed pursuant to 18 V.S.A. chapters 179, 181, and 185 ~~of Title 18~~.

(iv) All involuntary sterilization proceedings filed pursuant to 18 V.S.A. chapter 204 ~~of Title 18~~.

(v) All care for mentally retarded persons proceedings filed pursuant to 18 V.S.A. chapter 206 ~~of Title 18~~.

(vi) All proceedings specifically within the jurisdiction of the office of magistrate except child support contempt proceedings pursuant to subdivision 461(a)(1) of this title.

* * *

Sec. 17. 23 V.S.A. § 1607 is added to read:

§ 1607. AUTOMATED LICENSE PLATE RECOGNITION SYSTEMS

(a) Definitions. As used in this section:

(1) "Active data" is distinct from historical data as defined in subdivision (3) of this subsection and means data uploaded to individual automated license plate recognition system units before operation as well as data gathered during the operation of an ALPR system. Any data collected by an ALPR system shall be considered collected for a legitimate law enforcement purpose.

(2) "Automated license plate recognition system" (ALPR) means a system of one or more mobile or fixed high-speed cameras combined with computer algorithms to convert images of registration plates into computer-readable data.

(3) "Historical data" means any data collected by an ALPR system and stored on the statewide ALPR server operated by the Vermont Justice Information Sharing System of the Department of Public Safety. Any data collected by an ALPR system shall be considered collected for a legitimate law enforcement purpose. Entry of any data into the system other than data collected by the ALPR system itself must be approved by a supervisor and shall have a legitimate law enforcement purpose.

(4) "Law enforcement officer" means a state police officer, municipal police officer, motor vehicle inspector, capitol police officer, constable, sheriff, or deputy sheriff certified by the Vermont Criminal Justice Training Council as having satisfactorily completed the approved training programs required to meet the minimum training standards applicable to that person under 20 V.S.A. § 2358.

(5) "Legitimate law enforcement purpose" applies to access to active or historical data and means crime investigation, detection, and analysis or operation of AMBER alerts or missing or endangered person searches.

(6) "Vermont Information and Analysis Center Analyst" means any sworn or civilian employee who through his or her employment with the Vermont Information and Analysis Center (VTIAC) has access to secure databases that support law enforcement investigations.

(b) Operation. A Vermont law enforcement officer shall be certified in ALPR operation by the Vermont Criminal Justice Training Council in order to operate an ALPR system.

(c) Confidentiality and access to ALPR data.

(1)(A) Active ALPR data may only be accessed by a law enforcement officer operating the ALPR system who has a legitimate law enforcement purpose for the data. Entry of any data into the system other than data collected by the ALPR system itself must be approved by a supervisor and shall have a legitimate law enforcement purpose.

(B) Deployment of ALPR equipment is intended to provide access to stolen and wanted files and to further legitimate law enforcement purposes. Use of ALPR systems and access to active data are restricted to these purposes.

(C)(i) Requests to review active data shall be in writing and include the name of the requester, the law enforcement agency the requester is employed by, and the law enforcement agency's Originating Agency Identifier (ORI) number. The request shall describe the legitimate law enforcement purpose. The written request and the outcome of the request shall be transmitted to VTIAC and retained for not less than three years.

(ii) In each department operating an ALPR system, access to active data shall be limited to designated personnel who have been provided account access by the department to conduct authorized ALPR stored data queries. Access to active data shall be restricted to data collected within the past seven days.

(2) Requests for historical data, whether from Vermont or out-of-state law enforcement officers, shall be made in writing to an analyst at VTIAC. The request shall include the name of the requester, the law enforcement agency the requester is employed by, and the law enforcement agency's ORI number. The request shall describe the legitimate law enforcement purpose. VTIAC shall retain all requests as well as the outcome of the request and shall record in writing any information that was provided to the requester or why the request was denied or not fulfilled. ALPR requests shall be retained by VTIAC for not less than three years.

(d) Retention.

(1) Any ALPR information gathered by a Vermont law enforcement agency shall be sent to the Department of Public Safety to be retained pursuant to the requirements of subdivision (2) of this subsection. The Department of Public Safety shall maintain the ALPR storage system for Vermont law enforcement agencies.

(2) Except as provided in section 1608 of this title, information gathered through use of an ALPR system shall only be retained for 18 months after the date it was obtained. When the permitted 18-month period for retention of the information has expired, the Department of Public Safety and any local law enforcement agency with custody of the information shall destroy it and cause to have destroyed any copies or back-ups made of the original data. Data may be retained beyond the 18-month period pursuant to a preservation request made or disclosure order issued under section 1608 of this title, or pursuant to a warrant issued under Rule 41 of the Vermont or Federal Rules of Criminal Procedure.

(e) Oversight; rulemaking.

(1) The Department of Public Safety shall establish a review process to ensure that information obtained through the use of ALPR systems is used only for the purposes permitted by this section. The Department shall report the results of this review annually on or before January 15 to the Senate and House Committees on Judiciary and on Transportation. The report shall contain the following information based on prior calendar year data:

(A) the total number of ALPR units being operated in the State and the number of units submitting data to the statewide ALPR database;

(B) the total number of ALPR reads each agency submitted to the statewide ALPR database;

(C) the 18-month accumulative number of ALPR reads being housed on the statewide ALPR database;

(D) the total number of requests made to VTIAC for ALPR data;

(E) the total number of requests that resulted in the release of information from the statewide ALPR database;

(F) the total number of out-of-state requests; and

(G) the total number of out-of-state requests that resulted in the release of information from the statewide ALPR database.

(2) The Department of Public Safety may adopt rules to implement this section.

Sec. 18. 23 V.S.A. § 1608 is added to read:

§ 1608. PRESERVATION OF DATA

(a) Preservation request.

(1) A law enforcement agency or the Department of Motor Vehicles may apply to the Criminal Division of the Superior Court for an extension of up to 90 days of the 18-month retention period established under subdivision 1607(d)(2) of this title if the agency or Department offers specific and articulable facts showing that there are reasonable grounds to believe that the captured plate data are relevant and material to an ongoing criminal or missing persons investigation, or to a pending proceeding in the Judicial Bureau. Requests for additional 90-day extensions or for longer periods may be made to the Superior Court subject to the same standards applicable to an initial extension request under this subdivision.

(2) A governmental entity making a preservation request under this section shall submit an affidavit stating:

(A) the particular camera or cameras for which captured plate data must be preserved, or the particular license plate for which captured plate data must be preserved; and

(B) the date or dates and time frames for which captured plate data must be preserved.

(b) Captured plate data shall be destroyed on the schedule specified in section 1607 of this title if the preservation request is denied, or 14 days after the denial of the application for disclosure, whichever is later.

Sec. 19. 12 V.S.A. § 5784 is added to read:

§ 5784. VOLUNTEER ATHLETIC OFFICIALS

(a) A person providing services or assistance without compensation, except for reimbursement of expenses, in connection with the person's duties as an athletic coach, manager, or official for a sports team that is organized as a nonprofit corporation, or which is a member team in a league organized by or affiliated with a county or municipal recreation department, shall not be held personally liable for damages to a player, participant, or spectator incurred as a result of the services or assistance provided. This section shall apply to acts and omissions made during sports competitions, practices, and instruction.

(b) This section shall not protect a person from liability for damages resulting from reckless or intentional conduct, or the negligent operation of a motor vehicle.

(c) Nothing in this section shall be construed to affect the liability of any nonprofit or governmental entity with respect to harm caused to any person.

(d) Any sports team organized as described in subsection (a) of this section shall be liable for the acts and omissions of its volunteer athletic coaches, managers, and officials to the same extent as an employer is liable for the acts and omissions of its employees.

Sec. 20. 23 V.S.A. § 800 is amended to read:

§ 800. MAINTENANCE OF FINANCIAL RESPONSIBILITY

(a) No owner of a motor vehicle required to be registered, or operator required to be licensed or issued a learner's permit, shall operate or permit the operation of the vehicle upon the highways of the ~~state~~ State without having in effect an automobile liability policy or bond in the amounts of at least $25,000.00 for one person and $50,000.00 for two or more persons killed or injured and $10,000.00 for damages to property in any one accident. In lieu thereof, evidence of self-insurance in the amount of $115,000.00 must be filed with the ~~commissioner of motor vehicles~~ Commissioner of Motor Vehicles, and shall be maintained and evidenced in a form prescribed by the ~~commissioner~~ Commissioner. The ~~commissioner~~ Commissioner may require that evidence of financial responsibility be produced before motor vehicle inspections are performed pursuant to the requirements of section 1222 of this title.

(b) A person who violates this section shall be assessed a civil penalty of ~~not less than $250.00 and~~ not more than $500.00, and such violation shall be a traffic violation within the meaning of chapter 24 of this title.

Sec. 21. CHIEF DEPUTY STATE'S ATTORNEY; DESIGNATION

The designation of chief deputy state's attorney is created. A state's attorney may appoint a deputy state's attorney as the chief deputy in any state's attorney's office where there are three or more full-time deputies. A chief deputy shall be compensated at his or her existing step level or at step 9, whichever is greater.

Sec. 22. REPEAL

4 V.S.A. §§ 652 (records of judgments and other proceedings; dockets; certified copies), 655 (court accounts), 656 (index of records), 658 (Supreme Court records), 695 (accounts of court officer and reporter), 734 (copy of lost petition), 735 (record of proceedings), 736 (lost records or judgment files; recording of copy), 737 (appeal or exception), and 738 (costs for recording); 2009 Acts and Resolves No. 4, Sec. 121 (transitional provisions for merger of Bennington and Manchester probate courts); and 2009 Acts and Resolves

No. 4, Sec. 125 (transitional provisions of the consolidated probate court system) are repealed.

Sec. 23. EFFECTIVE DATES

(a) This section and Secs. 2 (registration of child custody determination) and 16 (limitations of prosecutions for certain crimes) of this act shall take effect on passage.

(b) Secs. 11 (sentencing alternatives) and 12 (definition of nonviolent misdemeanor and nonviolent felony) of this act shall take effect on March 1, 2014.

(c) The rest of this act shall take effect on July 1, 2013.

And that after passage the title of the bill be amended to read:

An act relating to court administration and procedure.

And that the bill ought to pass in concurrence with such proposal of amendment.

Senator Ashe, for the Committee on Finance, to which the bill was referred, reported recommending that the bill ought to pass in concurrence with proposal of amendment as recommended by the Committee on Judiciary.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and pending the question, Shall the Senate propose to the House to amend the bill as recommended by the Committee on Judiciary?, Senator Nitka moved to amend the proposal of amendment of the Committee on Judiciary as follows:

By striking out Sec. 21 in its entirety.

Which was agreed to.

Thereupon, the question, Shall the Senate propose to the House to amend the bill as recommended by the Committee on Judiciary, as amended?, was decided in the affirmative.

Thereupon, third reading of the bill was ordered.

Rules Suspended; Proposals of Amendment; Third Reading Ordered

H. 226.

Appearing on the Calendar for notice, on motion of Senator Baruth, the rules were suspended and House bill entitled:

An act relating to the regulation of underground storage tanks.

Was taken up for immediate consideration.

Senator MacDonald, for the Committee on Natural Resources and Energy, to which the bill was referred, reported recommending that the Senate propose to the House to amend the bill as follows::

First: Prior to Sec. 1, by inserting the following reader assistance line:

* * * Underground Storage Tanks; Petroleum Cleanup Fund * * *

Second: By striking out Sec. 10 (effective dates) in its entirety and inserting in lieu thereof five new sections to read as follows:

* * * Brownfields; Redevelopment * * *

Sec. 10. LEGISLATIVE INTENT

For the purposes of Secs. 10 through 13 of this act, it is the intent of the General Assembly that:

(1) It is appropriate to confer a limited defense to liability for hazardous material cleanup when a municipality, regional development corporation, or regional planning commission conforms to the requirements of 10 V.S.A. § 6615(d)(3), in the case of municipalities, and 10 V.S.A § 6615(d)(4).

(2) It is of vital importance for purchasers of commercial properties to conduct environmental site assessments that conform to statutorily recognized standards.

(3) In construing the defense to liability established pursuant to 10 V.S.A. § 6615(f), the courts of this State shall be guided by the construction of similar terms contained in 42 U.S.C. § 9601(35)(A)(i) and (B), as amended, and the courts of the United States.

(4) It is appropriate to confer limited defense to liability for secured lenders and fiduciaries under state law that is equivalent to liability under federal law.

(5) In construing the defense to liability established pursuant to 10 V.S.A. § 6615(g), the courts of this State will be guided by the construction of similar terms contained in 42 U.S.C. §§ 9601(20)(F) and 9607(n), as amended, and the courts of the United States.

Sec. 11. 10 V.S.A § 6602 is amended to read:

§ 6602. DEFINITIONS

For the purposes of this chapter:

(1) "Secretary" means the ~~secretary of the agency of natural resources~~ Secretary of Natural Resources, or his or her duly authorized representative.

* * *

(4) "Hazardous waste" means any waste or combination of wastes of a solid, liquid, contained gaseous, or semi-solid form, including ~~but not limited to~~ those which are toxic, corrosive, ignitable, reactive, strong sensitizers, or which generate pressure through decomposition, heat, or other means, which in the judgment of the ~~secretary~~ Secretary may cause, or contribute to, an increase in mortality or an increase in serious irreversible or incapacitating reversible illness, taking into account the toxicity of such waste, its persistence and degradability in nature, and its potential for assimilation, or concentration in tissue, and other factors that may otherwise cause or contribute to adverse acute or chronic effects on the health of persons or other living organisms, or any matter which may have an unusually destructive effect on water quality if discharged to ground or surface waters of the ~~state~~ State. All special nuclear, source, or by-product material, as defined by the Atomic Energy Act of 1954 and amendments thereto, codified in 42 U.S.C. § 2014, is specifically excluded from this definition.

* * *

(6) "Person" means any individual, partnership, company, corporation, association, unincorporated association, joint venture, trust, municipality, the ~~state~~ State of Vermont or any agency, department or subdivision of the ~~state~~ State, federal agency, or any other legal or commercial entity.

* * *

(10) "Facility" means all contiguous land, structures, other appurtenances, and improvements on the land, used for treating, storing, or disposing of waste. A facility may consist of several treatment, storage, or disposal operational units.

* * *

(13) "Waste" means a material that is discarded or is being accumulated, stored, or physically, chemically, or biologically treated prior to being discarded or has served its original intended use and is normally discarded or is a manufacturing or mining by-product and is normally discarded.

* * *

(16)(A) "Hazardous material" means all petroleum and toxic, corrosive, or other chemicals and related sludge included in any of the following:

(i) any substance defined in section 101(14) of the federal Comprehensive Environmental Response, Compensation and Liability Act of 1980;

(ii) petroleum, including crude oil or any fraction thereof; or

(iii) hazardous wastes, as determined under subdivision (4) of this section;

(B) "Hazardous material" does not include herbicides and pesticides when applied consistent with good practice conducted in conformity with federal, state, and local laws and regulations and according to manufacturer's instructions. Nothing in this subdivision shall affect the authority granted and the limitations imposed by section 6608a of this title.

(17) "Release" means any intentional or unintentional action or omission resulting in the spilling, leaking, pumping, pouring, emitting, emptying, dumping, or disposing of hazardous materials into the surface or groundwaters, or onto the lands in the ~~state~~ State, or into waters outside the jurisdiction of the ~~state~~ State when damage may result to the public health, lands, waters, or natural resources within the jurisdiction of the ~~state~~ State.

* * *

(23) "Secured lender" means a person who holds indicia of ownership in a facility, furnished by the owner or person in lawful possession, primarily to assure the repayment of a financial obligation. Such indicia include interests in real or personal property which are held as security or collateral for repayment of a financial obligation such as a mortgage, lien, security interest, assignment, pledge, surety bond, or guarantee and include participation rights, held by a financial institution solely for legitimate commercial purposes, in making or servicing loans. The term "secured lender" includes a person who acquires indicia of ownership by assignment from another secured lender.

* * *

(34) "Participation in management" means, for the purpose of subsection 6615(g) of this title, a secured lender's or fiduciary's actual participation in the management or operational affairs of a facility. It does not mean a secured lender's or fiduciary's mere capacity to influence, or unexercised right to control, facility operations. A secured lender or fiduciary shall be considered to have participated in management if the secured lender or fiduciary:

(A) exercises decision-making control over environmental compliance related to the facility, such that the secured lender or fiduciary has undertaken responsibility for hazardous materials handling or disposal practices related to the facility; or

(B) exercises control at a level comparable to that of a manager of the facility, such that the secured lender or fiduciary has assumed or manifested responsibility:

(i) for the overall management of the facility encompassing day-to-day decision making with respect to environmental compliance; or

(ii) over all or substantially all of the operational functions, as distinguished from financial or administrative functions, of the facility other than the function of environmental compliance.

(35) "Regional development corporation" means a nonprofit corporation organized in this State whose principal purpose is to promote, organize, or accomplish economic development, including providing planning and resource development services to local communities, supporting existing industry, assisting the growth and development of new and existing small businesses, and attracting industry or commerce to a particular economic region of the State.

(36) "Regional planning commission" means a planning commission created for a region established under 24 V.S.A. chapter 117, subchapter 3.

Sec. 12. 10 V.S.A. § 6615 is amended to read:

§ 6615. LIABILITY

(a) Subject only to the defenses set forth in subsections (d) and (e) of this section:

(1) the owner or operator of a facility, or both;

(2) any person who at the time of release or threatened release of any hazardous material owned or operated any facility at which such hazardous materials were disposed of;

(3) any person who by contract, agreement, or otherwise arranged for disposal or treatment, or arranged with a transporter for transport for disposal or treatment, of hazardous materials owned or possessed by such person, by any other person or entity, at any facility owned or operated by another person or entity and containing such hazardous materials; and

(4) any person who accepts or accepted any hazardous materials for transport to disposal or treatment facilities selected by such persons, from which there is a release, or a threatened release of hazardous materials shall be liable for:

(A) abating such release or threatened release; and

(B) costs of investigation, removal, and remedial actions incurred by the ~~state~~ State which are necessary to protect the public health or the environment.

* * *

(d)(1) There shall be no liability under this section for a person otherwise liable who can establish by a preponderance of the evidence that the release or threat of release of hazardous material and the damages resulting therefrom were caused solely by any of the following:

(A) an act of God;

(B) an act of war;

(C) an act or omission of a third party other than an employee or agent of the defendant, or other than one whose act or omission occurs in connection with a contractual relationship, existing directly or indirectly, with the defendant. If the sole contractual arrangement arises from a published tariff and acceptance for carriage by a common carrier by rail, for purposes of this section, there shall be considered to be no contractual relationship at all. This subdivision (d)(1)(C) shall only serve as a defense if the defendant establishes by a preponderance of the evidence:

(i) that the defendant exercised due care with respect to the hazardous material concerned, taking into consideration the characteristics of that hazardous material, in light of all relevant facts and circumstances; and

(ii) that the defendant took precautions against foreseeable acts or omissions of any such third party and the consequences that could foreseeably result from those acts or omissions; or

(D) any combination of the above.

* * *

(3) A municipality shall not be liable under subdivision (a)(1) of this section as an owner provided that the municipality can show all the following:

(A) The property was acquired by virtue of its function as sovereign through bankruptcy, tax delinquency, abandonment, or other similar circumstances.

(B) The municipality did not cause ~~or,~~ contribute ~~to the contamination of~~, or worsen a release or threatened release of a hazardous material at the property.

(C)(i) The municipality has entered into an agreement with the ~~secretary regarding sale of the property acquired or has undertaken abatement, investigation, remediation, or removal activities as required by subchapter 3 of this chapter~~ Secretary, prior to the acquisition of the property, requiring the municipality to conduct a site investigation with respect to any release or threatened release of a hazardous material and an agreement for the municipality's marketing of the property acquired.

(ii) The Secretary shall consult with the Secretary of Commerce and Community Development on the plan related to the marketing of the property.

(iii) The municipality may only assert a defense to liability after implementing a site investigation at the property acquired and taking reasonable steps defined by the agreement with the Secretary to market the property.

(iv) In developing an agreement regarding site investigation, the Secretary shall consider: the degree and extent of the known releases of hazardous materials at the property; the financial ability of the municipality; and the availability of state and federal funding when determining what is required by the agreement for the investigation of the site.

(4) A regional development corporation or regional planning commission shall not be liable under subdivision (a)(1) of this section as an owner provided that the regional development corporation or regional planning commission can show all the following:

(A) The regional development corporation or regional planning commission did not cause, contribute, or worsen a release or threat of release at the property.

(B) The regional development corporation received, in the 12 months preceding the acquisition of the property, a performance contract for economic development pursuant to 24 V.S.A. chapter 76. The requirement of this subdivision (d)(4)(B) shall not apply to regional planning commissions.

(C)(i) The regional development corporation or regional planning commission has entered into an agreement with the Secretary, prior to the acquisition of the property, requiring the regional development corporation or regional planning commission to conduct a site investigation with respect to any release or threatened release of a hazardous material and an agreement for the regional development corporation's or regional planning commission's marketing of the property acquired.

(ii) The Secretary shall consult with the Secretary of Commerce and Community Development on the plan related to the marketing of the property.

(iii) The regional development corporation or regional planning commission may only assert a defense to liability after implementing a site investigation at the property acquired and taking reasonable steps defined by the agreement to market the property.

(iv) In developing an agreement regarding site investigation, the Secretary shall consider: the degree and extent of the known releases of

hazardous materials at the property; the financial ability of the regional development corporation or the regional planning commission; and the availability of state and federal funding when determining what is required by the agreement for the investigation of the site.

(e) Any person who is the owner or operator of a facility where a release or threatened release existed at the time that person became owner or operator shall be liable unless he or she can establish by a preponderance of the evidence ~~that after making,~~ based upon a diligent and appropriate investigation of the facility~~,~~ in conformance with the requirements of section 6615a of this title, that he or she had no knowledge or reason to know that ~~said~~ the release or threatened release was located on the facility.

* * *

(g)(1) A secured lender or a fiduciary, as ~~that~~ the term fiduciary is defined in 14 V.S.A. ~~§ 204(b)~~ § 204(2), shall not, absent other circumstances resulting in liability under this section, be liable as either an owner or operator under this section merely because of any one or any combination of more than one of the following:

* * *

(J) in an emergency, requiring or undertaking activities to prevent exposure of persons to hazardous materials or to contain a release; ~~or~~

(K) requiring or conducting abatement, investigation, remediation, or removal activities in response to a release or threatened release, provided that:

(i) prior notice of intent to do any such activity is given to the ~~secretary~~ Secretary in writing, and, unless previously waived in writing by the ~~secretary~~ Secretary, no such activity is undertaken for 30 days after receipt of such notice by the ~~secretary~~ Secretary;

(ii) a workplan is prepared by a qualified consultant prior to the commencement of any such activity;

(iii) if the ~~secretary~~ Secretary, within 30 days of receiving notice as provided in subdivision (i) of this subdivision (K), elects to undertake a workplan review and gives written notice to the secured lender or fiduciary of such election, no such activity is undertaken without prior workplan approval by the ~~secretary~~ Secretary;

(iv) appropriate investigation is undertaken prior to any abatement, remediation, or removal activity;

(v) regular progress reports and a final report are produced during the course of any such activity;

(vi) all plans, reports, observations, data, and other information related to the activity are preserved for a period of 10 years and, except for privileged materials, produced to the ~~secretary~~ Secretary upon request;

(vii) persons likely to be at or near the facility are not exposed to unacceptable health risk; and

(viii) such activity complies with all rules, procedures, and orders of the secretary; or

(L) foreclosing on the facility and after foreclosure: selling; winding up operations; undertaking an investigation or corrective action under the direction of the state or federal government with respect to the facility; or taking any other measure to preserve, protect, or prepare the facility prior to sale or disposition, provided that:

(i) a secured lender shall be liable as an operator if the secured lender participated in the management of the facility; and

(ii) a secured lender shall be liable as an owner if during the course of any transaction of the property, the secured lender fails to disclose any known release or threat of release.

(2) There shall be no protection from liability for a secured lender or a fiduciary under ~~subsections (g) and (h) of this section~~ this subsection if the secured lender or fiduciary causes, worsens, or contributes to a release or threat of release of hazardous material. A secured lender or fiduciary who relies on subdivision (g)(1)(K) of this section~~, or an agreement with the secretary entered into under subsection (h) of this section~~ shall bear the burden of proving compliance with this subdivision.

~~(h)(1) Subject to the provisions of this subsection, the secretary may enter into an agreement with a secured lender or a fiduciary regarding a facility from which there is a release or threat of release of hazardous materials. Upon entering into an agreement with the secretary, a secured lender or fiduciary, to the extent allowed by the agreement and in compliance with the terms and conditions of the agreement, may:~~

~~(A) in the case of a secured lender, take possession, foreclose or otherwise take full title to the facility; and~~

~~(B) undertake other activities at the facility in addition to those of subdivisions (g)(1)(A) (K) of this section, including use of the facility and new development.~~

~~(2) Such an agreement may be entered into only when the secretary has determined, in the secretary's sole discretion, that there exists a release or threat of release, that there will be a substantial benefit to the public health or~~

~~the environment that would not otherwise be realized and that the proposed activity will not cause, worsen or contribute to a release or threat of release of hazardous materials at the facility or expose persons likely to be at or near the facility to unacceptable health risk. Prior to entering into an agreement which provides for any abatement, investigation, remediation, or removal activities to be taken by a secured lender or fiduciary in response to a release or threatened release, the secretary shall cause notice to be published in a local newspaper generally circulated in the area where the facility is located. The notice shall set forth the abatement, investigation, remediation, and removal activities proposed, shall state that the secretary is considering entering into an agreement providing for such activities, and shall request public comment on the proposed activities within 15 days after publication. The decision of the secretary as to whether an agreement should be entered into and the terms and conditions of any agreement shall be final.~~

~~(3) Such an agreement, if previously approved by the attorney general, may provide for the payment, in whole or in part, of past or future costs described in subdivision (a)(4)(B) of this section and may limit, in whole or in part, the secured lender's or the fiduciary's liability under this section.~~

~~(4) A proposal by a secured lender or fiduciary to enter into such an agreement shall be accompanied by a fee of $1,000.00. If the secretary's costs related to the proposal exceed the fee paid, then any agreement shall provide for the secured lender or fiduciary to reimburse the secretary for the additional costs incurred. The fee and any excess costs paid to the secretary under this subsection shall be deposited into the contingency fund established under subsection 1283(a) of this title.~~

~~(5) If the secured lender or fiduciary enters into an agreement with the secretary, complies with the agreement and does not cause, worsen or contribute to a release or threat of release of a hazardous material, the maximum liability of such person under this section to the state for costs or injunctive relief shall be as provided in the agreement or, in the absence of such a provision, the fair market value of the property at the time of the agreement, estimated as if there were no release or threatened release of any hazardous materials, less any costs reasonably incurred by the person for any abatement, investigation, remediation or removal activity undertaken in compliance with subdivision (g)(1)(K) of this section or incurred in compliance with the agreement.~~

* * *

Sec. 13. 10 V.S.A. § 6615a is added to read:

§ 6615a. DILIGENT AND APPROPRIATE INVESTIGATION FOR HAZARDOUS MATERIALS

(a) Except as provide for in subsection (b) of this section, a diligent and appropriate investigation, as that term is used in subsection 6615(e) of this title, means, for all properties, an investigation where an owner or operator of a property conforms to the standard developed by the Secretary by rule for a diligent and appropriate investigation. If no standard exists, the owner or operator of a property shall conform to one of the following:

(1) the all appropriate inquiry standard set forth in 40 C.F.R. Part 312, as amended; or

(2) the current standard for phase I environmental site assessments established by the American Society for Testing and Materials.

(b) In the case of residential property used for residential purposes, diligent and appropriate investigation shall mean a facility inspection and title search that:

(1) reveal no basis for further investigation; and

(2) do not reveal that the property was used for or was part of a larger parcel that was used for commercial or industrial purposes.

* * * Effective Dates * * *

Sec. 14. EFFECTIVE DATES

(a) This section and Secs. 1 through 9 (underground storage tanks; Petroleum Cleanup Fund) of this act shall take effect on passage, except Sec. 5 (petroleum tank assessment) of this act shall take effect on July 1, 2014.

(b) Secs. 10 through 13 (brownfields) of this act shall take effect on July 1, 2013.

And that the bill ought to pass in concurrence with such proposals of amendment.

Senator MacDonald, for the Committee on Finance, to which the bill was referred, reported recommending that the bill ought to pass in concurrence with proposal of amendment as recommended by the Committee on Natural Resources and Energy.

Senator Snelling, for the Committee on Appropriations, to which the bill was referred, reported recommending that the Senate propose to the House that the bill be amended as recommended by the Committee on Natural Resources and Energy with the following amendments thereto:

First: In Sec. 12, 10 V.S.A. § 6615, in subdivision (d)(3)(B), by striking out the following: "~~to the contamination of~~" and inserting in lieu thereof the following: to ~~the contamination of~~

and in subdivision (d)(3)(C)(iii), by striking out the following: "The municipality may only assert a defense to liability after" and inserting in lieu thereof the following: The municipality may assert a defense to liability only after

and in subdivision (d)(4)(A), by striking out the following: "contribute," and inserting in lieu thereof the following: contribute to,

and in subdivision (d)(4)(C)(iii), by striking out the following: "regional planning commission may only assert a defense to liability after" and inserting in lieu thereof the following: regional planning commission may assert a defense to liability only after

Second: In Sec. 13, 10 V.S.A. § 6615a, by striking out the following: "Except as provide for in subsection (b) of this section" and inserting in lieu thereof the following: Except as provided for in subsection (b) of this section

And that the bill ought to pass in concurrence with such proposals of amendment.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and the recommendation of proposal of amendment of the Committee on Natural Resources and Energy was amended as recommended by the Committee on Appropriations.

Thereupon, the proposals of amendment recommended by the Committee on Natural Resources and Energy, as amended, were agreed to and third reading of the bill was ordered.

Rules Suspended; Bills on Notice Calendar for Immediate Consideration

On motion of Senator Baruth, the rules were suspended, and the following bills and Joint resolution, appearing on the Calendar for notice, were ordered to be brought up for immediate consideration:

S. 20, S. 129, S. 130, S. 152, S. 156, S. 157, H. 240, H. 515, H. 522.

Rules Suspended; Proposal of Amendment; Third Reading Ordered

H. 262.

Appearing on the Calendar for notice, on motion of Senator Baruth, the rules were suspended and House bill entitled:

An act relating to establishing a program for the collection and recycling of paint.

Was taken up for immediate consideration.

Senator Snelling, for the Committee on Natural Resources and Energy, 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:

Sec. 1. 10 V.S.A. chapter 159, subchapter 4 is added to read:

Subchapter 4. Paint Stewardship Program

§ 6671. PURPOSE

The purpose of this subchapter is to establish an environmentally sound, cost-effective paint stewardship program in the State that will undertake responsibility for the development and implementation of strategies to reduce the generation of postconsumer paint; promote the reuse of postconsumer paint; and collect, transport, and process postconsumer paint, including reuse, recycling, energy recovery, and disposal. The paint stewardship program will follow the waste management hierarchy for managing and reducing postconsumer paint in the order as follows: reduce consumer generation of postconsumer paint, reuse, recycle, provide for energy recovery, and dispose. The paint stewardship program will provide more opportunities for consumers to manage properly their postconsumer paint; provide fiscal relief for local government in managing postconsumer paint; keep paint out of the waste stream; and conserve natural resources.

§ 6672. DEFINITIONS

As used in this subchapter:

(1) "Architectural paint" means interior and exterior architectural coatings, including interior or exterior water- and oil-based coatings, primers, sealers, or wood coatings, that are sold in containers of five gallons or less. "Architectural paint" does not mean industrial coatings, original equipment coatings, or specialty coatings.

(2) "Distributor" means a company that has a contractual relationship with one or more producers to market and sell architectural paint to retailers in Vermont.

(3) "Energy recovery" means recovery in which all or a part of the solid waste materials are processed in order to use the heat content or other forms of energy of or from the material.

(4) "Environmentally sound management practices" means policies to be implemented by a producer or a stewardship organization to ensure compliance with all applicable laws and also addressing such issues as

adequate record keeping, tracking and documenting the fate of materials within the State and beyond, and adequate environmental liability coverage for professional services and for the operations of the contractors working on behalf of the producer organization.

(5) "Municipality" means a city, town, or a village.

(6) "Paint stewardship assessment" means a one-time charge that is:

(A) added to the purchase price of architectural paint sold in Vermont;

(B) passed from the producer to the wholesale purchaser to the retailer and then to a retail consumer; and

(C) necessary to cover the cost of collecting, transporting, and processing the postconsumer paint managed through the statewide program.

(7) "Postconsumer paint" means architectural paint and its containers not used and no longer wanted by a purchaser.

(8) "Producer" means a manufacturer of architectural paint who sells, offers for sale, or distributes that paint in Vermont under the producer's own name or brand.

(9) "Recycling" means any process by which discarded products, components, and by-products are transformed into new usable or marketable materials in a manner in which the original products may lose their identity but does not include energy recovery or energy generation by means of combusting discarded products, components, and by-products with or without other waste products.

(10) "Retailer" means any person that offers architectural paint for sale at retail in Vermont.

(11) "Reuse" means the return of a product into the economic stream for use in the same kind of application as originally intended, without a change in the product's identity.

(12) "Secretary" means the Secretary of Natural Resources.

(13) "Sell" or "sale" means any transfer of title for consideration, including remote sales conducted through sales outlets, catalogues, or the Internet or any other similar electronic means.

(14) "Stewardship organization" means a nonprofit corporation or nonprofit organization created by a producer or group of producers to implement the paint stewardship program required under this subchapter.

§ 6673. PAINT STEWARDSHIP PROGRAM

(a) A producer or a stewardship organization representing producers shall submit a plan for the establishment of a paint stewardship program to the Secretary for approval by December 1, 2013. The plan shall address the following:

(1) Provide a list of participating producers and brands covered by the program.

(2) Provide specific information on the architectural paint products covered under the program, such as interior or exterior water- and oil-based coatings, primers, sealers, or wood coatings.

(3) Describe how the program proposed under the plan will collect, transport, recycle, and process postconsumer paint for end-of-life management, including recycling, energy recovery, and disposal, using environmentally sound management practices.

(4) Describe the program and how it will provide for convenient and available statewide collection of postconsumer architectural paint in urban and rural areas of the State. The producer or stewardship organization shall use the existing household hazardous waste collection infrastructure when selecting collection points for postconsumer architectural paint. A paint retailer shall be authorized as a paint collection point of postconsumer architectural paint for a paint stewardship program if the paint retailer volunteers to act as a paint collection point and complies with all applicable laws and regulations.

(5) Provide geographic information modeling to determine the number and distribution of sites for collection of postconsumer architectural paint based on the following criteria:

(A) at least 90 percent of Vermont residents shall have a permanent collection site within a 15-mile radius; and

(B) one additional permanent site will be established for every 10,000 residents of a municipality and additional sites shall be distributed to provide convenient and reasonably equitable access for residents within each municipality, unless otherwise approved by the Secretary.

(6) Establish goals to reduce the generation of postconsumer paint, to promote the reuse of postconsumer paint, and for the proper management of postconsumer paint as practical based on current household hazardous waste program information. The goals may be revised by the producer or stewardship organization based on the information collected for the annual report.

(7) Describe how postconsumer paint will be managed in the most environmentally and economically sound manner, including following the waste-management hierarchy. The management of paint under the program shall use management activities that promote source reduction, reuse, recycling, energy recovery, and disposal.

(8) Describe education and outreach efforts to inform consumers of collection opportunities for postconsumer paint and to promote the source reduction and recycling of architectural paint for each of the following: consumers, contractors, and retailers.

(b) The producer or stewardship organization shall submit a budget for the program proposed under subsection (a) of this section, and for any amendment to the plan that would affect the program's costs. The budget shall include a funding mechanism under which each architectural paint producer remits to a stewardship organization payment of a paint stewardship assessment for each container of architectural paint it sells in this State. Prior to submitting the proposed budget and assessment to the Secretary, the producer or stewardship organization shall provide the budget and assessment to a third-party auditor agreed upon by the Secretary. The third-party auditor shall provide a recommendation as to whether the proposed budget and assessment is cost-effective, reasonable, and limited to covering the cost of the program. The paint stewardship assessment shall be added to the cost of all architectural paint sold in Vermont. To ensure that the funding mechanism is equitable and sustainable, a uniform paint stewardship assessment shall be established for all architectural paint sold. The paint stewardship assessment shall be approved by the Secretary and shall be sufficient to recover, but not exceed, the costs of the paint stewardship program.

(c) Beginning no later than July 1, 2014, or three months after approval of the plan for a paint stewardship program required under subsection (a) of this section, whichever occurs later, a producer of architectural paint sold at retail or a stewardship organization of which a producer is a member shall implement the approved plan for a paint stewardship program.

(d) A producer or a stewardship organization of which a producer is a member shall promote a paint stewardship program and provide consumers with educational and informational materials describing collection opportunities for postconsumer paint statewide and promotion of waste prevention, reuse, and recycling. The educational and informational program shall make consumers aware that the funding for the operation of the paint stewardship program has been added to the purchase price of all architectural paint sold in the State.

(e) A plan approved under this section shall provide for collection of postconsumer architectural paint at no cost to the person from whom the architectural paint is collected.

(f) When a plan or amendment to an approved plan is submitted under this section, the Secretary shall make the proposed plan or amendment available for public review and comment for at least 30 days.

(g) A producer or paint stewardship organization shall submit to the Secretary for review, in the same manner as required under subsection 6675(a) of this title, an amendment to an approved plan when there is:

(1) a change to a paint stewardship assessment under the plan;

(2) an addition to or removal of a category of products covered under the program; or

(3) a revision of the product stewardship organization's goals.

(h) A plan approved by the Secretary under section 6675 of this title shall have a term not to exceed five years, provided that the producer remains in compliance with the requirements of this chapter and the terms of the approved plan.

(i) In addition to the requirements specified in subsection (a) of this section, a stewardship organization shall notify the Secretary in writing within 30 days of any change to:

(1) the number of collection sites for post-consumer architectural paint identified under this section as part of the plan;

(2) the producers identified under this section as part of the plan;

(3) the brands of architectural paint identified under this section as part of the plan; and

(4) the processors that manage post-consumer architectural paint identified under this section as part of the plan.

(j) Upon submission of a plan to the Secretary under this section, a producer or a stewardship organization shall pay the fee required by 3 V.S.A. § 2822(j)(31). Thereafter, the producer or stewardship organization shall pay the fee required by 3 V.S.A. § 2822(j)(31) annually by July 1 of each year.

§ 6674. RETAILER RESPONSIBILITY

(a) A producer or retailer may not sell or offer for sale architectural paint to any person in Vermont unless the producer of that architectural paint brand or a stewardship program of which the producer of that architectural paint brand is a member is implementing an approved plan for a paint stewardship program

as required by section 6673 of this title. A retailer complies with the requirements of this section if, on the date the architectural paint was ordered from the producer or its agent, the producer or paint brand is listed on the Agency of Natural Resources' website as a producer or brand participating in an approved plan for a paint stewardship program.

(b) At the time of sale to a consumer, a producer, a stewardship organization, or a retailer selling or offering architectural paint for sale shall provide the consumer with information regarding available management options for postconsumer paint collected through the paint stewardship program or a brand of paint being sold under the program.

§ 6675. AGENCY RESPONSIBILITY

(a)(1) Within 90 days of receipt of a plan submitted under section 6673 of this title, the Secretary shall review the plan and make a determination whether or not to approve the plan. The Secretary shall issue a letter of approval for a submitted plan if:

(A) the submitted plan provides for the establishment of a paint stewardship program that meets the requirements of subsections 6673(a); and

(B) the Secretary determines that the plan:

(i) achieves convenient collection for consumers;

(ii) educates the public on proper paint management;

(iii) manages waste paint in a manner that is environmentally safe and promotes reuse and recycling; and

(iv) is cost-effective.

(2) If the Secretary does not approve a submitted plan, the Secretary shall issue to the paint stewardship organization a letter listing the reasons for the disapproval of the plan. If the Secretary disapproves a plan, a paint stewardship organization intending to sell or continue to sell architectural paint in the State shall submit a new plan within 60 days of receipt of the letter of disapproval.

(b)(1) The Secretary shall review and approve the stewardship assessment proposed by a producer pursuant to subsection 6673(b) of this title. The Secretary shall only approve the program budget and any assessment if the applicant has demonstrated that the costs of the program and any proposed assessment are reasonable and the assessment does not exceed the costs of implementing an approved plan.

(2) If an amended plan is submitted under subsection 6673(g) of this title that proposes to change the cost of the program or proposes to change the

paint stewardship assessment under the plan, the disapproval of any proposed new assessment or the failure of an approved new assessment to cover the total costs of the program shall not relieve a producer or stewardship organization of its obligation to continue to implement the approved plan under the originally approved assessment.

(c) Facilities solely collecting paint for the paint stewardship program that would not otherwise be subject to solid waste certification requirements shall not be required to obtain a solid waste certification. Persons solely transporting paint for the paint stewardship program that would not otherwise be subject to solid waste hauler permitting requirements shall not be required to obtain a solid waste hauler's permit.

§ 6676. ANTICOMPETITIVE CONDUCT

(a) A producer or an organization of producers that manages postconsumer paint, including collection, transport, recycling, and processing of postconsumer paint, as required by this subchapter may engage in anticompetitive conduct to the extent necessary to implement the plan approved by the Secretary and is immune from liability for the conduct relating to antitrust, restraint of trade, unfair trade practices, and other regulation of trade or commerce.

(b) The activity authorized and the immunity afforded under subsection (a) of this section shall not apply to any agreement among producers or paint stewardship organizations:

(1) establishing or affecting the price of paint, except for the paint stewardship assessment approved under subsection 6675(b) of this title;

(2) setting or limiting the output or production of paint;

(3) setting or limiting the volume of paint sold in a geographic area;

(4) restricting the geographic area where paint will be sold; or

(5) restricting the customers to whom paint will be sold or the volume of paint that will be sold.

§ 6677. PRODUCER REPORTING REQUIREMENTS

No later than October 15, 2015, and annually thereafter, a producer or a stewardship program of which the producer is a member shall submit to the Secretary a report describing the paint stewardship program that the producer or stewardship program is implementing as required by section 6673 of this title. At a minimum, the report shall include:

(1) a description of the methods the producer or stewardship program used to reduce, reuse, collect, transport, recycle, and process postconsumer paint statewide in Vermont;

(2) the volume and type of postconsumer paint collected by the producer or stewardship program at each collection center in all regions of Vermont;

(3) the volume of postconsumer paint collected by the producer or stewardship program in Vermont by method of disposition, including reuse, recycling, energy recovery, and disposal;

(4) an independent financial audit of the paint stewardship program implemented by the producer or the stewardship program;

(5) the prior year's actual direct and indirect costs for each program element and the administrative and overhead costs of administering the approved program; and

(6) samples of the educational materials that the producer or stewardship program provided to consumers of architectural paint.

§ 6678. CONFIDENTIAL BUSINESS INFORMATION

Data reported to the Secretary by a producer or stewardship organization under this subchapter shall be a trade secret exempt from public inspection and copying under 1 V.S.A. § 317(c)(9), provided that the Secretary may use and disclose such information in summary or aggregated form that does not directly or indirectly identify individual producers, distributors, or retailers. The Secretary may require, as a part of the report submitted under section 6677 of this title, that the manufacturer or stewardship organization provide a report that does not contain trade secret information and is available for public inspection and review.

§ 6679. RULEMAKING; PROCEDURE

The Secretary may adopt rules or procedures to implement the requirements of this subchapter.

§ 6680. UNIVERSAL WASTE DESIGNATION FOR WASTE ARCHITECTURAL PAINT

(a) The requirements of Subchapter 9 of the Vermont Hazardous Waste Management Rules apply to persons managing waste architectural paint provided that:

(1) the waste architectural paint is collected as a part of a stewardship plan approved under this subchapter; and

(2) the collected waste architectural paint is or includes paint which is a hazardous waste as defined and regulated by the Vermont Hazardous Waste Management Rules.

(b) Architectural paint becomes a waste on the date that the handler decides to discard it (i.e., when architectural paint is initially collected for the purpose of later being disposed).

(c) Small and large quantity handlers must manage universal waste architectural paint in a manner that prevents releases of any universal waste or component of the universal waste to the environment. Universal waste architectural paint shall be managed in one of the following manners:

(1) A container that remains closed, structurally sound, and compatible with the architectural paint, and the container lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions; or

(2) A container that does not meet the requirements of subdivision (1) of this subsection, provided that the unacceptable container is overpacked in a container that meets the requirements of subdivision (1).

(d) Containers holding universal waste architectural paint shall be clearly labeled "Universal Waste Paint," "Used Paint," or "Waste Paint."

Sec. 2. 3 V.S.A. § 2822(j) is added to read:

(j) In accordance with subsection (i) of this section, the following fees are established for permits, licenses, certifications, approvals, registrations, orders, and other actions taken by the agency of natural resources.

* * *

(31) For continuing review of plans required by 10 V.S.A. § 6673: $15,000.00.

Sec. 3. AGENCY OF NATURAL RESOURCES REPORT ON PAINT STEWARDSHIP ASSESSMENT

On or before January 15, 2014, the Secretary of Natural Resources shall report to the House and Senate Committees on Natural Resources and Energy, the House Committee on Ways and Means, and the Senate Committee on Finance regarding the paint stewardship assessment proposed by architectural paint producers or stewardship organizations under 10 V.S.A. § 6673. The report shall include:

(1) a summary of the number of paint producers or stewardship organizations submitting plans;

(2) the paint stewardship assessment proposed in any submitted plan;

(3) a recommendation from the Secretary as to whether a proposed paint stewardship assessment is adequate or should be modified; and

(4) a recommendation from the Secretary whether and at what amount to establish a statutory maximum cap on the amount of a paint stewardship assessment.

Sec. 4. EFFECTIVE DATE

This act shall take effect on passage.

And that the bill ought to pass in concurrence with such proposal of amendment.

Senator Galbraith, for the Committee on Finance, to which the bill was referred, reported recommending that the bill ought to pass in concurrence with proposal of amendment as recommended by the Committee on Natural Resources and Energy.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and the question, Shall the Senate propose to the House to amend the bill as recommended by the Committee on Natural Resources and Energy, was decided in the affirmative.

Thereupon, pending the question, Shall the bill be read a third time?, Senator Snelling moved that the Senate proposal of amendment be amended in Sec. 1, by striking 10 V.S.A. § 6680 in its entirety and inserting in lieu thereof the following:

§ 6680. UNIVERSAL WASTE DESIGNATION FOR POSTCONSUMER PAINT

(a) The requirements of Subchapter 9 of the Vermont Hazardous Waste Management Rules, which allow certain categories of hazardous waste to be managed as universal waste, shall apply to postconsumer paint until the postconsumer paint is discarded, provided that:

(1) the postconsumer paint is collected as a part of a stewardship plan approved under this subchapter; and

(2) the collected postconsumer paint is or includes paint that is a hazardous waste as defined and regulated by the Vermont Hazardous Waste Management Rules.

(b) When postconsumer paint is regulated as a universal waste under subsection (a) of this section, small and large quantity handlers of the postconsumer paint shall manage the postconsumer paint in a manner that prevents releases of any universal waste or component of the universal waste to the environment. Postconsumer paint regulated as universal waste shall, at a minimum, be contained in one or more of the following:

(1) A container that remains closed, structurally sound, and compatible with the postconsumer paint and that lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions; or

(2) A container that does not meet the requirements of subdivision (1) of this subsection, provided that the unacceptable container is overpacked in a container that meets the requirements of subdivision (1).

(c) Containers holding postconsumer paint that is regulated as universal waste shall be clearly labeled `"Universal Waste Paint," "Used Paint," or "Waste Paint."

(d) Unless otherwise provided by statute, the definitions of the Vermont Hazardous Waste Management Rules shall apply to this section.

Which was agreed to.

Thereupon, third reading of the bill was ordered.

House Proposal of Amendment Not Concurred In; Committee of Conference Requested

S. 20.

House proposal of amendment to Senate bill entitled:

An act relating to increasing the statute of limitations for certain sex offenses against children.

Was taken up.

The House proposes to the Senate to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 13 V.S.A. § 4501 is amended to read:

§ 4501. LIMITATION OF PROSECUTIONS FOR CERTAIN CRIMES

(a) Prosecutions for aggravated sexual assault, aggravated sexual assault of a child, human trafficking, aggravated human trafficking, murder, arson causing death, and kidnapping may be commenced at any time after the commission of the offense.

(b) Prosecutions for manslaughter, sexual assault, lewd and lascivious conduct, sexual exploitation of children under chapter 64 of this title, sexual abuse of a vulnerable adult, grand larceny, robbery, burglary, embezzlement, forgery, bribery offenses, false claims, fraud under 33 V.S.A. § 141(d), and felony tax offenses shall be commenced within six years after the commission of the offense, and not after.

(c) Prosecutions for any of the following offenses alleged to have been committed against a child under 18 years of age may be commenced at any time after the commission of the offense:

(1) sexual assault~~,~~;

(2) lewd and lascivious conduct~~,~~;

(3) sexual exploitation of a minor as defined in subsection ~~3258(b)~~ 3258(c) of this title~~,~~; and

(4) lewd or lascivious conduct with a child~~, alleged to have been committed against a child under 18 years of age shall be commenced within the earlier of the date the victim attains the age of 24 or 10 years from the date the offense is reported, and not after. For purposes of this subsection, an offense is reported when a report of the conduct constituting the offense is made to a law enforcement officer by the victim~~.

(d) Prosecutions for arson shall be commenced within 11 years after the commission of the offense, and not after.

(e) Prosecutions for other felonies and for misdemeanors shall be commenced within three years after the commission of the offense, and not after.

Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.

Thereupon, pending the question, Shall the Senate concur in the House proposal of amendment?, on motion of Senator Benning, the Senate refused to concur in the House proposal of amendment and requested a Committee of Conference.

S. 129.

House proposal of amendment to Senate bill entitled:

An act relating to workers' compensation liens.

Was taken up.

The House proposes to the Senate to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 21 V.S.A. § 7 is added to read:

§ 7. POWERS OF COMMISSIONER

In addition to all other powers granted the Commissioner by this title, the Commissioner or designee may, upon presenting appropriate credentials, at reasonable times and without disrupting critical business operations, enter and

inspect any place of business or employment, question any employees, and investigate any facts, conditions, or matters necessary and material to the administration of chapters 9 and 17 of this title. The Commissioner shall inform the employer of his or her right to refuse entry. If entry is refused, the Commissioner may apply to the Civil Division of the Superior Court of Washington County for an order to enforce the rights given the Commissioner under this section.

Sec. 2. 21 V.S.A. § 397 is added to read:

§ 397. WORKPLACE POSTINGS AND EMPLOYER REQUIREMENTS

(a) The Department of Labor shall develop and include in its workplace posters information regarding the rights of employees to unemployment compensation, workers compensation, wages and overtime pay, workplace safety and protections, and misclassification of employees. The information shall also contain contact information for individuals to inquire about their rights and obligations and to file complaints or inquire about employment classification status. This information shall be provided in English or other languages required by the Commissioner. The posters shall be posted by employers in a conspicuous location at the worksite.

(b) Employers who violate this section shall be subject to an administrative penalty of up to $100.00 per violation.

Sec. 3. 21 V.S.A. § 643a is amended to read:

§ 643a. DISCONTINUANCE OF BENEFITS

Unless an injured worker has successfully returned to work, an employer shall notify both the ~~commissioner~~ Commissioner and the employee prior to terminating benefits under either section 642 or 646 of this title. The notice of intention to discontinue payments shall be filed on forms prescribed by the ~~commissioner~~ Commissioner and shall include the date of the proposed discontinuance, the reasons for it, and, if the employee has been out of work for 90 days, a verification that the employer offered vocational rehabilitation screening and services as required under this chapter. All relevant evidence, including evidence that does not support discontinuance in the possession of the employer not already filed, shall be filed with the notice. The liability for the payments shall continue for seven days after the notice is received by the ~~commissioner~~ Commissioner and the employee. If the claimant disputes the discontinuance, the claimant may file with the Commissioner an objection to the discontinuance and seek an extension of the seven-day limit. The Commissioner may grant an extension up to seven days. The request for an extension shall be specific as to the number of days needed and the reason for the extension and must be received by the Commissioner prior to the end of the

seven-day limit. A copy of the request for an extension shall be provided to the employer at the time the request is made to the Commissioner. Those payments shall be made without prejudice to the employer and may be deducted from any amounts due pursuant to section 648 of this title if the ~~commissioner~~ Commissioner determines that the discontinuance is warranted or if otherwise ordered by the ~~commissioner~~ Commissioner. Every notice shall be reviewed by the ~~commissioner~~ Commissioner to determine the sufficiency of the basis for the proposed discontinuance. If, after review of all the evidence in the file, the ~~commissioner~~ Commissioner finds that a preponderance of all the evidence in the file does not reasonably support the proposed discontinuance, the ~~commissioner~~ Commissioner shall order that payments continue until a hearing is held and a decision is rendered. Prior to a formal hearing, an injured worker may request reinstatement of benefits by providing additional new evidence to the ~~department~~ Department that establishes that a preponderance of all evidence now supports the claim. If the ~~commissioner's~~ Commissioner's decision, after a hearing, is that the employee was not entitled to any or all benefits paid between the discontinuance and the final decision, upon request of the employer, the ~~commissioner~~ Commissioner may order that the employee repay all benefits to which the employee was not entitled. The employer may enforce a repayment order in any court of law having jurisdiction.

Sec. 4. 21 V.S.A. § 655 is amended to read:

§ 655. PROCEDURE IN OBTAINING COMPENSATION; MEDICAL EXAMINATION; VIDEO AND AUDIO RECORDING

After an injury and during the period of disability, if so requested by his or her employer, or ordered by the ~~commissioner~~ Commissioner, the employee shall submit to examination, at reasonable times and places, by a duly licensed physician or surgeon designated and paid by the employer. The employee may make a video or audio recording of any examination performed by the insurer's physician or surgeon or have a licensed health care provider designated and paid by the employee present at the examination. The employer may make an audio recording of the examination. The right of the employee to record the examination shall not be construed to deny to the employer's physician the right to visit the injured employee at all reasonable times and under all reasonable conditions during total disability. If an employee refuses to submit to or in any way obstructs the examination, the employee's right to prosecute any proceeding under the provisions of this chapter shall be suspended until the refusal or obstruction ceases, and compensation shall not be payable for the period which the refusal or obstruction continues. The physician shall provide a report of the examination to the employee at the same time any report is provided to the employer.

Sec. 5. 21 V.S.A. § 678 is amended to read:

§ 678. COSTS; ATTORNEY FEES

(a) Necessary costs of proceedings under this chapter, including deposition expenses, subpoena fees, and expert witness fees, shall be assessed by the ~~commissioner~~ Commissioner against the employer or its workers' compensation carrier when the claimant prevails. The ~~commissioner~~ Commissioner may allow the claimant to recover reasonable ~~attorney~~ attorney's fees when the claimant prevails. Costs shall not be taxed or allowed either party except as provided in this section.

(b) In appeals to the ~~superior or supreme courts~~ Superior or Supreme Court, if the claimant prevails, he or she shall be entitled to reasonable ~~attorney~~ attorney's fees as approved by the ~~court~~ Court, necessary costs, including deposition expenses, subpoena fees, and expert witness fees, and interest at the rate of 12 percent per annum on that portion of any award the payment of which is contested. Interest shall be computed from the date of the award of the ~~commissioner~~ Commissioner.

* * *

Sec. 6. 21 V.S.A. § 692 is amended to read:

§ 692. PENALTIES; FAILURE TO INSURE; ~~STOP WORK~~ STOP-WORK ORDERS

(a) Failure to insure. If after a hearing under section 688 of this title, the ~~commissioner~~ Commissioner determines that an employer has failed to comply with the provisions of section 687 of this title, the employer shall be assessed an administrative penalty of not more than $100.00 for every day for the first seven days the employer neglected to secure liability and not more than $150.00 for every day thereafter. In addition to any other remedies and proceedings authorized by this chapter, the Commissioner may bring an action in the Civil Division of the Superior Court. The remedies available in a civil action, including attachment and trustee process, shall be available for the collection of any fines, penalties, and amounts assessed under this chapter

(b) Stop-work orders. If an employer fails to comply with the provisions of section 687 of this title after investigation by the ~~commissioner~~ Commissioner, the ~~commissioner~~ Commissioner shall issue an emergency order to that employer to stop work until the employer has secured workers' compensation insurance. If the ~~commissioner~~ Commissioner determines that issuing a stop-work order would immediately threaten the safety or health of the public, the ~~commissioner~~ Commissioner may permit work to continue until the immediate threat to public safety or health is removed. The ~~commissioner~~ Commissioner shall document the reasons for permitting work to continue, and the document

shall be available to the public. In addition, the employer shall be assessed an administrative penalty of not more than $250.00 for every day that the employer fails to secure workers' compensation coverage after the ~~commissioner~~ Commissioner issues an order to obtain insurance and may also be assessed an administrative penalty of not more than $250.00 for each employee for every day that the employer fails to secure workers' compensation coverage as required in section 687 of this title. When a stop-work order is issued, the ~~commissioner~~ Commissioner shall post a notice at a conspicuous place on the work site of the employer informing the employees that their employer failed to comply with the provisions of section 687 of this title and that work at the work site has been ordered to cease until workers' compensation insurance is secured. The stop-work order shall be rescinded as soon as the ~~commissioner~~ Commissioner determines that the employer is in compliance with section 687 of this title. An employer against whom a stop-work order has been issued is prohibited from contracting, directly or indirectly, with the ~~state~~ State or any of its subdivisions for a period of up to three years following the date of the issuance of the stop-work order, as determined by the ~~commissioner~~ Commissioner in consultation with the ~~commissioner of buildings and general services or the secretary of transportation~~ Commissioner of Buildings and General Services or the Secretary of Transportation, as appropriate. Either the ~~secretary or the commissioner~~ Secretary or Commissioner, as appropriate, shall be consulted in any contest of the prohibition of the employer from contracting with the ~~state~~ State or its subdivisions.

(c) The Commissioner may issue an order of conditional release from a stop-work order upon a finding that the employer has secured the required workers' compensation coverage and has agreed to remit periodic payments to satisfy any penalties assessed under this chapter pursuant to a written payment arrangement approved by the Commissioner. If the Commissioner issues an order of conditional release, the employer's failure to meet any term or condition of the order or to make periodic payments shall result in the immediate reinstatement of the stop-work order and the entire unpaid balance of the penalty shall become due immediately.

(d) A stop-work order issued against an employer shall apply to any successor employer that has substantially common ownership, management, or control as the employer on whom the stop-work order was issued and is engaged in the same or similar trade or activity.

(e) The Commissioner may bring an action in the Civil Division of the Superior Court of Washington County or in the county in which the employer has its principal office or is continuing to work in violation of the stop-work order to enjoin any employer from violating a stop-work order until the

employer establishes that it is in compliance with this chapter and has paid any penalty assessed by the Commissioner.

(f) Penalty for violation of stop-work order. In addition to any other penalties, an employer who violates a stop-work order described in subsection (b) of this section is subject to:

(1) A civil penalty of not more than $5,000.00 for the first violation and a civil penalty of not more than $10,000.00 for a second or subsequent violation; or

(2) A criminal fine of not more than $10,000.00 or imprisonment for not more than 180 days, or both.

Sec. 7. 4 V.S.A. § 1102 is amended to read:

§ 1102. JUDICIAL BUREAU; JURISDICTION

* * *

(b) The ~~judicial bureau~~ Judicial Bureau shall have jurisdiction of the following matters:

* * *

(20) ~~Violations of 21 V.S.A. § 692(c)(1).~~ [Deleted.]

* * *

Sec. 8. 21 V.S.A. § 1253 is amended to read:

§ 1253. ELIGIBILITY

The ~~commissioner~~ Commissioner shall make all determinations for eligibility under this chapter. An individual shall be eligible for up to 26 weekly payments when the ~~commissioner~~ Commissioner determines that the individual voluntarily left work due to circumstances directly resulting from domestic and sexual violence, provided the individual:

(1) Leaves employment for one of the following reasons:

* * *

(D) The individual is physically or emotionally unable to work as a result of experiencing domestic or sexual violence as certified by a medical professional. The certification shall be reviewed by the Commissioner every six weeks and may be renewed until the individual is able to work or the benefits are exhausted.

* * *

Sec. 9. 21 V.S.A. § 1254 is amended to read:

§ 1254. CONDITIONS

An individual shall be eligible to receive payments with respect to any week, only if the ~~commissioner~~ Commissioner finds that the individual complies with all of the following requirements:

(1) ~~Files~~ files a claim certifying that he or she did not work during the week~~.~~;

(2) ~~Is~~ is not eligible for unemployment compensation benefits~~.~~; and

(3) ~~Is taking steps to become employed~~ is working with the Department to determine work readiness and taking reasonable steps as determined by the Commissioner to become employed.

Sec. 10. 21 V.S.A. § 1255 is amended to read:

§ 1255. PROCEDURES

(a) The ~~commissioner~~ Commissioner or designee shall review all claims for payment and shall promptly provide written notification to the individual of any claim that is denied and the reasons for the denial.

(b) Within 30 days after receipt of a denial, the individual may appeal the determination to the ~~commissioner~~ Commissioner by requesting a review of the decision. On appeal to the Commissioner the individual may provide supplementary evidence to the record. The ~~commissioner~~ Commissioner shall review the record within seven working days after the notice of the appeal is filed and promptly notify the individual in writing of the ~~commissioner's~~ Commissioner's decision. The decision of the ~~commissioner~~ Commissioner shall become final unless an appeal to the ~~supreme court~~ Supreme Court is taken within 30 days of the date of the ~~commissioner's~~ Commissioner's decision.

Sec. 11. 21 V.S.A. § 1314a is amended to read:

§ 1314a. QUARTERLY WAGE REPORTING; MISCLASSIFICATION; PENALTIES

* * *

(g) Notwithstanding any other provisions of this section, the ~~commissioner~~ Commissioner may where practicable require of employing units ~~with 25 or more employees~~ that the reports required to be filed pursuant to subsections (a) through (d) of this section be filed in an electronic media form.

Sec. 12. 21 V.S.A. § 1325 is amended to read:

§ 1325. EMPLOYERS' EXPERIENCE-RATING RECORDS; DISCLOSURE TO SUCCESSOR ENTITY~~; EMPLOYEE PAID $1,000.00 OR LESS DURING BASE PERIOD~~

* * *

(d) Notwithstanding any other provision of law, the following shall apply to assignment of rates and transfers of experience:

(1) If an employer transfers its trade or business, or a portion thereof, to another employer and, at the time of the transfer, there is substantially common ownership, management, or control of the two employers, the ~~employment~~ unemployment experience attributable to the transferred trade or business shall be transferred to the employer to whom such business is so transferred. The rates of both employers shall be recalculated and made effective immediately upon the date of the transfer of trade or business.

* * *

Sec. 13. 21 V.S.A. § 1451 is amended to read:

§ 1451. DEFINITIONS

~~For the purpose of this subchapter~~ As used in this subchapter:

(1) "Affected unit" means a specific plan, department, shift, or other definable unit consisting of not less than five employees to which an approved short-time compensation plan applies.

(2) "Defined benefit plan" means a plan described in 26 U.S.C. § 414(j).

(3) "Defined contribution plan" means a plan described in 26 U.S.C. § 414(i).

(4) "Short-time compensation" or "STC" means the unemployment benefits payable to employees in an affected unit under an approved short-time compensation plan as distinguished from the unemployment benefits otherwise payable under the conventional unemployment compensation provisions of this chapter.

~~(3)~~(5) "Short-time compensation plan" means a plan of an employer under which there is a reduction in the number of hours worked by employees of an affected unit rather than ~~temporary~~ layoffs. The term "~~temporary~~ layoffs" for this purpose means the total separation of one or more workers in the affected unit ~~for an indefinite period expected to last for more than two months but not more than six months~~.

~~(4)~~(6) "Short-time compensation employer" means an employer who has one or more employees covered by an approved "Short-Time Compensation Plan." "Short-time compensation employer" ~~includes~~ means an employer with ~~experience rating records~~ an experience rating record ~~and~~ or an employer who makes payments in lieu of ~~tax~~ contributions to the unemployment compensation trust fund and that meets all of the following criteria:

(A) ~~Has~~ has five or more employees covered by an approved short-time compensation plan~~.~~;

(B) ~~Is~~ is not delinquent in the payment of contributions or reimbursement, or in the reporting of wages~~.~~; and

(C) ~~Is~~ is not a negative balance employer. For the purposes of this section, a negative balance employer is an employer who has for three or more consecutive calendar years immediately prior to applying for the STC plan paid more in unemployment benefits to its employees than it has contributed to its unemployment insurance account. In the event that an employer has been a negative balance employer for three consecutive years, the employer shall be ineligible for participation unless the ~~commissioner~~ Commissioner grants a waiver based upon extenuating economic conditions or other good cause.

~~(5)~~(7) "Usual weekly hours of work" means the normal hours of work for full-time ~~and regular~~ or part-time employees in the affected unit when that unit is operating on its ~~normally full-time basis not less than 30 hours and~~ regular basis not to exceed 40 hours and not including hours of overtime work.

~~(6)~~(8) "Unemployment compensation" means the unemployment benefits payable under this chapter other than short-time compensation and includes any amounts payable pursuant to an agreement under any federal law providing for compensation, assistance, or allowances with respect to unemployment.

~~(7)~~(9) "Fringe benefits" means benefits, including health insurance, retirement benefits, paid vacations and holidays, sick leave, and similar benefits that are incidents of employment.

~~(8)~~(10) "Intermittent employment" means employment that is not continuous but may consist of intervals of weekly work and intervals of no weekly work.

~~(9)~~(11) "Seasonal employment" means employment with an employer who experiences at least a 20-percent difference between its highest level of employment during a particular season and its lowest level of employment during the off-season in each of the previous three years as reported to the

~~department~~ Department, or employment with an employer on a temporary basis during a particular season.

Sec. 14. 21 V.S.A. § 1452 is amended to read:

§ 1452. CRITERIA FOR APPROVAL

(a) An employer wishing to participate in an STC program shall submit a ~~department of labor~~ Department of Labor electronic application or a signed written short-time compensation plan to the ~~commissioner~~ Commissioner for approval. The ~~commissioner~~ Commissioner may approve an STC plan only if the following criteria are met:

* * *

(3) the plan ~~outlines to the commissioner the extent to which fringe benefits, including health insurance, of employees participating in the plan may be reduced, which shall be factored into the evaluation of the business plan for resolving the conditions that lead to the need for the STC plan~~ provides that if the employer provides fringe benefits, including health benefits and retirement benefits under a defined benefit plan or contributions under a defined contribution plan, to any employee whose workweek is reduced under the program, that the benefits will continue to be provided to employees participating in the short-time compensation program under the same terms and conditions as though the workweek had not been reduced. However, reductions in the benefits of short-time compensation plan participants are permitted to the extent that the reductions also apply to nonparticipant employees;

* * *

(5) the plan certifies that the aggregate reduction in work hours is in lieu of ~~temporary total~~ layoffs of one or more workers which would have resulted in an equivalent reduction in work hours and which the c~~ommissioner~~ Commissioner finds would have caused an equivalent dollar amount to be payable in unemployment compensation;

* * *

(7) the identified workweek reduction is applied consistently throughout the duration of the plan unless otherwise approved by the ~~department~~ Department. The plan shall not subsidize seasonal employers during the off-season;

* * *

(11) the plan certifies that the collective bargaining agent or agents for the employees, if any, have agreed to participate in the program. If there is no

bargaining unit, the employer specifies how he or she will notify the employees in the affected group and work with them to implement the program once the plan is approved; ~~and~~

(12) ~~in addition to subdivisions (1) through (11) of this section, the commissioner shall take into account any other factors which may be pertinent to the approval and proper implementation of the plan~~ the plan describes the manner in which the requirements of this section will be implemented and where feasible how notice will be given to an employee whose workweek is to be reduced and an estimate of the number of layoffs that would have occurred absent the ability to participate in the short-time compensation program and any other information that the U.S. Secretary of Labor determines is appropriate; and

(13) the employer certifies that the plan is consistent with employer obligations under applicable state and federal laws.

(b) In the event of any conflict between any provisions of sections 1451–1460 of this title, or the regulations implemented pursuant to these sections, and applicable federal law, the federal law shall prevail and the provision shall be deemed invalid.

Sec. 15. 21 V.S.A. § 1457 is amended to read:

§ 1457. ELIGIBILITY

(a) An individual is eligible to receive STC benefits with respect to any week only if, in addition to eligibility for monetary entitlement, the ~~commissioner~~ Commissioner finds that:

(1) the individual is employed during that week as a member of an affected unit under an approved short-time compensation plan which was in effect for that week;

(2) the individual is able to work and is available for the normal work week with the short-time employer;

(3) notwithstanding any other provisions of this chapter to the contrary, an individual is deemed unemployed in any week for which remuneration is payable to him or her as an employee in an affected unit for less than his or her normal weekly hours of work as specified under the approved short-time compensation plan in effect for the week;

(4) notwithstanding any other provisions of this chapter to the contrary, an individual shall not be denied STC benefits for any week by reason of the application of provisions relating to availability for work and active search for work with an employer other than the short-time employer.

(b) Eligible employees may participate, as appropriate, in training, including employer-sponsored training or worker training funded under the Workforce Investment Act of 1998, to enhance job skills if the program has been approved by the Department.

Sec. 16. 21 V.S.A. § 601 is amended to read:

§ 601. DEFINITIONS

Unless the context otherwise requires, words and phrases used in this chapter shall be construed as follows:

* * *

(14) "Worker" and "employee" means an individual who has entered into the employment of, or works under contract of service or apprenticeship with, an employer. Any reference to a worker who has died as the result of a work injury shall include a reference to the worker's dependents, and any reference to a worker who is a minor or incompetent shall include a reference to the minor's committee, guardian, or next friend. The term "worker" or "employee" does not include:

* * *

(I) An individual who receives foster care payments excluded from the definition of gross income under Section 131 of Title 26 of the Internal Revenue Code.

* * *

Sec. 17. INFORMATION AND EDUCATION; INDEPENDENT CONTRACTOR STATUS

The Commissioner shall conduct a comprehensive information and education campaign regarding independent contractor status. The campaign shall address the tests for determining independent contractor status under Vermont law, the rights and responsibilities of employers and employees under Vermont law, including wage and hour laws, workers' compensation and unemployment compensation requirements, information regarding the misclassification and miscoding laws, including the requirements for employers to comply with those laws and the penalties for failing to do so, and other information the Commissioner determines is necessary and appropriate.

Sec. 18. STUDY; UNEMPLOYMENT COMPENSATION; WORKERS' COMPENSATION; JOB TRAINING

(a) The Department of Labor in consultation with interested parties shall evaluate and make recommendations regarding:

(1) whether the principles of fairness, equity, proportionality, affordability, and fiscal responsibility embodied in 2010 Acts and Resolves No. 124 would be affected if any changes are made to the act. Specifically, the Department shall study the potential impacts to employers, employees, and the trust fund if changes are made to certain aspects of the unemployment compensation system, including the earnings disregard, the one-week waiting period, the weekly benefit amount, and the taxable wage base. The Department shall study these potential impacts as they relate to paying off the trust fund debt and establishing the fund's solvency.

(2) whether the annual report on trust fund solvency required by 21 V.S.A. § 1309 is providing appropriate and sufficient information regarding the long-term health and solvency of the unemployment compensation trust fund, or whether further measures are required to provide information necessary to achieve and maintain solvency.

(3) whether any structural, administrative, or procedural changes should be made to the workers' compensation system, including changes that would increase the affordability and regional competitiveness of workers' compensation insurance for employers while ensuring fairness for beneficiaries.

(4) whether the agencies and departments of state government are in compliance with required workers' compensation and unemployment compensation coverage related to their contracts with designated agencies and other subcontractors.

(5) whether the current workers' compensation system can better incentivize and promote healthy and safe work environments through information, education, and collaboration with employers, insurers, and employees; and whether private and public training programs and enforcement divisions could be better utilized to achieve improved safety in workplaces.

(6) the benefits and feasibility of developing and implementing a job training program for persons collecting unemployment benefits in Vermont that allows the Department to place persons collecting unemployment into job sites for job training and skill development in order to enhance the individual's job prospects and career development. The Department shall examine conformity issues with federal and state unemployment and wage and hour laws. The Commissioner shall solicit public input and engage interested parties from the business and labor communities in determining the benefits of a job training program.

(7) how workers' compensation cases are resolved under 21 V.S.A. § 624(e), including whether the operation of workers' compensation liens may or may not result in an equitable distribution of third party payments to the

employer and employee, and the equities and appropriateness of using third party payments as an advance on any future workers' compensation benefits.

(8) whether there should be any limitations placed on how independent medical examinations are conducted, including their timing and location.

(9) whether school district employees who are not federally exempted from unemployment compensation should be included in Vermont's unemployment compensation system and be eligible for benefits during periods of layoff.

(b) The Department shall examine whether existing state and federal laws would allow a student who is under the age of 18 and enrolled at a regional technical center to gain practical working experience outside the classroom setting. The Department shall make recommendations to enhance the learning experience of students enrolled at regional technical centers by providing practical work experiences while also maintaining adequate health and safety protections.

(c) The Department, in consultation with the Agency of Commerce and Community Development and interested parties, shall evaluate and make recommendations regarding whether the current workers' compensation system and other relevant employment laws are suited to the needs of an evolving workforce. As part of the evaluation, the Department shall consider Vermont's growing knowledge-based economic sector, the future of the Vermont economy, and changing workforce habits. The Department shall make recommendations regarding how to modernize the employment laws to meet employer and employee needs while maintaining employee protections.

(d) The Department shall report its findings and any recommendations to the House Committee on Commerce and Economic Development and the Senate Committee on Finance on or before December 15, 2013.

Sec. 19. WORKERS' COMPENSATION PREMIUMS

The Department of Financial Regulation in consultation with the Department of Labor shall study the issue of workers' compensation premiums increasing as a result of an employee completing a job-related safety course. The Department of Financial Regulation shall investigate how workers' compensation premiums can be decreased or kept at a steady rate for employers who are providing approved safety and health training to employees. The Department of Financial Regulation shall report its findings and any recommendations to the House Committees on Agriculture and Forest Products and on Commerce and Economic Development and the Senate Committees on Agriculture and on Finance on or before January 15, 2014.

Sec. 20. EFFECTIVE DATE

This act shall take effect on July 1, 2013.

Thereupon, pending the question, Shall the Senate concur in the House proposal of amendment?, on motion of Senator MacDonald, the Senate refused to concur in the House proposal of amendment and requested a Committee of Conference.

House Proposal of Amendment Concurred In

S. 130.

House proposal of amendment to Senate bill entitled:

An act relating to encouraging flexible pathways to secondary school completion.

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:

* * * Flexible Pathways Initiative; Dual Enrollment * * *

Sec. 1. 16 V.S.A. chapter 23, subchapter 2 is added to read:

Subchapter 2. Flexible Pathways to Secondary School Completion

§ 941. FLEXIBLE PATHWAYS INITIATIVE

(a) There is created within the Agency a Flexible Pathways Initiative:

(1) to encourage and support the creativity of school districts as they develop and expand high-quality educational experiences that are an integral part of secondary education in the evolving 21st Century classroom;

(2) to promote opportunities for Vermont students to achieve postsecondary readiness through high-quality educational experiences that acknowledge individual goals, learning styles, and abilities; and

(3) to increase the rates of secondary school completion and postsecondary continuation in Vermont.

(b) The Secretary shall develop, publish, and regularly update guidance, in the form of technical assistance, sharing of best practices and model documents, legal interpretations, and other support designed to assist school districts:

(1) to identify and support secondary students who require additional assistance to succeed in school and to identify ways in which individual students would benefit from flexible pathways to graduation;

(2) to work with every student in grade seven through grade 12 in an ongoing personalized learning planning process that:

(A) identifies the student's emerging abilities, aptitude, and disposition;

(B) includes participation by families and other engaged adults;

(C) guides decisions regarding course offerings and other high-quality educational experiences; and

(D) is documented by a personalized learning plan;

(3) to create opportunities for secondary students to pursue flexible pathways to graduation that:

(A) increase aspiration and encourage postsecondary continuation of training and education;

(B) are an integral component of a student's personalized learning plan; and

(C) include:

(i) applied or work-based learning opportunities, including career and technical education and internships;

(ii) virtual learning and blended learning;

(iii) dual enrollment opportunities as set forth in section 944 of this title:

(iv) early college programs as set forth in subsection 4011(e) of this title;

(v) the High School Completion Program as set forth in section 943 of this title; and

(vi) the Adult Diploma Program and General Educational Development Program as set forth in section 946 of this title; and

(4) to provide students, beginning no later than in the seventh grade, with career development and postsecondary planning resources to ensure that they are able to take full advantage of the opportunities available within the flexible pathways to graduation and to achieve their career and postsecondary education and training goals.

(c) Nothing in this subchapter shall be construed as discouraging or limiting the authority of any school district to develop or continue to provide educational opportunities for its students that are otherwise permitted, including the provision of Advanced Placement courses.

(d) An individual entitlement or private right of action shall not arise from creation of a personalized learning plan.

§ 942. DEFINITIONS

As used in this title:

(1) "Accredited postsecondary institution" means a postsecondary institution that has been accredited by the New England Association of Schools and Colleges or another regional accrediting agency recognized by the U.S. Department of Education.

(2) "Approved provider" means an entity approved by the Secretary to provide educational services that may be awarded credits or used to determine proficiency necessary for a high school diploma.

(3) "Blended learning" means a formal education program in which content and instruction are delivered both in a traditional classroom setting and through virtual learning.

(4) "Career development" means the identification of student interests and aptitudes and the ability to link these to potential career paths and the training and education necessary to succeed on these paths.

(5) "Carnegie unit" means 125 hours of class or contact time with a teacher over the course of one year at the secondary level.

(6) "Contracting agency" means an entity that enters into a contract with the Agency to provide "flexible pathways to graduation" services itself or in conjunction with one or more approved providers in Vermont.

(7) "Dual enrollment" means enrollment by a secondary student in a course offered by an accredited postsecondary institution and for which, upon successful completion of the course, the student will receive:

(A) secondary credit toward graduation from the secondary school in which the student is enrolled; and

(B) postsecondary credit from the institution that offered the course if the course is a credit-bearing course at that institution.

(8) "Early college" means full-time enrollment, pursuant to subsection 4011(e) of this title, by a 12th grade Vermont student for one academic year in a program offered by a postsecondary institution in which the credits earned apply to secondary school graduation requirements.

(9) "Flexible pathways to graduation" means any combination of high-quality academic and experiential components leading to secondary school completion and postsecondary readiness, which may include

assessments that allow the student to apply his or her knowledge and skills to tasks that are of interest to that student.

(10) "Personalized learning plan" and "PLP" mean documentation of an evolving plan developed on behalf of a student in an ongoing process involving a secondary student, a representative of the school, and, if the student is a minor, the student's parents or legal guardian and updated at least annually by November 30; provided, however, that a home study student and the student's parent or guardian shall be solely responsible for developing a plan. The plan shall be developmentally appropriate and shall reflect the student's emerging abilities, aptitude, and disposition. The plan shall define the scope and rigor of academic and experiential opportunities necessary for a secondary student to complete secondary school successfully, attain postsecondary readiness, and be prepared to engage actively in civic life. While often less formalized, personalized learning and personalized instructional approaches are critical to students in kindergarten through grade 6 as well.

(11) "Postsecondary planning" means the identification of education and training programs after high school that meet a student's academic, vocational, financial, and social needs and the identification of financial assistance available for those programs.

(12) "Postsecondary readiness" means the ability to enter the workforce or to pursue postsecondary education or training without the need for remediation.

(13) "Virtual learning" means learning in which the teacher and student communicate concurrently through real-time telecommunication. "Virtual learning" also means online learning in which communication between the teacher and student does not occur concurrently and the student works according to his or her own schedule.

§ 943. [RESERVED.]

§ 944. DUAL ENROLLMENT PROGRAM

(a) Program creation. There is created a statewide Dual Enrollment Program to be a potential component of a student's flexible pathway. The Program shall include college courses offered on the campus of an accredited postsecondary institution and college courses offered by an accredited postsecondary institution on the campus of a secondary school. The Program may include online college courses or components.

(b) Students.

(1) A Vermont resident who has completed grade 10 but has not received a high school diploma is eligible to participate in the Program if:

(A) the student:

(i) is enrolled in:

(I) a Vermont public school, including a Vermont career technical center;

(II) a public school in another state or an approved independent school that is designated as the public secondary school for the student's district of residence; or

(III) an approved independent school in Vermont to which the student's district of residence pays publicly funded tuition on behalf of the student;

(ii) is assigned to a public school through the High School Completion Program; or

(iii) is a home study student;

(B) dual enrollment is an element included within the student's personalized learning plan; and

(C) the secondary school and the postsecondary institution have determined that the student is sufficiently prepared to succeed in a dual enrollment course, which can be determined in part by the assessment tool or tools identified by the participating postsecondary institution.

(2) An eligible student may enroll in up to two dual enrollment courses prior to completion of secondary school for which neither the student nor the student's parent or guardian shall be required to pay tuition. A student may enroll in courses offered while secondary school is in session and during the summer.

(c) Public postsecondary institutions. The Vermont State Colleges and the University of Vermont shall work together to provide dual enrollment opportunities throughout the State.

(1) When a dual enrollment course is offered on a secondary school campus, the public postsecondary institution shall:

(A) retain authority to determine course content; and

(B) work with the secondary school to select, monitor, support, and evaluate instructors.

(2) The public postsecondary institution shall maintain the postsecondary academic record of each participating student and provide transcripts on request.

(3) To the extent permitted under the Family Educational Rights and Privacy Act, the public postsecondary institution shall collect and send data related to student participation and success to the student's secondary school and the Secretary and shall send data to the Vermont Student Assistance Corporation necessary for the Corporation's federal reporting requirements.

(4) The public postsecondary institution shall accept as full payment the tuition set forth in subsection (f) of this section.

(d) Secondary schools. Each school identified in subdivision (b)(1) of this section that is located in Vermont shall:

(1) provide access for eligible students to participate in any dual enrollment courses that may be offered on the campus of the secondary school;

(2) accept postsecondary credit awarded for dual enrollment courses offered by a Vermont public postsecondary institution under this section as meeting secondary school graduation requirements;

(3) collect enrollment data as prescribed by the Secretary for longitudinal review and evaluation;

(4) identify and provide necessary support for participating students and continue to provide services for students with disabilities; and

(5) provide support for a seamless transition to postsecondary enrollment upon graduation.

(e) Program management. The Agency shall manage or may contract for the management of the Dual Enrollment Program in Vermont by:

(1) marketing the Dual Enrollment Program to Vermont students and their families;

(2) assisting secondary and postsecondary partners to develop memoranda of understanding, when requested;

(3) coordinating with secondary and postsecondary partners to understand and define student academic readiness;

(4) convening regular meetings of interested parties to explore and develop improved student support services;

(5) coordinating the use of technology to ensure access and coordination of the Program;

(6) reviewing program costs;

(7) evaluating all aspects of the Dual Enrollment Program and ensuring overall quality and accountability; and

(8) performing other necessary or related duties.

(f) Tuition and funding.

(1) Tuition shall be paid to public postsecondary institutions in Vermont as follows:

(A) For any course for which the postsecondary institution pays the instructor, the student's school district of residence shall pay tuition to the postsecondary institution in an amount equal to the tuition rate charged by the Community College of Vermont (CCV) at the time the dual enrollment course is offered; provided however, that tuition paid to CCV under this subdivision (A) shall be in an amount equal to 90 percent of the CCV rate.

(B) For any course that is taught by an instructor who is paid as part of employment by a secondary school, the student's school district of residence shall pay tuition to the postsecondary institution in an amount equal to 20 percent of the tuition rate charged by the Community College of Vermont at the time the dual enrollment course is offered.

(2) Notwithstanding subdivision (1) of this subsection requiring the district of residence to pay tuition, the State shall pay 50 percent of the tuition owed to public postsecondary institutions under subdivision (1)(A) of this subsection from the Next Generation Initiative Fund created in section 2887 of this title; provided, however, that the total amount paid by the State in any fiscal year shall not exceed the total amount of General Fund dollars the General Assembly appropriated from the Fund in that year for dual enrollment purposes plus any balance carried forward from the previous fiscal year; and further provided that, notwithstanding subdivision (b)(2) of this section, the cumulative amount to be paid by school districts under subdivision (1)(A) in any fiscal year shall not exceed the amount available to be paid by General Fund dollars in that year.

(3) If it agrees to the terms of subsection (c) of this section, an accredited private postsecondary institution in Vermont approved pursuant to section 176 of this title shall receive tuition pursuant to subdivisions (1) and (2) of this subsection (f) for each eligible student it enrolls in a college-level course under this section.

(g) Private and out-of-state postsecondary institutions. Nothing in this section shall be construed to limit a school district's authority to enter into a contract for dual enrollment courses with an accredited private or public postsecondary institution not identified in subsection (c) of this section located in or outside Vermont. The school district may negotiate terms different from

those set forth in this section, including the amount of tuition to be paid. The school district may determine whether enrollment by an eligible student in a course offered under this subsection shall constitute one of the two courses authorized by subdivision (b)(2) of this section.

(h) Number of courses. Nothing in this section shall be construed to limit a school district's authority to pay for more than the two courses per eligible student authorized by subdivision (b)(2) of this section; provided, however, that payment under subdivision (f)(2) of this section shall not be made for more than two courses per eligible student.

(i) Other postsecondary courses. Nothing in this section shall be construed to limit a school district's authority to award credit toward graduation requirements to a student who receives prior approval from the school and successfully completes a course offered by an accredited postsecondary institution that was not paid for by the district pursuant to this section. The school district shall determine the number and nature of credits it will award to the student for successful completion of the course, including whether the course will satisfy one or more graduation requirements, and shall inform the student prior to enrollment. Credits awarded shall be based on performance and not solely on Carnegie units; provided, however, that unless the school district determines otherwise, a three-credit postsecondary course shall be presumed to equal one-half of a Carnegie unit. A school district shall not withhold approval or credit without reasonable justification. A student may request that the superintendent review the district's determination regarding course approval or credits. The superintendent's decision shall be final.

(j) Reports. Notwithstanding 2 V.S.A. § 20(d), the Secretary shall report to the House and Senate Committees on Education annually in January regarding the Dual Enrollment Program, including data relating to student demographics, levels of participation, marketing, and program success.

§ 945. [RESERVED.]

Sec. 2. DUAL ENROLLMENT; TRANSITION; FUNDING; NONOPERATING DISTRICTS

(a) Notwithstanding any provision of Sec. 1, 16 V.S.A. § 944(f), to the contrary, the State shall pay 100 percent of the tuition owed to postsecondary institutions under subdivision (f)(1) for courses offered in fiscal years 2014 and 2015; provided, however, that the total amount paid by the State in either fiscal year shall not exceed the total amount of General Fund dollars the General Assembly appropriated from the Fund in that year for dual enrollment purposes plus any balance carried forward from the previous fiscal year. Any balance carried forward from fiscal year 2015 shall be used to satisfy the financial obligations of school districts under subsection (f) in fiscal year 2016.

(b)(1) The Secretary shall analyze issues relating to providing dual enrollment opportunities pursuant to Sec. 1 of this act to publicly funded students enrolled in Vermont approved independent schools. Specifically, the analysis shall include:

(A) the anticipated utilization of dual enrollment opportunities;

(B) the anticipated financial impact on sending school districts;

(C) the ways in which sending school districts will ensure student participation in a personalized learning planning process and inclusion of dual enrollment in the student's plan; and

(D) other financial and programmatic issues related to dual enrollment access by publicly funded students enrolled in approved independent schools.

(2) On or before February 1, 2014, the Secretary shall report the results of the analysis to the House and Senate Committees on Education together with any recommendations for amendment to statutes or rules, including whether it would be advisable to amend or repeal Sec. 1, 16 V.S.A. § 944(b)(1)(A)(i)(III) (eligibility of publicly funded student enrolled in Vermont approved independent school).

Sec. 3. REPEAL

16 V.S.A. § 913 (secondary credit; postsecondary course) is repealed.

* * * Flexible Pathways: High School Completion Program * * *

Sec. 4. 16 V.S.A. § 1049a is redesignated to read:

§ ~~1049a~~ 943. HIGH SCHOOL COMPLETION PROGRAM

Sec. 5. 16 V.S.A. § 943 is amended to read:

§ 943. HIGH SCHOOL COMPLETION PROGRAM

(a) ~~In this section:~~

~~(1) "Graduation education plan" means a written plan leading to a high school diploma for a person who is 16 to 22 years of age and has not received a high school diploma, who may or may not be enrolled in a public or approved independent school. The plan shall define the scope and rigor of services necessary for the student to attain a high school diploma, and may describe educational services to be provided by a public high school, an approved independent high school, an approved provider, or a combination of these.~~

~~(2) "Approved provider" means an entity approved by the commissioner to provide educational services which may be counted for credit toward a high school diploma.~~

~~(3) "Contracting agency" means an agency that has entered into a contract with the department of education to provide adult education services in Vermont.~~

There is created a High School Completion Program to be a potential component of a flexible pathway for any Vermont student who is at least 16 years old, who has not received a high school diploma, and who may or may not be enrolled in a public or approved independent school.

(b) If a person who wishes to work on a ~~graduation education plan~~ personalized learning plan leading to graduation through the High School Completion Program is not enrolled in a public or approved independent school, then the ~~commissioner~~ Secretary shall assign the prospective student to a high school district, which shall be the district of residence whenever possible. The school district in which a student is enrolled or to which a non-enrolled student is assigned shall work with the contracting agency and the student to develop a ~~graduation education~~ personalized learning plan. The school district shall award a high school diploma upon successful completion of the plan.

(c) The ~~commissioner~~ Secretary shall reimburse, and net cash payments where possible, a school district that has agreed to a ~~graduation education~~ personalized learning plan developed under this section in an amount:

(1) established by the ~~commissioner~~ Secretary for the development and ongoing evaluation and revision of the ~~graduation education~~ personalized learning plan and for other educational services typically provided by the assigned district or an approved independent school pursuant to the plan, such as counseling, health services, participation in cocurricular activities, and participation in academic or other courses~~,~~; provided, however, that this amount shall not be available to a school district that provides services under this section to an enrolled student; and

(2) negotiated by the ~~commissioner~~ Secretary and the contracting agency, with the approved provider, for services and outcomes purchased from the approved provider on behalf of the student pursuant to the ~~graduation education~~ personalized learning plan.

* * * Flexible Pathways: Adult Diploma Program; GED * * *

Sec. 6. 16 V.S.A. § 1049 is redesignated to read:

~~§ 1049. PROGRAMS~~ § 945. ADULT DIPLOMA PROGRAM; GENERAL EDUCATIONAL DEVELOPMENT PROGRAM

Sec. 7. 16 V.S.A. § 945 is amended to read:

§ 945. ADULT DIPLOMA PROGRAM; GENERAL EDUCATIONAL DEVELOPMENT PROGRAM

(a) ~~The commissioner of education may provide programs designed to fit the individual needs and circumstances of adult students. Programs authorized under this section shall give priority to those adult persons with the lowest levels of literacy skills.~~

~~(b)(1) Fees for general educational development shall be $3.00 for a transcript.~~

~~(2)~~ The Secretary shall maintain an adult diploma program (ADP) ~~means~~, which shall be an assessment process administered by the ~~Vermont department of education~~ Agency through which an ~~adult~~ individual who is at least 20 years old can receive a local high school diploma granted by one of the program's participating high schools.

~~(3) General~~ (b) The Secretary shall maintain a general educational development (GED) ~~means a testing program administered jointly by the Vermont department of education,~~ program, which it shall administer jointly with the GED testing service~~,~~ and approved local testing centers and through which an ~~adult~~ individual who is at least 16 years old and who is not enrolled in secondary school can receive a secondary school equivalency certificate based on successful completion of the GED tests ~~of general educational development~~.

(c) ~~Fees collected under this section shall be credited to a special fund established and managed pursuant to chapter 7, subchapter 5 of Title 32, and shall be available to the department to offset the costs of providing those services~~ The Secretary may provide additional programs designed to address the individual needs and circumstances of adult students, particularly students with the lowest levels of literacy skills.

* * * Flexible Pathways: Early College * * *

Sec. 8. 16 V.S.A. § 4011(e) is amended to read:

(e) Early college.

(1) ~~The commissioner~~ For each 12th grade Vermont student enrolled, the Secretary shall pay an amount equal to 87 percent of the base education amount to:

(A) the Vermont Academy of Science and Technology ~~for each Vermont resident, 12th grade student enrolled~~ (VAST); and

(B) an early college program other than the VAST program that is developed and operated or overseen by one of the Vermont State Colleges, by the University of Vermont, or by an accredited private postsecondary school located in Vermont and that is approved for operation by the Secretary; provided, however, when making a payment under this subdivision (B), the Secretary shall not pay more than the tuition charged by the institution.

(2) The Secretary shall make the payment pursuant to subdivision (1) of this subsection directly to the postsecondary institution, which shall accept the amount as full payment of the student's tuition.

(3) A student on whose behalf the Secretary makes a payment pursuant to subdivision (1) of this subsection:

(A) shall be enrolled as a full-time student in the institution receiving the payment for the academic year for which payment is made;

(B) shall not be enrolled concurrently in a secondary school operated by the student's district of residence or to which the district pays tuition on the student's behalf; and

(C) shall not be included in the average daily membership of any school district for the academic year for which payment is made; provided, however, that if more than five percent of the 12th grade students residing in a district enroll in an early college program, then the district may include the number of students in excess of five percent in its average daily membership; but further provided that a 12th grade student enrolled in a college program shall be included in the percentage calculation only if, for the previous academic year, the student was enrolled in a school maintained by the district or was a student for whom the district paid tuition to a public or approved independent school.

(4) A postsecondary institution shall not accept a student into an early college program unless enrollment in an early college program was an element of the student's personalized learning plan.

Sec. 9. 16 V.S.A. § 1545(c) is amended to read:

(c) For any resident 12th grade student ~~attending the Vermont academy for science and technology~~ enrolled in the Vermont Academy of Science and Technology pursuant to subsection 4011(e) of this title or in another early college program pursuant to that subsection, the credits and grades earned shall, upon request of the student or the student's parent or guardian, be applied toward graduation requirements at the Vermont ~~high school which~~ secondary school that the student attended prior to enrolling in the ~~academy~~ early college program.

Sec. 10. 16 V.S.A. § 4011a is added to read:

§ 4011a. EARLY COLLEGE PROGRAM; REPORT; APPROPRIATION

(a) Notwithstanding 2 V.S.A. § 20(d), any postsecondary institution receiving funds pursuant to subsection 4011(e) of this title shall report annually in January to the Senate and House Committees on Education regarding the level of participation in the institution's early college program, the success in achieving the stated goals of the program to enhance secondary students' educational experiences and prepare them for success in college and beyond, and the specific outcomes for participating students relating to programmatic goals.

(b) In the budget submitted annually to the General Assembly pursuant to 32 V.S.A. chapter 5, the Governor shall include the recommended appropriation for all early college programs to be funded pursuant to subsection 4011(e) of this title, including the VAST program, as a distinct amount.

Sec. 11. EARLY COLLEGE; ENROLLMENT; CAPS; REPORTS; SUNSET

(a) A postsecondary institution receiving funds in connection with an early college program pursuant to Sec. 8, 16 V.S.A. § 4011(e), of this act shall not enroll more than 18 Vermont students in the program in one academic year; provided, however, that:

(1) the Vermont Academy of Science and Technology shall not enroll more than 60 Vermont students in one academic year; and

(2) there shall be no limitations on enrollment in any early college programs offered by the Community College of Vermont.

(b) Annually in January of 2014 through 2017, the Vermont State Colleges and the University of Vermont shall report to the House and Senate Committees on Education regarding the expansion of the early college program in public and private postsecondary institutions as provided in Sec. 2 of this act, including data regarding actual enrollment, expected enrollment, unmet demand, if any, and marketing efforts for the purpose of considering whether it would be advisable to consider legislation repealing or amending the limit on the total number of students who may enroll.

(c) This section is repealed on July 1, 2017.

* * * Implementation and Transitional Provisions;
Effective Dates * * *

Sec. 12. FLEXIBLE PATHWAYS IMPLEMENTATION PROJECT ON POSTSECONDARY PLANNING

To assist implementation of the Flexible Pathways Initiative established in Sec. 1 of this act, the Secretary of Education is authorized to enter into an agreement with the Vermont Student Assistance Corporation and one or more elementary or secondary schools to design and implement demonstration projects related to career planning and planning for postsecondary education and training.

Sec. 13. PERSONALIZED LEARNING PLAN PROCESS; IMPLEMENTATION; WORKING GROUP

(a) The process of developing and updating a personalized learning plan reflects the discussions and collaboration of a student and involved adults. When students engage in the personalized learning plan process, they assume an active role in the planning, assessment, and reflection required to identify developmentally appropriate academic, social, and career goals.

(b) On or before July 15, 2013, the Secretary of Education shall convene a working group to consist of teachers and principals of elementary and secondary schools, superintendents, and other interested parties to support implementation of the personalized learning plan process, particularly in those schools that do not already have a process in place. The working group shall consider ways in which effective personalized learning plan processes enhance development of the evolving academic, career, social, transitional, and family engagement elements of a student's plan and shall identify best practices that can be replicated in other schools. The working group also shall consider ways in which the personalized learning that should occur in kindergarten through grade six can be used to reinforce and enhance the personalized learning plan process in grade seven through grade 12.

(c) By January 20, 2014, the working group shall develop and the Secretary shall publish on the Agency website guiding principles and practical tools for the personalized learning plan process and for developing personalized learning plans. The Secretary shall provide clarity regarding the differences in form, purpose, and function of personalized learning plans, educational support teams, plans created pursuant to section 504 of the federal Rehabilitation Act of 1973, and individualized education programs (IEPs). The Agency shall provide further guidance and support to schools as requested.

Sec. 14. EFFECTIVE DATE; IMPLEMENTATION DATES

(a) This act shall take effect on July 1, 2013.

(b)(1) By November 30, 2015, a school district shall ensure development of a personalized learning plan for:

(A) each student then in grade seven or nine; and

(B) for each student then in grade 11 or 12 who wishes to enroll in a dual enrollment pursuant to Sec. 1 of this act.

(2) By November 30, 2016, a school district:

(A) shall ensure development of a personalized learning plan for:

(i) each student then in grade seven or nine; and

(ii) each student then in grade 11 or 12 who wishes to enroll in a dual enrollment course; and

(B) shall ensure that the personalized learning plan process continues for enrolled students for whom plans were developed in previous years.

(3) By November 30, 2017 and by that date in each subsequent year, a school district:

(A) shall ensure development of a personalized learning plan for:

(i) each student then in grade seven; and

(ii) each student then in grade 11 or 12 who wishes to enroll in a dual enrollment course for whom a plan was not previously developed; and

(B) shall ensure that the personalized learning plan process continues for enrolled students for whom plans were developed in previous years.

(4) During academic years 2013–14 and 2014–15, a student who has not developed a personalized learning plan may enroll in a dual enrollment course pursuant to Sec. 1 of this act or an early college program pursuant to Sec. **8** of this act upon receiving prior approval of participation from the postsecondary institution and the principal or headmaster of the secondary school in which the student is enrolled. The principal or headmaster shall not withhold approval without reasonable justification. A student may request that the superintendent review a decision of the principal or headmaster to withhold approval. The superintendent's decision shall be final.

(5) Upon the recommendation of the working group created in Sec. 13 of this act, the Secretary of Education may extend by one year any of the implementation dates required under this subsection (b).

(c) Funds for new early college programs pursuant to Sec. 8, 16 V.S.A. § 4011(e)(1)(B), of this act shall be available to students beginning in the 2014–2015 academic year.

Thereupon, the question, Shall the Senate concur in the House proposal of amendment?, was decided in the affirmative.

S. 156.

House proposal of amendment to Senate bill entitled:

An act relating to home visiting standards.

Was taken up.

The House proposes to the Senate to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. PURPOSE

In recognition of the significant positive contribution that home visiting services make with regard to enhancing family stability, family health, and child development; fostering parenting skills; reducing child maltreatment; promoting social and emotional health; improving school readiness; and promoting economic self-sufficiency, the General Assembly seeks to ensure that home visiting services to Vermonters are of the highest quality by establishing standards for their administration, delivery, and utilization review that foster the contributions of diverse practice models.

Sec. 2. RULEMAKING

(a) As used in this section, "home visiting services" means regular, voluntary visits with a pregnant woman or a family with a young child for the purpose of providing a continuum of services that improves maternal and child health; prevents child injuries, abuse, or maltreatment; promotes social and emotional health; improves school readiness; reduces crime or domestic violence; improves economic self-sufficiency; or enhances coordination and referrals among community resources and supports, such as food, housing, and transportation.

(b) The Secretary of Human Services, in consultation with interested providers and other stakeholders, shall develop rules establishing standards for the delivery of home visiting services throughout Vermont to be adopted by the Secretary on or before July 1, 2014.

(c) In developing standards for the delivery of home visiting services, the Secretary shall be guided by best family-centered and family-directed practices and evidence-based models. The standards adopted by rule shall address the following:

(1) creation of a system of home visiting services that can respond to diverse family needs;

(2) service provider training and supervision;

(3) a structure for coordinating services at the state and local levels with respect to outreach efforts, family intake methods, referrals, and transitions;

(4) access to supports, resources, and information to address short- and long-term family needs;

(5) criteria identifying which home visiting models and home visiting programs are eligible for funding;

(6) the contributions of organizations that use trained volunteers; and

(7) performance evaluation and quality improvement measures, including mechanisms for tracking funding, utilization, and outcomes for families and children at the state, community, and program levels.

Sec. 3. EFFECTIVE DATE

This act shall take effect on passage.

Thereupon, the question, Shall the Senate concur in the House proposal of amendment?, was decided in the affirmative.

S. 157.

House proposal of amendment to Senate bill entitled:

An act relating to modifying the requirements for hemp production in the State of Vermont.

Was taken up.

The House proposes to the Senate to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 6 V.S.A. chapter 34 is amended to read:

CHAPTER 34. ~~INDUSTRIAL~~ HEMP

§ 561. FINDINGS; INTENT

(a) Findings.

(1) Hemp has been continuously cultivated for millennia, is accepted and available in the global marketplace, and has numerous beneficial, practical, and economic uses, including: high-strength fiber, textiles, clothing, bio-fuel, paper products, protein-rich food containing essential fatty acids and amino acids, biodegradable plastics, resins, nontoxic medicinal and cosmetic products, construction materials, rope, and value-added crafts.

(2) The many agricultural and environmental beneficial uses of hemp include: livestock feed and bedding, stream buffering, erosion control, water and soil purification, and weed control.

(3) The hemp plant, an annual herbaceous plant with a long slender stem ranging in height from four to 15 feet and a stem diameter of one-quarter to three-quarters of an inch is morphologically distinctive and readily identifiable as an agricultural crop grown for the cultivation and harvesting of its fiber and seed.

(4) Hemp cultivation will enable the State of Vermont to accelerate economic growth and job creation, promote environmental stewardship, and expand export market opportunities.

(b) Purpose. The intent of this ~~act~~ chapter is to establish policy and procedures for growing ~~industrial~~ hemp in Vermont so that farmers and other businesses in the Vermont agricultural industry can take advantage of this market opportunity ~~when federal regulations permit~~.

§ 562. DEFINITIONS

As used in this chapter:

(1) ~~"Grower" means any~~ a person ~~or business entity licensed under this chapter by the secretary as an industrial hemp grower.~~ [Deleted.]

(2) "Hemp products" means all products made from ~~industrial~~ hemp, including ~~but not limited to~~ cloth, cordage, fiber, food, fuel, paint, paper, ~~particle board~~ construction materials, plastics, seed, seed meal, seed oil, and certified seed for cultivation ~~if such seeds originate from industrial hemp varieties~~.

(3) ~~"Industrial hemp" means varieties of the plant cannabis sativa having no more than 0.3 percent tetrahydrocannabinol, whether growing or not, that are cultivated or possessed by a licensed grower in compliance with this chapter.~~ "Hemp" means the plant Cannabis sativa L. and any part of the plant, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis.

(4) "Secretary" means the ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets.

§ 563. ~~INDUSTRIAL~~ HEMP: AN AGRICULTURAL PRODUCT

~~Industrial hemp~~ Hemp is an agricultural product which may be grown as a crop, produced, possessed, and commercially traded in Vermont pursuant to the provisions of this chapter. The cultivation of hemp shall be subject to and comply with the requirements of the accepted agricultural practices adopted under section 4810 of this title.

§ 564. ~~LICENSING; APPLICATION~~ REGISTRATION; ADMINISTRATION

~~(a) Any person or business entity wishing to engage in the production of industrial hemp must be licensed as an industrial hemp grower by the secretary. A license from the secretary shall authorize industrial hemp production only at a site or sites specified by the license.~~

~~(b) A license from the secretary shall be valid for 24 months from the date of issuance and may be renewed but shall not be transferable.~~

~~(c)(1) The secretary shall obtain from the Vermont criminal information center a record of convictions in Vermont and other jurisdictions for any applicant for a license who has given written authorization on the application form. The secretary shall file a user's agreement with the center. The user's agreement shall require the secretary to comply with all statutes, rules, and policies regulating the release of criminal conviction records and the protection of individual privacy. Conviction records provided to the secretary under this section are confidential and shall be used only to determine the applicant's eligibility for licensure.~~

~~(2) A person who has been convicted in Vermont of a felony offense or a comparable offense in another jurisdiction shall not be eligible for a license under this chapter.~~

~~(d) When applying for a license from the secretary, an applicant shall provide information sufficient to demonstrate to the secretary that the applicant intends to grow and is capable of growing industrial hemp in accordance with this chapter, which at a minimum shall include:~~

~~(1) Filing with the secretary a set of classifiable fingerprints and written authorization permitting the Vermont criminal information center to generate a record of convictions as required by subdivision (c)(1) of this section.~~

~~(2) Filing with the secretary documentation certifying that the seeds obtained for planting are of a type and variety compliant with the maximum concentration of tetrahydrocannabinol set forth in subdivision 560(3) of this chapter.~~

~~(3) Filing with the secretary the location and acreage of all parcels sown and other field reference information as may be required by the secretary.~~

~~(e) To qualify for a license from the secretary, an applicant shall demonstrate to the satisfaction of the secretary that the applicant has adopted methods to ensure the legal production of industrial hemp, which at a minimum shall include:~~

~~(1) Ensuring that all parts of the industrial hemp plant that do not enter the stream of commerce as hemp products are destroyed, incorporated into the soil, or otherwise properly disposed of.~~

~~(2) Maintaining records that reflect compliance with the provisions of this chapter and with all other state laws regulating the planting and cultivation of industrial hemp.~~

~~(f) Every grower shall maintain all production and sales records for at least three years.~~

~~(g) Every grower shall allow industrial hemp crops, throughout sowing, growing season, harvest, storage, and processing, to be inspected by and at the discretion of the secretary or his or her designee.~~

(a) A person who intends to grow hemp shall register with the Secretary and submit on a form provided by the Secretary the following:

(1) the name and address of the person;

(2) a statement that the seeds obtained for planting are of a type and variety that do not exceed the maximum concentration of tetrahydrocannabinol set forth in subdivision 562(3) of this title; and

(3) the location and acreage of all parcels sown and other field reference information as may be required by the Secretary.

(b) The form provided by the Secretary pursuant to subsection (a) of this section shall include a notice statement that, until current federal law is amended to provide otherwise:

(A) cultivation and possession of hemp in Vermont is a violation of the federal Controlled Substances Act; and

(B) federal prosecution for growing hemp in violation of federal law may include criminal penalties, forfeiture of property, and loss of access to federal agricultural benefits, including agricultural loans, conservation programs, and insurance programs.

(c) A person registered with the Secretary pursuant to this section shall allow hemp crops, throughout sowing, growing season, harvest, storage, and processing, to be inspected and tested by and at the discretion of the Secretary or his or her designee.

(d) The Secretary may assess an annual registration fee of $25.00 for the performance of his or her duties under this chapter.

~~§ 565. REVOCATION AND SUSPENSION OF LICENSE; ENFORCEMENT~~

~~(a) The secretary may deny, suspend, revoke, or refuse to renew the license of any grower who:~~

~~(1) Makes a false statement or misrepresentation on an application for a license or renewal of a license.~~

~~(2) Fails to comply with or violates any provision of this chapter or any rule adopted under it.~~

~~(b) Revocation or suspension of a license may be in addition to any civil or criminal penalties imposed on a grower for a violation of any other state law.~~ [Repealed.]

§ 566. RULEMAKING AUTHORITY

The ~~secretary shall~~ Secretary may adopt rules to provide for the implementation of this chapter, which ~~shall~~ may include rules to ~~allow~~ require ~~for the industrial~~ hemp to be tested during growth for tetrahydrocannabinol levels and to ~~allow for~~ require inspection and supervision of ~~the industrial~~ hemp during sowing, growing season, harvest, storage, and processing. The Secretary shall not adopt under this or any other section a rule that would prohibit a person to grow hemp based on the legal status of hemp under federal law.

Sec. 2. 18 V.S.A. § 4201(15) is amended to read:

(15) "Marijuana" means any plant material of the genus ~~cannabis~~ Cannabis or any preparation, compound, or mixture thereof except:

(A) sterilized seeds of the plant ~~and~~;

(B) fiber produced from the stalks~~,~~; or

(C) hemp or hemp products, as defined in 6 V.S.A. § 562.

Sec. 3. 18 V.S.A. § 4241(b) is amended to read:

(b) This subchapter shall not apply to any property used or intended for use in an offense involving two ounces or less of marijuana or in connection with hemp or hemp products as defined in 6 V.S.A. § 562.

Sec. 4. 2008 Acts and Resolves No. 212, Sec. 3 is amended to read:

Sec. 3. EFFECTIVE DATE

This act shall take effect upon passage~~, except that the secretary shall not issue a license to grow industrial hemp pursuant to Chapter 34 of Title 6 until the United States Congress amends the definition of "marihuana" for the~~

~~purposes of the Controlled Substances Act (21 U.S.C. 802(16)) or the United States drug enforcement agency amends its interpretation of the existing definition in a manner affording an applicant a reasonable expectation that a permit to grow industrial hemp may be issued in accordance with part C of chapter 13 of Title 21 of the United States Code Annotated, or the drug enforcement agency takes affirmative steps to approve or deny a permit sought by the holder of a license to grow industrial hemp in another state~~.

Sec. 5. EFFECTIVE DATE

This act shall take effect on passage.

Thereupon, the question, Shall the Senate concur in the House proposal of amendment?, was decided in the affirmative.

House Proposal of Amendment to Senate Proposal of Amendment; Consideration Postponed

H. 515.

House proposal of amendment to Senate proposal of amendment to House bill entitled:

An act relating to miscellaneous agricultural subjects.

Was taken up.

The House proposes to the Senate to amend the Senate proposal of amendment by adding Sec. 13a to read:

* * * H-2A Payments * * *

Sec. 13a. H-2A PAYMENTS

The Department of Taxes shall not enforce the provisions of 32 V.S.A. chapter 151, including any associated penalties or interest, for any person who received payments while working under an H-2A temporary agricultural visa for any return period prior to December 31, 2011. The Department of Taxes also shall not enforce the provisions of 32 V.S.A. chapter 151, subchapter 4, including any associated penalties or interest, for any person who fails to withhold taxes for payments made to an employee under an H-2A temporary agricultural visa for any return period prior to December 31, 2011. Any liability, interest, or penalty imposed for a return period specified in this section shall be refunded upon request, provided the person provides documentation of his or her claim to the satisfaction of the Commissioner of Taxes.

Thereupon, the question, Shall the Senate concur in the House proposal of amendment to the Senate proposal of amendment?, on motion of Senator Baruth consideration was postponed until later in the day.

Rules Suspended; Bills Messaged

On motion of Senator Baruth, the rules were suspended, and the following bills were severally ordered messaged to the House forthwith:

S. 150, H. 534, H. 535.

Adjournment

On motion of Senator Baruth, the Senate adjourned until the afternoon.

Afternoon

The Senate was called to order by the President.

Message from the House No. 70

A message was received from the House of Representatives by Ms. H. Gwynn Zakov, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has considered bills originating in the Senate of the following titles:

S. 18. An act relating to automated license plate recognition systems.

S. 37. An act relating to tax increment financing districts.

S. 41. An act relating to water and sewer service.

And has passed the same in concurrence with proposals of amendment in the adoption of which the concurrence of the Senate is requested.

Pursuant to the request of the Senate for a Committee of Conference the Speaker appointed the following members on the part of the House:

H. 377. An act relating to neighborhood planning and development for municipalities with designated centers.

Rep. Botzow of Pownal
Rep. Dickinson of St. Albans Town
Rep. Sharpe of Bristol

Senate Resolution Placed on Calendar

S.R. 7.

Senate resolution of the following title was offered, read the first time and is as follows:

By Senators Campbell, Sears, Ashe, Kitchel, White, Ayer, Baruth, Benning, Collins, Cummings, Doyle, Flory, French, Galbraith, Hartwell, Mazza, Mullin, Pollina, Rodgers, Starr, and Westman,

S.R. 7. Senate resolution relating to a committee to study the use of state funds by organizations that lobby the General Assembly or Administration.

Whereas, it is important for the Senate to understand better if, and how, organizations that receive state funding lobby the General Assembly and Administration for policy changes or increased funding, and whether state funds are used to support those lobbying activities, *now therefore be it*

Resolved by the Senate:

That the Senate of the State of Vermont shall appoint a Committee to study whether organizations that receive state funding lobby the General Assembly or Administration, carry out other activities seeking to influence the General Assembly and Administration, what kind of lobbying, governmental affairs, or other activities are engaged in by such organizations, and whether state funds are used to support those activities, *and be it further*

Resolved: That the Committee shall be composed of seven members of the Senate to be appointed by the Committee on Committees, *and be it further*

Resolved: That the Committee may conduct hearings, may administer oaths to and examine under oath any person, and shall have the power to compel the attendance of witnesses and the production of books, records, papers, vouchers, accounts, or documents.

Thereupon, in the discretion of the President, under Rule 51, the resolution was placed on the Calendar for action the next legislative day.

Consideration Resumed; House Proposal of Amendment to Senate Proposal of Amendment Concurred In

H. 515.

Consideration was resumed on House bill entitled:

An act relating to miscellaneous agricultural subjects.

Thereupon, the pending question, Shall the Senate concur in the House proposal of amendment to the Senate proposal of amendment?, was decided in the affirmative.

Rules Suspended; Third Reading Ordered

H. 265.

Pending entry on the Calendar for notice, on motion of Senator MacDonald, the rules were suspended and House bill entitled:

An act relating to the education property tax rates and base education amount for fiscal year 2014.

Was taken up for immediate consideration.

Senator MacDonald, for the Committee on Finance, to which the bill was referred, reported that the bill ought to pass in concurrence.

Thereupon, the bill was read the second time by title only pursuant to Rule 43.

Thereupon, pending the question, Shall the bill be read the third time?, Senator McCormack moved that the bill be committed to the Committee on Education?, which was disagreed to.

Thereupon, pending the question, Shall the bill be read a third time?, Senator Sears moved to strike Sec. 3 of the bill which was disagreed to.

Thereupon, third reading of the bill was ordered on a roll call, Yeas 18, Nays 10.

Senator Galbraith having demanded the yeas and nays, they were taken and are as follows:

Roll Call

Those Senators who voted in the affirmative were: Ashe, Ayer, Baruth, Benning, Bray, Campbell, Collins, Cummings, Doyle, Fox, French, Lyons, MacDonald, Mazza, McCormack, Pollina, White, Zuckerman.

Those Senators who voted in the negative were: Flory, Galbraith, Hartwell, McAllister, Mullin, Nitka, Rodgers, Sears, Starr, Westman.

Those Senators absent and not voting were: Kitchel, Snelling.

Rules Suspended; Motion for Action Reconsidered

S. 157.

Senator Sears moved that the rules be suspended so that the Senate may reconsider its vote on Senate bill entitled:

An act relating to modifying the requirements for hemp production in the State of Vermont.

Thereupon, pending the question, Shall the rules be suspended so the Senate may reconsideration it’s action on the bill?, Senator Sears requested and was granted leave to withdraw the motion.

Action Reconsidered

H. 265.

Assuring the Chair that he voted with the majority whereby third reading of the bill was ordered, Senator Benning moved that the rules be suspended and the Senate reconsider its action on Senate bill entitled:

An act relating to the education property tax rates and base education amount for fiscal year 2014.

Which was agreed to.

Thereupon, the question, Shall the bill be read the third time?, was agreed to on a roll call, Yeas 17, Nays 10.

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, Baruth, Bray, Campbell, Collins, Cummings, Doyle, Fox, French, Lyons, MacDonald, Mazza, McCormack, Pollina, White, Zuckerman.

Those Senators who voted in the negative were: Benning, Flory, Galbraith, Hartwell, McAllister, Mullin, Nitka, Rodgers, Starr, Westman.

Those Senators absent and not voting were: Kitchel, Sears, Snelling.

Bill Passed in Concurrence with Proposals of Amendment

H. 107.

House bill entitled:

An act relating to health insurance, Medicaid, and the Vermont Health Benefit Exchange.

Was taken up.

Thereupon, pending third reading of the bill, Senator Lyons moved to amend the Senate proposal of amendment as follows:

First: In Sec. 3, 8 V.S.A. § 4089i, in subdivisions (e)(1) and (f)(1), preceding "pharmacy benefit manager" in both places it appears, by inserting the words by a and following "pharmacy benefit manager" in both places it appears, by inserting the words on behalf of a health insurer

Second: By striking out Sec. 5a in its entirety and inserting in lieu thereof a new Sec. 5a to read as follows:

Sec. 5a. 18 V.S.A. § 9418b(g)(4) is amended to read:

(4) A health plan shall respond to a completed prior authorization request from a prescribing health care provider within 48 hours for urgent requests and within ~~120 hours~~ two business days of receipt for non-urgent requests. The health plan shall notify a health care provider of or make available to a health care provider a receipt of the request for prior authorization and any needed missing information within 24 hours of receipt. If a health plan does not, within the time limits set forth in this section, respond to a completed prior authorization request, acknowledge receipt of the request for prior authorization, or request missing information, the prior authorization request shall be deemed to have been granted.

Third: In Sec. 5b, standardized health insurance claims and edits, in subdivision (a)(1), following "January 1, 2015" by inserting before the period and that Medicaid shall use beginning on January 1, 2017

Fourth: In Sec. 5b, standardized health insurance claims and edits, in subdivision (c)(1), following "January 1,", by striking out "2015" and inserting in lieu thereof 2017

Fifth: In Sec. 5b, standardized health insurance claims and edits, in subsection (d), by striking out subdivision (2) in its entirety and inserting in lieu thereof a new subdivision (2) to read as follows:

(2) "Health insurer" means a health insurance company, a nonprofit hospital or medical service corporation, a managed care organization, and, to the extent permitted under federal law, any administrator of an insured, self-insured, or publicly funded health care benefit plan offered by a public or private entity.

Sixth: In Sec. 5c, 8 V.S.A. § 4062, in subdivision (c)(3), by designating the existing subdivision to be subdivision (3)(A), by striking out "Health Care Ombudsman" and inserting in lieu thereof Office of the Health Care Advocate established in 18 V.S.A. chapter 229, and by adding a subdivision (3)(B) to read as follows:

(B) The Office of the Health Care Advocate may also submit to the Board written comments on an insurer's rate request. The Board shall post the comments on its website and shall consider the comments prior to issuing its decision.

Seventh: In Sec. 5c, 8 V.S.A. § 4062, in subdivision (e)(1)(B), by striking out "Health Care Ombudsman" and inserting in lieu thereof Office of the Health Care Advocate

Eighth: In Sec. 5c, 8 V.S.A. § 4062, in subsection (g), by striking out "Health Care Ombudsman" and inserting in lieu thereof Office of the Health Care Advocate

Ninth: By adding Secs. 35a–35h to read as follows:

* * * Office of the Health Care Advocate * * *

Sec. 35a. 18 V.S.A. chapter 229 is added to read:

CHAPTER 229. OFFICE OF THE HEALTH CARE ADVOCATE

§ 9601. DEFINITIONS

As used in this chapter:

(1) "Green Mountain Care Board" or "Board" means the Board established in chapter 220 of this title.

(2) "Health insurance plan" means a policy, service contract, or other health benefit plan offered or issued by a health insurer and includes beneficiaries covered by the Medicaid program unless they are otherwise provided with similar services.

(3) "Health insurer" shall have the same meaning as in section 9402 of this title.

§ 9602. OFFICE OF THE HEALTH CARE ADVOCATE; COMPOSITION

(a) The Agency of Administration shall establish the Office of the Health Care Advocate by contract with any nonprofit organization.

(b) The Office shall be administered by the Chief Health Care Advocate, who shall be an individual with expertise and experience in the fields of health care and advocacy. The Advocate may employ legal counsel, administrative staff, and other employees and contractors as needed to carry out the duties of the Office.

§ 9603. DUTIES AND AUTHORITY

(a) The Office of the Health Care Advocate shall:

(1) Assist health insurance consumers with health insurance plan selection by providing information, referrals, and assistance to individuals about means of obtaining health insurance coverage and services. The Office shall accept referrals from the Vermont Health Benefit Exchange and Exchange navigators created pursuant to 33 V.S.A. chapter 18, subchapter 1, to assist consumers experiencing problems related to the Exchange.

(2) Assist health insurance consumers to understand their rights and responsibilities under health insurance plans.

(3) Provide information to the public, agencies, members of the General Assembly, and others regarding problems and concerns of health insurance

consumers as well as recommendations for resolving those problems and concerns.

(4) Identify, investigate, and resolve complaints on behalf of individual health insurance consumers, and assist those consumers with filing and pursuit of complaints and appeals.

(5) Provide information to individuals regarding their obligations and responsibilities under the Patient Protection and Affordable Care Act (Public Law 111-148).

(6) Analyze and monitor the development and implementation of federal, state, and local laws, rules, and policies relating to patients and health insurance consumers.

(7) Facilitate public comment on laws, rules, and policies, including policies and actions of health insurers.

(8) Suggest policies, procedures, or rules to the Green Mountain Care Board in order to protect patients' and consumers' interests.

(9) Promote the development of citizen and consumer organizations.

(10) Ensure that patients and health insurance consumers have timely access to the services provided by the Office.

(11) Submit to the General Assembly and the Governor on or before January 1 of each year a report on the activities, performance, and fiscal accounts of the Office during the preceding calendar year.

(b) The Office of the Health Care Advocate may:

(1) Review the health insurance records of a consumer who has provided written consent. Based on the written consent of the consumer or his or her guardian or legal representative, a health insurer shall provide the Office with access to records relating to that consumer.

(2) Pursue administrative, judicial, and other remedies on behalf of any individual health insurance consumer or group of consumers.

(3) Represent the interests of the people of the State in cases requiring a hearing before the Green Mountain Care Board established in chapter 220 of this title.

(4) Adopt policies and procedures necessary to carry out the provisions of this chapter.

(5) Take any other action necessary to fulfill the purposes of this chapter.

(c) The Office of the Health Care Advocate shall be able to speak on behalf of the interests of health care and health insurance consumers and to carry out all duties prescribed in this chapter without being subject to any retaliatory action; provided, however, that nothing in this subsection shall limit the authority of the Agency of Administration to enforce the terms of the contract.

§ 9604. DUTIES OF STATE AGENCIES

All state agencies shall comply with reasonable requests from the Office of the Health Care Advocate for information and assistance. The Agency of Administration may adopt rules necessary to ensure the cooperation of state agencies under this section.

§ 9605. CONFIDENTIALITY

In the absence of written consent by a complainant or an individual using the services of the Office or by his or her guardian or legal representative or the absence of a court order, the Office of the Health Care Advocate, its employees, and its contractors shall not disclose the identity of the complainant or individual.

§ 9606. CONFLICTS OF INTEREST

The Office of the Health Care Advocate, its employees, and its contractors shall not have any conflict of interest relating to the performance of their responsibilities under this chapter. For the purposes of this chapter, a conflict of interest exists whenever the Office of the Health Care Advocate, its employees, or its contractors or a person affiliated with the Office, its employees, or its contractors:

(1) have a direct involvement in the licensing, certification, or accreditation of a health care facility, health insurer, or health care provider;

(2) have a direct ownership interest or investment interest in a health care facility, health insurer, or health care provider;

(3) are employed by or participating in the management of a health care facility, health insurer, or health care provider; or

(4) receive or have the right to receive, directly or indirectly, remuneration under a compensation arrangement with a health care facility, health insurer, or health care provider.

§ 9607. FUNDING; INTENT

(a) The Office of the Health Care Advocate shall specify in its annual report filed pursuant to this chapter the sums expended by the Office in carrying out its duties, including identifying the specific amount expended for actuarial services.

(b) It is the intent of the General Assembly that the Office of the Health Care Advocate shall maximize the amount of federal and grant funds available to support the activities of the Office.

Sec. 35b. 18 V.S.A. § 9374(f) is amended to read:

(f) In carrying out its duties pursuant to this chapter, the ~~board~~ Board shall seek ~~the~~ advice ~~of the state health care ombudsman established in 8 V.S.A. § 4089w~~ from the Office of the Health Care Advocate. The ~~state health care ombudsman~~ Office shall advise the ~~board~~ Board regarding the policies, procedures, and rules established pursuant to this chapter. The ~~ombudsman~~ Office shall represent the interests of Vermont patients and Vermont consumers of health insurance and may suggest policies, procedures, or rules to the ~~board~~ Board in order to protect patients' and consumers' interests.

Sec. 35c. 18 V.S.A. § 9377(e) is amended to read:

(e) The ~~board~~ Board or designee shall convene a broad-based group of stakeholders, including health care professionals who provide health services, health insurers, professional organizations, community and nonprofit groups, consumers, businesses, school districts, the ~~state health care ombudsman~~ Office of the Health Care Advocate, and state and local governments, to advise the ~~board~~ Board in developing and implementing the pilot projects and to advise the Green Mountain Care ~~board~~ Board in setting overall policy goals.

Sec. 35d. 18 V.S.A. § 9410(a)(2) is amended to read:

(2)(A) The program authorized by this section shall include a consumer health care price and quality information system designed to make available to consumers transparent health care price information, quality information, and such other information as the ~~commissioner~~ Commissioner determines is necessary to empower individuals, including uninsured individuals, to make economically sound and medically appropriate decisions.

(B) The ~~commissioner~~ Commissioner shall convene a working group composed of the ~~commissioner of mental health, the commissioner of Vermont health access~~ Commissioner of Mental Health, the Commissioner of Vermont Health Access, health care consumers, the ~~office of the health care ombudsman~~ Office of the Health Care Advocate, employers and other payers, health care providers and facilities, the Vermont ~~program for quality in health care~~ Program for Quality in Health Care, health insurers, and any other individual or group appointed by the ~~commissioner~~ Commissioner to advise the ~~commissioner~~ Commissioner on the development and implementation of the consumer health care price and quality information system.

* * *

Sec. 35e. 18 V.S.A. § 9440(c) is amended to read:

(c) The application process shall be as follows:

* * *

(9) The ~~health care ombudsman's office~~ Office of the Health Care Advocate established under ~~8 V.S.A. chapter 107, subchapter 1A~~ chapter 229 of this title or, in the case of nursing homes, the ~~long-term care ombudsman's office~~ Long-Term Care Ombudsman's Office established under 33 V.S.A. § 7502~~,~~ is authorized but not required to participate in any administrative or judicial review of an application under this subchapter and shall be considered an interested party in such proceedings upon filing a notice of intervention with the ~~board~~ Board.

Sec. 35f. 18 V.S.A. § 9445(b) is amended to read:

(b) In addition to all other sanctions, if any person offers or develops any new health care project without first having been issued a certificate of need or certificate of exemption ~~therefore~~ for the project, or violates any other provision of this subchapter or any lawful rule ~~or regulation promulgated thereunder~~ adopted pursuant to this subchapter, the ~~board~~ Board, the ~~commissioner~~ Commissioner, the ~~state health care ombudsman~~ Office of the Health Care Advocate, the ~~state long-term care ombudsman~~ State Long-Term Care Ombudsman, and health care providers and consumers located in the ~~state~~ State shall have standing to maintain a civil action in the ~~superior court~~ Superior Court of the county ~~wherein~~ in which such alleged violation has occurred, or ~~wherein~~ in which such person may be found, to enjoin, restrain, or prevent such violation. Upon written request by the ~~board~~ Board, it shall be the duty of the ~~attorney general of the state~~ Vermont Attorney General to furnish appropriate legal services and to prosecute an action for injunctive relief to an appropriate conclusion, which shall not be reimbursed under subdivision (a)(2) of this ~~subsection~~ section.

Sec. 35g. 33 V.S.A. § 1805 is amended to read:

§ 1805. DUTIES AND RESPONSIBILITIES

The Vermont ~~health benefit exchange~~ Health Benefit Exchange shall have the following duties and responsibilities consistent with the Affordable Care Act:

* * *

(16) Referring consumers to the ~~office of health care ombudsman~~ Office of the Health Care Advocate for assistance with grievances, appeals, and other issues involving the Vermont ~~health benefit exchange~~ Health Benefit Exchange.

* * *

Sec. 35h. 33 V.S.A. § 1807(b) is amended to read:

(b) Navigators shall have the following duties:

* * *

(4) Provide referrals to the ~~office of health care ombudsman~~ Office of the Health Care Advocate and any other appropriate agency for any enrollee with a grievance, complaint, or question regarding his or her health benefit plan, coverage, or a determination under that plan or coverage;

* * *

Tenth: By adding a Sec. 37d to read as follows:

Sec. 37d. HEALTH CARE ADVOCATE; BILL BACK

(a) Through June 30, 2016, financial support for the Office of the Health Care Advocate established pursuant to 18 V.S.A. chapter 229 for services related to the Green Mountain Care Board's and Department of Financial Regulation's regulatory and supervisory duties shall be considered expenses incurred by the Board or the Department under 18 V.S.A. §§ 9374(h) and 9415 and shall be an acceptable use of the funds realized pursuant to those sections.

(b) For fiscal year 2014, the Green Mountain Care Board and the Department of Financial Regulation may allocate up to $300,000.00 of expenses pursuant to the authority granted by subsection (a) of this section.

(c) On or before February 1, 2014, the Director of Health Care Reform in the Agency of Administration shall present to the House Committees on Health Care, on Ways and Means, and on Appropriations and the Senate Committees on Health and Welfare, on Finance, and on Appropriations sustainable funding options for the Office of the Health Care Advocate, including sustainable options based on sources other than the allocation of expenses described in subsection (a) of this section.

Eleventh: By adding Secs. 40a–40c to read as follows:

* * * Prior Authorizations * * *

Sec. 40a. 18 V.S.A. § 9377a is added to read:

§ 9377a. PRIOR AUTHORIZATION PILOT PROGRAM

(a) The Green Mountain Care Board shall develop and implement a pilot program or programs for the purpose of measuring the change in system costs within primary care associated with eliminating prior authorization requirements for imaging, medical procedures, prescription drugs, and home care. The program shall be designed to measure the effects of eliminating

prior authorizations on provider satisfaction and on the number of requests for and expenditures on imaging, medical procedures, prescription drugs, and home care. In developing the pilot program proposal, the Board shall collaborate with health care professionals and health insurers throughout the State or regionally.

(b) The Board shall submit an update regarding implementation of prior authorization pilot programs as part of its annual report under subsection 9375(d) of this title.

Sec. 40b. 18 V.S.A. § 9414a(a)(5) is amended to read:

(5) data regarding the number of denials of service by the health insurer at the preauthorization level, including:

(A) the total number of denials of service by the health insurer at the preauthorization level~~, including:~~;

~~(A)~~(B) the total number of denials of service at the preauthorization level appealed to the health insurer at the first-level grievance and, of those, the total number overturned; and

~~(B)~~(C) the total number of denials of service at the preauthorization level appealed to the health insurer at any second-level grievance and, of those, the total number overturned;

~~(C)~~(D) the total number of denials of service at the preauthorization level for which external review was sought and, of those, the total number overturned;

Sec. 40c. DENIED CLAIMS; DEPARTMENT OF VERMONT HEALTH ACCESS

On or before February 1, 2014, the Department of Vermont Health Access shall present data to the House Committee on Health Care and the Senate Committee on Health and Welfare on claims denied by the Department. To the extent practicable, the Department shall base its presentation on the data required by the standardized form created by the Department of Financial Regulation for use by health insurers under 18 V.S.A. § 9414a(c).

Twelfth: In Sec. 52, repeals, by adding a subsection (f) to read as follows:

(f) 8 V.S.A. § 4089w (Health Care Ombudsman) is repealed on January 1, 2014.

Thirteenth: By striking out Sec. 53, effective dates, in its entirety and inserting in lieu thereof a new Sec. 53 to read as follows:

* * * Effective Dates * * *

Sec. 53. EFFECTIVE DATES

(a) Secs. 2 (mental health care services review), 3(d) (8 V.S.A. § 4089i(d)(prescription drug deductibles), 5a (prior authorization), 5b (standardized claims and edits), 33–34a (health information exchange), 35 (hospital energy efficiency), 39 (publication extension for 2013 hospital reports), 40 (VHCURES), 43 and 44 (workforce planning), 46 (DVHA antitrust provision), 48 (Exchange options), 49 (correction to payment reform pilot repeal), 50 (transfer of positions), 51 (emergency rules), and 52 (repeals) of this act and this section shall take effect on passage.

(b) Sec. 1 (interstate employers) and Secs. 28–30 (employer definitions) shall take effect on October 1, 2013 for the purchase of insurance plans effective for coverage beginning January 1, 2014.

(c) Secs. 4 (newborn coverage), 5 (grace period for premium payment), 6–27 (Catamount and VHAP), 35a–35h (Office of the Health Care Advocate), and 47 (pharmacy program enrollment) shall take effect on January 1, 2014.

(d) Secs. 31 (Healthy Vermonters) and 32 (VPharm) shall take effect on January 1, 2014, except that the Department of Vermont Health Access may continue to calculate household income under the rules of the Vermont Health Access Plan after that date if the system for calculating modified adjusted gross income for the Healthy Vermonters and VPharm programs is not operational by that date, but no later than December 31, 2014.

(e) Secs. 5c–5n (rate review) of this act shall take effect on January 1, 2014 and shall apply to all insurers filing rates and forms for major medical insurance plans on and after January 1, 2014, except that the Green Mountain Care Board and the Department of Financial Regulation may amend their rules and take such other actions before that date as are necessary to ensure that the revised rate review process will be operational on January 1, 2014.

(f) Sec. 42a (Exchange impact report) shall take effect on July 1, 2014.

(g) Sec. 3(e)–(g) (8 V.S.A. § 4089i(e)–(g); step therapy) shall take effect on September 1, 2013 and shall apply to all health insurers on and after September 1, 2013 on such date as a health insurer offers, issues, or renews a health insurance policy, but in no event later than September 1, 2014.

(h) All remaining sections of this act shall take effect on July 1, 2013.

Which was agreed to.

Senator Snelling and Flory moved that the Senate proposal of amendment be amended by adding Secs. 30a–30c to read as follows:

* * * Participation in the Exchange to be Voluntary * * *

Sec. 30a. 33 V.S.A. § 1811 is amended to read:

§ 1811. HEALTH BENEFIT PLANS FOR INDIVIDUALS AND SMALL EMPLOYERS

(a) As used in this section:

(1) "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 ~~offered through the Vermont health benefit exchange and~~ 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.

* * *

(b) ~~No person may provide a health benefit plan to an individual or small employer unless the plan is offered through the Vermont health benefit exchange and complies with the provisions of this subchapter.~~ [Deleted.]

* * *

Sec. 30b. 2011 Acts and Resolves No. 48, Sec. 2 is amended to read:

Sec. 2. STRATEGIC PLAN; UNIVERSAL AND UNIFIED HEALTH SYSTEM

(a) Vermont must begin to plan now for health care reform, including simplified administration processes, payment reform, and delivery reform, in order to have a publicly financed program of universal and unified health care operational after the occurrence of specific events, including the receipt of a waiver from the federal Exchange requirement from the U.S. Department of Health and Human Services. A waiver will be available in 2017 under the provisions of existing law in the Patient Protection and Affordable Care Act

(Public Law 111-148) ("Affordable Care Act"), as amended by the federal Health Care and Education Reconciliation Act of 2010 (Public Law 111-152), and may be available in 2014 under the provisions of two bills, H.R. 844 and S.248, introduced in the 112th Congress. In order to begin the planning efforts, the ~~director of health care reform in the agency of administration~~ Director of Health Care Reform in the Agency of Administration shall establish a strategic plan, which shall include time lines and allocations of the responsibilities associated with health care system reform, to further the containment of health care costs, to further Vermont's existing health care system reform efforts as described in 3 V.S.A. § 2222a and to further the following:

* * *

(2)(A) As provided in Sec. 4 of this act, no later than ~~November~~ October 1, 2013, the Vermont ~~health benefit exchange~~ Health Benefit Exchange established in 33 V.S.A. chapter 18, subchapter 1 shall begin enrolling individuals and ~~small~~ employers with 50 or fewer employees for coverage beginning January 1, 2014. Beginning January 1, 2014, the Commissioner of Financial Regulation may require qualified health benefit plans to be sold to individuals and small groups through the Vermont Health Benefit Exchange, provided that the Commissioner shall also allow qualified and nonqualified plans that comply with the required provision of the Affordable Care Act to be sold to individuals and small groups outside the Exchange. The intent of the ~~general assembly~~ General Assembly is to establish the Vermont ~~health benefit exchange~~ Health Benefit Exchange in a manner such that it may become the foundation for Green Mountain Care.

* * *

(3) ~~As provided in Sec. 4 of this act, no~~ No later than October 1, 2015, the Vermont Health Benefit Exchange established in 33 V.S.A. chapter 18, subchapter 1 shall make plans available to employers with 100 or fewer employees for coverage beginning January 1, 2016. No later than ~~November~~ October 1, 2016, the Vermont ~~health benefit exchange established in 33 V.S.A. chapter 18, subchapter 1~~ Health Benefit Exchange shall ~~begin enrolling~~ make plans available to large employers for coverage beginning January 1, 2017.

* * *

Sec. 30c. 2012 Acts and Resolves No. 171, Sec. 41a is amended to read:

Sec. 41a. TRANSITIONAL PROVISIONS; IMPLEMENTATION

* * *

(c) ~~Notwithstanding Sec. 41(i) of this act, repealing 8 V.S.A. §§ 4080a and 4080b, the department of financial regulation and the Green Mountain Care board may continue to approve rates and forms for nongroup and small group health insurance plans under the statutes and rules in effect prior to the date of repeal if the Vermont health benefit exchange is not operational by January 1, 2014 and the department of Vermont health access or a health insurer is unable to facilitate enrollment in health benefit plans through another mechanism, including paper enrollment. In the alternative, the department of financial regulation may allow individuals and small employers to extend coverage under an existing health insurance plan. The department of financial regulation and the Green Mountain Care board shall maintain their authority pursuant to this subsection until the exchange is able to enroll all qualified individuals and small employers who apply for coverage through the exchange.~~ [Deleted.]

* * *

(e) Notwithstanding the provisions of 8 V.S.A. §§ 4080a(d)(1) and 4080b(d)(1), a health insurer shall not be required to guarantee acceptance of any individual, employee, or dependent on or after January 1, 2014 for a small group plan offered pursuant to 8 V.S.A. § 4080a or a nongroup plan offered pursuant to 8 V.S.A. § 4080b ~~except as required by the department of financial regulation or the Green Mountain Care board, or both, pursuant to subsection (c) of this section~~.

* * *

Which was disagreed to.

Thereupon, the bill was read the third time and passed in concurrence with proposals of amendment.

House Proposal of Amendment Concurred In with Amendment

S. 152.

House proposal of amendment to Senate bill entitled:

An act relating to the Green Mountain Care Board's rate review authority.

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:

* * * Health Insurance Rate Review * * *

Sec. 1. 8 V.S.A. § 4062 is amended to read:

§ 4062. FILING AND APPROVAL OF POLICY FORMS AND PREMIUMS

(a)(1) No policy of health insurance or certificate under a policy filed by an insurer offering health insurance as defined in subdivision 3301(a)(2) of this title, a nonprofit hospital or medical service corporation, health maintenance organization, or a managed care organization and not exempted by subdivision 3368(a)(4) of this title shall be delivered or issued for delivery in this ~~state~~ State, nor shall any endorsement, rider, or application which becomes a part of any such policy be used, until~~:~~

~~(A)~~ a copy of the form~~,~~ and of the rules for the classification of risks has been filed with the Department of Financial Regulation and a copy of the premium rates~~, and rules for the classification of risks pertaining thereto have~~ has been filed with the ~~commissioner of financial regulation~~ Green Mountain Care Board; and

~~(B) a decision by~~ the Green Mountain Care ~~board~~ Board has ~~been applied by the commissioner as provided in subdivision (2) of this subsection~~ issued a decision approving, modifying, or disapproving the proposed rate.

(2)(A) ~~Prior to approving a rate pursuant to this subsection, the commissioner shall seek approval for such rate from the Green Mountain Care board established in 18 V.S.A. chapter 220. The commissioner shall make a recommendation to the Green Mountain Care board about whether to approve, modify, or disapprove the rate within 30 days of receipt of a completed application from an insurer. In the event that the commissioner does not make a recommendation to the board within the 30-day period, the commissioner shall be deemed to have recommended approval of the rate, and the Green Mountain Care board shall review the rate request pursuant to subdivision (B) of this subdivision (2).~~

~~(B)~~ The Green Mountain Care ~~board~~ Board shall review rate requests ~~forwarded by the commissioner pursuant to subdivision (A) of this subdivision (2)~~ and shall approve, modify, or disapprove a rate request within ~~30~~ 90 calendar days ~~of receipt of the commissioner's recommendation or, in the absence of a recommendation from the commissioner, the expiration of the 30-day period following the department's receipt of the completed application. In the event that the board does not approve or disapprove a rate within 30 days, the board shall be deemed to have approved the rate request~~ after receipt of an initial rate filing from an insurer. If an insurer fails to provide necessary materials or other information to the Board in a timely manner, the Board may

extend its review for a reasonable additional period of time, not to exceed 30 calendar days.

~~(C) The commissioner shall apply the decision of the Green Mountain Care board as to rates referred to the board within five business days of the board's decision.~~

(B) Prior to the Board's decision on a rate request, the Department of Financial Regulation shall provide the Board with an analysis and opinion on the impact of the proposed rate on the insurer's solvency and reserves.

(3) The ~~commissioner~~ Board shall ~~review policies and rates to~~ determine whether a ~~policy or~~ rate is affordable, promotes quality care, promotes access to health care, protects insurer solvency, and is not unjust, unfair, inequitable, misleading, or contrary to the laws of this ~~state~~ State. ~~The commissioner shall notify in writing the insurer which has filed any such form, premium rate, or rule if it contains any provision which does not meet the standards expressed in this section. In such notice, the commissioner shall state that a hearing will be granted within 20 days upon written request of the insurer.~~ In making this determination, the Board shall consider the analysis and opinion provided by the Department of Financial Regulation pursuant to subdivision (2)(B) of this subsection.

(b) ~~The commissioner may, after a hearing of which at least 20 days' written notice has been given to the insurer using such form, premium rate, or rule, withdraw approval on any of the grounds stated in this section. For premium rates, such withdrawal may occur at any time after applying the decision of the Green Mountain Care board pursuant to subdivision (a)(2)(C) of this section. Disapproval pursuant to this subsection shall be effected by written order of the commissioner which shall state the ground for disapproval and the date, not less than 30 days after such hearing when the withdrawal of approval shall become effective.~~

~~(c)~~ In conjunction with a rate filing required by subsection (a) of this section, an insurer shall file a plain language summary of ~~any requested rate increase of five percent or greater. If, during the plan year, the insurer files for rate increases that are cumulatively five percent or greater, the insurer shall file a summary applicable to the cumulative rate increase~~ the proposed rate. All summaries shall include a brief justification of any rate increase requested, the information that the Secretary of the U.S. Department of Health and Human Services (HHS) requires for rate increases over 10 percent, and any other information required by the ~~commissioner~~ Board. The plain language summary shall be in the format required by the Secretary of HHS pursuant to the Patient Protection and Affordable Care Act of 2010, Public Law 111-148, as amended by the Health Care and Education Reconciliation Act of 2010,

Public Law 111-152, and shall include notification of the public comment period established in subsection ~~(d)~~(c) of this section. In addition, the insurer shall post the summaries on its website.

~~(d)~~(c)(1) The ~~commissioner~~ Board shall provide information to the public on the ~~department's~~ Board's website about the public availability of the filings and summaries required under this section.

(2)(A) Beginning no later than January 1, ~~2012~~ 2014, the ~~commissioner~~ Board shall post the rate filings pursuant to subsection (a) of this section and summaries pursuant to subsection ~~(c)~~(b) of this section on the ~~department's~~ Board's website within five calendar days of filing. The Board shall also establish a mechanism by which members of the public may request to be notified automatically each time a proposed rate is filed with the Board.

(B) The ~~department~~ Board shall provide an electronic mechanism for the public to comment on ~~proposed rate increases over five percent~~ all rate filings. The ~~public shall have 21 days from the posting of the summaries and filings to provide~~ Board shall accept public comment on each rate filing from the date on which the Board posts the rate filing on its website pursuant to subdivision (A) of this subdivision (2) until 15 calendar days after the Board posts on its website the analyses and opinions of the Department of Financial Regulation and of the Board's consulting actuary, if any, as required by subsection (d) of this section. The ~~department~~ Board shall review and consider the public comments prior to ~~submitting the policy or rate for the Green Mountain Care board's approval pursuant to subsection (a) of this section. The department shall provide the Green Mountain Care board with the public comments for its consideration in approving any rates~~ issuing its decision.

(3)(A) In addition to the public comment provisions set forth in this subsection, the Office of the Health Care Advocate established in 18 V.S.A. chapter 229 may, within 30 calendar days after the Board receives an insurer's rate request pursuant to this section, submit questions regarding the filing to the insurer and to the Board's contracting actuary, if any.

(B) The Office of the Health Care Advocate may also submit to the Board written comments on an insurer's rate request. The Board shall post the comments on its website and shall consider the comments prior to issuing its decision.

~~(e)~~(d)(1) No later than 60 calendar days after receiving an insurer's rate request pursuant to this section, the Green Mountain Care Board shall make available to the public the insurer's rate filing, the Department's analysis and opinion of the effect of the proposed rate on the insurer's solvency, and the analysis and opinion of the rate filing by the Board's contracting actuary, if any.

(2) The Board shall post on its website, after redacting any confidential or proprietary information relating to the insurer or to the insurer's rate filing:

(A) all questions the Board poses to its contracting actuary, if any, and the actuary's responses to the Board's questions;

(B) all questions the Office of the Health Care Advocate poses to the Board's contracting actuary, if any, and the actuary's responses to the Office's questions; and

(C) all questions the Board, the Board's contracting actuary, if any, the Department, or the Office of the Health Care Advocate poses to the insurer and the insurer's responses to those questions.

(e) Within 30 calendar days after making the rate filing and analysis available to the public pursuant to subsection (d) of this section, the Board shall:

(1) conduct a public hearing, at which the Board shall:

(A) call as witnesses the Commissioner of Financial Regulation or designee and the Board's contracting actuary, if any, unless all parties agree to waive such testimony; and

(B) provide an opportunity for testimony from the insurer, the Office of the Health Care Advocate, and members of the public;

(2) at a public hearing, announce the Board's decision of whether to approve, modify, or disapprove the proposed rate; and

(3) issue its decision in writing.

(f)(1) The insurer shall notify its policyholders of the Board's decision in a timely manner, as defined by the Board by rule.

(2) Rates shall take effect on the date specified in the insurer's rate filing.

(3) If the Board has not issued its decision by the effective date specified in the insurer's rate filing, the insurer shall notify its policyholders of its pending rate request and of the effective date proposed by the insurer in its rate filing.

(g) An insurer, the Office of the Health Care Advocate, and any member of the public with party status, as defined by the Board by rule, may appeal a decision of the Board approving, modifying, or disapproving the insurer's proposed rate to the Vermont Supreme Court.

(h)~~(1) The following provisions of this~~ This section shall apply only to policies for major medical insurance coverage and shall not apply to policies

for specific disease, accident, injury, hospital indemnity, dental care, vision care, disability income, long-term care, or other limited benefit coverage~~:~~; to Medicare supplemental insurance; or

~~(A) the requirement in subdivisions (a)(1) and (2) of this section for the Green Mountain Care board's approval on rate requests;~~

~~(B) the review standards in subdivision (a)(3) of this section as to whether a policy or rate is affordable, promotes quality care, and promotes access to health care; and~~

~~(C) subsections (c) and (d) of this section.~~

~~(2) The exemptions from the provisions described in subdivisions (1)(A) through (C) of this subsection shall also apply~~ to benefit plans that are paid directly to an individual insured or to his or her assigns and for which the amount of the benefit is not based on potential medical costs or actual costs incurred.

~~(3) Medicare supplemental insurance policies shall be exempt only from the requirement in subdivisions (a)(1) and (2) of this section for the Green Mountain Care board's approval on rate requests and shall be subject to the remaining provisions of this section.~~

(i) Notwithstanding the procedures and timelines set forth in subsections (a) through (e) of this section, the Board may establish, by rule, a streamlined rate review process for certain rate decisions, including proposed rates affecting fewer than a minimum number of covered lives and proposed rates for which a de minimis increase, as defined by the Board by rule, is sought.

Sec. 2. 8 V.S.A. § 4062a is amended to read:

§ 4062a. FILING FEES

Each filing of a policy, contract, or document form or premium rates or rules, submitted pursuant to section 4062 of this title, shall be accompanied by payment to the ~~commissioner~~ Commissioner or the Green Mountain Care Board, as appropriate, of a nonrefundable fee of ~~$50.00~~ $150.00.

Sec. 3. 8 V.S.A. § 4089b(d)(1)(A) is amended to read:

(d)(1)(A) A health insurance plan that does not otherwise provide for management of care under the plan, or that does not provide for the same degree of management of care for all health conditions, may provide coverage for treatment of mental health conditions through a managed care organization provided that the managed care organization is in compliance with the rules adopted by the ~~commissioner~~ Commissioner that assure that the system for delivery of treatment for mental health conditions does not diminish or negate

the purpose of this section. In reviewing rates and forms pursuant to section 4062 of this title, the ~~commissioner~~ Commissioner or the Green Mountain Care Board established in 18 V.S.A. chapter 220, as appropriate, shall consider the compliance of the policy with the provisions of this section.

Sec. 4. 8 V.S.A. § 4512(b) is amended to read:

(b) Subject to the approval of the ~~commissioner~~ Commissioner or the Green Mountain Care Board established in 18 V.S.A. chapter 220, as appropriate, a hospital service corporation may establish, maintain, and operate a medical service plan as defined in section 4583 of this title. The ~~commissioner~~ Commissioner or the Board may refuse approval if the ~~commissioner~~ Commissioner or the Board finds that the rates submitted are excessive, inadequate, or unfairly discriminatory, fail to protect the hospital service corporation's solvency, or fail to meet the standards of affordability, promotion of quality care, and promotion of access pursuant to section 4062 of this title. The contracts of a hospital service corporation which operates a medical service plan under this subsection shall be governed by chapter 125 of this title to the extent that they provide for medical service benefits, and by this chapter to the extent that the contracts provide for hospital service benefits.

Sec. 5. 8 V.S.A. § 4513(c) is amended to read:

(c) In connection with a rate decision, the ~~commissioner~~ Green Mountain Care Board may also make reasonable supplemental orders to the corporation and may attach reasonable conditions and limitations to such orders as ~~he~~ the Board finds, on the basis of competent and substantial evidence, necessary to ~~insure~~ ensure that benefits and services are provided at minimum cost under efficient and economical management of the corporation. The ~~commissioner~~ Commissioner and, except as otherwise provided by 18 V.S.A. §§ 9375 and 9376, the Green Mountain Care Board, shall not set the rate of payment or reimbursement made by the corporation to any physician, hospital, or other health care provider.

Sec. 6. 8 V.S.A. § 4515a is amended to read:

§ 4515a. FORM AND RATE FILING; FILING FEES

Every contract or certificate form, or amendment thereof, including the rates charged therefor by the corporation shall be filed with the ~~commissioner~~ Commissioner or the Green Mountain Care Board established in 18 V.S.A. chapter 220, as appropriate, for ~~his or her~~ the Commissioner's or the Board's approval prior to issuance or use. Prior to approval, there shall be a public comment period pursuant to section 4062 of this title. In addition, each such filing shall be accompanied by payment to the ~~commissioner~~ Commissioner or

the Board, as appropriate, of a nonrefundable fee of ~~$50.00~~ $150.00 and the plain language summary of rate increases pursuant to section 4062 of this title.

Sec. 7. 8 V.S.A. § 4584(c) is amended to read:

(c) In connection with a rate decision, the ~~commissioner~~ Green Mountain Care Board may also make reasonable supplemental orders to the corporation and may attach reasonable conditions and limitations to such orders as ~~he or she~~ the Board finds, on the basis of competent and substantial evidence, necessary to ~~insure~~ ensure that benefits and services are provided at minimum cost under efficient and economical management of the corporation. The ~~commissioner~~ Commissioner and, except as otherwise provided by 18 V.S.A. §§ 9375 and 9376, the Green Mountain Care Board, shall not set the rate of payment or reimbursement made by the corporation to any physician, hospital, or other health care provider.

Sec. 8. 8 V.S.A. § 4587 is amended to read:

§ 4587. FILING AND APPROVAL OF CONTRACTS

A medical service corporation which has received a permit from the ~~commissioner of financial regulation~~ Commissioner of Financial Regulation under section 4584 of this title shall not thereafter issue a contract to a subscriber or charge a rate therefor which is different from copies of contracts and rates originally filed with such ~~commissioner~~ Commissioner and approved by him or her at the time of the issuance to such medical service corporation of its permit, until it has filed copies of such contracts which it proposes to issue and the rates it proposes to charge therefor and the same have been approved by ~~such commissioner~~ the Commissioner or the Green Mountain Care Board established in 18 V.S.A. chapter 220, as appropriate. Prior to approval, there shall be a public comment period pursuant to section 4062 of this title. Each such filing of a contract or the rate therefor shall be accompanied by payment to the ~~commissioner~~ Commissioner or the Board, as appropriate, of a nonrefundable fee of ~~$50.00~~ $150.00. A medical service corporation shall file a plain language summary of rate increases pursuant to section 4062 of this title.

Sec. 9. 8 V.S.A. § 5104 is amended to read:

§ 5104. FILING AND APPROVAL OF RATES AND FORMS; SUPPLEMENTAL ORDERS

(a)(1) A health maintenance organization which has received a certificate of authority under section 5102 of this title shall file and obtain approval of all policy forms and rates as provided in sections 4062 and 4062a of this title. This requirement shall include the filing of administrative retentions for any business in which the organization acts as a third party administrator or in any

other administrative processing capacity. The ~~commissioner~~ Commissioner or the Green Mountain Care Board, as appropriate, may request and shall receive any information that the ~~commissioner~~ Commissioner or the Board deems necessary to evaluate the filing. In addition to any other information requested, the ~~commissioner~~ Commissioner or the Board shall require the filing of information on costs for providing services to the organization's Vermont members affected by the policy form or rate, including Vermont claims experience, and administrative and overhead costs allocated to the service of Vermont members. Prior to approval, there shall be a public comment period pursuant to section 4062 of this title. A health maintenance organization shall file a summary of rate filings pursuant to section 4062 of this title.

(2) The ~~commissioner~~ Commissioner or the Board shall refuse to approve~~, or to seek the Green Mountain Care board's approval of,~~ the form of evidence of coverage, filing, or rate if it contains any provision which is unjust, unfair, inequitable, misleading, or contrary to the law of the ~~state~~ State or plan of operation, or if the rates are excessive, inadequate or unfairly discriminatory, fail to protect the organization's solvency, or fail to meet the standards of affordability, promotion of quality care, and promotion of access pursuant to section 4062 of this title. No evidence of coverage shall be offered to any potential member unless the person making the offer has first been licensed as an insurance agent in accordance with chapter 131 of this title.

(b) In connection with a rate decision, the ~~commissioner~~ Board may also~~, with the prior approval of the Green Mountain Care board established in 18 V.S.A. chapter 220,~~ make reasonable supplemental orders and may attach reasonable conditions and limitations to such orders as the ~~commissioner~~ Board finds, on the basis of competent and substantial evidence, necessary to ~~insure~~ ensure that benefits and services are provided at reasonable cost under efficient and economical management of the organization. The ~~commissioner~~ Commissioner and, except as otherwise provided by 18 V.S.A. §§ 9375 and 9376, the Green Mountain Care Board, shall not set the rate of payment or reimbursement made by the organization to any physician, hospital, or health care provider.

Sec. 10. 18 V.S.A. § 9375(b) is amended to read:

(b) The ~~board~~ Board shall have the following duties:

* * *

(6) Approve, modify, or disapprove requests for health insurance rates pursuant to 8 V.S.A. § 4062 ~~within 30 days of receipt of a request for approval from the commissioner of financial regulation~~, taking into consideration the requirements in the underlying statutes, changes in health care delivery,

changes in payment methods and amounts, protecting insurer solvency, and other issues at the discretion of the ~~board~~ Board;

* * *

Sec. 11. 18 V.S.A. § 9381 is amended to read:

§ 9381. APPEALS

(a)~~(1)~~ The Green Mountain Care ~~board~~ Board shall adopt procedures for administrative appeals of its actions, orders, or other determinations. Such procedures shall provide for the issuance of a final order and the creation of a record sufficient to serve as the basis for judicial review pursuant to subsection (b) of this section.

~~(2) Only decisions by the board shall be appealable under this subsection. Recommendations to the board by the commissioner of financial regulation pursuant to 8 V.S.A. § 4062(a) shall not be subject to appeal.~~

(b) Any person aggrieved by a final action, order, or other determination of the Green Mountain Care ~~board~~ Board may, upon exhaustion of all administrative appeals available pursuant to subsection (a) of this section, appeal to the ~~supreme court~~ Supreme Court pursuant to the Vermont Rules of Appellate Procedure.

(c) If an appeal or other petition for judicial review of a final order is not filed in connection with an order of the Green Mountain Care ~~board~~ Board pursuant to subsection (b) of this section, the ~~chair~~ Chair may file a certified copy of the final order with the clerk of a court of competent jurisdiction. The order so filed has the same effect as a judgment of the court and may be recorded, enforced, or satisfied in the same manner as a judgment of the court.

(d) A decision of the Board approving, modifying, or disapproving a health insurer's proposed rate pursuant to 8 V.S.A. § 4062 shall be considered a final action of the Board and may be appealed to the Supreme Court pursuant to subsection (b) of this section.

Sec. 12. 33 V.S.A. § 1811(j) is amended to read:

(j) The ~~commissioner~~ Commissioner or the Green Mountain Care Board established in 18 V.S.A. chapter 220, as appropriate, shall disapprove any rates filed by any registered carrier, whether initial or revised, for insurance policies unless the anticipated medical loss ratios for the entire period for which rates are computed are at least 80 percent, as required by the ~~Patient Protection and~~ Affordable Care Act ~~(Public Law 111-148)~~.

* * * Office of the Health Care Advocate * * *

Sec. 13. 18 V.S.A. chapter 229 is added to read:

CHAPTER 229. OFFICE OF THE HEALTH CARE ADVOCATE

§ 9601. DEFINITIONS

As used in this chapter:

(1) "Green Mountain Care Board" or "Board" means the Board established in chapter 220 of this title.

(2) "Health insurance plan" means a policy, service contract, or other health benefit plan offered or issued by a health insurer and includes beneficiaries covered by the Medicaid program unless they are otherwise provided with similar services.

(3) "Health insurer" shall have the same meaning as in section 9402 of this title.

§ 9602. OFFICE OF THE HEALTH CARE ADVOCATE; COMPOSITION

(a) The Agency of Administration shall establish the Office of the Health Care Advocate by contract with any nonprofit organization.

(b) The Office shall be administered by the Chief Health Care Advocate, who shall be an individual with expertise and experience in the fields of health care and advocacy. The Advocate may employ legal counsel, administrative staff, and other employees and contractors as needed to carry out the duties of the Office.

§ 9603. DUTIES AND AUTHORITY

(a) The Office of the Health Care Advocate shall:

(1) Assist health insurance consumers with health insurance plan selection by providing information, referrals, and assistance to individuals about means of obtaining health insurance coverage and services. The Office shall accept referrals from the Vermont Health Benefit Exchange and Exchange navigators created pursuant to 33 V.S.A. chapter 18, subchapter 1, to assist consumers experiencing problems related to the Exchange.

(2) Assist health insurance consumers to understand their rights and responsibilities under health insurance plans.

(3) Provide information to the public, agencies, members of the General Assembly, and others regarding problems and concerns of health insurance consumers as well as recommendations for resolving those problems and concerns.

(4) Identify, investigate, and resolve complaints on behalf of individual health insurance consumers, and assist those consumers with filing and pursuit of complaints and appeals.

(5) Provide information to individuals regarding their obligations and responsibilities under the Patient Protection and Affordable Care Act (Public Law 111-148).

(6) Analyze and monitor the development and implementation of federal, state, and local laws, rules, and policies relating to patients and health insurance consumers.

(7) Facilitate public comment on laws, rules, and policies, including policies and actions of health insurers.

(8) Suggest policies, procedures, or rules to the Green Mountain Care Board in order to protect patients' and consumers' interests.

(9) Promote the development of citizen and consumer organizations.

(10) Ensure that patients and health insurance consumers have timely access to the services provided by the Office.

(11) Submit to the General Assembly and the Governor on or before January 1 of each year a report on the activities, performance, and fiscal accounts of the Office during the preceding calendar year.

(b) The Office of the Health Care Advocate may:

(1) Review the health insurance records of a consumer who has provided written consent. Based on the written consent of the consumer or his or her guardian or legal representative, a health insurer shall provide the Office with access to records relating to that consumer.

(2) Pursue administrative, judicial, and other remedies on behalf of any individual health insurance consumer or group of consumers.

(3) Represent the interests of the people of the State in cases requiring a hearing before the Green Mountain Care Board established in chapter 220 of this title.

(4) Adopt policies and procedures necessary to carry out the provisions of this chapter.

(5) Take any other action necessary to fulfill the purposes of this chapter.

(c) The Office of the Health Care Advocate shall be able to speak on behalf of the interests of health care and health insurance consumers and to carry out all duties prescribed in this chapter without being subject to any retaliatory

action; provided, however, that nothing in this subsection shall limit the authority of the Agency of Administration to enforce the terms of the contract.

§ 9604. DUTIES OF STATE AGENCIES

All state agencies shall comply with reasonable requests from the Office of the Health Care Advocate for information and assistance. The Agency of Administration may adopt rules necessary to ensure the cooperation of state agencies under this section.

§ 9605. CONFIDENTIALITY

In the absence of written consent by a complainant or an individual using the services of the Office or by his or her guardian or legal representative or the absence of a court order, the Office of the Health Care Advocate, its employees, and its contractors shall not disclose the identity of the complainant or individual.

§ 9606. CONFLICTS OF INTEREST

The Office of the Health Care Advocate, its employees, and its contractors shall not have any conflict of interest relating to the performance of their responsibilities under this chapter. For the purposes of this chapter, a conflict of interest exists whenever the Office of the Health Care Advocate, its employees, or its contractors or a person affiliated with the Office, its employees, or its contractors:

(1) have a direct involvement in the licensing, certification, or accreditation of a health care facility, health insurer, or health care provider;

(2) have a direct ownership interest or investment interest in a health care facility, health insurer, or health care provider;

(3) are employed by or participating in the management of a health care facility, health insurer, or health care provider; or

(4) receive or have the right to receive, directly or indirectly, remuneration under a compensation arrangement with a health care facility, health insurer, or health care provider.

Sec. 14. 18 V.S.A. § 9374(f) is amended to read:

(f) In carrying out its duties pursuant to this chapter, the ~~board~~ Board shall seek ~~the~~ advice ~~of the state health care ombudsman established in 8 V.S.A. § 4089w~~ from the Office of the Health Care Advocate. The ~~state health care ombudsman~~ Office shall advise the ~~board~~ Board regarding the policies, procedures, and rules established pursuant to this chapter. The ~~ombudsman~~ Office shall represent the interests of Vermont patients and Vermont

consumers of health insurance and may suggest policies, procedures, or rules to the ~~board~~ Board in order to protect patients' and consumers' interests.

Sec. 15. 18 V.S.A. § 9377(e) is amended to read:

(e) The ~~board~~ Board or designee shall convene a broad-based group of stakeholders, including health care professionals who provide health services, health insurers, professional organizations, community and nonprofit groups, consumers, businesses, school districts, the ~~state health care ombudsman~~ Office of the Health Care Advocate, and state and local governments, to advise the ~~board~~ Board in developing and implementing the pilot projects and to advise the Green Mountain Care ~~board~~ Board in setting overall policy goals.

Sec. 16. 18 V.S.A. § 9410(a)(2) is amended to read:

(2)(A) The program authorized by this section shall include a consumer health care price and quality information system designed to make available to consumers transparent health care price information, quality information, and such other information as the ~~commissioner~~ Commissioner determines is necessary to empower individuals, including uninsured individuals, to make economically sound and medically appropriate decisions.

(B) The ~~commissioner~~ Commissioner shall convene a working group composed of the ~~commissioner of mental health, the commissioner of Vermont health access~~ Commissioner of Mental Health, the Commissioner of Vermont Health Access, health care consumers, the ~~office of the health care ombudsman~~ Office of the Health Care Advocate, employers and other payers, health care providers and facilities, the Vermont ~~program for quality in health care~~ Program for Quality in Health Care, health insurers, and any other individual or group appointed by the ~~commissioner~~ Commissioner to advise the ~~commissioner~~ Commissioner on the development and implementation of the consumer health care price and quality information system.

* * *

Sec. 17. 18 V.S.A. § 9440(c) is amended to read:

(c) The application process shall be as follows:

* * *

(9) The ~~health care ombudsman's office~~ Office of the Health Care Advocate established under ~~8 V.S.A. chapter 107, subchapter 1A~~ chapter 229 of this title or, in the case of nursing homes, the ~~long-term care ombudsman's office~~ Long-Term Care Ombudsman's Office established under 33 V.S.A. § 7502~~,~~ is authorized but not required to participate in any administrative or judicial review of an application under this subchapter and shall be considered

an interested party in such proceedings upon filing a notice of intervention with the ~~board~~ Board.

Sec. 18. 18 V.S.A. § 9445(b) is amended to read:

(b) In addition to all other sanctions, if any person offers or develops any new health care project without first having been issued a certificate of need or certificate of exemption ~~therefore~~ for the project, or violates any other provision of this subchapter or any lawful rule ~~or regulation promulgated thereunder~~ adopted pursuant to this subchapter, the ~~board~~ Board, the ~~commissioner~~ Commissioner, the ~~state health care ombudsman~~ Office of the Health Care Advocate, the ~~state long-term care ombudsman~~ State Long-Term Care Ombudsman, and health care providers and consumers located in the ~~state~~ State shall have standing to maintain a civil action in the ~~superior court~~ Superior Court of the county ~~wherein~~ in which such alleged violation has occurred, or ~~wherein~~ in which such person may be found, to enjoin, restrain, or prevent such violation. Upon written request by the ~~board~~ Board, it shall be the duty of the ~~attorney general of the state~~ Vermont Attorney General to furnish appropriate legal services and to prosecute an action for injunctive relief to an appropriate conclusion, which shall not be reimbursed under subdivision (a)(2) of this ~~subsection~~ section.

Sec. 19. 33 V.S.A. § 1805 is amended to read:

§ 1805. DUTIES AND RESPONSIBILITIES

The Vermont ~~health benefit exchange~~ Health Benefit Exchange shall have the following duties and responsibilities consistent with the Affordable Care Act:

* * *

(16) Referring consumers to the ~~office of health care ombudsman~~ Office of the Health Care Advocate for assistance with grievances, appeals, and other issues involving the Vermont ~~health benefit exchange~~ Health Benefit Exchange.

* * *

Sec. 20. 33 V.S.A. § 1807(b) is amended to read:

(b) Navigators shall have the following duties:

* * *

(4) Provide referrals to the ~~office of health care ombudsman~~ Office of the Health Care Advocate and any other appropriate agency for any enrollee with a grievance, complaint, or question regarding his or her health benefit plan, coverage, or a determination under that plan or coverage;

* * *

* * * Allocation of Expenses * * *

Sec. 21. 18 V.S.A. § 9374(h) is amended to read:

(h)(1) ~~Expenses~~ Except as otherwise provided in subdivision (2) of this subsection, expenses incurred to obtain information, analyze expenditures, review hospital budgets, and for any other contracts authorized by the ~~board~~ Board shall be borne as follows:

(A) 40 percent by the ~~state~~ State from state monies;

(B) 15 percent by the hospitals;

(C) 15 percent by nonprofit hospital and medical service corporations licensed under 8 V.S.A. chapter 123 or 125;

(D) 15 percent by health insurance companies licensed under 8 V.S.A. chapter 101; and

(E) 15 percent by health maintenance organizations licensed under 8 V.S.A. chapter 139.

(2) The Board may determine the scope of the incurred expenses to be allocated pursuant to the formula set forth in subdivision (1) of this subsection if, in the Board's discretion, the expenses to be allocated are in the best interests of the regulated entities and of the State.

(3) Expenses under subdivision (1) of this subsection shall be billed to persons licensed under Title 8 based on premiums paid for health care coverage, which for the purposes of this section shall include major medical, comprehensive medical, hospital or surgical coverage, and comprehensive health care services plans, but shall not include long-term care or limited benefits, disability, credit or stop loss, or excess loss insurance coverage.

(4) Financial support for the Office of the Health Care Advocate established pursuant to chapter 229 of this title for services related to the Board's regulatory and supervisory duties shall be considered expenses incurred by the Board under this subsection and shall be an acceptable use of the funds realized pursuant to this subsection.

Sec. 22. 18 V.S.A. § 9415 is amended to read:

§ 9415. ALLOCATION OF EXPENSES

(a) ~~Expenses~~ Except as otherwise provided in subsection (b) of this section, expenses incurred to obtain information and to analyze expenditures, review hospital budgets, and for any other related contracts authorized by the ~~commissioner~~ Commissioner shall be borne as follows:

(1) 40 percent by the ~~state~~ State from state monies~~,~~;

(2) 15 percent by the hospitals~~,~~;

(3) 15 percent by nonprofit hospital and medical service corporations licensed under 8 V.S.A. chapter 123 or 125~~,~~;

(4) 15 percent by health insurance companies licensed under 8 V.S.A. chapter 101~~,~~; and

(5) 15 percent by health maintenance organizations licensed under 8 V.S.A. chapter 139.

(b) The Commissioner may determine the scope of the incurred expenses to be allocated pursuant to the formula set forth in subsection (a) of this section if, in the Commissioner's discretion, the expenses to be allocated are in the best interests of the regulated entities and of the State.

(c) Expenses under subsection (a) of this section shall be billed to persons licensed under Title 8 based on premiums paid for health care coverage, which for the purposes of this section include major medical, comprehensive medical, hospital or surgical coverage, and any comprehensive health care services plan, but ~~does~~ shall not include long-term care, limited benefits, disability, credit or stop loss or excess loss insurance coverage

(d) Financial support for the Office of the Health Care Advocate established pursuant to chapter 229 of this title for services related to the Department's regulatory and supervisory duties shall be considered expenses incurred by the Department under this subsection and shall be an acceptable use of the funds realized pursuant to this subsection.

Sec. 23. BILL-BACK REPORT

(a) Annually on or before September 15, the Green Mountain Care Board and the Department of Financial Regulation shall report to the House Committee on Health Care, the Senate Committees on Health and Welfare and on Finance, and the House and Senate Committees on Appropriations the total amount of all expenses eligible for allocation pursuant to 18 V.S.A. §§ 9374(h) and 9415 during the preceding state fiscal year and the total amount actually billed back to the regulated entities during the same period.

(b) The Board and the Department shall also present the information required by subsection (a) of this section to the Joint Fiscal Committee annually at its September meeting.

* * * Prior Authorizations * * *

Sec. 24. 18 V.S.A. § 9377a is added to read:

§ 9377a. PRIOR AUTHORIZATION PILOT PROGRAM

(a) The Green Mountain Care Board shall develop and implement a pilot program or programs for the purpose of measuring the change in system costs within primary care associated with eliminating prior authorization requirements for imaging, medical procedures, prescription drugs, and home care. The program shall be designed to measure the effects of eliminating prior authorizations on provider satisfaction and on the number of requests for and expenditures on imaging, medical procedures, prescription drugs, and home care. In developing the pilot program proposal, the Board shall collaborate with health care professionals and health insurers throughout the State or regionally.

(b) The Board shall submit an update regarding implementation of prior authorization pilot programs as part of its annual report under subsection 9375(d) of this title.

Sec. 25. 18 V.S.A. § 9375(d) is amended to read:

(d) Annually on or before January 15, the ~~board~~ Board shall submit a report of its activities for the preceding ~~state fiscal~~ calendar year to the ~~house committee~~ House Committee on ~~health care~~ Health Care and the ~~senate committee~~ Senate Committee on ~~health and welfare~~ Health and Welfare. The report shall include any changes to the payment rates for health care professionals pursuant to section 9376 of this title, any new developments with respect to health information technology, the evaluation criteria adopted pursuant to subdivision (b)(8) of this section and any related modifications, the results of the systemwide performance and quality evaluations required by subdivision (b)(8) of this section and any resulting recommendations, the process and outcome measures used in the evaluation, an update regarding implementation of any prior authorization pilot programs under section 9377a of this title, any recommendations for modifications to Vermont statutes, and any actual or anticipated impacts on the work of the ~~board~~ Board as a result of modifications to federal laws, regulations, or programs. The report shall identify how the work of the ~~board~~ Board comports with the principles expressed in section 9371 of this title.

Sec. 26. 18 V.S.A. § 9414b is added to read:

§ 9414b. ANNUAL REPORTING BY THE DEPARTMENT OF VERMONT HEALTH ACCESS

(a) The Department of Vermont Health Access shall annually report the following information, in plain language, to the House Committee on Health Care and the Senate Committee on Health and Welfare, as well as posting the information on its website:

(1) the total number of Vermont lives covered by Medicaid;

(2) the total number of claims submitted to the Department for services provided to Medicaid beneficiaries;

(3) the total number of claims denied by the Department;

(4) the total number of denials of service by the Department at the preauthorization level, the total number of denials that were appealed, and of those, the total number overturned;

(5) the total number of adverse determinations made by the Department;

(6) the total number of claims denied by the Department because the service was experimental, investigational, or an off-label use of a drug; was not medically necessary; or involved access to a provider that is inconsistent with the limitations imposed by Medicaid;

(7) the total number of claims denied by the Department as duplicate claims, as coding errors, or for services or providers not covered;

(8) the Department's legal expenses related to claims or service denials during the preceding year; and

(9) the effects of the Department's policy of allowing automatic approval of certain prior authorizations on the number of requests for imaging, medical procedures, prescription drugs, and home care.

(b) The Department may indicate the extent of overlap or duplication in reporting the information described in subsection (a) of this section.

(c) To the extent practicable, the Department shall model its report on the standardized form created by the Department of Financial Regulation for use by health insurers under subsection 9414a(c) of this title.

(d) The Department of Financial Regulation shall post on its website, in the same location as the forms posted under subdivision 9414a(d)(1) of this title, a link to the information reported by the Department of Vermont Health Access under subsection (a) of this section.

Sec. 27. 18 V.S.A. § 9414a(a)(5) is amended to read:

(5) data regarding the number of denials of service by the health insurer at the preauthorization level, including:

(A) the total number of denials of service by the health insurer at the preauthorization level~~, including:~~;

~~(A)~~(B) the total number of denials of service at the preauthorization level appealed to the health insurer at the first-level grievance and, of those, the total number overturned;

~~(B)~~(C) the total number of denials of service at the preauthorization level appealed to the health insurer at any second-level grievance and, of those, the total number overturned;

~~(C)~~(D) the total number of denials of service at the preauthorization level for which external review was sought and, of those, the total number overturned;

* * * Additional Provisions * * *

Sec. 28. OFFICE OF THE HEALTH CARE ADVOCATE BUDGET; INTENT

(a) Beginning with the 2014 annual report filed pursuant to 18 V.S.A. § 9603(a)(11), the Office of the Health Care Advocate shall specify the sums expended by the Office in carrying out its duties, including identifying the specific amount expended for actuarial services.

(b) It is the intent of the General Assembly that the Office of the Health Care Advocate shall maximize the amount of federal and grant funds available to support the activities of the Office.

Sec. 29. REPEAL

8 V.S.A. § 4089w (Health Care Ombudsman) is repealed.

Sec. 30. APPLICABILITY AND EFFECTIVE DATES

(a) Secs. 1–12 (rate review) of this act shall take effect on January 1, 2014 and shall apply to all insurers filing rates and forms for major medical insurance plans on and after January 1, 2014, except that the Green Mountain Care Board and the Department of Financial Regulation may amend their rules and take such other actions before that date as are necessary to ensure that the revised rate review process will be operational on January 1, 2014.

(b) Secs. 13–20 (Office of the Health Care Advocate) and 28 (budget) of this act shall take effect on January 1, 2014.

(c) The remaining sections of this act shall take effect on July 1, 2013.

Thereupon, pending the question, Shall the Senate concur in the House proposal of amendment?, Senator Ashe 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:

Sec. 1. 21 V.S.A. § 2002 is amended to read:

§ 2002. DEFINITIONS

~~For the purposes of~~ As used in this chapter:

* * *

(5) "Uncovered employee" means:

(A) an employee of an employer who does not offer to pay any part of the cost of health care coverage for its employees;

(B) an employee who is not eligible for health care coverage offered by an employer to any other employees; or

(C) an employee who is offered and is eligible for coverage by the employer but elects not to accept the coverage and either:

(i) has no other health care coverage under either a private or public plan; or

(ii) has purchased health insurance coverage as an individual through the Vermont Health Benefit Exchange.

* * *

Sec. 2. 21 V.S.A. § 2003 is amended to read:

§ 2003. HEALTH CARE FUND CONTRIBUTION ASSESSMENT

* * *

(b) For any quarter in fiscal years 2007 and 2008, the amount of the ~~health care fund~~ Health Care Fund contribution shall be $ 91.25 for each full-time equivalent employee in excess of eight. For each fiscal year after fiscal year 2008, the number of excluded full-time equivalent employees shall be adjusted in accordance with subsection (a) of this section, and the amount of the ~~health care fund~~ Health Care Fund contribution shall be adjusted by a percentage equal to any percentage change in premiums for ~~Catamount Health for that fiscal year; provided, however, that to the extent that Catamount Health premiums decrease due to changes in benefit design or deductible amounts, the health care fund contribution shall not be decreased by the percentage change~~

~~attributable to such benefit design or deductible changes~~ the second lowest cost silver-level plan in the Vermont Health Benefit Exchange.

* * *

(d) Revenues from the ~~health care fund~~ Health Care Fund contributions collected shall be deposited into the state ~~health care resources fund~~ Health Care Resources Fund established under 33 V.S.A. § 1901d.

Sec. 3. 33 V.S.A. § 1811(l) is added to read:

(l)(1) A registered carrier shall include in its rates filed pursuant to 8 V.S.A. § 4062 an administrative charge of one percent of projected premium costs on plans sold in the Exchange to fund the operation of the Exchange. The Green Mountain Care Board shall finalize the amount of the administrative charge and include the amount in the approved rate.

(2)(A) The Department of Vermont Health Access shall retain the amount of the administrative charge from premiums collected through the Exchange and shall deposit the funds collected pursuant to this section in the State Health Care Resources Fund established by section 1901d of this title. Funds collected pursuant to this section shall be used only for purposes related to the operation of the Exchange.

(B) The Department shall, in collaboration with registered carriers, develop a mechanism for collecting any premiums paid by individuals directly to a registered carrier.

(3) The Exchange website shall clearly indicate the amount of the administrative charge included in the premium for each health benefit plan offered through the Exchange.

Sec. 4. EXCHANGE ADMINISTRATIVE CHARGE REPORTING

(a) The Governor's budget submitted to the General Assembly in accordance with 32 V.S.A. § 306 for fiscal year 2016 shall include the estimated budget for the Exchange for that fiscal year and the estimated amount of the administrative charge to be imposed pursuant to 33 V.S.A. § 1811(l) beginning on January 1, 2016, based on premium rates approved by the Green Mountain Care Board.

(b) On or before February 1, 2017, the Department of Vermont Health Access shall report to the House Committees on Health Care and on Ways and Means, the Senate Committees on Health and Welfare and on Finance, and the House and Senate Committees on Appropriations regarding the revenues collected pursuant to 33 V.S.A. § 1811(l), including recommendations for any needed modifications to the amount of the administrative charge.

Sec. 5. EFFECTIVE DATES

(a) Secs. 1 (employer assessment definition), 2 (employer assessment fund), and 4 (exchange surcharge reporting) of this act and this section shall take effect on January 1, 2014.

(b) Sec. 3 (exchange surcharge) of this act shall take effect on January 1, 2015 to incorporate into rate review for insurance plans with coverage beginning January 1, 2016.

And that after passage the title of the bill be amended to read:

An act relating to health care financing.

Which was agreed to.

House Proposal of Amendment Not Concurred In; Committee of Conference Requested

H. 240.

House proposal of amendment to Senate proposal of amendment to House bill entitled:

An act relating to Executive Branch fees.

Was taken up.

The House proposes to the Senate to amend the Senate proposal of amendment, as follows:

First: By striking out Secs. 36 and 37 and the internal caption in their entirety

Second: In Sec. 35, UNIFORM DISPATCH FEES, by adding a sentence at the end of the section to read: The Commissioner shall report to the House Committee on Ways and Means and the Senate Committee on Finance on or before January 15, 2014, regarding the adoption and implementation of the uniform dispatch fee rules.

And by renumbering the remaining sections to be numerically correct

Thereupon, pending the question, Shall the Senate concur in the House proposal of amendment?, on motion of Senator Ashe, the Senate refused to concur in the House proposal of amendment and requested a Committee of Conference.

House Proposals of Amendment Concurred In with Amendment

H. 522.

House proposals of amendment to Senate proposal of amendment to House bill entitled:

An act relating to strengthening Vermont's response to opioid addiction and methamphetamine abuse.

Were taken up.

The House concurs in the Senate proposal of amendment with further amendment thereto as follows:

First: In Sec. 11, 18 V.S.A. § 4289, by striking out subsections (d) and (e) in their entirety and inserting in lieu thereof the following:

(d) Health care providers shall query the VPMS with respect to an individual patient in the following circumstances:

(1) at least annually for patients who are receiving ongoing treatment with an opioid Schedule II, III, or IV controlled substance;

(2) when starting a patient on a Schedule II, III, or IV controlled substance for nonpalliative long-term pain therapy of 90 days or more;

(3) the first time the provider prescribes an opioid Schedule II, III, or IV controlled substance written to treat chronic pain; or

(4) when starting a patient on nonpalliative long-term pain therapy of 90 days or more.

(e) The Commissioner of Health shall, after consultation with the Unified Pain Management System Advisory Council, adopt rules necessary to effect the purposes of this section. The Commissioner and the Council shall consider additional circumstances under which health care providers should be required to query the VPMS, including whether health care providers should be required to query the VPMS when a patient requests renewal of a prescription for an opioid Schedule II, III, or IV controlled substance written to treat acute pain.

Second: In Sec. 14b, in subdivision (d)(2), after "Human Services" by inserting the following: and on Judiciary

Third: By striking out Sec. 22c in its entirety and inserting in lieu thereof a new Sec. 22c to read as follows:

Sec. 22c. INTERIM STUDY COMMITTEE ON THE REGULATION OF PRECIOUS METAL DEALERS

(a) Creation of committee. There is created an Interim Study Committee on the Regulation of Precious Metal Dealers, the purpose of which shall be to examine the current practices in the trade of precious metals in Vermont and the nexus of that trade to drug-related and other illegal activity, and to provide recommendations to the General Assembly on the most effective means of regulating the trade to decrease the amount of related illegal activity and promote the recovery of stolen property.

(b) Membership. The Committee shall be composed of the following members:

(1) three members of the House of Representatives, not all of the same party, appointed by the Speaker of the House, one each from the Committees on Judiciary, on Commerce and Economic Development, and on Government Operations; and

(2) three members of the Senate, not all of the same party, appointed by the Committee on Committees, one each from the Committees on Judiciary, on Economic Development, Housing and General Affairs, and on Government Operations.

(c) Powers and duties.

(1) The Committee shall study methods for increasing cooperation between law enforcement and dealers in precious metals and other secondhand items in an effort to prevent the theft of these items and retrieve stolen property, including the following:

(A) the types of items that should be included in a regulatory scheme;

(B) the advisability, cost, and effectiveness of creating and maintaining a stolen property database and website for the purpose of posting pictures and information about stolen items;

(C) the creation of a licensing system for precious metal dealers and others, including what information would be required of applicants, who would be eligible for a license, and how the licensing program would be implemented;

(D) the appropriate recordkeeping requirements for precious metal dealers and others, including the possibility of requiring sales of a certain volume to be recorded electronically; and

(E) any other related issues that the Committee deems appropriate.

(2) The Committee shall consult with the following people during its deliberations:

(A) a Vermont-based representative from the New England Jewelers Association;

(B) a representative from the Vermont Antique Dealers Association;

(C) Vermont-based coin dealers;

(D) Vermont-based auctioneers;

(E) a private citizen who has been affected by the theft of precious metals;

(F) a representative from a Vermont-based business that uses precious metals for manufacturing or industrial purposes;

(G) a representative from the jewelry manufacturing industry;

(H) a representative from the Vermont Department of State's Attorneys and Sheriffs;

(I) a representative of local law enforcement from the Vermont Police Association;

(J) the Commissioner of Public Safety; and

(K) the Vermont Attorney General.

(3) For purposes of its study of these issues, the Committee shall have the administrative, technical, and legal assistance of the Office of Legislative Council and the Joint Fiscal Office.

(d) Report. On or before January 15, 2014, the Committee shall report its findings and any recommendations for legislative action to the Senate Committees on Economic Development, Housing and General Affairs, on Judiciary, and on Government Operations, and the House Committees on Commerce and Economic Development, on Judiciary, and on Government Operations.

(e) Meetings.

(1) Four members of the Committee shall be physically present at the same location to constitute a quorum.

(2) Action shall be taken only if there is both a quorum and an affirmative vote of the majority of members physically present and voting.

(3) The Committee may meet no more than five times and shall cease to exist on January 16, 2014.

Fourth: By adding Secs. 22d–22f to read as follows:

Sec. 22d. Sec. 1 of H.200 of 2013, as enacted, is amended in 18 V.S.A. § 4230(a), in subdivision (2), after "two ounces or more of marijuana" by adding "or 10 grams or more of hashish" and in subdivision (3), after "one pound or more of marijuana" by adding "or 2.8 ounces or more of hashish" and in subdivision (4), after "10 pounds or more of marijuana" by adding "or one pound or more of hashish"

Sec. 22e. Sec. 1 of H.200 of 2013, as enacted, is amended in 18 V.S.A. § 4230 by striking "* * *" and inserting in lieu thereof the following:

(b) Selling or dispensing.

(1) A person knowingly and unlawfully selling marijuana or hashish shall be imprisoned not more than two years or fined not more than $10,000.00, or both.

(2) A person knowingly and unlawfully selling or dispensing ~~marijuana in an amount consisting of one or more preparations, compounds, mixtures, or substances of an aggregate weight of~~ one-half ounce or more ~~containing any~~ of marijuana or 2.5 grams or more of hashish shall be imprisoned not more than five years or fined not more than $100,000.00, or both.

(3) A person knowingly and unlawfully selling or dispensing ~~marijuana in an amount consisting of one or more preparations, compounds, mixtures, or substances of an aggregate weight of~~ one pound or more ~~containing any~~ of marijuana or 2.8 ounces of hashish shall be imprisoned not more than 15 years or fined not more than $500,000.00, or both.

(c) Trafficking. A person knowingly and unlawfully possessing ~~marijuana in an amount consisting of one or more preparations, compounds, mixtures, or substances of an aggregate weight of~~ 50 pounds or more ~~containing any~~ of marijuana or five pounds or more of hashish with the intent to sell or dispense the marijuana or hashish shall be imprisoned not more than 30 years or fined not more than $1,000,000.00, or both. There shall be a permissive inference that a person who possesses ~~marijuana in an amount consisting of one or more preparations, compounds, mixtures, or substances of an aggregate weight of~~ 50 pounds or more ~~containing any~~ of marijuana or five pounds or more of hashish intends to sell or dispense the marijuana or hashish.

Sec. 22f. Sec. 13 of H.200 of 2013, as enacted, is amended in subsection (a) (effective dates) by striking "Secs. 12 and 13" where it appears and inserting in lieu thereof "Sec. 11" and in subsection (b) by striking "Sec. 6" and inserting in lieu thereof "Sec. 5"

Fifth: In Sec. 23 in subsection (a) by striking out the following: "and 22c (interim study; precious metal dealers)" and inserting in lieu thereof the following: 22c (interim study; precious metal dealers), and 22f (H.200 effective dates) and by adding a subsection (d) to read as follows:

(d) Secs. 22d (possession of marijuana) and 22e (selling or dispensing marijuana) shall take effect on July 2, 2013.

Thereupon, pending the question, Shall the Senate concur in the House proposals of amendment?, Senator Ashe moved that the Senate concur in the House proposals of amendment with an amendment as follows:

In Sec. 11, 18 V.S.A. § 4289, by striking out subsection (d) in its entirety and inserting in lieu thereof a new subsection (d) to read as follows:

(d) Health care providers shall query the VPMS with respect to an individual patient in the following circumstances:

(1) at least annually for patients who are receiving ongoing treatment with an opioid Schedule II, III, or IV controlled substance;

(2) when starting a patient on a Schedule II, III, or IV controlled substance for nonpalliative long-term pain therapy of 90 days or more;

(3) the first time the provider prescribes an opioid Schedule II, III, or IV controlled substance written to treat chronic pain; and

(4) prior to writing a replacement prescription for a Schedule II, III, or IV controlled substance pursuant to section 4290 of this title.

Which was agreed to.

Bill Passed in Concurrence with Proposals of Amendment

H. 295.

House bill entitled:

An act relating to technical tax changes.

Was taken up.

Thereupon, pending third reading of the bill, Senator Ashe moved to amend the Senate proposal of amendment as follows:

First: By adding Secs. 3a through 3d to read as follows:

Sec. 3a. 32 V.S.A. § 312(d) is added to read:

(d) Every tax expenditure in the tax expenditure report required by this section shall be accompanied in statute by a statutory purpose explaining the policy goal behind the exemption, exclusion, deduction, or credit applicable to the tax. The statutory purpose shall appear as a separate subsection or subdivision in statute and shall bear the title "Statutory Purpose." Notwithstanding any other provision of law, a tax expenditure listed in the tax expenditure report that lacks a statutory purpose in statute shall not be implemented or enforced until a statutory purpose is provided.

Sec. 3b. TAX EXPENDITURE PURPOSES

The Joint Fiscal Committee shall draft a statutory purpose for each tax expenditure in the report required by 32 V.S.A. § 312 that explains the policy goal behind the exemption, exclusion, deduction, or credit applicable to the tax. For the purpose of this report, the Committee shall have the assistance of the Department of Taxes, the Joint Fiscal Office, and the Office of Legislative Council. The Committee shall report its findings and recommendations to the Senate Committee on Finance and the House

Committee on Ways and Means by January 15, 2014. The report of the Committee shall consist of a written catalogue for Vermont's tax expenditures and draft legislation, in bill form, providing a statutory purpose for each tax expenditure. Upon receipt of the report under this section, the Senate Committee on Finance shall introduce a bill to adopt statutory purposes during the 2014 legislative session.

Sec. 3c. 32 V.S.A. § 3102(l) is added to read:

(l) The Commissioner shall provide the Joint Fiscal Office with state returns and return information necessary for the Joint Fiscal Office or its agents to perform its duties, including conducting its own statistical studies, forecasts, and fiscal analysis; provided, however, that the provisions of subsection (a) and (h) of this section apply to disclosures under this subsection, and provided that the Commissioner shall redact any information that identifies a particular taxpayer, including the taxpayer's name, address, Social Security or employer identification number, prior to releasing any state return or return information.

Sec. 3d. TAX COMPLIANCE

The General Assembly finds that there is a gap between the amount of taxes paid in this State and the amount of taxes due. Therefore, the General Assembly directs the Department of Taxes to develop and pursue further strategies to close the tax gap during state fiscal year 2014. The Department of Taxes shall redeploy resources to focus on these strategies with the goal of increasing current collections by $1,500,000.00 in fiscal year 2014.

Second: By adding a Sec. 9a to read as follows:

Sec. 9a. REPEALS

The following are repealed:

(1) 2011 Acts and Resolves No. 45, Sec. 13a (wastewater permits).

(2) 2012 Acts and Resolves No. 143, Secs. 41 through 43 (wastewater permits).

Third: By adding Secs. 20a through 20f to read as follows:

Sec. 20a. 32 V.S.A. § 3802a is added to read:

§ 3802a. REQUIREMENT TO PROVIDE INSURANCE INFORMATION

Before April 1 of each year, owners of property exempt from taxation under subdivisions 3802(4)–(6), (9), and (12)–(15) and under subdivisions 5401(10)(D), (F), (G), and (J) of this title shall provide their local assessing officials with information regarding the insurance replacement cost of the exempt property or with a written explanation of why the property is not insured.

Sec. 20b. 32 V.S.A. § 4152 is amended to read:

§ 4152. CONTENTS

(a) When completed, the grand list of a town shall be in such form as the director prescribes and shall contain such information as the director prescribes, including:

* * *

(6) For those parcels which are exempt, the insurance replacement value reported to the local assessing officials by the owner under section 3802a of this title, or what the full listed value of the property would be absent the exemption and the statutory authority for granting such exemption and, for properties exempt pursuant to a vote, the year in which the exemption became effective and the year in which the exemption ends;

* * *

(c) When the grand list of a town describes exempt property, the grand list shall identify if the value provided is the insurance replacement cost provided under section 3802a of this title or the full listed value under subdivision (a)(6) of this section.

Sec. 20c. 32 V.S.A. § 3850 is added to read:

§ 3850. BLIGHTED PROPERTY IMPROVEMENT PROGRAM

(a) At an annual or special meeting, a municipality may vote to authorize the legislative body of the municipality to exempt from municipal taxes for a period not to exceed five years the value of improvements made to dwelling units certified as blighted. As used in this section, "dwelling unit" means a building or the part of a building that is used as a primary home, residence, or sleeping place by one or more persons who maintain a household.

(b) If a municipality votes to approve the exemption described in subsection (a) of this section, the legislative body of the municipality shall appoint an independent review committee that is authorized to certify dwelling units in the municipality as blighted and exempt the value of improvements made to these dwelling units.

(c) As used in this section, a dwelling unit may be certified as blighted when it exhibits objectively determinable signs of deterioration sufficient to constitute a threat to human health, safety, and public welfare.

(d) If a dwelling unit is certified as blighted under subsection (b) of this section, the exemption shall take effect on the April 1 following the certification of the dwelling unit.

Sec. 20d. STUDY COMMITTEE ON CERTAIN PROPERTY TAX EXEMPTIONS

(a) Creation of committee. There is created a Property Tax Exemption Study Committee to study issues related to properties that fall within the public, pious, and charitable property tax exemption in 32 V.S.A. § 3802(4). The Committee shall study and make recommendations related to the definition, listing, valuation, and tax treatment of properties within this exemption.

(b) Membership. The Property Tax Exemption Study Committee shall be composed of seven members. Four members of the Committee shall be members of the General Assembly. The Committee on Committees of the Senate shall appoint two members of the Senate, not from the same political party, and the Speaker of the House shall appoint two members of the House, not from the same political party. The Chair and Vice Chair of the Committee shall be legislative members selected by all members of the Committee. Three members of the Committee shall be as follows:

(1) the Director of the Division of Property Valuation and Review;

(2) one member from Vermont's League of Cities and Towns, chosen by its board of directors; and

(3) one member of the Vermont Assessors and Listers Association, chosen by its board of directors.

(c) Powers and duties.

(1) The Committee shall study the definition, listing practices, valuation, and tax treatment of properties within the public, pious, and charitable exemption, including the following:

(A) ways to clarify the definitions of properties that fall within this exemption, including recreational facilities, educational facilities, and publically owned land and facilities;

(B) guidelines to ensure a uniform listing practice of public, pious, and charitable properties in different municipalities;

(C) methods of providing a valuation for properties within this exemption; and

(D) whether the policy justification for these exemptions continues to be warranted and whether a different system of taxation or exemption of these properties may be more appropriate.

(2) For purposes of its study of these issues, the Committee shall have the assistance of the Joint Fiscal Office, the Office of Legislative Council, and the Department of Taxes.

(d) Report. By January 15, 2014, the Committee shall report to the Senate Committee on Finance and the House Committee on Ways and Means its findings and any recommendations for legislative action.

(e) Number of meetings; term of Committee. The Committee may meet no more than six times, and shall cease to exist on January 16, 2014.

Sec. 20e. 2008 Acts and Resolves No. 190, Sec. 40, as amended by 2010 Acts and Resolves No. 160, Sec. 22, as amended by 2011 Acts and Resolves No. 45, Sec. 13f, is further amended to read:

Sec. 40. EDUCATION PROPERTY TAX EXEMPTION FOR ~~SKATINGRINKS~~ SKATING RINKS USED FOR PUBLIC SCHOOLS

Real and personal property operated as a skating rink, owned and operated on a nonprofit basis but not necessarily by the same entity, and which, in the most recent calendar year, provided facilities to local public schools for a sport officially recognized by the Vermont Principals' Association shall be exempt from 50 percent of the education property taxes for fiscal ~~year 2012~~ years 2013 and 2014 only.

Sec. 20f. 32 V.S.A. § 8701(d) is added to read:

(d) The existence of a renewable energy plant subject to tax under subsection (b) of this section shall not alter the exempt status of any underlying property under section 3802 or 5401(10)(F) of this title.

Fourth: By adding a Sec. 45b and Sec. 45c to read as follows:

Sec. 45b. 7 V.S.A. § 422 is amended to read:

§ 422. TAX ON SPIRITUOUS LIQUOR

A tax is assessed on the gross revenue on the retail sale of spirituous liquor in the ~~state~~ State of Vermont, including fortified wine, sold by the ~~liquor control board~~ Liquor Control Board or sold by a manufacturer or rectifier of spirituous liquor in accordance with the provisions of this title. The tax shall be at the following rates based on the gross revenue of the retail sales by the seller in the ~~previous~~ current year:

(1) if the gross revenue of the seller is ~~$100,000.00~~ $150,000.00 or lower, the rate of tax is five percent;

(2) if the gross revenue of the seller is between ~~$100,000.00~~ $150,000.00 and ~~$200,000.00~~ $250,000.00, the rate of tax is ~~$15,000.00~~ $7,500.00 plus 15 percent of gross revenues over ~~$100,000.00~~ $150,000.00;

(3) if the gross revenue of the seller is over ~~$200,000.00~~ $250,000.00, the rate of tax is 25 percent.

Sec. 45c. 33 V.S.A. § 2503 is amended to read:

§ 2503. FUEL GROSS RECEIPTS TAX

(a) There is imposed a gross receipts tax of 0.5 percent on the retail sale of the following types of fuel ~~by sellers receiving more than $10,000.00 annually for the sale of such fuels~~:

(1) heating oil, kerosene, and other dyed diesel fuel delivered to a residence or business;

(2) propane;

(3) natural gas;

(4) electricity;

(5) coal.

* * *

Fifth: In Sec. 46 (effective dates) by striking subdivision (9) in its entirety and inserting in lieu thereof the following:

(9) Sec. 3a (tax expenditures) shall take effect on July 1, 2014.

And by adding a subsection (10) to read as follows:

(10) Secs. 20a (insurance values) and 20b (grand list) shall take effect on July 1, 2014.

And in subdivision (4), after the words "(state appraiser name change)" by inserting , Sec. 45b (spirituous liquor), and Sec. 45c (fuel gross receipts tax)

Which was agreed to.

Senator Rodgers moved that the Senate proposal of amendment be amended as follows:

First: By adding a Sec. 18a to read as follows:

Sec. 18a. WOOD PRODUCTS MANUFACTURERS TAX CREDIT

2005 Spec. Sess. Acts and Resolves No. 2, Sec. 2, as amended by 2006 Acts and Resolves No. 212, Sec. 9 and 2008 Acts and Resolves No. 190, Sec. 29, and as further amended by 2011 Acts and Resolves No. 45, Sec. 17, is further amended to read:

Sec. 2. EFFECTIVE DATE; SUNSET

Sec. 1 of this act (wood products manufacture tax credit) shall apply to taxable years beginning on or after July 1, 2005. 32 V.S.A. § 5930y is repealed ~~July 1, 2013~~ January 1, 2014, and no credit under that section shall be available for any taxable year beginning on or after ~~July 1, 2013~~ December 31, 2013.

Which was agreed to.

Senator Rodgers moved that the Senate proposal of amendment be amended as follows:

First: By adding a Sec. 8a above the reader assistance heading of "Property Taxes" to read as follows:

Sec. 8a. 32 V.S.A. § 3201(8) is added to read:

§ 3201. ADMINISTRATION OF TAXES

(a) In the administration of taxes, the ~~commissioner~~ Commissioner may:

* * *

(9) When the Commissioner determines that a class of vendors or operators has a common compliance problem or a common question about compliance with chapters 225 or 233 of this title, the Commissioner shall exercise his or her discretion under this section to waive any past liability, penalty, or interest for taxpayers within that class. The Commissioner's decision to grant or deny relief under this subsection is final and not subject to subsequent review.

Second: In Sec. 33(b), after the following: "8 (joint fiscal office)," by adding the following: 8a (administration of taxes),

Which was disagreed to.

Senators Bray, Ayer, Collins and Benning moved that the Senate proposal of amendment be amended as follows:

First: By adding a new section to be Sec. 45d to read as follows:

Sec. 45d. 33 V.S.A. § 1955a(a) is amended to read:

(a) Beginning October 1, 2011, each home health agency's assessment shall be 19.30 percent of its net operating revenues from core home health care services, excluding revenues for services provided under Title XVIII of the federal Social Security Act; provided, however, that each home health agency's annual assessment shall be limited to no more than six percent of its annual net patient revenue. The amount of the tax shall be determined by the ~~commissioner~~ Commissioner based on the home health agency's most recent

audited financial statements at the time of submission, a copy of which shall be provided on or before ~~December 1~~ May 1 of each year to the ~~department~~ Department. For providers who begin operations as a home health agency after January 1, 2005, the tax shall be assessed as follows:

* * *

Second: "In Sec. 46 (effective dates), in subdivision (9), after the following: "(tax expenditures)" by inserting the following: and Sec. 45d (home health agencies)

Which was agreed to on a roll call, Yeas 25, Nays 3.

Senator Galbraith having demanded the yeas and nays, they were taken and are as follows:

Roll Call

Those Senators who voted in the affirmative were: Ashe, Ayer, Baruth, Benning, Bray, Campbell, Collins, Cummings, Flory, Fox, French, Hartwell, Kitchel, Lyons, Mazza, McAllister, McCormack, Nitka, Pollina, Rodgers, Sears, Snelling, Starr, Westman, White.

Those Senators who voted in the negative were: Galbraith, MacDonald, Zuckerman.

Those Senators absent and not voting were: Doyle, Mullin.

Thereupon, the bill was read the third time and passed in concurrence with proposals of amendment.

Rules Suspended; Bills Placed on Remaining Stages

On motion of Senator Campbell, the rules were suspended, and the following bills, were placed on all remaining stages:

H. 226, H. 262, H. 265, H. 523

Bills Passed in Concurrence with Proposals of Amendment

House bills of the following titles were severally read the third time and passed in concurrence with proposals of amendment:

H. 226. An act relating to the regulation of underground storage tanks.

H. 262. An act relating to establishing a program for the collection and recycling of paint.

Bill Passed in Concurrence

House bill of the following title:

H. 265. An act relating to the education property tax rates and base education amount for fiscal year 2014.

Was taken up.

Thereupon, the bill was read the third time and passed in concurrence on a roll call Yeas 15, Nays 11.

Senator MacDonald having demanded the yeas and nays, they were taken and are as follows:

Roll Call

Those Senators who voted in the affirmative were: Ashe, Ayer, Baruth, Bray, Campbell, Fox, French, Kitchel, Lyons, MacDonald, Mazza, McCormack, Pollina, White, Zuckerman.

Those Senators who voted in the negative were: Benning, Flory, Galbraith, Hartwell, McAllister, Nitka, Rodgers, Sears, Snelling, Starr, Westman.

Those Senators absent and not voting were: Collins, Cummings, Doyle, Mullin.

Senate Proposal of Amendment Amended; Consideration Postponed

House bill entitled:

H. 523.

An act relating to jury questionnaires, the filing of foreign child custody determinations, court fees, and judicial record keeping.

Was taken up.

Thereupon, pending the question, Shall the bill pass in concurrence with proposal of amendment?, Senator Flory moved to amend the Senate proposal of amendment as follows:

First: In Sec. 16, 4 V.S.A. § 36, by adding a subdivision (a)(2)(C) to read as follows:

(C) Use of the term "judicial officer" in subdivisions (A) and (B) of this subsection shall not be construed to expand a judicial officer's subject matter jurisdiction or conflict with the authority of the Chief Justice or Administrative Judge to make special assignments pursuant to section 22 of this title.

Second: In Sec. 16, 4 V.S.A. § 36, in subdivision (a)(2)(B)(ii), by striking out the words "protective" and "developmentally disabled" and inserting before the word "services" the word guardianship and inserting after the word "services" the word proceeding

Third: In Sec. 16, in 4 V.S.A. § 36, in subdivision (a)(2)(B)(v), by striking out the words "mentally retarded" and inserting after the word "persons" the words with developmental disabilities

Which was agreed to.

Thereupon, Senator Campbell moved that consideration of the bill be postponed until later in the day.

Which was agreed to.

Rules Suspended; Report of Committee of Conference Accepted and Adopted on the Part of the Senate

H. 169.

Pending entry on the Calendar for notice, on motion of Senator Baruth, the rules were suspended and the report of the Committee of Conference on House bill entitled:

An act relating to relieving employers' experience-rating records.

Was taken up for immediate consideration.

Senator Mullin, for the Committee of Conference, submitted the following report:

To the Senate and House of Representatives:

The Committee of Conference to which were referred the disagreeing votes of the two Houses upon House bill entitled:

H. 169. An act relating to relieving employers' experience-rating records.

Respectfully reports that it has met and considered the same and recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 21 V.S.A. § 1325 is amended to read:

§ 1325. EMPLOYERS' EXPERIENCE-RATING RECORDS; DISCLOSURE TO SUCCESSOR ENTITY~~; EMPLOYEE PAID $1,000.00 OR LESS DURING BASE PERIOD~~

(a)(1) The ~~commissioner~~ Commissioner shall maintain an experience-rating record for each employer. Benefits paid shall be charged against the experience-rating record of each subject employer who provided

base-period wages to the eligible individual. Each subject employer's experience-rating charge shall bear the same ratio to total benefits paid as the total base-period wages paid by that employer bear to the total base-period wages paid to the individual by all base-period employers. The experience-rating record of an individual subject base-period employer shall not be charged for benefits paid to an individual under any of the following conditions:

~~(1)~~(A) The individual's employment with that employer was terminated under disqualifying circumstances.

~~(2)~~(B) The individual's employment or right to reemployment with that employer was terminated by retirement of the individual pursuant to a retirement or lump-sum retirement pay plan under which the age of mandatory retirement was agreed upon by the employer and its employees or by the bargaining agent representing those employees.

~~(3)~~(C) As of the date on which the individual filed an initial claim for benefits, the individual's employment with that employer had not been terminated or reduced in hours.

~~(4)~~(D) The individual was employed by that employer as a result of another employee taking leave under subchapter 4A of chapter 5 of this title, and the individual's employment was terminated as a result of the reinstatement of the other employee under subchapter 4A of chapter 5 of this title.

~~(5)~~(E) [Repealed.]

(2) If an individual's unemployment is directly caused by a major natural disaster declared by the President of the United States pursuant to 42 U.S.C. § 5122 and the individual would have been eligible for federal disaster unemployment assistance benefits but for the receipt of regular benefits, an employer shall be relieved of charges for benefits paid to the individual with respect to any week of unemployment occurring due to the natural disaster up to a maximum amount of four weeks.

* * *

Sec. 2. UNEMPLOYMENT COMPENSATION; EMPLOYERS AFFECTED BY NATURAL DISASTERS OCCURRING IN 2011

(a) The Department of Labor shall establish a system to provide unemployment compensation tax relief to employers paying a higher rate of contributions due to layoffs directly caused by federally declared natural disasters occurring in 2011.

(b) Unemployment compensation tax relief shall be available to an employer provided that the employer's employees were separated from employment as a direct result of the disaster. Benefits paid beyond eight weeks shall remain chargeable to the employer.

(c) The relief described in subsection (b) of this section shall not be available to employers electing to make payments in lieu of contributions pursuant to 21 V.S.A. § 1321.

(d) Benefit charge relief provided under subsections (a) and (b) of this section shall not result in the recalculation of previously assigned rate classes for nondisaster-impacted employers.

(e) The Department shall notify employers in the counties covered by the federal disaster relief declaration of the provisions of this section. An employer seeking relief shall apply to the Department within 20 days of notification by the Department. The application shall be made in a manner prescribed and approved by the Commissioner and shall be accompanied by a certified statement of the employer that the employees were separated from employment as a direct result of the disaster and would have not been otherwise. False statements made in connection with the certification shall subject the employer to the provisions of 21 V.S.A. § 1369. The employer shall provide the Department with the name, address, last known phone number, and social security number of each employee alleged to have been separated from employment as a result of the disaster.

(f) If an employer's application for relief is denied, the employer may appeal the decision pursuant to 21 V.S.A. §§ 1348 and 1349.

Sec. 3. APPROPRIATION

Of the appropriations made to the Department of Labor in Sec. B.400 of House Bill 530 (An act relating to making appropriations for the support of government), the amount of $60,000.00 is appropriated for the costs of postage and for hiring temporary positions necessary to implement the unemployment compensation tax relief program described in Sec. 2 of this act.

Sec. 4. DEPARTMENT OF LABOR; ENFORCEMENT OF UNEMPLOYMENT INSURANCE COVERAGE RULE

The Department of Labor shall not implement proposed rule 12P044, unemployment insurance coverage for direct sellers and newspaper carriers, and shall not propose or adopt any rule, issue any bulletin, or take any other action regarding unemployment compensation and newspaper carriers prior to July 1, 2014.

Sec. 5. STUDY COMMITTEE; UNEMPLOYMENT COMPENSATION

(a) The Office of Legislative Council shall study the issue of unemployment compensation, its application to newspaper carriers, and the relationship between state and federal exemptions to the unemployment compensation statutes.

(b) The Office of Legislative Council shall examine:

(1) the history of how newspaper carriers have been treated for purposes of unemployment compensation in Vermont and the newspaper industry practice of utilizing independent contractors to distribute newspapers or shopping news and the history and rationale behind the 2006 Department of Labor bulletin treating newspaper carriers as direct sellers;

(2) the potential economic impacts the proposed rule would have on newspaper publishers, newspaper carriers, and the unemployment compensation trust fund;

(3) the approaches taken by other states regarding unemployment compensation for newspaper carriers;

(4) an analysis of both state and federal exemptions to the unemployment compensation statutes; and

(5) how the unemployment compensation statutes should apply to individuals who do not earn enough wages to qualify for unemployment benefits.

(c) The Office of Legislative Council shall report its findings to the House Committee on Commerce and Economic Development and the Senate Committee on Finance on or before January 15, 2014.

Sec. 6. EFFECTIVE DATE

This act shall take effect on passage.

KEVIN J. MULLIN
CHRISTOPHER A. BRAY
PETER W. GALBRAITH

Committee on the part of the Senate

WILLIAM G. F. BOTZOW
MICHAEL J. MARCOTTE
WARREN F. KITZMILLER

Committee on the part of the House

Thereupon, the question, Shall the Senate accept and adopt the report of the Committee of Conference?, was decided in the affirmative.

Consideration Resumed; Senate Proposal of Amendment Amended; Bill Passed in Concurrence with Proposals of Amendment

H. 523.

Consideration was resumed on House bill entitled:

An act relating to jury questionnaires, the filing of foreign child custody determinations, court fees, and judicial record keeping.

Senator Campbell moved to amend the Senate proposal of amendment by inserting three new sections following Sec. 20 to read:

* * * Motor Vehicle Moving Violation * * *

Sec. 20a. 23 V.S.A. § 1002 is added to read:

§ 1002. MOTOR VEHICLE MOVING VIOLATION; NO POINTS

A person who commits a moving violation under another provision of this title for which no term of imprisonment is provided by law, and for which a penalty of not more than $1,000.00 is provided, commits a traffic violation and may be issued a complaint for a violation of this section in lieu of a complaint for a violation of the predicate moving violation provision. A person convicted of a violation of this section shall not be assessed points against his or her driving record under chapter 25 of this title, but shall be subject to the penalties prescribed in the provision of this title that specifies the predicate moving violation.

Sec. 20b. 23 V.S.A. § 2501 is amended to read:

§ 2501. MOTOR VEHICLE POINT SYSTEM

For the purpose of identifying habitually reckless or negligent drivers and frequent violators of traffic regulations governing the movement of vehicles, a uniform system is established assigning demerit points for convictions of violations of this title or of ordinances adopted by local authorities regulating the operation of motor vehicles. Notice of each assessment of points may be given. No points shall be assessed for violating section 1002 of this title or a provision of a statute or municipal ordinance regulating standing, parking, equipment, size, or weight, or if a superior judge or Judicial Bureau hearing officer has waived the assessment of points in the interest of justice. The conviction report from the court shall be prima facie evidence of the points assessed unless points are specifically waived in the conviction report. The ~~department is~~ Department also is authorized to suspend the license of a driver when the driver's driving record identifies the driver as an habitual offender under section 673a of this title.

Sec. 20c. 23 V.S.A. § 2502 is amended to read:

§ 2502. POINT ASSESSMENT; SCHEDULE

(a) ~~Any~~ Unless the assessment of points is waived by a superior judge or a Judicial Bureau hearing officer in the interests of justice, or unless a person is convicted of violating section 1002 of this title, a person operating a motor vehicle shall have points assessed against his or her driving record for convictions for moving violations of the indicated motor vehicle statutes in accord with the following schedule: (All references are to Title 23 of the Vermont Statutes Annotated.)

* * *

Which was agreed to.

Senator Fox moved to amend the Senate proposal of amendment in Sec. 16, 4 V.S.A. § 36(a)(2)(B)(v), before "persons" by adding the following: mentally retarded and after "persons" by striking out the following: "with developmental disabilities"

Which was agreed to.

Thereupon, the bill was read the third time and passed in concurrence with proposals of amendment.

Message from the House No. 71

A message was received from the House of Representatives by Ms. H. Gwynn Zakov, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has considered the report of the Committee of Conference upon the disagreeing votes of the two Houses on Senate bill of the following title:

S. 61. An act relating to alcoholic beverages.

And has adopted the same on its part.

Committees of Conference Appointed

S. 20.

An act relating to increasing the statute of limitations for certain sex offenses against children.

Was taken up. Pursuant to the request of the Senate, the President announced the appointment of

Senator Nitka
Senator Benning
Senator Sears

as members of the Committee of Conference on the part of the Senate to consider the disagreeing votes of the two Houses.

S. 129.

An act relating to workers' compensation liens.

Was taken up. Pursuant to the request of the Senate, the President announced the appointment of

Senator Ashe
Senator Campbell
Senator Zuckerman

as members of the Committee of Conference on the part of the Senate to consider the disagreeing votes of the two Houses.

H. 240.

An act relating to Executive Branch fees.

Was taken up. Pursuant to the request of the Senate, the President announced the appointment of

Senator Ashe
Senator MacDonald
Senator Flory

as members of the Committee of Conference on the part of the Senate to consider the disagreeing votes of the two Houses.

Rules Suspended; Bill Messaged

On motion of Senator Campbell, the rules were suspended, and the following bill was ordered messaged to the House forthwith:

H. 295.

Committee Relieved of Further Consideration; Bills Committed

H. 537.

On motion of Senator Campbell, the Committee on Rules was relieved of further consideration of House bill entitled:

An act relating to approval of amendments to the charter of the Town of Brattleboro,

and the bill was committed to the Committee on Government Operations.

H. 541.

On motion of Senator Campbell, the Committee on Rules was relieved of further consideration of House bill entitled:

An act relating to approval of amendments to the charter of the Village of Essex Junction,

and the bill was committed to the Committee on Government Operations.

Rules Suspended; House Proposal of Amendment Concurred in With an Amendment

S. 37.

Pending entry on the Calendar for notice, on motion of Senator Campbell, the rules were suspended and House proposal of amendment to Senate bill entitled:

An act relating to tax increment financing districts.

Was taken up for immediate consideration.

The House proposes to the Senate to amend the bill as follows:

First: By striking out Sec. 1 (resolution of tax increment financing district audit report issues) in its entirety and inserting in lieu thereof the following:

Sec. 1. RESOLUTION OF TAX INCREMENT FINANCING DISTRICT AUDIT REPORT ISSUES

(a) In 2011 and 2012, the State Auditor of Accounts performed and reported on required reviews and audits of all active tax increment financing districts. However, the tax increment financing laws currently lack a specific remedy to recover amounts identified in the Auditor's Reports or an enforcement mechanism to address issues identified in the Reports. The General Assembly seeks to address issues identified in the 2011 and 2012 Auditor's Reports by clarifying tax increment financing laws and specifying a process for future oversight and enforcement. Accordingly, it is the intent of the General Assembly not to address ongoing issues identified in the 2011 and 2012 Auditor's Reports but to leave those issues to be addressed through the rulemaking process, as described in Sec. 14 of this act. If the rule identifies issues that require corrective action on the part of one or more municipalities, then any identified underpayments to the Education Fund resulting from issues shall begin to accumulate upon the adoption date of the rule and be subject to the enforcement provisions in Sec. 14 of this act.

(b) In order to resolve any disputes over the amounts identified in the Auditor's Reports as owed to the Education Fund, the City of Burlington, the Town of Milton, and the City of Winooski shall, subject to the approval of

their respective legislative bodies, pay the State according to the schedule set out in subsection (c) of this section. The General Assembly considers these payments as final settlement of outstanding sums identified as owed to the Education Fund during the period covered by the 2012 Auditor's Reports.

(c) The municipalities with active tax increment financing districts that were audited by the State Auditor in 2012 have entered into the following agreements with the State:

(1) The City of Burlington shall remit the amount of $200,000.00 to the Education Fund in equal installments over a five-year period beginning December 15, 2013 from incremental tax revenues not otherwise dedicated to the repayment of the district's debt obligations.

(2) The Town of Milton shall remit funds as follows:

(A) $22,000.00 to the Education Fund in equal installments over a two-year period beginning December 15, 2013 from municipal revenues other than municipal tax increment dedicated to the repayment of tax increment financing debt;

(B) $160,000.00 to the Catamount Husky Tax Increment Fund in equal installments over a five-year period beginning December 15, 2013 from municipal nonincrement revenues; and

(C) $17,000.00 to the Catamount Husky Tax Increment Fund for the repayment of debt from the Town Core Tax Increment Financing Fund by no later than December 15, 2013.

(3) The City of Winooski shall remit funds as follows:

(A) the amount of $1,300.00 to the Education Fund from municipal nonincrement revenues by July 1, 2013; and

(B) $62,000.00 to the Tax Increment Financing Fund from municipal nonincremental revenues in equal installments over a five-year period beginning December 15, 2013.

(d) If the legislative body of a municipality with an active tax increment financing district that was audited by the State Auditor in 2012 does not approve the payments described in subsection (c) of this section, then the General Assembly shall consider any amounts identified as owed to the Education Fund during the period covered by the 2012 Auditor's Reports to remain outstanding.

(e) If a municipality does not begin payment of the amounts identified in subsection (c) of this section within 60 days of the scheduled payment date or owes outstanding amounts to the Education Fund, as described in subsection

(d) of this section, amounts identified as owed to the State may be withheld from any funds otherwise payable by the State to the municipality or a school district in the municipality or of which the municipality is a member.

Second: In Sec. 3, 24 V.S.A. § 1892, by striking out subdivisions (d)(8) and (9) and inserting in lieu thereof the following:

(8) the City of St. Albans;

(9) the City of Barre; and

(10) the Town of Milton, Town Core.

Third: In Sec. 4, 24 V.S.A. § 1894, by striking out subsection (a) in its entirety and inserting in lieu thereof the following:

(a) Incurring indebtedness.

(1) A municipality ~~may incur indebtedness against revenues of the tax increment financing district at any time during a period of up to 20 years following the creation of the district, if approved as required under 32 V.S.A. § 5404a(h). The creation of the district shall occur at 12:01 a.m. on April 1 of the year so voted. Any indebtedness incurred during this 20-year period may be retired over any period authorized by the legislative body of the municipality under section 1898 of this title.~~

~~(2) If no indebtedness is incurred within the first five years after creation of the district, no indebtedness may be incurred unless the municipality obtains reapproval from the Vermont economic progress council under 32 V.S.A. § 5404a(h). When considering reapproval, the Vermont economic progress council shall consider only material changes in the application under 32 V.S.A. § 5404a(h). The Vermont economic progress council shall presume that an applicant qualifies for reapproval upon a showing that the inability of the district to incur indebtedness was the result of the macro-economic conditions in the first five years after the creation of the district. Upon reapproval, the Vermont economic progress council shall grant a five-year extension of the period to incur indebtedness.~~

~~(3) The district shall continue until the date and hour the indebtedness is retired.~~ approved under 32 V.S.A. § 5404a(h) may incur indebtedness against revenues of the tax increment financing district at any time during a period of up to five years following the creation of the district. If no debt is incurred during this five-year period, the district shall terminate, unless the Vermont Economic Progress Council grants an extension to a municipality pursuant to subsection (d) of this section. However, if any indebtedness is incurred within the first five years after the creation of the district, then the district has a total of ten years after the creation of the district to incur any additional debt.

(2) Any indebtedness incurred under subdivision (1) of this subsection may be retired over any period authorized by the legislative body of the municipality.

(3) The district shall continue until the date and hour the indebtedness is retired or, if no debt is incurred, five years following the creation of the district.

Fourth: In Sec. 4, 24 V.S.A. § 1894, in subsection (b), by striking out the words "first ten years" and inserting in lieu thereof the following: period permitted under subdivision (a)(1) of this section

Fifth: In Sec. 4, 24 V.S.A. § 1894, in subsection (c), by striking out the words "first ten years" and inserting in lieu thereof the following: period permitted under subdivision (a)(1) of this section

Sixth: In Sec. 4, 24 V.S.A. § 1894, in subsection (d), by adding a sentence after the final sentence to read as follows:

If no indebtedness is incurred within five years after the creation of the district, the municipality may submit an updated executive summary of the tax increment financing district plan and an updated tax increment financing plan to the Council to obtain approval for a five-year extension of the period to incur indebtedness; provided, however, that the updated plan is submitted prior to the five-year termination date of the district. The Council shall review the updated tax increment financing plan to determine whether the plan has continued viability and consistency with the approved tax increment financing plan. Upon approval of the updated tax increment financing plan, the Council shall grant an extension of the period to incur indebtedness of no more than five years. The submission of an updated tax increment financing plan as provided in this subsection shall operate as a stay of the termination of the district until the Council has determined whether to approve the plan.

Seventh: By adding a new Sec. 12a, after Sec. 12, to read as follows:

Sec. 12a. 32 V.S.A. § 5404a is amended to read:

§ 5404a. TAX STABILIZATION AGREEMENTS; TAX INCREMENT FINANCING DISTRICTS

* * *

(h) Criteria for approval. To approve utilization of incremental revenues pursuant to subsection (f) of this section, the Vermont ~~economic progress council~~ Economic Progress Council shall do all the following:

(1) Review each application to determine that the new real property development would not have occurred or would have occurred in a

significantly different and less desirable manner but for the proposed utilization of the incremental tax revenues. ~~A district created in a designated growth center under 24 V.S.A. § 2793c shall be deemed to have complied with this subdivision.~~ The review shall take into account:

* * *

Eighth: In Sec. 14, 32 V.S.A. § 5404a(j), by inserting in subdivision (4) before the words "In lieu of" the following: Referral; Attorney General. and by striking out subdivision (5) in its entirety and inserting in lieu thereof a new subdivision (5) to read as follows:

(5) Appeal; hearing officer.

A hearing that is held pursuant to this subsection shall be subject to the provisions of 3 V.S.A. chapter 25 relating to contested cases. The hearing shall be conducted by the Secretary or by a hearing officer appointed by the Secretary. If a hearing is conducted by a hearing officer, the hearing officer shall have all authority to conduct the hearing that is provided for in the applicable contested case provisions of 3 V.S.A. chapter 25, including issuing findings of fact, hearing evidence, and compelling, by subpoena, the attendance and testimony of witnesses.

Ninth: By striking out Sec. 19, amending 3 V.S.A. § 816(a), in its entirety and inserting in lieu thereof the following:

Sec. 19. 23 V.S.A. § 3106(a)(2) is amended to read:

(2) For the purposes of subdivision (1)(B) of this subsection, the tax-adjusted retail price applicable for a quarter shall be the average of the ~~monthly~~ retail ~~prices~~ price for regular gasoline determined and published by the Department of Public Service for each of the three months of the preceding quarter~~. The tax-adjusted retail price applicable for a quarter shall be the retail price exclusive of all~~ after all federal and state taxes and assessments, and after the petroleum distributor licensing fee established by 10 V.S.A. § 1942, ~~at the rates~~ applicable in ~~the preceding quarter~~ each month have been subtracted from that month's retail price.

Tenth: By striking out Sec. 20, 2011 and 2012 Auditor's Reports; Payment, in its entirety and inserting in lieu thereof the following:

Sec. 20. 2013 Acts and Resolves No. 12, Sec. 24 is amended to read:

Sec. 24. ~~MOTOR~~ FUEL ~~ASSESSMENTS~~ TAX ASSESSMENT: MAY 1, 2013–SEPTEMBER 30, 2013

Notwithstanding the provisions of 23 V.S.A. § ~~3106(a)(1)(B)~~ 3106(a)(1)(B)(ii) and 3106(a)(2), from May 1, 2013 through

September 30, 2013, the ~~motor fuel transportation infrastructure assessment required under 23 V.S.A. § 3106(a)(1)(B)(i) shall be $0.0656 per gallon, and the~~ fuel tax assessment required under 23 V.S.A. § 3106(a)(1)(B)(ii) shall be $0.067 per gallon.

Eleventh: By striking out Sec. 22 in its entirety and inserting in lieu thereof the following:

Sec. 22. 21 V.S.A. § 1325 is amended to read:

§ 1325. EMPLOYERS' EXPERIENCE-RATING RECORDS; DISCLOSURE TO SUCCESSOR ENTITY~~; EMPLOYEE PAID $1,000.00 OR LESS DURING BASE PERIOD~~

(a)(1) The ~~commissioner~~ Commissioner shall maintain an experience-rating record for each employer. Benefits paid shall be charged against the experience-rating record of each subject employer who provided base-period wages to the eligible individual. Each subject employer's experience-rating charge shall bear the same ratio to total benefits paid as the total base-period wages paid by that employer bear to the total base-period wages paid to the individual by all base-period employers. The experience-rating record of an individual subject base-period employer shall not be charged for benefits paid to an individual under any of the following conditions:

~~(1)~~(A) The individual's employment with that employer was terminated under disqualifying circumstances.

~~(2)~~(B) The individual's employment or right to reemployment with that employer was terminated by retirement of the individual pursuant to a retirement or lump-sum retirement pay plan under which the age of mandatory retirement was agreed upon by the employer and its employees or by the bargaining agent representing those employees.

~~(3)~~(C) As of the date on which the individual filed an initial claim for benefits, the individual's employment with that employer had not been terminated or reduced in hours.

~~(4)~~(D) The individual was employed by that employer as a result of another employee taking leave under subchapter 4A of chapter 5 of this title, and the individual's employment was terminated as a result of the reinstatement of the other employee under subchapter 4A of chapter 5 of this title.

~~(5)~~(E) [Repealed.]

(2) If an individual's unemployment is directly caused by a major natural disaster declared by the President of the United States pursuant to

42 U.S.C. § 5122 and the individual would have been eligible for federal disaster unemployment assistance benefits but for the receipt of regular benefits, an employer shall be relieved of charges for benefits paid to the individual with respect to any week of unemployment occurring due to the natural disaster up to a maximum amount of four weeks.

* * *

Twelfth: By adding a new Sec. 23, after Sec. 22, to read as follows:

Sec. 23. UNEMPLOYMENT COMPENSATION; EMPLOYERS AFFECTED BY NATURAL DISASTERS OCCURRING IN 2011

(a) The Department of Labor shall establish a system to provide unemployment compensation tax relief to employers paying a higher rate of contributions due to layoffs directly caused by federally declared natural disasters occurring in 2011.

(b) Unemployment compensation tax relief shall be available to an employer provided that the employer's employees were separated from employment as a direct result of the disaster. Benefits paid beyond eight weeks shall remain chargeable to the employer.

(c) The relief described in subsection (b) of this section shall not be available to employers electing to make payments in lieu of contributions pursuant to 21 V.S.A. § 1321.

(d) Benefit charge relief provided under subsections (a) and (b) of this section shall not result in the recalculation of previously assigned rate classes for nondisaster-impacted employers.

(e) The Department shall notify employers in the counties covered by the federal disaster relief declaration of the provisions of this section. An employer seeking relief shall apply to the Department within 20 days of notification by the Department. The application shall be made in a manner prescribed and approved by the Commissioner and shall be accompanied by a certified statement of the employer that the employees were separated from employment as a direct result of the disaster and would have not been otherwise. False statements made in connection with the certification shall subject the employer to the provisions of 21 V.S.A. § 1369. The employer shall provide the Department with the name, address, last known phone number, and social security number of each employee alleged to have been separated from employment as a result of the disaster.

(f) If an employer's application for relief is denied, the employer may appeal the decision pursuant to 21 V.S.A. §§ 1348 and 1349.

Thirteenth: By adding a new Sec. 24, after Sec. 23, to read as follows:

Sec. 24. APPROPRIATION

Of the appropriations made to the Department of Labor in Sec. B.400 of House Bill 530 (An act relating to making appropriations for the support of government), the amount of $60,000.00 is appropriated for the costs of postage and for hiring temporary positions necessary to implement the unemployment compensation tax relief program described in Sec. 23 of this act.

Fourteenth: By adding a new Sec. 25, after Sec. 24, to read as follows:

Sec. 25. EFFECTIVE DATES

(a) Secs. 1, 6(b), 10, 12a–24, and this section shall take effect on passage. Sec. 6(b) (repeal of adjustment upon reappraisal) shall be effective retroactive to July 2006.

(b) Secs. 2 through 9 (except Sec. 6(b)), 11, and 12 (clarification of ambiguous statutes) of this act shall apply to any tax increment retained for all taxes assessed on the April 1, 2013 grand list.

(c) Sec. 6(c) (creation of taxes for special purposes) shall take effect on July 1, 2013.

Thereupon, pending the question, Shall the Senate concur in the House proposal of amendment? Senator Ashe moved that the Senate concur in the House proposal of amendment with an amendment, as follows:

First: By striking out Sec. 19, amending 23 V.S.A. § 3106(a)(2), in its entirety and inserting in lieu thereof the following:

Sec. 19. REPEAL

Pursuant to Sec. 3 of this act, the 2006 Acts and Resolves No. 184, Sec. 2i, as amended by 2008 Acts and Resolves No. 190, Sec. 67 (tax increment financing districts, cap), is repealed to clarify that the Vermont Economic Progress Council shall not approve any additional tax increment financing districts.

Second: By striking out Sec. 20, amending 2013 Acts and Resolves No. 12, Sec. 24, in its entirety and inserting in lieu thereof the following:

Sec. 20. EFFECTIVE DATES

(a) Secs. 1, 6(b), 10, 12a–19, and this section shall take effect on passage. Sec. 6(b) (repeal of adjustment upon reappraisal) shall be effective retroactive to July 2006.

(b) Secs. 2 through 9 (except Sec. 6(b)), 11, and 12 (clarification of ambiguous statutes) of this act shall apply to any tax increment retained for all taxes assessed on the April 1, 2013 grand list.

(c) Sec. 6(c) (creation of taxes for special purposes) shall take effect on July 1, 2013.

Third: By striking out Sec. 21, Repeal, in its entirety.

Fourth: By striking out Sec. 22, amending 21 V.S.A. § 1325, in its entirety.

Fifth: By striking out Sec. 23, Unemployment Compensation; Employers Affected by Natural Disasters Occurring in 2011, in its entirety.

Sixth: By striking out Sec. 24, Appropriation, in its entirety.

Seventh: By striking out Sec. 25, Effective Dates, in its entirety.

Which was agreed to.

Appointment Confirmed

Under suspension of the rules (and particularly, Senate Rule 93), as moved by Senator White, the following Gubernatorial appointments were confirmed together as a group by the Senate, without reports given by the Committees to which they were referred and without debate:

Gibbs, Jason of Duxbury - Member, Community High School of Vermont Board – April 18, 2013, to February 29, 2016.

Rules Suspended; Action Messaged

On motion of Senator Campbell, the rules were suspended, and the action on the following bills was ordered messaged to the House forthwith:

S. 130, S. 156, S. 157, H. 240.

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. 20, S. 37, S. 129, S. 152, H. 107, H. 169, H. 226, H. 262, H. 265, H. 515, H. 522, H. 523.

Adjournment

On motion of Senator Campbell, the Senate adjourned until ten o'clock in the morning.

TUESDAY, MAY 14, 2013

The Senate was called to order by the President.

Devotional Exercises

A moment of silence was observed in lieu of devotions.

Message from the House No. 72

A message was received from the House of Representatives by Ms. H. Gwynn Zakov, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has considered Senate proposals of amendment to the following House bills:

H. 65. An act relating to limited immunity from liability for reporting a drug or alcohol overdose.

H. 299. An act relating to amending consumer protection provisions for propane refunds, unsolicited demands for payment, bad faith assertions of patent infringement and failure to comply with civil investigations.

H. 395. An act relating to the establishment of the Vermont Clean Energy Loan Fund.

H. 450. An act relating to expanding the powers of regional planning commissions.

H. 520. An act relating to reducing energy costs and greenhouse gas emissions.

H. 536. An act relating to the Adjutant and Inspector General and the Vermont National Guard.

And has severally concurred therein.

The House has considered Senate proposal of amendment to the following House resolution:

J.R.H. 11. Joint resolution approving a land exchange or sale in the town of Plymouth and a land transfer in the town of Grand Isle.

And has severally concurred therein.

Pursuant to the request of the Senate for a Committee of Conference the Speaker appointed the following members on the part of the House:

H. 240. An act relating to Executive Branch fees.

Rep. Branagan of Georgia
Rep. Clarkson of Woodstock
Rep. Sharpe of Bristol

Pursuant to the request of the Senate for a Committee of Conference the Speaker appointed the following members on the part of the House:

S. 129. An act relating to workers' compensation liens.

Rep. Marcotte of Coventry
Rep. Botzow of Pownal
Rep. Young of Glover

The House has considered Senate proposals of amendment to House bill of the following title:

H. 295. An act relating to technical tax changes.

And has refused to concur therein and asks for a Committee of Conference upon the disagreeing votes of the two Houses;

And the Speaker appointed as members of such Committee on the part of the House:

Rep. Ancel of Calais
Rep. Ram of Burlington
Rep. Wilson of Manchester

Committee of Conference Appointed

H. 295.

An act relating to technical tax changes.

Was taken up. Pursuant to the request of the House, the President announced the appointment of

Senator Ashe
Senator MacDonald
Senator Mullin

as members of the Committee of Conference on the part of the Senate to consider the disagreeing votes of the two Houses.

Senate Resolution Adopted

S.R. 7.

Senate resolution entitled:

Senate resolution relating to a committee to study the use of state funds by organizations that lobby the General Assembly or Administration

Having been placed on the Calendar for action, was taken up and adopted.

Rules Suspended; Proposals of Amendment; Third Reading Ordered

H. 524.

Appearing on the Calendar for notice, on motion of Senator Baruth, the rules were suspended and House bill entitled:

An act relating to making technical amendments to education laws.

Was taken up for immediate consideration.

Senator Collins, for the Committee on Education, to which the bill was referred, reported recommending that the Senate propose to the House to amend the bill as follows:

First: By striking out Secs. 16 through 22 in their entirety and inserting in lieu thereof 7 new sections to be Secs. 16 through 22 to read as follows:

Sec. 16. REDESIGNATION; ADDITION OF SUBCHAPTER

16 V.S.A. chapter 1, subchapter 2, which shall include §§ 41–55, is added to read:

Subchapter 2. Federal Funds

* * *

Sec. 17. 16 V.S.A. § 168 is amended to read:

§ ~~168~~ 41. AUTHORITY OF ~~STATE BOARD OF EDUCATION~~ AGENCY TO ~~UTILIZE~~ USE FEDERAL FUNDS TO AID EDUCATION

(a) The ~~state board~~ Agency of Education is designated as the sole state agency to establish and administer ~~through the department of education~~ any statewide plan ~~which is now or hereafter may be~~ required as a condition for receipt of federal funds ~~as may be~~ made available to the ~~state of Vermont by the Congress of the United States, or administrative ruling pursuant thereto,~~ State for any educational purposes, including technical education and adult education and literacy. ~~It~~ The Agency shall also be the agency to accept and administer federal funds ~~which federal legislation requires~~ that require

administration by a state education agency having jurisdiction of elementary and secondary education ~~to administe~~r.

(b) Subject to the approval of the ~~governor~~ Governor, the ~~board~~ Agency may accept and ~~utilize such~~ use federal funds. It may establish criteria and procedures to conform with any requirements established for the use of ~~such~~ the funds and may take such other action as may be required to comply with any condition for receipt of ~~such~~ federal aid.

Sec. 18. 16 V.S.A. § 169 is amended to read:

§ ~~169~~ 42. ACCEPTANCE, DISTRIBUTION AND ACCOUNTING OF FEDERAL FUNDS

(a) The ~~state treasurer~~ State Treasurer, acting upon the order of the ~~commissioner or his or her authorized representative~~ Secretary, shall accept, distribute, and account for federal funds available for use by the ~~state board~~ Agency. Funds shall be distributed and accounted for by the ~~state treasurer~~ State Treasurer in accordance with the laws of ~~this state~~ Vermont, but if there is a conflict between those laws~~,~~ and the laws or regulations of the United States, then federal law shall apply. The ~~commissioner~~ Secretary shall ~~cause to be submitted to the United States such detailed statements of the amounts so~~ prepare and submit federally required statements of funds received and disbursed ~~as shall be required by the United States~~. The ~~commissioner~~ Secretary shall cause an audit to be made of ~~such~~ the federal funds and shall submit a copy ~~thereof to a properly authorized official of the United States~~ of the audit as required by ~~the laws or regulations of the United States~~ federal law. ~~Such~~ The audit shall be supported by any reports from the supervisory union, local school districts, or other recipients of federal funds as may be required by the ~~commissioner or the United States~~ Secretary or the federal government.

(b) The ~~state treasurer may deliver to the superintendent or~~ State Treasurer may directly deposit checks payable to a supervisory union or ~~to~~ any school district within ~~that supervisory union~~ it or may deliver checks to the superintendent of the supervisory union.

* * *

Sec. 19. 16 V.S.A. § 144b is amended to read:

§ ~~144b~~ 43. FEDERAL EDUCATION AID FUNDS; ADMINISTRATION; LOCAL EDUCATION AGENCY

(a) The ~~state board of education~~ Agency, as sole state agency, may administer ~~such~~ federal funds ~~as may be~~ made available to the ~~state~~ State under ~~Public Law 89-10, known as~~ the Elementary and Secondary Education Act of

1965, Public L. No. 89–10, as amended, and ~~Public Law 107-110, known as~~ the No Child Left Behind Act of 2001, Public L. No 107–110. Those funds may be accepted and shall be distributed and accounted for by the ~~state treasurer~~ State Treasurer in accordance with that law and rules and regulations of the United States issued under it if there is conflict between that law or those rules and regulations and the laws of this ~~state~~ State.

(b) For purposes of distribution of funds under this section, a supervisory union ~~or supervisory district~~ shall be a local education agency as that term is defined in 20 U.S.C. § 7801(26).

(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 shall be a local education agency.

Sec. 20. [Deleted.]

Sec. 21. 16 V.S.A. § 172 is amended to read:

§ ~~172~~ 44. FEDERAL FUNDS; SCHOOL FOOD PROGRAMS

The ~~state board~~ Agency is authorized to accept and use federal funds made available ~~by legislation of the congress to the several states~~ to the State for school food programs under the National School Lunch Act, ~~The~~ the Child Nutrition Act, and any amendments ~~thereto~~ to those laws.

Sec. 22. REDESIGNATION; ADDITION OF SUBCHAPTER

16 V.S.A. chapter 3, subchapter 2, which shall include §§ 175–178, is added to read:

Subchapter 2. Postsecondary Schools

* * *

Second: In Sec. 113, 16 V.S.A. § 1071, by striking out subsection (e) in its entirety and inserting in lieu thereof a new subsection (e) to read as follows:

(e) Regional calendar. Before April 1 of each year, the superintendents of schools and the headmasters of public schools not managed by school boards in an area shall meet, and by majority vote, establish a uniform calendar within that area for the following school year. The calendar shall include student attendance days, periods of vacation, holidays, and teacher in-service education days and shall comply with subsection (a) of this section. Unless permitted by the ~~commissioner~~ Secretary, no area served by a regional technical center shall be divided into two or more calendar regions.

Third: By striking out Sec. 303 (effective date) in its entirety, and inserting seven new sections to be Secs. 303 through 309 and a reader assistance heading to read as follows:

* * * Special Education Employees; Transition to Employment by Supervisory Unions * * *

Sec. 303. 2010 Acts and Resolves No. 153, Sec. 18, as amended by 2011 Acts and Resolves No. 58, Sec. 18, is further amended to read:

Sec. 18. TRANSITION

(a) Each supervisory union shall provide for any transition of employment of special education and transportation ~~staff~~ employees by member districts to employment by the supervisory union, pursuant to Sec. 9 of this act, 16 V.S.A. § 261a(a)(6), and (8)(E) by:

(1) providing that the supervisory union assumes all obligations of each existing collective bargaining agreement in effect between the member districts and their special education employees and their transportation employees until the agreement's expiration, subject to employee compliance with performance standards and any lawful reduction in force, layoff, nonrenewal, or dismissal;

(2) providing, in the absence of an existing recognized representative of its employees, for the immediate and voluntary recognition by the supervisory union of the recognized representatives of the employees of the member districts as the recognized representatives of the employees of the supervisory union;

(3) ensuring that an employee of a member district who is not a probationary employee shall not be considered a probationary employee upon transition to the supervisory union; and

(4) ~~containing an agreement~~ negotiating a collective bargaining agreement, addressing special education employees, with the recognized representatives of the employees of the member districts ~~that is effective on the day the supervisory union assumes obligations of existing agreements regarding how the supervisory union, prior to reaching its first collective bargaining agreement with its special education employees and with its transportation employees, will address issues of seniority, reduction in force, layoff, and recall~~ , which, for the purposes of this section, shall be: the exclusive representative of special education teachers; the exclusive representative of the special education administrators; and the exclusive bargaining agent for special education paraeducators if the supervisory union has elected to employ special education paraeducators pursuant to subdivision (b)(3) of this section. The supervisory union shall become the employer of these employees on the date specified in the ratified agreement.

(b) For purposes of this section and Sec. 9 of this act, "special education employee" shall include a special education teacher, a special education administrator, and a special education paraeducator, which means a teacher, administrator, or paraeducator whose job assignment consists of providing special education services directly related to students' individualized education programs or to the administration of those services. Provided, however, that "special education employee" shall include a "special education paraeducator" only if the supervisory union board elects to employ some or all special education paraeducators because it determines that doing so will lead to more effective and efficient delivery of special education services to students. If the supervisory union board does not elect to employ all special education paraeducators, it must use objective, nondiscriminatory criteria and identify specific duties to be performed when determining which categories of special education paraeducators to employ.

(c) Education-related parties to negotiations under either Title 16 or 21 shall incorporate in their current or next negotiations matters addressing the terms and conditions of special education employees.

(d) If a supervisory union has not entered into a collective bargaining agreement with the representative of its prospective special education employees by August 15, 2015, it shall provide the Secretary of Education with a report identifying the reasons for not meeting the deadline and an estimated date by which it expects to ratify the agreement.

Sec. 304. 16 V.S.A. § 1981(8) is amended to read:

(8) "School board negotiations council" means, for a supervisory district, its school board, and, for school districts within a supervisory union, the body comprising representatives designated by each school board within the supervisory union and by the supervisory union board to engage in professional negotiations with a teachers' or administrators' organization.

Sec. 305. 21 V.S.A. § 1722(18) is amended to read:

(18) "School board negotiations council" means, for a supervisory district, its school board, and, for school districts within a supervisory union, the body comprising representatives designated by each school board within the supervisory union and by the supervisory union board to engage in collective bargaining with their school employees' negotiations council.

Sec. 306. EXCESS SPENDING; TRANSITION

For purposes of calculating excess spending pursuant to 32 V.S.A. § 5401(12) in fiscal years 2014 through 2017, "education spending" shall not include the portion of a district's proposed budget that is directly attributable to assessments from the supervisory union for special education services that

exceeds the portion of the district's proposed budget in the year prior to transition for special education services provided by the district.

Sec. 307. APPLICABILITY

Only school districts and supervisory unions that have not completed the transition of special education employees to employment by the supervisory union or have not negotiated transition provisions into current master agreements as of the effective dates of Secs. 303 through 305 of this act are subject to the employment transition provisions of those sections.

Sec. 308. REPORT

On or before January 1, 2017, the Secretary of Education shall report to the House and Senate Committees on Education regarding the decisions of supervisory unions to exercise or not to exercise the flexibility regarding employment of special education paraeducators provided in Sec. 303 of this act and may propose amendments to Sec. 303 or to related statutes as he or she deems appropriate.

Sec. 309. EFFECTIVE DATE

This act shall take effect on passage.

Senator Galbraith, 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:

In the *third* proposal of amendment, by striking out Sec. 306 (excess spending; transition) in its entirety.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and the recommendation of proposal of amendment of the Committee on Education was amended as recommended by the Committee on Finance.

Thereupon, the proposals of amendment recommended by the Committee on Education, as amended, were agreed to.

Thereupon, pending the question, Shall the bill be read a third time, Senator Nitka moved to strike Secs. 69 and 233, which was agreed to.

Thereupon, third reading of the bill was ordered.

Rules Suspended; Third Readings Ordered, Rules Suspended; Bills Passed in Concurrence; Bills Messaged

H. 537.

Appearing on the Calendar for notice, on motion of Senator Baruth, the rules were suspended and House bill entitled:

An act relating to approval of amendments to the charter of the Town of Brattleboro.

Was taken up for immediate consideration.

Senator White, for the Committee on Government Operations, to which the bill was referred, reported that the bill ought to pass in concurrence.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and third reading of the bill was ordered.

Thereupon, on motion of Senator Campbell, the rules were suspended and the bill was placed on all remaining stages of its passage in concurrence forthwith.

Thereupon, the bill was read the third time and passed in concurrence.

Thereupon, on motion of Senator Campbell, the rules were suspended and the bill was ordered messaged to the House forthwith.

H. 541.

Appearing on the Calendar for notice, on motion of Senator Baruth, the rules were suspended and House bill entitled:

An act relating to approval of amendments to the charter of the Village of Essex Junction.

Was taken up for immediate consideration.

Senator French, for the Committee on Government Operations, to which the bill was referred, reported that the bill ought to pass in concurrence.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and third reading of the bill was ordered.

Thereupon, on motion of Senator Campbell, the rules were suspended and the bill was placed on all remaining stages of its passage in concurrence forthwith.

Thereupon, the bill was read the third time and passed in concurrence.

Thereupon, on motion of Senator Campbell, the rules were suspended and the bill was ordered messaged to the House forthwith.

Rules Suspended; House Proposal of Amendment Concurred In; Rules Suspended; Bill Delivered

S. 18.

Appearing on the Calendar for notice, on motion of Senator Campbell, the rules were suspended and House proposal of amendment to bill entitled:

An act relating to automated license plate recognition systems.

Was taken up for immediate consideration.

The House proposes to the Senate to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 23 V.S.A. § 1607 is added to read:

§ 1607. AUTOMATED LICENSE PLATE RECOGNITION SYSTEMS

(a) Definitions. As used in this section:

(1) "Active data" is distinct from historical data as defined in subdivision (3) of this subsection and means data uploaded to individual automated license plate recognition system units before operation as well as data gathered during the operation of an ALPR system. Any data collected by an ALPR system in accordance with this section shall be considered collected for a legitimate law enforcement purpose.

(2) "Automated license plate recognition system" or "ALPR system" means a system of one or more mobile or fixed high-speed cameras combined with computer algorithms to convert images of registration plates into computer-readable data.

(3) "Historical data" means any data collected by an ALPR system and stored on the statewide ALPR server operated by the Vermont Justice Information Sharing System of the Department of Public Safety. Any data collected by an ALPR system in accordance with this section shall be considered collected for a legitimate law enforcement purpose.

(4) "Law enforcement officer" means a state police officer, municipal police officer, motor vehicle inspector, capitol police officer, constable, sheriff, or deputy sheriff certified by the Vermont Criminal Justice Training Council as having satisfactorily completed the approved training programs required to meet the minimum training standards applicable to that person under 20 V.S.A. § 2358.

(5) "Legitimate law enforcement purpose" applies to access to active or historical data and means investigation, detection, analysis, or enforcement of a crime, traffic violation, or parking violation or operation of AMBER alerts or missing or endangered person searches.

(6) "Vermont Information and Analysis Center Analyst" means any sworn or civilian employee who through his or her employment with the Vermont Information and Analysis Center (VTIAC) has access to secure databases that support law enforcement investigations.

(b) Operation. A Vermont law enforcement officer shall be certified in ALPR operation by the Vermont Criminal Justice Training Council in order to operate an ALPR system.

(c) ALPR use and data access; confidentiality.

(1)(A) Deployment of ALPR equipment is intended to provide access to law enforcement reports of wanted or stolen vehicles and wanted persons and to further other legitimate law enforcement purposes. Use of ALPR systems and access to active data are restricted to legitimate law enforcement purposes.

(B) Active ALPR data may be accessed by a law enforcement officer operating the ALPR system only if he or she has a legitimate law enforcement purpose for the data. Entry of any data into the system other than data collected by the ALPR system itself must be approved by a supervisor and shall have a legitimate law enforcement purpose.

(C)(i) Requests to review active data shall be in writing and include the name of the requester, the law enforcement agency the requester is employed by, and the law enforcement agency's Originating Agency Identifier (ORI) number. The request shall describe the legitimate law enforcement purpose. The written request and the outcome of the request shall be transmitted to VTIAC and retained by VTIAC for not less than three years.

(ii) In each department operating an ALPR system, access to active data shall be limited to designated personnel who have been provided account access by the department to conduct authorized ALPR stored data queries. Access to active data shall be restricted to data collected within the past seven days.

(2)(A) A VTIAC analyst shall transmit historical data only to a Vermont or out-of-state law enforcement officer who has a legitimate law enforcement purpose for the data. A law enforcement officer to whom historical data are transmitted may use such data only for a legitimate law enforcement purpose. Entry of any data onto the statewide ALPR server other than data collected by an ALPR system itself must be approved by a supervisor and shall have a legitimate law enforcement purpose.

(B) Requests for historical data, whether from Vermont or out-of-state law enforcement officers, shall be made in writing to an analyst at VTIAC. The request shall include the name of the requester, the law enforcement agency the requester is employed by, and the law enforcement agency's ORI number. The request shall describe the legitimate law enforcement purpose. VTIAC shall retain all requests and shall record in writing the outcome of the request and any information that was provided to the requester or, if applicable, why a request was denied or not fulfilled. VTIAC shall retain the information described in this subdivision (c)(2)(B) for no fewer than three years.

(d) Retention.

(1) Any ALPR information gathered by a Vermont law enforcement agency shall be sent to the Department of Public Safety to be retained pursuant to the requirements of subdivision (2) of this subsection. The Department of Public Safety shall maintain the ALPR storage system for Vermont law enforcement agencies.

(2) Except as provided in section 1608 of this title, information gathered through use of an ALPR system shall only be retained for 18 months after the date it was obtained. When the permitted 18-month period for retention of the information has expired, the Department of Public Safety and any local law enforcement agency with custody of the information shall destroy it and cause to have destroyed any copies or backups made of the original data. Data may be retained beyond the 18-month period pursuant to a preservation request made or disclosure order issued under Section 1608 of this title or pursuant to a warrant issued under Rule 41 of the Vermont or Federal Rules of Criminal Procedure.

(e) Oversight; rulemaking.

(1) The Department of Public Safety shall establish a review process to ensure that information obtained through use of ALPR systems is used only for the purposes permitted by this section. The Department shall report the results of this review annually on or before January 15 to the Senate and House Committees on Judiciary and on Transportation. The report shall contain the following information based on prior calendar year data:

(A) The total number of ALPR units being operated in the State and the number of units submitting data to the statewide ALPR database.

(B) The total number of ALPR readings each agency submitted to the statewide ALPR database.

(C) The 18-month cumulative number of ALPR readings being housed on the statewide ALPR database.

(D) The total number of requests made to VTIAC for ALPR data.

(E) The total number of requests that resulted in release of information from the statewide ALPR database.

(F) The total number of out-of-state requests.

(G) The total number of out-of-state requests that resulted in release of information from the statewide ALPR database.

(2) The Department of Public Safety may adopt rules to implement this section.

Sec. 2. 23 V.S.A. § 1608 is added to read:

§ 1608. PRESERVATION OF DATA

(a) Preservation request.

(1) A law enforcement agency or the Department of Motor Vehicles may apply to the Criminal Division of the Superior Court for an extension of up to 90 days of the 18-month retention period established under subdivision 1607(d)(2) of this title if the agency or Department offers specific and articulable facts showing that there are reasonable grounds to believe that the captured plate data are relevant and material to an ongoing criminal or missing persons investigation or to a pending court or Judicial Bureau proceeding. Requests for additional 90-day extensions or for longer periods may be made to the Superior Court subject to the same standards applicable to an initial extension request under this subdivision.

(2) A governmental entity making a preservation request under this section shall submit an affidavit stating:

(A) the particular camera or cameras for which captured plate data must be preserved or the particular license plate for which captured plate data must be preserved; and

(B) the date or dates and time frames for which captured plate data must be preserved.

(b) Captured plate data shall be destroyed on the schedule specified in section 1607 of this title if the preservation request is denied or 14 days after the denial, whichever is later.

Sec. 3. EFFECTIVE DATE AND SUNSET

(a) This act shall take effect on July 1, 2013.

(b) Secs. 1–2 of this act, 23 V.S.A. §§ 1607 and 1608, shall be repealed on July 1, 2015.

Thereupon, the question, Shall the Senate concur in the House proposal of amendment?, was decided in the affirmative.

Thereupon, on motion of Senator Campbell, the rules were suspended, and the bill was ordered delivered to the Governor forthwith.

Rules Suspended; House Proposal of Amendment Not Concurred In; Committee of Conference Requested

S. 41.

Appearing on the Calendar for notice, on motion of Senator Campbell, the rules were suspended and House proposal of amendment to Senate bill entitled:

An act relating to water and sewer service.

Was taken up for immediate consideration.

The House proposes to the Senate to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 24 V.S.A. § 5143 is amended to read:

§ 5143. DISCONNECTION OF SERVICE

* * *

(c) A municipality shall accept payment from any person for any bill or delinquent charge.

Sec. 2. INTENT

It is the intent of the General Assembly that the Vermont League of Cities and Towns, Vermont Legal Aid, and the Vermont Apartment Owners Association work collaboratively on a proposal to present to the House and Senate Committees on Government Operations by January 15, 2014 which addresses the issue of the disconnection of municipal water and sewer service due to delinquent payments.

Sec. 3. REPEAL

Sec. 1 of this act shall be repealed on February 1, 2014.

Sec. 4. EFFECTIVE DATE

This act shall take effect on passage.

Thereupon, pending the question, Shall the Senate concur in the House proposal of amendment?, on motion of Senator White, the Senate refused to concur in the House proposal of amendment and requested a Committee of Conference.

Rules Suspended; Report of Committee of Conference Accepted and Adopted on the Part of the Senate; Bill Delivered

S. 61.

Appearing on the Calendar for notice, on motion of Senator Campbell, the rules were suspended and the report of the Committee of Conference on Senate bill entitled:

An act relating to alcoholic beverages.

Was taken up for immediate consideration.

Senator Baruth, for the Committee of Conference, submitted the following report:

To the Senate and House of Representatives:

The Committee of Conference to which were referred the disagreeing votes of the two Houses upon Senate bill entitled:

S. 61. An act relating to alcoholic beverages.

Respectfully reports that it has met and considered the same and recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 7 V.S.A. § 2 is amended to read:

§ 2. DEFINITIONS

The following words as used in this title, unless a contrary meaning is required by the context, shall have the following meaning:

* * *

(19) "Second class license": a license granted by the ~~control commissioners~~ Control Commissioners permitting the licensee to export malt or vinous beverages and to sell malt or vinous beverages to the public for consumption off the premises for which the license is granted.

* * *

(28) "Fourth class license" or "farmers' market license": the license granted by the ~~liquor control board~~ Liquor Control Board permitting a manufacturer or rectifier of malt or vinous beverages or spirits to sell by the unopened container and distribute, by the glass with or without charge, beverages manufactured by the licensee. No more than a combined total of ten fourth class and farmers' market licenses may be granted to a licensed manufacturer or rectifier. At only one fourth class license location, a manufacturer or rectifier of vinous beverages, malt beverages, or spirits may sell by the unopened container and distribute by the glass, with or without charge, vinous beverages, malt beverages, or spirits produced by no more than five additional manufacturers or rectifiers, provided these beverages are purchased on invoice from the manufacturer or rectifier. A manufacturer or rectifier of vinous beverages, malt beverages, or spirits may sell its product to no more than five additional manufacturers or rectifiers. A fourth class licensee may distribute by the glass no more than two ounces of malt or vinous beverage with a total of eight ounces to each retail customer and no more than one-quarter ounce of spirits with a total of one ounce to each retail customer for consumption on the manufacturer's premises or at a farmers' market. A farmers' market license is valid for all dates of operation for a specific farmers' market location.

* * *

(32) "Art gallery or bookstore permit": a permit granted by the liquor control board permitting an art gallery or bookstore to conduct an event at which malt or vinous beverages or both are served by the glass to the public, provided that the event is approved by the local licensing authority. A permit holder may purchase malt or vinous beverages directly from a licensed retailer. A permit holder shall be subject to the provisions of this title and the rules of the board regarding the service of alcoholic beverages. A request for a permit shall be submitted to the department in a form required by the ~~department~~ Department at least five days prior to the event and shall be accompanied by the permit fee required by subdivision 231(a)(22) of this title. As used in this section, "art gallery" means a fixed establishment whose primary purpose is to exhibit or offer for sale works of art; and "bookstore" means a fixed establishment whose primary purpose is to offer books for sale.

* * *

Sec. 2. 7 V.S.A. § 66 is amended to read:

§ 66. MALT AND VINOUS BEVERAGE SHIPPING LICENSE; IN STATE; OUT OF STATE; PROHIBITIONS; PENALTIES

(a) A manufacturer or rectifier of vinous beverages or malt beverages licensed in Vermont may be granted an in-state consumer shipping license by filing with the ~~department of liquor control~~ Department of Liquor Control an application in a form required by the ~~department~~ Department accompanied by a copy of the applicant's current Vermont manufacturer's license and the fee as required by subdivision 231(7)(A) of this title. This consumer shipping license may be renewed annually by filing the renewal fee as required by subdivision 231(7)(A) of this title accompanied by a copy of the licensee's current Vermont manufacturer's license.

(b) A manufacturer or rectifier of vinous beverages or malt beverages licensed in another state that operates a winery or brewery in the United States and holds valid state and federal permits and licenses may be granted an out-of-state consumer shipping license by filing with the ~~department of liquor control~~ Department an application in a form required by the ~~department~~ Department accompanied by copies of the applicant's current out-of-state manufacturer's license and the fee as required by subdivision 231(7)(B) of this title. This consumer shipping license may be renewed annually by filing the renewal fee as required by subdivision 231(7)(B) of this title accompanied by the licensee's current out-of-state manufacturer's license. For the purposes of this subsection and subsection (c) of this section, "out-of-state" means any state other than Vermont, any territory or possession of the United States, and does not include a foreign country.

* * *

(d) Pursuant to a consumer shipping license granted under subsection (a) or (b) of this section, the licensee may ship vinous beverages or malt beverages produced by the licensee:

(1) Only to private residents for personal use and not for resale.

(2) No more than 12 cases containing no more than 29 gallons of vinous beverages or no more than 12 cases of malt beverages containing no more than 36 gallons of malt beverages to any one Vermont resident in any calendar year.

(3) Only by common carrier certified by the ~~department~~ Department. The common carrier shall comply with all the following:

(A) ~~Deliver~~ deliver ~~vinous~~ beverages pursuant to an invoice that includes the name of the licensee and the name and address of the purchaser~~.~~;

(B) ~~On~~ on delivery, require a valid form of photographic identification from a recipient who appears to be under ~~the~~ age ~~of~~ 30~~.~~;

(C) ~~Require~~ require the recipient to sign an electronic or paper form or other acknowledgement of receipt.

(e) A holder of any shipping license granted pursuant to this section shall:

(1) ~~Ensure~~ ensure that all containers of alcoholic beverages shipped under this section are clearly labeled: "contains alcohol; signature of individual age 21 or older required for ~~delivery."~~ delivery";

(2) ~~Not~~ not ship to any address in a municipality that the ~~department~~ Department identified as having voted to be ~~"dry."~~ dry";

(3) ~~Retain~~ retain a copy of each record of sale for a minimum of five years from the date of shipping~~.~~;

(4) ~~Report~~ report at least twice a year to the ~~department of liquor control~~ Department of Liquor Control if the holder of a direct consumer shipping license and once a year if the holder of a retail shipping license in a manner and form required by the ~~department~~ Department all the following information:

(A) ~~The~~ the total amount of vinous beverages or malt beverages shipped into or within the ~~state~~ State for the preceding six months if a holder of a direct consumer shipping license or every 12 months if a holder of a retail shipping license~~.~~;

(B) ~~The~~ the names and addresses of the purchasers to whom the ~~vinous~~ beverages were shipped~~.~~;

(C) ~~The~~ the date purchased, if appropriate, the name of the common carrier used to make each delivery, and the quantity and value of each shipment.

(5) ~~Pay~~ pay directly to the ~~commissioner of taxes~~ Commissioner of Taxes the amount of tax on the vinous beverages or malt beverages shipped under this section pursuant to subsection 421(a) of this title, and comply with the provisions of 32 V.S.A. chapter 233, 24 V.S.A. § 138, and any other legally authorized local sales taxes. Delivery in this ~~state~~ State shall be deemed to constitute a sale in this ~~state~~ State at the place of delivery and shall be subject to all appropriate taxes levied by the ~~state~~ State of Vermont~~.~~;

(6) ~~Permit the state treasurer~~ permit the State Treasurer, the ~~department of liquor control~~ Department of Liquor Control, and the ~~department of taxes~~ Department of Taxes, separately or jointly, upon request, to perform an audit of its records~~.~~;

(7) ~~If~~ if an out-of-state license holder, be deemed to have consented to the jurisdiction of the ~~department of liquor control~~ Department of Liquor Control or any other state agency and the Vermont state courts concerning enforcement of this or other applicable laws and regulations~~.~~;

(8) ~~Not~~ not have any direct or indirect financial interest in a Vermont wholesale dealer or retail dealer, including a first, second, or third class license~~.~~;

(9) ~~Comply~~ comply with all ~~liquor control board~~ Liquor Control Board laws and regulations; and

(10) comply with the beverage container deposit redemption system pursuant to 10 V.S.A. chapter 53.

(f) A common carrier shall not deliver vinous beverages or malt beverages until it has complied with the training provisions in subsections 239(a) and (b) of this title and been certified by the ~~department of liquor control~~ Department of Liquor Control. No employee of a certified common carrier may deliver vinous beverages or malt beverages until that employee completes the training provisions in subsection 239(c) of this title. A common carrier shall deliver only vinous beverages or malt beverages that have been shipped by the holder of a license issued under this section or a vinous beverage storage license issued under section 68 of this title.

(g) The ~~department of liquor control and the department of taxes~~ Departments of Liquor Control and of Taxes may adopt rules and forms necessary to implement this section.

(h) Direct shipments of vinous beverages or malt beverages are prohibited if the shipment is not specifically authorized and in compliance with this section. Any person who knowingly makes, participates in, imports, or receives a direct shipment of vinous beverages or malt beverages from a person who is not licensed or certified as required by this section may be fined not more than $1,000.00 or imprisoned not more than one year, or both.

(i) A licensee under this section or a common carrier that ships vinous beverages or malt beverages to an individual under 21 years of age shall be fined not less than $1,000.00 or more than $3,000.00 or imprisoned not more than two years, or both.

(j) For any violation of this section, the ~~liquor control board~~ Liquor Control Board may suspend or revoke a license issued under this section, among all other remedies available to the board.

Sec. 3. 7 V.S.A. § 222 is amended to read:

§ 222. FIRST AND SECOND CLASS LICENSES, GRANTING OF; SALE TO MINORS; CONTRACTING FOR FOOD SERVICE

With the approval of the ~~liquor control board, the control commissioners~~ Liquor Control Board, the Control Commissioners may grant to a retail dealer for the premises where the dealer carries on business the following:

* * *

(2) Upon making application and paying the license fee provided in section 231 of this title, a second class license for the premises where such dealer shall carry on the business which shall authorize such dealer to export malt and vinous beverages and to sell malt and vinous beverages to the public from such premises for consumption off the premises and upon satisfying the ~~liquor control board~~ Board that such premises are leased, rented, or owned by such retail dealers and are safe, sanitary, and a proper place from which to sell malt and vinous beverages. A retail dealer carrying on business in more than one place shall be required to acquire a second class license for each place where he or she ~~hall~~ shall so sell malt and vinous beverages. No malt or vinous beverages shall be sold by a second class licensee to a minor.

* * *

Sec. 4. 7 V.S.A. § 230 is amended to read:

§ 230. RESTRICTIONS; FINANCIAL INTERESTS; DISPLAY OF LICENSE; EMPLOYEES

* * *

(b) An individual who is an employee of a wholesale dealer that does not hold a solicitor's permit may also be employed by a first or second class licensee on a paid or voluntary basis, provided that the employee does not exercise any control over, or participate in, the management of the first or second class licensee's business or business decisions, and that either employment relationship does not result in the exclusion of any competitor wholesale dealer or any brand of alcoholic beverages of a competitor wholesale dealer.

Sec. 5. 7 V.S.A. § 239 is amended to read:

§ 239. LICENSEE EDUCATION

(a) ~~No new first or second class license~~ A new first class, second class, third class, fourth class, or farmer's market license shall not be granted until the applicant has met with a liquor control investigator or training specialist for the purpose of being informed of the Vermont liquor laws, rules, and

regulations pertaining to the purchase, storage, and sale of alcohol beverages. A corporation, partnership, or association shall designate a director, partner, or manager who shall comply with the terms of this subsection.

(b) Every ~~first and second class licensee~~ first class, second class, third class, fourth class, or farmer's market licensee and every holder of a manufacturer's license shall complete the ~~department of liquor control~~ Department of Liquor Control licensee ~~enforcement~~ training seminar at least once every ~~three~~ two years. A corporation, partnership, or association shall designate a director, partner, or manager who shall comply with the terms of this subsection. ~~No first or second class license~~ A first class, second class, third class, fourth class, or farmer's market license or manufacturer's license shall not be renewed unless the records of the ~~department of liquor control~~ Department of Liquor Control show that the licensee has complied with the terms of this subsection.

(c) Each licensee shall ensure that every employee who is involved in the sale or serving of alcohol beverages completes a training program approved by the ~~department of liquor control~~ Department of Liquor Control before the employee begins serving or selling alcoholic beverages and at least once every 24 months thereafter. Each licensee shall maintain written documentation, signed by each employee trained, of each training program conducted. A licensee may comply with this requirement by conducting its own training program on its premises, using information and materials furnished or approved by the ~~department of liquor control~~ Department of Liquor Control. A licensee who fails to comply with the requirements of this subsection shall be subject to a suspension of no less than one day of the license issued under this title.

Sec. 6. 7 V.S.A. § 602 is amended to read:

§ 602. EXHIBITION OF CARD

An individual shall exhibit "a valid authorized form of identification," which means a valid photographic operator's license, enhanced driver's license, or valid photographic nondriver identification card issued by Vermont or another state or foreign jurisdiction, a United States military identification card, or a valid passport or passport card bearing the photograph and signature of the individual upon demand of a licensee, an employee of a licensee, or a law enforcement officer. On the failure of an individual to produce and exhibit a valid authorized form of identification upon demand of a licensee, the licensee shall be entitled to refuse to sell the individual any alcoholic beverage. Sale or furnishing of any alcoholic beverages by a licensee to an individual exhibiting a valid authorized form of identification shall be prima facie

evidence of the licensee's compliance with the law prohibiting the sale or furnishing of alcoholic beverages to minors.

Sec. 7. REPEAL

The following sections of 2011 Acts and Resolves No. 17 (An act relating to powers and immunities of the liquor control investigators) are repealed:

(1) Sec. 3 (amending 7 V.S.A. § 561(a), effective July 1, 2013);

(2) Sec. 4 (amending 23 V.S.A. § 4(11), effective July 1, 2013); and

(3) Sec. 5(b) (effective date of Secs. 3 and 4).

Sec. 8. 7 V.S.A. § 561 is amended to read:

§ 561. AUTHORITY OF LIQUOR CONTROL INVESTIGATORS; ARREST FOR UNLAWFULLY MANUFACTURING, POSSESSING, OR TRANSPORTING ALCOHOLIC BEVERAGES; SEIZURE OF PROPERTY

(a) The ~~director of the enforcement division of the department of liquor control~~ Director of the Enforcement Division of the Department of Liquor Control and investigators employed by the ~~liquor control board~~ Liquor Control Board or by the ~~department of liquor control~~ Department of Liquor Control shall be certified as full-time law enforcement officers by the Vermont Criminal Justice Training Council and shall have the same powers and immunities as those conferred on the ~~state police~~ State Police by 20 V.S.A. § 1914.

* * *

Sec. 9. EFFECTIVE DATE

This section and Secs. 7 and 8 of this act shall take effect on passage. All other sections shall take effect on July 1, 2013.

KEVIN J. MULLIN
PHILIP E. BARUTH
ANN E. CUMMINGS

Committee on the part of the Senate

JOHN T. MORAN
THOMAS S. STEVENS
JEAN D. O'SULLIVAN

Committee on the part of the House

Thereupon, the question, Shall the Senate accept and adopt the report of the Committee of Conference?, was decided in the affirmative.

Thereupon, on motion of Senator Campbell, the rules were suspended and the bill was ordered delivered to the Governor forthwith.

Adjournment

On motion of Senator Campbell, the Senate adjourned until two o'clock in the afternoon.

Afternoon

The Senate was called to order by the President.

Message from the House No. 73

A message was received from the House of Representatives by Ms. H. Gwynn Zakov, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has considered Senate proposal of amendment to House bill of the following title:

H. 521. An act relating to making miscellaneous amendments to education law.

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 proposals of amendment to the following House bills:

H. 226. An act relating to the regulation of underground storage tanks.

H. 262. An act relating to establishing a program for the collection and recycling of paint.

And has severally concurred therein.

Committee of Conference Appointed

S. 41.

An act relating to water and sewer service.

Was taken up. Pursuant to the request of the Senate, the President announced the appointment of

Senator Ayer
Senator French
Senator Benning

as members of the Committee of Conference on the part of the Senate to consider the disagreeing votes of the two Houses.

Rules Suspended; Bill Passed in Concurrence with Proposals of Amendment; Bill Messaged

H. 524.

Pending entry on the Calendar for action tomorrow, on motion of Senator Baruth, the rules were suspended and House bill entitled:

An act relating to making technical amendments to education laws.

Was placed on all remaining stages of its passage in concurrence with proposal of amendment forthwith.

Thereupon, the bill was read the third time and passed in concurrence with proposals of amendment.

Thereupon, on motion of Senator Campbell, the rules were suspended and the bill was ordered messaged to the House forthwith.

Rules Suspended; Joint Resolution Committed

J.R.S. 31.

Pending entry on the Calendar for notice, on motion of Senator Baruth, the rules were suspended and joint Senate resolution entitled:

Joint resolution expressing concern regarding the public policy implications of the proposed Trans-Pacific Partnership Agreement.

Was taken up for immediate consideration.

Senator Collins, for the Committee on Economic Development, Housing and General Affairs, to which the joint resolution was referred, reported that the joint resolution ought to be adopted.

Thereupon, pending the question, Shall the joint resolution be adopted on the part of the Senate?, Senator Campbell moved that the joint resolution be committed to the Committee on Economic Development, Housing and General Affairs.

Which was agreed to.

Rules Suspended; Third Reading Ordered

J.R.H. 12.

On motion of Senator Mullin the Committee on Economic Development Housing and General Affairs was relieved of joint House resolution entitled:

Joint resolution expressing concern regarding the public policy implications of the proposed Trans-Pacific Partnership Agreement.

Thereupon, pending entry of the joint resolution on the Calendar for notice tomorrow, on motion of Senator Mullin the rules were suspended and the joint resolution was taken up for immediate consideration.

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.

Committee Relieved of Further Consideration; Bill Committed

H. 538.

On motion of Senator McCormack, the Committee on Finance was relieved of House bill entitled:

An act relating to making miscellaneous amendments to education funding laws,

and the bill was committed to the Committee on Education.

Recess

On motion of Senator Baruth the Senate recessed until three o'clock and thirty minutes in the afternoon.

Called to Order

The Senate was called to order by the President.

Message from the House No. 74

A message was received from the House of Representatives by Ms. H. Gwynn Zakov, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has considered the report of the Committee of Conference upon the disagreeing votes of the two Houses on House bill of the following title:

H. 169. An act relating to relieving employers' experience-rating records.

And has adopted the same on its part.

The House has considered the report of the Committee of Conference upon the disagreeing votes of the two Houses on Senate bill of the following title:

S. 4. An act relating to concussions and school athletic activities.

And has adopted the same on its part.

The House has considered the report of the Committee of Conference upon the disagreeing votes of the two Houses on Senate bill of the following title:

S. 148. An act relating to criminal investigation records and the Vermont Public Records Act.

And has adopted the same on its part.

The House has considered the report of the Committee of Conference upon the disagreeing votes of the two Houses on Senate bill of the following title:

S. 155. An act relating to creating a strategic workforce development needs assessment and strategic plan.

And has adopted the same on its part.

Pursuant to the request of the Senate for a Committee of Conference the Speaker appointed the following members on the part of the House:

S. 20. An act relating to increasing the statute of limitations for certain sex offenses against children.

Rep. Grad of Moretown
Rep. Wizowaty of Burlington
Rep. Waite-Simpson of Essex

Appointment Confirmed

The following Gubernatorial appointment was confirmed separately by the Senate, upon full report given by the Committee to which it was referred:

Markowitz, Deborah of Montpelier - Secretary, Natural Resources, Agency of – March 1, 2013, to February 28, 2015.

Rules Suspended; Report of Committee of Conference Accepted and Adopted on the Part of the Senate; Bill Messaged

S. 4.

Pending entry on the Calendar for notice, on motion of Senator Baruth, the rules were suspended and the report of the Committee of Conference on Senate bill entitled:

An act relating to concussions and school athletic activities.

Was taken up for immediate consideration.

Senator Sears, for the Committee of Conference, submitted the following report:

To the Senate and House of Representatives:

The Committee of Conference to which were referred the disagreeing votes of the two Houses upon Senate bill entitled:

S. 4. An act relating to concussions and school athletic activities.

Respectfully reports that it has met and considered the same and recommends that the House recede from its proposals of amendment, and that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. FINDINGS

The General Assembly finds:

(1) According to the Centers for Disease Control and Prevention:

(A) Each year, emergency departments (EDs) in the United States treat an estimated 173,285 persons 19 years of age and younger for sports and recreation-related traumatic brain injuries (TBI), including concussions, 70 percent of which were suffered by young people 10–19 years of age.

(B) From 2001 to 2009, the number of annual sports- and recreation-related ED visits for TBI among persons 19 years of age and younger increased 62 percent, from 153,375 per year to 248,418 per year.

(C) For males 10–19 years of age, TBIs most commonly occur while playing football. For females 10–19 years of age, TBIs most commonly occur while playing soccer or bicycling.

(2) According to a study in the American Journal of Sports Medicine, many high school athletes do not report when they suffer concussions despite the increased awareness of and focus on the seriousness of such injuries and the potential for catastrophic outcomes, particularly from multiple concussions.

(3) Without a clear action plan describing the steps a youth athlete must take in order to return to play after suffering a concussion, the youth is more likely to hide the concussion and continue to play without receiving the necessary treatment.

Sec. 2. 16 V.S.A. § 1431 is amended to read:

§ 1431. CONCUSSIONS AND OTHER HEAD INJURIES

(a) Definitions. ~~For purposes of~~ As used in this subchapter:

(1) ~~"School athletic team" means an interscholastic athletic team or club sponsored by a public or approved independent school for elementary or secondary students.~~

~~(2)~~ "Coach" means a person who instructs or trains students on a school athletic team.

(2) "Collision sport" means football, hockey, lacrosse, or wrestling.

(3) "Contact sport" means a sport, other than football, hockey, lacrosse, or wrestling, defined as a contact sport by the American Academy of Pediatrics.

(4) "Health care provider" means an athletic trainer, or other health care provider, licensed pursuant to Title 26, who has within the preceding five years been specifically trained in the evaluation and management of concussions and other head injuries. Training pursuant to this subdivision shall include training materials and guidelines for practicing physicians provided by the Centers for Disease Control and Prevention, if available.

(5) "School athletic team" means an interscholastic athletic team or club sponsored by a public or approved independent school for elementary or secondary students.

(6) "Youth athlete" means an elementary or secondary student who is a member of a school athletic team.

(b) Guidelines and other information. The ~~commissioner of education~~ Secretary of Education or designee, assisted by members of the Vermont Principals' Association selected by that association, members of the Vermont School Boards Insurance Trust, and others as the Secretary deems appropriate, shall develop statewide guidelines, forms, and other materials, and update them when necessary, that are designed to educate coaches, youth athletes, and the parents and guardians of youth athletes regarding:

(1) the nature and risks of concussions and other head injuries;

(2) the risks of premature participation in athletic activities after receiving a concussion or other head injury; ~~and~~

(3) the importance of obtaining a medical evaluation of a suspected concussion or other head injury and receiving treatment when necessary;

(4) effective methods to reduce the risk of concussions occurring during athletic activities; and

(5) protocols and standards for clearing a youth athlete to return to play following a concussion or other head injury, including treatment plans for such athletes.

(c) Notice and training. The principal or headmaster of each public and approved independent school in the ~~state~~ State, or a designee, shall ensure that:

(1) the information developed pursuant to subsection (b) of this section is provided annually to each youth athlete and the athlete's parents or guardians;

(2) each youth athlete and a parent or guardian of the athlete annually sign a form acknowledging receipt of the information provided pursuant to subdivision (1) of this subsection and return it to the school prior to the athlete's participation in training or competition associated with a school athletic team;

(3)(A) each coach of a school athletic team receive training no less frequently than every two years on how to recognize the symptoms of a concussion or other head injury, how to reduce the risk of concussions during athletic activities, and how to teach athletes the proper techniques for avoiding concussions; and

(B) each coach who is new to coaching at the school receive training prior to beginning his or her first coaching assignment for the school; and

(4) each referee of a contest involving a high school athletic team participating in a collision sport receive training not less than every two years on how to recognize concussions when they occur during athletic activities.

(d) Participation in athletic activity.

(1) ~~A~~ Neither a coach nor a health care provider shall ~~not~~ permit a youth athlete to continue to participate in any training session or competition associated with a school athletic team if the coach ~~has reason to believe~~ or health care provider knows or should know that the athlete has sustained a concussion or other head injury during the training session or competition.

(2) ~~A~~ Neither a coach nor health care provider shall ~~not~~ permit a youth athlete who has been prohibited from training or competing pursuant to subdivision (1) of this subsection to train or compete with a school athletic team until the athlete has been examined by and received written permission to participate in athletic activities from a health care provider ~~licensed pursuant to Title 26 and trained in the evaluation and management of concussions and other head injuries~~.

(e) Action plan.

(1) The principal or headmaster of each public and approved independent school in the State or a designee shall ensure that each school has a concussion management action plan that describes the procedures the school shall take when a student athlete suffers a concussion. The action plan shall include policies on:

(A) who makes the initial decision to remove a student athlete from play when it is suspected that the athlete has suffered a concussion;

(B) what steps the student athlete must take in order to return to any athletic or learning activity;

(C) who makes the final decision that a student athlete may return to athletic activity; and

(D) who has the responsibility to inform a parent or guardian when a student on that school's athletic team suffers a concussion.

(2) The action plan required by subdivision (1) of this subsection shall be provided annually to each youth athlete and the athlete's parents or guardians.

(3) Each youth athlete and a parent or guardian of the athlete shall annually sign a form acknowledging receipt of the information provided pursuant to subdivision (2) of this subsection and return it to the school prior to the athlete's participation in training or competition associated with a school athletic team.

(f) Health care providers; presence at athletic events.

(1) The home team shall ensure that a health care provider is present at any athletic event in which a high school athletic team participates in a collision sport. If an athlete on the visiting team suffers a concussion during the athletic event, the health care provider shall notify the visiting team's athletic director within 48 hours after the injury occurs.

(2) Home teams are strongly encouraged to ensure that a health care provider is present at any athletic event in which a high school athletic team participates in a contact sport.

(3) A school shall notify a parent or guardian within 24 hours of when a student participating on that school's athletic team suffers a concussion.

Sec. 3. REPORT

To the extent permitted by applicable state and federal law, the Vermont Traumatic Brain Injury Advisory Board (the Board) shall obtain information necessary to create an annual report on the incidences of concussions sustained by student athletes in Vermont in the previous school year. To the extent such information is available, the report shall include the number of concussions sustained by student athletes in Vermont, the sport the student athlete was playing when he or she sustained the concussion, the number of Vermont student athletes treated in emergency rooms for concussions received while participating in school athletics, and who made the decision that a student athlete was able to return to play. For purposes of the report, the Board shall consult with the Vermont Principals' Association and the Vermont Association of Athletic Trainers. If the Board obtains information sufficient to create the report, it shall report on or before December 15 of each year starting in 2014 to the Senate and House Committees on Judiciary and on Education.

Sec. 4. 16 V.S.A. § 1388 is added to read:

§ 1388. STOCK SUPPLY AND EMERGENCY ADMINISTRATION OF EPINEPHRINE AUTO-INJECTORS

(a) As used in this section:

(1) "Designated personnel" means a school employee, agent, or volunteer who has been authorized by the school administrator to provide and administer epinephrine auto-injectors under this section and who has completed the training required by State Board policy.

(2) "Epinephrine auto-injector" means a single-use device that delivers a premeasured dose of epinephrine.

(3) "Health care professional" means a physician licensed pursuant to 26 V.S.A. chapter 23 or 33, an advanced practice registered nurse licensed to prescribe drugs and medical devices pursuant to 26 V.S.A. chapter 28, or a physician assistant licensed to prescribe drugs and medical devices pursuant to 26 V.S.A. chapter 31.

(4) "School" means a public or approved independent school and extends to school grounds, school-sponsored activities, school-provided transportation, and school-related programs.

(5) "School administrator" means a school's principal or headmaster.

(b)(1) A health care professional may prescribe an epinephrine auto-injector in a school's name, which may be maintained by the school for use as described in subsection (d) of this section. The health care professional shall issue to the school a standing order for the use of an epinephrine auto-injector prescribed under this section, including protocols for:

(A) assessing whether an individual is experiencing a potentially life-threatening allergic reaction;

(B) administering an epinephrine auto-injector to an individual experiencing a potentially life-threatening allergic reaction;

(C) caring for an individual after administering an epinephrine auto-injector to him or her, including contacting emergency services personnel and documenting the incident; and

(D) disposing of used or expired epinephrine auto-injectors.

(2) A pharmacist licensed pursuant to 26 V.S.A. chapter 36 or a health care professional may dispense epinephrine auto-injectors prescribed to a school.

(c) A school may maintain a stock supply of epinephrine auto-injectors. A school may enter into arrangements with epinephrine auto-injector manufacturers or suppliers to acquire epinephrine auto-injectors for free or at reduced or fair market prices.

(d) The school administrator may authorize a school nurse or designated personnel, or both, to:

(1) provide an epinephrine auto-injector to a student for self-administration according to a plan of action for managing the student's life-threatening allergy maintained in the student's school health records pursuant to section 1387 of this title;

(2) administer a prescribed epinephrine auto-injector to a student according to a plan of action maintained in the student's school health records; and

(3) administer an epinephrine auto-injector, in accordance with the protocol issued under subsection (b) of this section, to a student or other individual at a school if the nurse or designated personnel believe in good faith that the student or individual is experiencing anaphylaxis, regardless of whether the student or individual has a prescription for an epinephrine auto-injector.

(e) Designated personnel, a school, and a health care professional prescribing an epinephrine auto-injector to a school shall be immune from any civil or criminal liability arising from the administration or self-administration of an epinephrine auto-injector under this section unless the person's conduct constituted intentional misconduct. Providing or administering an epinephrine auto-injector under this section does not constitute the practice of medicine.

(f) On or before January 1, 2014, the State Board, in consultation with the Department of Health, shall adopt policies for managing students with life-threatening allergies and other individuals with life-threatening allergies who may be present at a school. The policies shall:

(1) establish protocols to prevent exposure to allergens in schools;

(2) establish procedures for responding to life-threatening allergic reactions in schools, including postemergency procedures;

(3) implement a process for schools and the parents or guardians of students with a life-threatening allergy to jointly develop a written individualized allergy management plan of action that:

(A) incorporates instructions from a student's physician regarding the student's life-threatening allergy and prescribed treatment;

(B) includes the requirements of section 1387 of this title, if a student is authorized to possess and self-administer emergency medication at school;

(C) becomes part of the student's health records maintained by the school; and

(D) is updated each school year;

(4) require education and training for school nurses and designated personnel, including training related to storing and administering an epinephrine auto-injector and recognizing and responding to a life-threatening allergic reaction; and

(5) require each school to make publicly available protocols and procedures developed in accordance with the policies adopted by the State Board under this section.

Sec. 5. SCHOOL-BASED MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES

(a) It is estimated that 10 percent of children need mental health or substance abuse services nationally, but that only 20 percent of this 10 percent receive treatment.

(b) Children who need mental health or substance abuse services are at a higher risk of dropping out of school than those who do not have mental health or substance abuse needs.

(c) Untreated mental health and substance abuse conditions have been linked to higher rates of juvenile incarceration, drug abuse, and unemployment.

(d) Early intervention decreases subsequent expenditures for special education and increases the likelihood of academic success.

(e) School-based mental health and substance abuse services increase access to and use of mental health and substance abuse services and improve coordination of services.

(f) School-based mental health services increase student and parental awareness of available services.

Sec. 6. SCHOOL-BASED MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES; STUDY

(a) The Secretaries of Education and of Human Services, in consultation with the Green Mountain Care Board, the Department of State's Attorneys, the Juvenile Division of the Office of the Defender General, and other interested parties, shall:

(1) catalogue the type and scope of mental health and substance abuse services provided in or through collaboration with Vermont public schools;

(2) determine the number of students who are currently receiving mental health or substance abuse services through Vermont public schools and identify the sources of payment for these services;

(3) estimate the number of students enrolled in Vermont public schools who are not receiving the mental health or substance abuse services they need and, in particular, the number of students who were referred for services but are not receiving them, identifying whenever possible the barriers to the receipt of services;

(4) identify successful programs and practices related to providing mental health and substance abuse services through Vermont public schools and nationally, and determine which, if any, could be replicated in other areas of the State;

(5) determine how the provision of health insurance in Vermont may affect the availability of mental health or substance abuse services to Vermont students;

(6) detail the costs and sources of funding for mental health and substance abuse services provided by or through Vermont public schools during the two most recent fiscal years for which data is available; and

(7) develop a proposal based on the information collected pursuant to this subsection to ensure that clinically appropriate and sufficient school based mental health and substance abuse services are available to students through Vermont public schools.

(b) On or before January 15, 2014, the Secretaries shall present their research, findings, and proposals to the House Committees on Education and on Human Services and the Senate Committees on Education and on Health and Welfare.

Sec. 7. CONCUSSION TASK FORCE

(a) Creation. There is created a Concussion Task Force to study concussions resulting from school athletic activities and to provide recommendations for further action.

(b) Membership. The Concussion Task Force shall be composed of the following members:

(1) the Secretary of Education or designee;

(2) the Commissioner of Health or designee;

(3) a representative of the Vermont Principals' Association;

(4) a representative of the Vermont Athletic Trainers' Association;

(5) a representative of the Vermont Traumatic Brain Injury Advisory Board;

(6) a representative of the School Nurses Division of the Department of Health;

(7) a student athlete appointed by the Vermont Athletic Trainers' Association;

(8) a representative of the Vermont School Boards Insurance Trust; and

(9) a coach of a high school athletic team appointed by the Vermont Principals' Association.

(c) Powers and duties. The Concussion Task Force shall study issues related to concussions resulting from school athletic activities and make recommendations, including:

(1) what sports necessitate on-site trained medical personnel at athletic events based on data from public high schools and independent schools participating in interscholastic sports;

(2) the availability of trained medical personnel and whether school athletic events could be adequately covered; and

(3) the financial impact on schools of requiring medical personnel to be present at some athletic activities.

(d) Assistance. The Concussion Task Force shall have the administrative and technical assistance of the Agency of Education.

(e) Report. On or before December 15, the Concussion Task Force shall report to the House and Senate Committees on Education, the House Committee on Health Care, the Senate Committee on Health and Welfare, and the House and Senate Committees on Judiciary its findings and any recommendations for legislative action.

(f) Meetings.

(1) The Secretary of Education or designee shall call the first meeting of the Concussion Task Force to occur on or before July 15, 2013.

(2) The Secretary of Education or designee shall be the chair.

(3) A majority of the members of the Concussion Task Force shall be physically present at the same location to constitute a quorum.

(4) Action shall be taken only if there is both a quorum and a majority vote of all members of the Concussion Task Force.

(5) The Concussion task Force shall cease to exist on December 31, 2013.

Sec. 8. EFFECTIVE DATES

This act shall take effect on July 1, 2013, except that in Sec. 2, subsection 16 V.S.A. § 1431(f) (presence of health care provider at school sports activities) shall take effect on July 1, 2015.V.S.A.

And that after passage the title of the bill be amended to read:

An act relating to health and schools.

RICHARD W. SEARS
JOSEPH C. BENNING
RICHARD J. MCCORMACK

Committee on the part of the Senate

JOHANNAH L. DONOVAN
KEVIN B. CHRISTIE
BARBARA RACHELSON

Committee on the part of the House

Thereupon, the question, Shall the Senate accept and adopt the report of the Committee of Conference?, was decided in the affirmative.

Thereupon, on motion of Senator Baruth, the rules were suspended and the bill was ordered messaged to the Governor forthwith.

Rules Suspended; Report of Committee of Conference Accepted and Adopted on the Part of the Senate; Bill Messaged

S. 148.

Pending entry on the Calendar for notice, on motion of Senator Baruth, the rules were suspended and the report of the Committee of Conference on Senate bill entitled:

An act relating to criminal investigation records and the Vermont Public Records Act.

Was taken up for immediate consideration.

Senator White, for the Committee of Conference, submitted the following report:

To the Senate and House of Representatives:

The Committee of Conference to which were referred the disagreeing votes of the two Houses upon Senate bill entitled:

S. 148. An act relating to criminal investigation records and the Vermont Public Records Act.

Respectfully reports that it has met and considered the same and recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 1 V.S.A. § 317 is amended to read:

§ 317. DEFINITIONS; PUBLIC AGENCY; PUBLIC RECORDS AND DOCUMENTS

* * *

(c) The following public records are exempt from public inspection and copying:

* * *

(5)(A) records dealing with the detection and investigation of crime, ~~including those maintained on any individual or compiled in the course of a criminal or disciplinary investigation by any police or professional licensing agency; provided, however, that~~ but only to the extent that the production of such records:

(i) could reasonably be expected to interfere with enforcement proceedings;

(ii) would deprive a person of a right to a fair trial or an impartial adjudication;

(iii) could reasonably be expected to constitute an unwarranted invasion of personal privacy;

(iv) could reasonably be expected to disclose the identity of a confidential source, including a state, local, or foreign agency or authority or any private institution which furnished information on a confidential basis, and, in the case of a record or information compiled by criminal law enforcement authority in the course of a criminal investigation or by an agency conducting a lawful national security intelligence investigation, information furnished by a confidential source;

(v) would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecution if such disclosure could reasonably be expected to risk circumvention of the law;

(vi) could reasonably be expected to endanger the life or physical safety of any individual;

(B) Notwithstanding subdivision (A) of this subdivision (5), records relating to management and direction of a law enforcement agency; records reflecting the initial arrest of a person, including any ticket, citation, or complaint issued for a traffic violation, as that term is defined in 23 V.S.A. § 2302; and records reflecting the charge of a person shall be public;

(C) It is the intent of the General Assembly that in construing subdivision (A) of this subdivision (5), the courts of this State will be guided by the construction of similar terms contained in 5 U.S.C. § 552(b)(7) (Freedom of Information Act) by the courts of the United States;

(D) It is the intent of the General Assembly that, consistent with the manner in which courts have interpreted subdivision (A) of this subdivision (5), a public agency shall not reveal information that could be used to facilitate the commission of a crime or the identity of a private individual who is a witness to or victim of a crime, unless withholding the identity or information would conceal government wrongdoing. A record shall not be withheld in its entirety because it contains identities or information that have been redacted pursuant to this subdivision;

* * *

Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2013.

JEANETTE K. WHITE
JOSEPH C. BENNING
RICHARD W. SEARS

Committee on the part of the Senate

WILLIAM J. LIPPERT
MAXINE JO GRAD
THOMAS F. KOCH

Committee on the part of the House

Thereupon, the question, Shall the Senate accept and adopt the report of the Committee of Conference?, was decided in the affirmative.

Thereupon, on motion of Senator Baruth, the rules were suspended and the bill was ordered messaged to the Governor forthwith.

Rules Suspended; Report of Committee of Conference Accepted and Adopted on the Part of the Senate; Bill Delivered

S. 155.

Pending entry on the Calendar for notice, on motion of Senator Baruth, the rules were suspended and the report of the Committee of Conference on Senate bill entitled:

An act relating to creating a strategic workforce development needs assessment and strategic plan.

Was taken up for immediate consideration.

Senator Bray, for the Committee of Conference, submitted the following report:

To the Senate and House of Representatives:

The Committee of Conference to which were referred the disagreeing votes of the two Houses upon Senate bill entitled:

S. 155. An act relating to creating a strategic workforce development needs assessment and strategic plan.

Respectfully reports that it has met and considered the same and recommends that the House recede from its proposals of amendment and that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. WORKFORCE DEVELOPMENT WORK GROUP

(a) There is created a Workforce Development Work Group composed of the following members:

(1) two members of the Senate appointed by the President Pro Tempore of the Senate;

(2) two members of the House of Representatives appointed by the Speaker of the House;

(3) the Secretary of Commerce and Community Development or designee; and

(4) the Commissioner of Labor or designee.

(b) The Work Group shall:

(1) coordinate with, and complement the work of, the Workforce Development Council, the Department of Labor, and other entities that are gathering the data and information specified in this section;

(2) research, compile, and inventory all workforce education and training programs and activities taking place in Vermont;

(3) identify the number of individuals served by each of the programs and activities, and estimate the number of individuals in the State who could benefit from these programs and activities;

(4) identify the amount and source of financial support for these programs and activities, including financial support that goes directly to the individuals, and, to the extent practicable, the allocation of resources to the direct benefits, management, and overhead costs of each program and activity;

(5) identify the mechanics by which these programs and activities are evaluated for effectiveness and outcomes;

(6) provide a summary for each program or activity of its delivery model, including how the program or activity aligns with employment opportunities located in Vermont;

(7) identify current statutory provisions concerning coordination, integration, and improvement of workforce education and training programs, including identification of the entities responsible for performing those duties;

(8) identify overlaps in existing workforce development programs and activities;

(9)(A) research and inventory all programs and activities taking place in the State, both public and private, that identify and evaluate employers' needs for employees, including the skills, education, and experience required for available and projected jobs;

(B) indicate who is responsible for these activities and how they are funded;

(C) specify the data collection activities that are taking place;

(D) identify overlaps in programs, activities, and data collection that identify and evaluate employers' needs for employees; and

(10) undertake any other research and gather other data and information as the Work Group deems necessary and appropriate to complete its work consistent with this act.

(c) The Work Group shall convene its first meeting no later than June 15, 2013 and shall meet not more than eight times. The Work Group shall have the administrative, legal, and fiscal support of the Office of Legislative Council and the Joint Fiscal Office.

(d) In order to perform its duties pursuant to this act, the Work Group shall have the authority to request and gather data and information as it determines

is necessary from entities that conduct workforce education and training programs and activities, including agencies, departments, and programs within the Executive Branch and from nongovernmental entities that receive state-controlled funding. Unless otherwise exempt from public disclosure pursuant to state or federal law, a workforce education and training provider shall provide the data and information requested by the Work Group within a reasonable time period.

(e) On or before January 15, 2014, the Work Group shall submit its findings and work product to the House Committees on Commerce and Economic Development and on Education, and to the Senate Committees on Economic Development, Housing and General Affairs and on Education.

(f) Members of the Work Group shall be eligible for per diem compensation, mileage reimbursement, and other necessary expenses as provided in 2 V.S.A. § 406.

Sec. 2. 2007 Acts and Revolves No 46, Sec. 6, as amended by 2009 Acts and Resolves No. 54, Sec. 8, is amended to read:

Sec. 6. WORKFORCE DEVELOPMENT LEADER

(a) The ~~commissioner of labor~~ Commissioner of Labor shall be the leader of workforce development strategy and accountability. The ~~commissioner of labor~~ Commissioner of Labor shall consult with the ~~workforce development council executive committee~~ Workforce Development Council Executive Committee in developing the strategy, goals, and accountability measures. The ~~workforce development council~~ Workforce Development Council shall provide administrative support. The ~~executive committee~~ Executive Committee shall assist the leader. The duties of the leader include all the following:

(1) developing ~~a limited number of~~ overarching goals and ~~challenging~~ measurable criteria for the workforce development system that supports the creation of good jobs to build and retain a strong, appropriate, and sustainable economic environment in Vermont;

(2) reviewing reports submitted by each entity that receives funding from the Next Generation ~~fund~~ Fund. The reports shall be submitted on a schedule determined by the ~~executive committee~~ Executive Committee and shall include all the following information:

(A) a description of the mission and programs relating to preparing individuals for employment and meeting the needs of employers for skilled workers;

(B) the measurable accomplishments that have contributed to achieving the overarching goals;

(C) identification of any innovations made to improve delivery of services;

(D) future plans that will contribute to the achievement of the goals;

(E) the successes of programs to establish working partnerships and collaborations with other organizations that reduce duplication or enhance the delivery of services, or both; and

(F) any other information that the ~~committee~~ Committee may deem necessary and relevant.

(3) reviewing information pursuant to subdivision (2) of this section that is voluntarily provided by education and training organizations that are not required to report this information but want recognition for their contributions;

(4) issuing an annual report to the ~~governor~~ Governor and the ~~general assembly~~ General Assembly on or before December 1, which shall include a systematic evaluation of the accomplishments of the system and the participating agencies and institutions and all the following:

(A) a compilation of the systemwide accomplishments made toward achieving the overarching goals, specific notable accomplishments, innovations, collaborations, grants received, or new funding sources developed by participating agencies, institutions, and other education and training organizations;

(B) identification of each provider's contributions toward achieving the overarching goals;

(C) identification of areas needing improvement, including time frames, expected annual participation, and contributions, and the overarching goals; and

(D) recommendations for the allocating of ~~next generation~~ Next Generation funds and other public resources.

(5) developing an integrated workforce strategy that incorporates economic development, workforce development, and education to provide all Vermonters with the best education and training available in order to create a strong, appropriate, and sustainable economic environment that supports a healthy state economy; ~~and~~

(6) developing strategies for both the following:

(A) coordination of public and private workforce programs to assure that information is easily accessible to students, employees, and employers, and that all information and necessary counseling is available through one contact; and

(B) more effective communications between the business community and educational institutions, both public and private; and

(7) preparing a strategic plan for workforce development in Vermont:

(A) in preparing the strategic plan pursuant to this subdivision, the Commissioner shall consider the Farm to Plate Initiative, as set forth in 10 V.S.A. § 330, as a model for the design and implementation of a planning process that is:

(i) strategic, comprehensive, and systems-based;

(ii) forward-looking, with a ten-year planning horizon;

(iii) informed and driven by performance metrics;

(iv) built on a foundation of broad stakeholder engagement that is:

(I) primarily constituent-driven, whereby those who use the services administered by the various workforce development education and training programs shall be consulted in order to define and understand their workforce and training needs;

(II) secondarily administrator-driven, whereby those who administer the various workforce development education and training programs are responsible for identifying, developing, and implementing the forward-looking, long-term initiatives required to meet Vermont's workforce development needs;

(B) the strategic plan adopted by the Commissioner shall:

(i) identify the components of Vermont's labor market and workforce trends based upon existing data, studies, and analysis;

(ii) identify current and future workforce skill requirements; and

(iii) identify and determine the effectiveness of existing state workforce development and training resources;

(iv) identify gaps between the public, nonprofit, and private workforce development programs and Vermont's workforce development needs and propose measures to bridge these gaps;

(C) the Commissioner shall:

(i) use the information gathered from the strategic plan on an ongoing basis to identify methods and funding necessary to strengthen the link among the Vermont workforce and public, nonprofit, and private workforce development programs; and

(ii) coordinate with the State Auditor of Accounts to develop measurable benchmarks to assess the performance of the State's workforce development programs.

* * *

Sec. 3. EFFECTIVE DATE

This act shall take effect on passage.

CHRISTOPHER A. BRAY
WILLIAM T. DOYLE
DONALD E. COLLINS

Committee on the part of the Senate

MICHELE F. KUPERSMITH
MICHAEL J. MARCOTTE
SAMUEL R. YOUNG

Committee on the part of the House

Thereupon, the question, Shall the Senate accept and adopt the report of the Committee of Conference?, was decided in the affirmative.

Thereupon, on motion of Senator Baruth, the rules were suspended and the bill was ordered delivered to the Governor forthwith.

Rules Suspended; Report of Committee of Conference Accepted and Adopted on the Part of the Senate; Bill Messaged

H. 377.

Pending entry on the Calendar for notice, on motion of Senator Baruth, the rules were suspended and the report of the Committee of Conference on House bill entitled:

An act relating to neighborhood planning and development for municipalities with designated centers.

Was taken up for immediate consideration.

Senator Cummings, for the Committee of Conference, submitted the following report:

To the Senate and House of Representatives:

The Committee of Conference to which were referred the disagreeing votes of the two Houses upon House bill entitled:

H. 377. An act relating to neighborhood planning and development for municipalities with designated centers.

Respectfully reports that it has met and considered the same and recommends that the Senate accede to the House's first proposal of amendment to the Senate's proposal of amendment, that the bill be further amended in Sec. 8, 24 V.S.A. § 2793e, in subsection (h), in the third sentence, after the word "prior", by inserting written and that the House recede from its second proposal of amendment to the Senate's proposal of amendment

KEVIN J. MULLIN
ANN E. CUMMINGS
DONALD E. COLLINS

Committee on the part of the Senate

WILLIAM G. F. BOTZOW
EILEEN G. DICKINSON
DAVID D. SHARPE

Committee on the part of the House

Thereupon, the question, Shall the Senate accept and adopt the report of the Committee of Conference?, was decided in the affirmative.

Thereupon, on motion of Senator Baruth, the rules were suspended and the bill was ordered messaged to the House forthwith.

Rules Suspended; House Proposal of Amendment to Senate Proposal of Amendment Concurred In

H. 521.

Pending entry on the Calendar for notice, on motion of Senator Baruth, the rules were suspended and House proposal of amendment to Senate proposal of amendment to House bill entitled:

An act relating to making miscellaneous amendments to education law.

Was taken up for immediate consideration.

The House concurs in the Senate proposal of amendment with the following amendment thereto:

By striking out the *Fifth* Proposal of Amendment (Sec. 16(a); change in study committee membership) in its entirety and inserting in lieu thereof:

"Fifth: [Deleted]"

Thereupon, the question, Shall the Senate concur in the House proposal of amendment to the Senate proposal of amendment?, was decided in the affirmative.

Rules Suspended; Joint Resolution Adopted in Concurrence

J.R.H. 12.

On motion of Senator Baruth, the rules were suspended and joint House resolution entitled:

Joint resolution expressing concern regarding the public policy implications of the proposed Trans-Pacific Partnership Agreement.

Was placed on all remaining stages of its adoption in concurrence forthwith.

Thereupon, the joint resolution was read the third time and adopted in concurrence.

Rules Suspended; Bills and Resolutions Messaged

On motion of Senator Baruth, the rules were suspended, and the following bills and resolutions were severally ordered messaged to the House forthwith:

S. 41, H. 521, J.R.H. 12.

Appointment of Senate Members to the Health Access Oversight Committee

Pursuant to the provisions of Sec. 13 of No. 14 of the Acts of 1995 (H. 159), the President, on behalf of the Committee on Committees, announced the appointment of the following Senators to serve on the Health Access Oversight Committee during this biennium:

Senator Ayer, *ex officio*
(Chair of Health and Welfare)
Senator Kitchel (from Appropriations)
Senator Fox (from Health and Welfare)
Senator Mullin (from Finance)
Senator Lyons (from Health and Welfare)

Appointment of Senate Members to the Joint Energy Committee

Pursuant to the provisions of 2 V.S.A. §601, the President, on behalf of the Committee on Committees, announced the appointment of the following Senators to serve on the Joint Energy Committee for terms of two years ending on February 1, 2015:

Senator Hartwell
Senator Snelling
Senator Lyons
Senator MacDonald

Appointment of Senate Members to the Green Mountain Care Board Nominating Committee

Pursuant to the provisions of 18 V.S.A. §9390, the President, on behalf of the Committee on Committees, announced the appointment of the following Senators to serve on the Green Mountain Care Board Nominating Committee for terms of two years ending on February 1, 2015:

Senator Mullin
Senator Ayer

Appointment of Senate Members to the Study Committee on Lobbying Activities of Organizations Receiving State Funds

Pursuant to the provisions of S.R. 7 (2013 Session), the President, on behalf of the Committee on Committees, announced the appointment of the following Senators to serve on the Study Committee on Lobbying Activities of Organizations Receiving State Funds:

Senator Campbell
Senator Sears
Senator Kitchel
Senator Mullin
Senator Starr
Senator Westman
Senator White

Recess

On motion of Senator Campbell the Senate recessed until 5:00 P.M.

Called to Order

The Senate was called to order by the President.

Message from the House No. 75

A message was received from the House of Representatives by Ms. H. Gwynn Zakov, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has considered Senate proposal of amendment to Senate bill of the following title:

S. 152. An act relating to the Green Mountain Care Board's rate review authority.

And has severally concurred therein with a further proposal of amendment thereto, in the adoption of which the concurrence of the Senate is requested.

Message from the House No. 76

A message was received from the House of Representatives by Ms. H. Gwynn Zakov, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has adopted joint resolution of the following title:

J.R.H. 13. Joint resolution relating to federal affordable housing policy.

In the adoption of which the concurrence of the Senate is requested.

The House has considered the report of the Committee of Conference upon the disagreeing votes of the two Houses on Senate bill of the following title:

S. 150. An act relating to miscellaneous amendments to laws related to motor vehicles.

And has adopted the same on its part.

The House has considered the report of the Committee of Conference upon the disagreeing votes of the two Houses on House bill of the following title:

H. 377. An act relating to neighborhood planning and development for municipalities with designated centers.

And has adopted the same on its part.

The House has considered Senate proposal of amendment to the following House bill:

H. 107. An act relating to health insurance, Medicaid, the Vermont Health Benefit Exchange, and the Green Mountain Care Board.

And has severally concurred therein.

Pursuant to the request of the Senate for a Committee of Conference the Speaker appointed the following members on the part of the House:

S. 41. An act relating to water and sewer service.

Rep. Hubert of Milton
Rep. Martin of Wolcott
Rep. Mook of Bennington

Recess

On motion of Senator Baruth the Senate recessed until 5:15 P.M., which was agreed to.

Called to Order

The Senate was called to order by the President.

Rules Suspended; House Proposal of Amendment to Senate Proposal of Amendment to House Proposal of Amendment Concurred In; Bill Delivered

S. 152.

Pending entry on the Calendar for notice, on motion of Senator Campbell, the rules were suspended and House proposal of amendment to Senate proposal of amendment to House proposal of amendment to Senate bill entitled:

An act relating to the Green Mountain Care Board's rate review authority.

Was taken up for immediate consideration.

The House concurs in the Senate proposal of amendment to the House proposal of amendment with further proposal of amendment thereto as follows:

By striking out Secs. 3–5 in their entirety and inserting in lieu thereof the following:

Sec. 3. EFFECTIVE DATE

This act shall take effect on January 1, 2014.

Thereupon, the question, Shall the Senate concur in the House proposal of amendment to the Senate proposal of amendment to the House proposal of amendment?, was decided in the affirmative.

Thereupon, on motion of Senator Campbell, the rules were suspended and the bill was ordered delivered to the Governor forthwith.

Rules Suspended; Report of Committee of Conference Accepted and Adopted on the Part of the Senate; Bill Delivered

S. 150.

Pending entry on the Calendar for notice, on motion of Senator Baruth, the rules were suspended and the report of the Committee of Conference on Senate bill entitled:

An act relating to miscellaneous amendments to laws related to motor vehicles.

Was taken up for immediate consideration.

Senator Flory, for the Committee of Conference, submitted the following report:

To the Senate and House of Representatives:

The Committee of Conference to which were referred the disagreeing votes of the two Houses upon Senate bill entitled:

S. 150. An act relating to miscellaneous amendments to laws related to motor vehicles.

Respectfully reports that it has met and considered the same and recommends that the House accede to the Senate's first and third further proposals of amendment, that the Senate recede from its second further proposal of amendment, and that the House proposal of amendment be further amended as follows:

First: In Sec. 28, 23 V.S.A. § 1110, by striking subdivisions (a)(2)(H) and (a)(2)(I) in their entirety and inserting in lieu thereof the following:

(H) a motor vehicle idles as necessary for maintenance, service, repair, or diagnostic purposes or as part of a state or federal inspection;

(I) a school bus idles on school grounds in compliance with rules adopted pursuant to the provisions of subsection 1282(f) of this title;

(J) the idling of vehicles at the place of business of a registered motor vehicle dealer is necessary to maintain the premises of the place of business; or

(K) a motor vehicle with a gross vehicle weight rating of 10,000 pounds or less idles on a driveway or parking area on private property.

Second: By inserting internal captions and four new sections after Sec. 31 to read:

* * * Waiver of Points * * *

Sec. 31a. 23 V.S.A. § 2501 is amended to read:

§ 2501. MOTOR VEHICLE POINT SYSTEM

(a) For the purpose of identifying habitually reckless or negligent drivers and frequent violators of traffic regulations governing the movement of vehicles, a uniform system is established assigning demerit points for convictions of violations of this title or of ordinances adopted by local authorities regulating the operation of motor vehicles. Notice of each assessment of points may be given. No points shall be assessed for violating a provision of a statute or municipal ordinance regulating standing, parking, equipment, size, or weight, or if a superior judge or Judicial Bureau hearing

officer has waived the assessment of points in the interest of justice and in accordance with subsection (b) of this section. The conviction report from the court shall be prima facie evidence of the points assessed unless points are specifically waived in the conviction report. The ~~department is~~ Department also is authorized to suspend the license of a driver when the driver's driving record identifies the driver as an habitual offender under section 673a of this title.

(b) A superior judge or Judicial Bureau hearing officer may waive the assessment of points against a person's driving record for a moving violation if the waiver of points is in the interests of justice, and if all of the following conditions are satisfied:

(1) the person has not had points assessed against his or her driving record within five years of the date of the moving violation;

(2) the person has had no more than three points assessed against his or her driving record within 10 years of the date of the moving violation;

(3) the moving violation is an offense for which no more than three points is specified under section 2502 of this title;

(4) the person was not operating a commercial motor vehicle as defined at section 4103 of this title at the time of the moving violation; and

(5) the moving violation did not result in bodily injury to another person or damage to property of another person.

Sec. 31b. 23 V.S.A. § 2502 is amended to read:

§ 2502. POINT ASSESSMENT; SCHEDULE

(a) ~~Any~~ Unless the assessment of points is waived by a superior judge or a Judicial Bureau hearing officer in the interests of justice and in accordance with subsection 2501(b) of this title, a person operating a motor vehicle shall have points assessed against his or her driving record for convictions for moving violations of the indicated motor vehicle statutes in accord with the following schedule: (All references are to Title 23 of the Vermont Statutes Annotated.)

* * *

* * * Transportation Infrastructure Bond Assessment * * *

Sec. 31c. 23 V.S.A. § 3106(a)(2) is amended to read:

(2) For the purposes of subdivision (1)(B) of this subsection, the tax-adjusted retail price applicable for a quarter shall be the average of the ~~monthly~~ retail ~~prices~~ price for regular gasoline determined and published by the Department of Public Service for each of the three months of the preceding

quarter~~. The tax-adjusted retail price applicable for a quarter shall be the retail price exclusive of all~~ after all federal and state taxes and assessments, and the petroleum distributor licensing fee established by 10 V.S.A. § 1942, ~~at the rates~~ applicable in ~~the preceding quarter~~ each month have been subtracted from that month's retail price.

Sec. 31d. 2013 Acts and Resolves No. 12, Sec. 24 is amended to read:

Sec. 24. ~~MOTOR~~ FUEL ~~ASSESSMENTS~~ TAX ASSESSMENT: MAY 1, 2013–SEPTEMBER 30, 2013

Notwithstanding the provisions of 23 V.S.A. § ~~3106(a)(1)(B)~~ 3106(a)(1)(B)(ii) and 3106(a)(2), from May 1, 2013 through September 30, 2013, the ~~motor fuel transportation infrastructure assessment required under 23 V.S.A. § 3106(a)(1)(B)(i) shall be $0.0656 per gallon, and the~~ fuel tax assessment required under 23 V.S.A. § 3106(a)(1)(B)(ii) shall be $0.067 per gallon.

Third: In Sec. 32, by striking subsection (a) in its entirety and inserting in lieu thereof:

(a) This section and Secs. 22, 31c, and 31d of this act shall take effect on passage.

Fourth: In Sec. 32, by striking subsection (d) in its entirety and inserting in lieu thereof:

(d) Sec. 28 of this act shall take effect on May 1, 2014.

(e) All other sections of this act shall take effect on July 1, 2013.

RICHARD T. MAZZA
MARGARET K FLORY
JOHN F. CAMPBELL

Committee on the part of the Senate

PATRICK M. BRENNAN
THOMAS F. KOCH

Committee on the part of the House

Thereupon, the question, Shall the Senate accept and adopt the report of the Committee of Conference?, was decided in the affirmative.

Thereupon, on motion of Senator Campbell, the rules were suspended and the bill was ordered delivered to the Governor forthwith.

Committee Relieved of Further Consideration; Bill Committed

H. 538.

On motion of Senator McCormack, the Committee on Education was relieved of House bill entitled:

An act relating to making miscellaneous amendments to education funding laws,

and the bill was committed to the Committee on Finance.

Recess

On motion of Senator Baruth the Senate recessed.

Called to Order

The Senate was called to order by the President.

Rules Suspended; Report of Committee of Conference Accepted and Adopted on the Part of the Senate; Bill Messaged

H. 240.

Pending entry on the Calendar for notice, on motion of Senator Baruth, the rules were suspended and the report of the Committee of Conference on House bill entitled:

An act relating to Executive Branch fees.

Was taken up for immediate consideration.

Senator Flory, for the Committee of Conference, submitted the following report:

To the Senate and House of Representatives:

The Committee of Conference to which were referred the disagreeing votes of the two Houses upon House bill entitled:

H. 240. An act relating to Executive Branch fees.

Respectfully reports that it has met and considered the same and recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

* * * Secretary of State * * *

* * * Office of Professional Regulation * * *

Sec. 1. 26 V.S.A. § 287 is amended to read:

§ 287. FEES

Applicants and persons regulated under this chapter shall pay the following fees:

(1) Application:

(A) Barber ~~$100.00~~ $110.00

(B) Cosmetologist ~~$100.00~~ $110.00

(C) Nail technician ~~$100.00~~ $110.00

(D) Esthetician ~~$100.00~~ $110.00

(E) Shop ~~$300.00~~ $330.00

(F) School ~~$300.00~~ $330.00

(2) Biennial renewal:

(A) Barber ~~$120.00~~ $130.00

(B) Cosmetologist ~~$120.00~~ $130.00

(C) Nail technician ~~$120.00~~ $130.00

(D) Esthetician ~~$120.00~~ $130.00

(E) Shop ~~$200.00~~ $225.00

(F) School ~~$300.00~~ $330.00

(3) Reinspection $100.00

* * * Corporations * * *

* * * Telemarketers * * *

Sec. 2. 9 V.S.A. § 2464b is amended to read:

§ 2464b. REGISTRATION OF TELEMARKETERS

* * *

(c) The Secretary of State shall collect the following fees when a document described in this section is delivered to the Office of the Secretary of State for filing:

(1) Registration: $125.00.

(2) Statement of change of designated agent or designated office, or both: $25.00, not to exceed $1,000.00 per filer per calendar year.

* * * Secured Transactions * * *

Sec. 3. 9A V.S.A. § 9-525 is amended to read:

§ 9-525. FEES

(a) ~~Except as otherwise provided in subsection (e) of this section, the~~ The fee for filing and indexing a record under this ~~part, other than an initial financing statement of the kind described in section 9-502(c), is the amount specified in subsection (c) of this section, if applicable, plus:~~

~~(1) $25.00 if the record is communicated in writing; and~~

~~(2) $25.00 if the record is communicated by another medium authorized by filing office rule~~ article is $35.00.

(b) ~~Except as otherwise provided in subsection (e) of this section, the~~ The fee for filing and indexing an initial financing statement of the kind described in subsection 9-502(c) is $6.00 per page.

(c) ~~Number of names. Except as otherwise provided in subsection (e) of this section, if a record is communicated in writing, the fee for each name more than two required to be indexed is $2.00.~~

~~(d)~~ The fee for responding to a request for information from the filing office, including for issuing a certificate showing whether there is on file any financing statement naming a particular debtor, is ~~$20.00, and $0.50 per page for copying~~ $25.00.

~~(e)~~(d) This section does not require a fee with respect to a record of a mortgage which is effective as a financing statement filed as a fixture filing or as a financing statement covering as-extracted collateral or timber to be cut under subsection 9-502(c) of this title. However, the recording and satisfaction fees that otherwise would be applicable to the record of the mortgage apply.

* * * Trade Name Registrations * * *

Sec. 4. 11 V.S.A. § 1625 is amended to read:

§ 1625. FEES

(a) A person, copartnership, association, limited liability company, or corporation required by the provisions of this chapter to file a return, shall, at the time of filing as provided, pay a registration fee of $50.00 to the ~~secretary of state for the benefit of the state~~ Secretary of State.

(b) A person, copartnership, association, limited liability company, or corporation required by the provisions of this chapter to file a certificate of

cessation or change of business status or an application to reserve a business name shall, at the time of filing, pay a fee of $20.00 to the ~~secretary of state for the benefit of the state~~ Secretary of State.

(c) Statement of change of designated agent or designated office, or both: $25.00, not to exceed $1,000.00 per filer per calendar year.

(d) The Secretary shall collect $25.00 each time process is served on the Secretary under this chapter. The party to a proceeding causing service of process is entitled to recover this fee as costs if he or she prevails in the proceeding.

Sec. 5. 11 V.S.A. § 1631 is amended to read:

§ 1631. VACANCY

When ~~such~~ an appointee dies or removes from the ~~state~~ State, another person residing in such town and having therein an office or place of business, within ten days from the date of such death or removal, shall be appointed in the manner hereinbefore specified, upon whom service of process may be made as provided in section 1630 of this title. In case of such death or removal, or if a person is not appointed as aforesaid, process against such nonresident person may be served by delivering to the ~~secretary of state~~ Secretary of State duplicate copies thereof, one of which shall be filed with the ~~secretary of state~~ Secretary of State and the other shall be forwarded by mail prepaid by the clerk to the last known residence of such person. ~~There shall be paid to the secretary of state by the officer serving such duplicate copies the sum of $2.00.~~

* * * Limited Liability Corporations * * *

Sec. 6. 11 V.S.A. § 3013 is amended to read:

§ 3013. FEES

(a) The ~~secretary of state~~ Secretary of State shall collect the following fees when a document described in this section is delivered to the ~~office of the secretary of state~~ Office of the Secretary of State for filing:

(1) Articles of organization	~~$ 100.00~~ $125.00
(2) Application for certificate of authority	~~100.00~~ $125.00

* * *

(9) Statement of change of designated agent or designated office, or both ~~$20.00 and~~ $25.00,not to exceed $1,000.00 per filer per calendar year

* * *

(13) Application for certificate of existence or authorization ~~20.00~~ $25.00

* * *

(15) Annual report of a domestic limited liability company ~~25.00~~ $35.00

(16) Annual report of a foreign limited liability company ~~125.00~~ $140.00

* * *

(b) The ~~secretary of state~~ Secretary of State shall collect the following fees:

(1) ~~$20.00~~ $25.00 each time process is served on the ~~secretary~~ Secretary under this chapter. The party to a proceeding causing service of process is entitled to recover this fee as costs if he or she prevails in the proceeding; and

(2) ~~$1.00 a page for copying and $20.00~~ $25.00 for the certificate certifying the copy of any filed document relating to a limited liability company or a foreign limited liability company.

* * * Partnerships * * *

Sec. 7. 11 V.S.A. § 3310 is amended to read:

§ 3310. FEES

(a) The ~~secretary of state~~ Secretary of State shall collect the following fees when a document described in this section is delivered to the ~~office of the secretary of state~~ Office of the Secretary of State for filing:

(1) Statement of authority ~~50.00~~ $125.00

* * *

(13) Statement of change of designated agent or designated office, or both $25.00, not to exceed $1,000.00 per filer per calendar year

(14) Application for certificate of good standing $25.00

(15) Any other document permitted or required to be filed by this chapter ~~5.00~~ $20.00

(b) The ~~secretary of state~~ Secretary of State shall collect the following fees:

(1) ~~$10.00~~ $25.00 each time process is served on the ~~secretary~~ Secretary under this chapter. The party to a proceeding causing service of process is entitled to recover this fee as costs if he or she prevails in the proceeding; and

(2) ~~$1.00 per page for copying and $5.00~~ $25.00 for the certificate certifying the copy of any filed document related to a partnership, limited liability partnership, or a foreign limited liability partnership.

* * * Limited Partnerships * * *

Sec. 8. 11 V.S.A. § 3420 is amended to read:

§ 3420. FEES

(a) The ~~secretary of state~~ Secretary of State shall collect the following fees when a document described in this section is delivered to the ~~office of the secretary of state~~ Office of the Secretary of State for filing:

(1) Certificate of Limited Partnership ~~$50.00~~ $125.00

(2) Registration of Foreign Limited Partnership ~~50.00~~ 125.00

(3) Amendment 25.00

(4) Cancellation No fee

(5) Merger 50.00

(6) Statement of change of designated agent or designated office, or both 25.00, not to exceed $1,000.00 per filer per calendar year

(7) Application for certificate of good standing 25.00

(8) Any other document permitted or required to be filed by this chapter ~~5.00~~ 20.00

(b) The ~~secretary of state~~ Secretary of State shall collect the following fees:

(1) ~~$10.00~~ $25.00 each time process is served on the ~~secretary~~ Secretary under this chapter. The party to a proceeding causing service of process is entitled to recover this fee as costs if he or she prevails in the proceeding; and

(2) ~~$1.00 per page for copying and $5.00~~ $25.00 for the certificate certifying the copy of any filed document related to a partnership, limited liability partnership, or a foreign limited liability partnership.

* * * Vermont Business Corporations * * *

Sec. 9. 11A V.S.A. § 1.22 is amended to read:

§ 1.22. FILING; SERVICE AND COPYING FEES

(a) The ~~secretary of state~~ Secretary of State shall collect the following fees when the documents described in this section are delivered to the ~~office of the secretary of state~~ Office of the Secretary of State for filing:

(1) Articles of incorporation ~~$ 75.00~~ $125.00

* * *

(6) Statement of change of registered agents or registered office, or both ~~20.00 and~~ $25.00, not to exceed $1,000.00 per filer per calendar year

* * *

(13) Application for certificate of authority ~~100.00~~ $125.00

* * *

(16) Annual report of a foreign corporation ~~175.00~~ $200.00

(17) Annual report of a domestic corporation ~~35.00~~ $45.00

(18) Application for certificate of good standing ~~20.00~~ $25.00

* * *

(b) The ~~secretary of state~~ Secretary of State shall collect a fee of ~~$20.00~~ $25.00 each time process is served on him or her under this title. The party to a proceeding causing service of process is entitled to recover this fee as costs if he or she prevails in the proceeding.

(c) The ~~secretary of state~~ Secretary of State shall collect ~~the following fees~~ a fee of $25.00 for copying and certifying the copy of any filed document relating to a domestic or foreign corporation~~:~~

~~(1) $1.00 a page for copying; and~~

~~(2) $20.00 for the certificate~~.

* * *

* * * Nonprofit Corporations * * *

Sec. 10. 11B V.S.A. § 1.22 is amended to read:

§ 1.22. FILING; SERVICE AND COPYING FEES

The ~~secretary of state~~ Secretary of State shall collect the following fees when the documents described in this section are delivered to the ~~office of the secretary of state~~ Office of the Secretary of State for filing:

(1) Articles of incorporation ~~$75.00~~ $125.00

* * *

(6) Change of registered agent, registered office, or both ~~5.00~~ $25.00, not to exceed $1,000.00 per filer per calendar year.

* * *

(17) Biennial report ~~15.00~~ $20.00

except that a corporation which certifies to the ~~secretary of state~~ Secretary of State, on a form approved by the ~~secretary~~ Secretary, that it did not compensate its officers, directors, or employees during the prior calendar year shall be exempt from the fee required by this subdivision.

* * *

(19) Application for certificate of good standing ~~5.00~~ $25.00

(20) Certified copy of any filed document $25.00

* * * Service of Process * * *

Sec. 11. 12 V.S.A. § 856 is amended to read:

§ 856. SERVICE OF PROCESS

Service of process by virtue of section 855 of this title shall be made by delivering to the ~~secretary of state~~ Secretary of State duplicate copies of the process, with the officer's return of service thereon, and a fee of ~~$5.00~~ $25.00, to be taxed in the plaintiff's costs if he or she prevails. The ~~secretary~~ Secretary shall forthwith forward one of the duplicate copies by registered mail prepaid

to the corporation at its principal place of business in the state or country where it is incorporated, which principal place of business shall be stated in the process. The service shall be sufficient if a copy of the process, with the officer's return thereon showing the service upon the ~~secretary of state~~ Secretary of State, is sent by the plaintiff to the foreign corporation by registered mail, and if the plaintiff's affidavit of compliance herewith is filed with the process in court. The ~~secretary~~ Secretary shall file one of the copies and endorse upon each copy the day and hour of service.

* * * Center for Crime Victims' Services * * *

Sec. 12. 13 V.S.A. § 7282 is amended to read:

§ 7282. SURCHARGE

(a) In addition to any penalty or fine imposed by the court or judicial bureau for a criminal offense or any civil penalty imposed for a traffic violation, including any violation of a fish and wildlife statute or regulation, violation of a motor vehicle statute, or violation of any local ordinance relating to the operation of a motor vehicle, except violations relating to seat belts and child restraints and ordinances relating to parking violations, the clerk of the court or judicial bureau shall levy an additional surcharge of:

* * *

(8)(A) For any offense or violation committed after June 30, 2006, but before July 1, 2008, $26.00, of which $18.75 shall be deposited in the ~~victims' compensation special fund~~ Victims' Compensation Special Fund.

(B) For any offense or violation committed after June 30, 2008, but before July 1, 2009, $36.00, of which $28.75 shall be deposited in the ~~victims' compensation special fund~~ Victims' Compensation Special Fund.

(C) For any offense or violation committed after June 30, 2009, but before July 1, 2013, $41.00, of which $23.75 shall be deposited in the ~~victims' compensation special fund~~ Victims' Compensation Special Fund created by section 5359 of this title, and of which $10.00 shall be deposited in the ~~domestic and sexual violence special fund~~ Domestic and Sexual Violence Special Fund created by section 5360 of this title.

(D) For any offense or violation committed after June 30, 2013, $47.00, of which $29.75 shall be deposited in the Victims' Compensation Special Fund created by section 5359 of this title, and of which $10.00 shall be deposited in the Domestic and Sexual Violence Special Fund created by section 5360 of this title.

* * *

Sec. 13. REPEALS

The following are repealed:

(1) 2007 Acts and Resolves No. 40, Sec. 9 (repeal of surcharge for the Crime Victims' Restitution Special Fund).

(2) 2007 Acts and Resolves No. 40, Sec. 13, as amended by 2011 Acts and Resolves No. 55, Sec. 19 (effective date for repeal of surcharge for the Crime Victims' Restitution Special Fund).

* * * Department of Taxes * * *

Sec. 14. 32 V.S.A. § 3777 is added to read:

§ 3777. LIEN SUBORDINATION

The Commissioner in his or her discretion may subordinate the lien provided for in subsection 3757(f) of this title to a lender's mortgage interest in enrolled land to the extent that the Commissioner is satisfied that the landowner will maintain sufficient equity in the enrolled land to satisfy both the lender and any potential land use change tax that would arise upon development of the enrolled land. In order for subordination to be considered, the lender must complete an application form as prescribed by the Commissioner and pay a fee of $179.00. The application shall provide all information deemed necessary by the Commissioner to determine the extent to which the State's lien can be subordinated to the lender's interest without adversely affecting the interest of the State.

* * * Agency of Agriculture, Food and Markets * * *

* * * Market Vermont * * *

Sec. 15. 3 V.S.A. § 2504 is amended to read:

§ 2504. MARKET VERMONT LOGO

* * *

(c) Persons wishing to apply for the identification logo shall be provided with application forms by the ~~secretary of the agency of commerce and community development or the secretary of the agency of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets or the Secretary of Commerce and Community Development. The ~~secretary of the agency of agriculture, food and markets and the secretary of the agency of commerce and community development~~ Secretary of Agriculture, Food and Markets and the Secretary of Commerce and Community Development shall establish a ~~jury~~ process for reviewing the applications to determine if the applicant meets the standards established for that particular category of goods, services, or experiences. No person participating in the ~~jury~~ process may be held liable for

any decision or recommendation made about the granting or denial of the use of the market Vermont logo. In the event that an application is rejected, the applicant may request that the ~~secretary of the agency of agriculture, food and markets and the secretary of the agency of commerce and community development~~ Secretary of the Agriculture, Food and Markets and the Secretary of Commerce and Community Development reconsider. If the application is again denied, the decision shall be final, unless the applicant can demonstrate that the goods, service, or experience has been altered in order to bring it in line with the standards established for that product.

* * *

~~(e) Fees. The secretary may require transactional charges, commissions, or other fees, which are based upon the actual costs to the department, to be paid by persons participating in the program, and to be applied toward administration and promotion of the program.~~

* * * Feed, Fertilizer, Livestock, and Pesticides * * *

Sec. 16. 6 V.S.A. § 324 is amended to read:

§ 324. REGISTRATION AND FEES

* * *

(b) ~~No~~ A person shall not distribute in this ~~state~~ State a commercial feed that has not been registered pursuant to the provisions of this chapter. Application shall be in a form and manner to be prescribed by rule of the ~~secretary~~ Secretary. The application for registration of a commercial feed shall be accompanied by a registration fee of ~~$75.00~~ $85.00 per product. The registration fees, along with any surcharges collected under subsection (c) of this section, shall be deposited in the special fund created by subsection 364(e) of this title. Funds deposited in this account shall be restricted to implementing and administering the provisions of this title and any other provisions of the law relating to fertilizer, lime, or seeds. If the ~~secretary~~ Secretary so requests, the application for registration shall be accompanied by a label or other printed matter describing the product.

* * *

Sec. 17. 6 V.S.A. § 364 is amended to read:

§ 364. REGISTRATION

(a) Each brand or grade of fertilizer shall be registered in the name of the person whose name appears upon the label before being distributed in this ~~state~~ State. The application for registration shall be submitted to the ~~secretary~~ Secretary on a form furnished by the ~~agency of agriculture, food and markets~~

Agency of Agriculture, Food and Markets and shall be accompanied by a fee of ~~$15.00~~ $20.00 per nutrient or recognized plant food element to a maximum of ~~$105.00~~ $140.00 per brand or grade. Upon approval by the ~~secretary~~ Secretary, a copy of the registration shall be furnished to the applicant. All registrations expire on December 31 of each year. The application shall include the following information:

(1) the brand and grade;

(2) the guaranteed analysis; and

(3) the name and address of the registrant.

* * *

Sec. 18. 6 V.S.A. § 762 is amended to read:

§ 762. LICENSE; FEE

(a) A person shall not carry on the business of a livestock dealer without first obtaining a license from the ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets. Before the issuance of such license, such dealer shall file with the ~~secretary of agriculture, food and markets~~ Secretary an application for such license on forms provided by the ~~agency~~ Agency. Each application shall be accompanied by a fee of ~~$100.00~~ $150.00 for persons who buy and sell or auction livestock, and ~~$30.00~~ $75.00 for persons who only transport livestock commercially.

* * *

Sec. 19. 6 V.S.A. § 918 is amended to read:

§ 918. REGISTRATION

* * *

(b) The registrant shall pay an annual fee of ~~$100.00~~ $110.00 for each product registered, and that amount shall be deposited in the special fund created in section 929 of this title, of which $5.00 from each product registration shall be used for an educational program related to the proper purchase, application, and disposal of household pesticides, and $5.00 from each product registration shall be used to collect and dispose of obsolete and unwanted pesticides. The annual registration year shall be from December 1 to November 30 of the following year.

* * *

Sec. 20. 6 V.S.A. § 4031 is amended to read:

§ 4031. PLANTS TAKEN FROM THE WILD

(a) The ~~secretary~~ Secretary may adopt procedural rules pursuant to the Administrative Procedure Act as set forth in 3 V.S.A. chapter 25, for the collection, sale, or distribution of plants taken from the wild, on the list of Convention on International Trade on Endangered Species of Wild Fauna and Flora, as amended, provided that the plants are not on the Vermont endangered species list. He or she may authorize surveys or other actions to determine the extent that plant collections may be undertaken without jeopardizing the survival of a plant species. He or she may classify plant species based on their populations or chances for survival and may restrict what amount, if any, of a particular species may be removed from the wild.

* * *

(d) The Secretary may collect a fee of $60.00 for a three-year permit to engage in commerce with plants described in subsection (a) of this section. The fee shall be credited to a special fund established and managed pursuant to 32 V.S.A. chapter 7, subchapter 5, and shall be available to the Agency to offset the costs of implementing this section.

* * * Weights and Measures * * *

Sec. 21. 9 V.S.A. § 2730 is amended to read:

§ 2730. LICENSING FOR OPERATION OF WEIGHING AND MEASURING DEVICES

* * *

(f)(1) The ~~secretary~~ Secretary shall charge, per unit, the following annual license fees:

(A) Retail motor fuel dispenser meter: $15.00.

(B) Vehicle tank meter: ~~$50.00~~ $100.00.

(C) Scales: $10.00.

(D) Vehicle and heavy duty scales: $150.00.

(E) Taxi meter: $10.00.

(F) Meter: ~~$5.00~~ $15.00.

(G) Bulk plant meter: $100.00.

(H) Truck mounted propane meter: $150.00.

(I) Hopper scales: $100.00.

(J) Propane fill station: $50.00.

(K) Medium duty scales:

portable platform scales: ~~$10.00~~ $30.00.
all others: $30.00.

* * *

* * * Department of Liquor Control * * *

Sec. 22. 7 V.S.A. § 2 is amended to read:

§ 2. DEFINITIONS

The following words as used in this title, unless a contrary meaning is required by the context, shall have the following meaning:

* * *

(34) "Request to cater permit": a permit granted by the Liquor Control Board authorizing a first or first and third class licensed caterer or commercial caterer to cater individual events.

(35) "Industrial alcohol distributors license": a license granted by the Liquor Control Board that allows holders to sell pure ethyl or grain alcohol of at least 190 proof in quantities of five gallons or more directly to manufacturers, industrial users, hospitals, druggists, and institutions of learning. Alcohol sold under the industrial alcohol distributors license may only be used for manufacturing, mechanical, medicinal, and scientific purposes.

(36) "Outside consumption permit": a permit granted by the Liquor Control Board allowing a first class or first and third class license holder and fourth class license holder to allow for consumption of alcohol in a delineated outside area.

Sec. 23. 7 V.S.A. § 61 is amended to read:

§ 61. RESTRICTIONS; EXCEPTIONS

A person, partnership, association, or corporation shall not furnish or sell, or expose or keep with intent to sell, any malt or vinous beverage, or spirits, or manufacture, sell, barter, transport, import, export, deliver, prescribe, furnish, or possess any alcohol, except as authorized by this title. However, this chapter shall not apply to the furnishing of such beverages or spirits by a person in his or her private dwelling~~, unless to an habitual drunkard, or~~ unless such dwelling becomes a place of public resort, nor to the sale of fermented cider by the barrel or cask of not less than 32 liquid gallons capacity, provided the same is delivered and removed from the vendor's premises in such barrel or cask at the time of such sale, nor to the use of sacramental wine, nor to the

furnishing, purchase, sale, barter, transportation, importation, exportation, delivery, prescription, or possession of alcohol for manufacturing, mechanical, medicinal, and scientific purposes, provided the same is done under and in accordance with rules and regulations made and licenses and permits issued by the ~~liquor control board~~ Liquor Control Board as hereinafter provided.

Sec. 24. 7 V.S.A. § 63 is amended to read:

§ 63. IMPORTATION OR TRANSPORTATION OF LIQUORS; PROHIBITIONS; PERSONAL IMPORT LIMIT; PENALTY

(a) All spirituous liquors imported or transported into this ~~state~~ State shall be imported or transported by and through the ~~liquor control board~~ Liquor Control Board. A person importing or transporting or causing to be imported or transported into this ~~state~~ State any spirituous liquors shall be imprisoned not more than one year or fined not more than $1,000.00, or both. However, a person may import or transport not more than eight quarts of spirituous liquors into this ~~state~~ State in his or her own private vehicle or in his or her actual possession at the time of importation without license or permit.

(b) Except as provided in sections 66 and 68 of this title, all malt or vinous beverages, or both, imported or transported into this ~~state~~ State shall be imported or transported by and through a wholesale dealer holding a wholesale dealer's license issued by the ~~liquor control board~~ Liquor Control Board. A person importing or transporting or causing to be imported or transported into this ~~state~~ State any malt or vinous beverages, or both, shall be imprisoned not more than one year or fined not more than $1,000.00, or both. Provided, however, a person may import or transport not more than six gallons of malt or vinous beverages, or both, into this ~~state~~ State in his or her own private vehicle or in his or her actual possession at the time of importation without license or permit, providing it is not for resale.

Sec. 25. 7 V.S.A. § 230 is amended to read:

§ 230. RESTRICTIONS; FINANCIAL INTERESTS; DISPLAY OF LICENSE; EMPLOYEES

* * *

(b) An individual who is an employee of a wholesale dealer that does not hold a solicitor's ~~permit~~ license may also be employed by a second class licensee on a paid or voluntary basis, provided that the employee does not exercise any control over, or participate in, the management of the second class licensee's business or business decisions, and that either employment relationship does not result in the exclusion of any competitor wholesale dealer or any brand of alcoholic beverages of a competitor wholesale dealer.

Sec. 26. 7 V.S.A. § 231 is amended to read:

§ 231. FEES FOR LICENSES AND PERMITS; DISPOSITION OF FEES

(a) The following fees shall be paid:

(1) For a manufacturer's or rectifier's license to manufacture or rectify malt beverages and vinous beverages or to manufacture or rectify spirituous liquors, ~~$250.00~~ $285.00 for either license.

(2) For a bottler's license, ~~$1,500.00~~ $1,705.00.

(3) For a wholesale dealer's license, ~~$1,000.00~~ $1,140.00 for each location.

(4) For a first class license, ~~$200.00~~ $230.00.

(5) For a second class license, ~~$100.00~~ $140.00.

(6) For a third class license, ~~$880.00~~ $1,000.00 for an annual license and ~~$440.00~~ $500.00 for a six-month license.

(7) For a shipping license for vinous beverages:

(A) In-state consumer shipping license, initial and renewal, $300.00.

(B) Out-of-state consumer shipping license, initial and renewal, $300.00.

(C) Retail shipping license, ~~initial and renewal, $200.00~~ $230.00.

(8)(A) For a caterer's license, ~~$200.00~~ $230.00.

(B) For a commercial catering license, $200.00.

(C) For a request to cater permit, $20.00.

(9) ~~For a first class cabaret license, $200.00~~. [Repealed.]

(10) ~~For a third class cabaret license, $880.00 for an annual license and $440.00 for a six-month license.~~ [Repealed.]

(11) For up to ten fourth class vinous licenses, ~~$50.00~~ $65.00.

(12) ~~[Deleted.]~~ For an industrial alcohol distributors license, $200.00.

(13) For a special events permit, ~~$25.00~~ $35.00.

(14) For a festival permit, ~~$100.00~~ $115.00.

(15) For a wine tasting permit, ~~$15.00~~ $25.00.

(16) For an educational sampling event permit, ~~$200.00~~ $230.00.

(17) ~~[Deleted.]~~ For an outside consumption permit, $20.00.

(18) For a certificate of approval:

(A) For malt beverages, ~~$2,000.00 per year~~ $2,275.00.

(B) For vinous beverages, ~~$440.00 per year~~ $900.00.

(19) For a solicitor's ~~permit~~ license, ~~$50.00 per year~~ $65.00.

(20) For a vinous beverages storage license, ~~$200.00 per year~~ $215.00.

(21) For a promotional tasting permit for a railroad, ~~$15.00~~ $20.00.

(22) For an art gallery or bookstore permit, ~~$15.00~~ $20.00.

(b) Except for fees collected for first, second, and third class licenses, the fees collected pursuant to subsection (a) of this section shall be deposited in the ~~liquor control enterprise fund~~ Liquor Control Enterprise Fund. The other fees shall be distributed as follows:

(1) Third class license fees: 55 percent shall go to the ~~liquor control enterprise fund~~ Liquor Control Enterprise Fund, and 45 percent shall go to the ~~general fund~~ General Fund and shall ~~be used to fund the DETER program in fiscal year 2007~~ fund alcohol abuse prevention and treatment programs.

* * *

Sec. 27. 7 V.S.A. chapter 13 is amended to read:

CHAPTER 13. SOLICITIOR'S ~~PERMIT~~ LICENSE

§ 361. GRANTING OF ~~PERMIT~~ LICENSE; SOLICITATION OF ORDERS

The ~~liquor control board~~ Liquor Control Board may grant to a natural person a solicitor's ~~permit~~ license, which shall authorize such person to solicit orders for and promote the sale of malt or vinous beverages by canvassing or interviewing holders of licenses issued under the provisions of this title.

§ 362. APPLICATION; UNDERTAKING; RECOMMENDATION

Application for ~~such permit~~ a license shall be made in writing, signed by the applicant, to the ~~liquor control board~~ Liquor Control Board on a form prescribed by the ~~board~~ Board, containing the name, residence, and business address of the applicant, the name and address of the vendor to be represented by the applicant, and an undertaking by the applicant to comply with the regulations of the ~~board~~ Board. ~~Such~~ The application shall have appended thereto a recommendation of the applicant as being qualified to hold ~~such permit~~ the license, signed by such vendor.

§ 363. FEE

The fee for a solicitor's ~~permit~~ license shall be as provided in section 231 of this title and shall be collected by the ~~department of liquor control~~ Department

of Liquor Control. ~~Such permit shall expire at midnight April 30 of each year and shall be renewable on application therefor and payment of the fee.~~ A certified check payable to the ~~state~~ State of Vermont shall accompany the application and shall be returned to the applicant in case the ~~board~~ Board fails to grant the ~~permit~~ license.

§ 364. SUSPENSION OR REVOCATION

The ~~liquor control board~~ Liquor Control Board shall have power to suspend or revoke any such solicitor's ~~permit~~ license for failure to comply with any regulation of the ~~board~~ Board or for other cause. ~~No such~~ The certificate shall not be revoked unless the holder thereof shall have had an opportunity to be heard after reasonable notice.

§ 365. PENALTY

A person who solicits orders for, or promotes the sale of malt or vinous beverages, or attempts so to solicit or promote, by canvassing or interviewing a holder of a license issued under the provisions of this title, without having first obtained a solicitor's ~~permit~~ license as provided for in this chapter, or who makes a false or fraudulent statement or representation in an application for ~~such permit~~ the license or in connection therewith shall be imprisoned not more than six months or be fined not more than $500.00, or both.

Sec. 28. 7 V.S.A. § 1002 is amended to read:

§ 1002. LICENSE REQUIRED; APPLICATION; FEE; ISSUANCE

* * *

(d) A person applying simultaneously for a tobacco license and a liquor license shall apply to the legislative body of the municipality and shall pay to the ~~department~~ Department only the fee required to obtain the liquor license. A person applying ~~only~~ for a tobacco license shall submit a fee of ~~$10.00~~ $100.00 to the legislative body of the municipality for each tobacco license or renewal. The municipal clerk shall forward the application to the ~~department~~ Department, and the ~~department~~ Department shall issue the tobacco license. ~~The municipal clerk shall retain $5.00 of this fee, and the remainder shall be deposited in the treasury of the municipality~~ The tobacco license fee shall be forwarded to the Commissioner for deposit in the Liquor Control Enterprise Fund.

* * *

* * * Department of Labor * * *

* * * Workers' Compensation Fund * * *

Sec. 29. WORKERS' COMPENSATION RATE OF CONTRIBUTION

Pursuant to 21 V.S.A. § 711(b), for fiscal year 2014, the General Assembly has established that the rate of contribution for the direct calendar year premium for workers' compensation insurance shall be set at the rate of 1.45 percent established in 21 V.S.A. § 711(a). The contribution rate for self-insured workers' compensation losses and workers' compensation losses of corporations approved under 21 V.S.A. chapter 9 shall remain at one percent.

* * * Surcharges and Assessments * * *

Sec. 30. WORKERS' COMPENSATION ASSESSMENT

A surcharge on the direct calendar year premium for workers' compensation insurance shall be assessed at a rate of 0.16 percent and a surcharge on self-insured workers' compensation losses and workers' compensation losses of corporations shall be assessed at a rate of 0.25 percent for fiscal years 2014 and 2015 in order to enable the Department of Labor to complete a technological upgrade of its computer system.

Sec. 31. 32 V.S.A. § 602 is amended to read:

§ 602. DEFINITIONS

~~For purposes of~~ As used in this subchapter:

* * *

(2) "Fee":

(A) Means a monetary charge by an agency or the judiciary for a service or product provided to, or the regulation of, specified classes of individuals or entities.

(B) The following charges are exempt from the provisions of this subchapter~~, except as provided in subsection 605(f) of this subchapter~~:

* * *

* * * Attorney General * * *

Sec. 32. 9 V.S.A. § 2473 is amended to read:

§ 2473. NOTICE OF SOLICITATION

* * *

(f)(1) In each calendar year in which a paid fundraiser solicits on behalf of a charitable organization, the paid fundraiser shall pay an annual registration fee of $500.00 to the Attorney General with its first notice of solicitation.

(2) Each notice of solicitation filed in accordance with this section shall be accompanied by a fee of $200.00.

(3) Fees paid under this subsection shall be deposited in a special fund managed pursuant to 32 V.S.A. chapter 7, subchapter 5, and shall be available to the Attorney General for the costs of administering sections 2471–2479 of this title.

* * * State Police Dispatch Fees * * *

Sec. 33. UNIFORM DISPATCH FEES

The Commissioner of Public Safety shall adopt rules establishing uniform statewide fees for dispatch services provided by or under the direction of the Department of Public Safety. In setting the fees, the Commissioner shall consult with sheriffs and other entities that provide dispatch services. The Commissioner shall report to the House Committee on Ways and Means and the Senate Committee on Finance on or before January 15, 2014, regarding the adoption and implementation of the uniform dispatch fee rules.

* * * Games of Chance * * *

Sec. 34. 32 V.S.A. § 10209 is added to read:

§ 10209. RULEMAKING

The Commissioner of Liquor Control shall adopt rules for the maintenance of records relating to the distribution and sale of break-open tickets and for record keeping relating to the remittance of net proceeds from sales of break-open tickets to the intended eligible charitable recipients. The rules shall permit no proceeds to be retained by the operators of for-profit bars except for:

(1) the actual cost of the break-open tickets;

(2) the prizes awarded; and

(3) any sales tax due on the sale of break-open tickets under chapter 233 of this title.

* * * Coolidge State Forest * * *

Sec. 35. PROCEEDS OF SALE OF PARCEL IN COOLIDGE STATE FOREST

Notwithstanding the requirement in 29 V.S.A. § 166(d) that the proceeds of the sale of real property owned by the State shall be deposited to a capital fund account for future capital construction, the proceeds of the sale of a parcel in

the Coolidge State Forest authorized by J.R.H.11 of 2013, as enacted, shall be deposited in the Department of Forests, Parks and Recreation's Land Acquisition Account.

* * * Unemployment Compensation * * *

Sec. 35a. 21 V.S.A. § 1451 is amended to read:

§ 1451. DEFINITIONS

~~For the purpose of this subchapter~~ As used in this subchapter:

(1) "Affected unit" means a specific plan, department, shift, or other definable unit consisting of not less than five employees to which an approved short-time compensation plan applies.

(2) "Defined benefit plan" means a plan described in 26 U.S.C. § 414(j).

(3) "Defined contribution plan" means a plan described in 26 U.S.C. § 414(i).

(4) "Short-time compensation" or "STC" means the unemployment benefits payable to employees in an affected unit under an approved short-time compensation plan as distinguished from the unemployment benefits otherwise payable under the conventional unemployment compensation provisions of this chapter.

~~(3)~~(5) "Short-time compensation plan" means a plan of an employer under which there is a reduction in the number of hours worked by employees of an affected unit rather than ~~temporary~~ layoffs. The term "~~temporary~~ layoffs" for this purpose means the total separation of one or more workers in the affected unit ~~for an indefinite period expected to last for more than two months but not more than six months~~.

~~(4)~~(6) "Short-time compensation employer" means an employer who has one or more employees covered by an approved "Short-Time Compensation Plan." "Short-time compensation employer" ~~includes~~ means an employer with ~~experience rating records and~~ an experience rating record or an employer who makes payments in lieu of ~~tax~~ contributions to the unemployment compensation trust fund and that meets all of the following criteria:

(A) ~~Has~~ has five or more employees covered by an approved short-time compensation plan~~.~~;

(B) ~~Is~~ is not delinquent in the payment of contributions or reimbursement, or in the reporting of wages~~.~~; and

(C) ~~Is~~ is not a negative balance employer. For the purposes of this section, a negative balance employer is an employer who has for three or more

consecutive calendar years immediately prior to applying for the STC plan paid more in unemployment benefits to its employees than it has contributed to its unemployment insurance account. In the event that an employer has been a negative balance employer for three consecutive years, the employer shall be ineligible for participation unless the ~~commissioner~~ Commissioner grants a waiver based upon extenuating economic conditions or other good cause.

~~(5)~~(7) "Usual weekly hours of work" means the normal hours of work for full-time ~~and regular~~ or part-time employees in the affected unit when that unit is operating on its ~~normally full-time basis not less than 30 hours and~~ regular basis not to exceed 40 hours and not including hours of overtime work.

~~(6)~~(8) "Unemployment compensation" means the unemployment benefits payable under this chapter other than short-time compensation and includes any amounts payable pursuant to an agreement under any federal law providing for compensation, assistance, or allowances with respect to unemployment.

~~(7)~~(9) "Fringe benefits" means benefits, including health insurance, retirement benefits, paid vacations and holidays, sick leave, and similar benefits that are incidents of employment.

~~(8)~~(10) "Intermittent employment" means employment that is not continuous but may consist of intervals of weekly work and intervals of no weekly work.

~~(9)~~(11) "Seasonal employment" means employment with an employer who experiences at least a 20-percent difference between its highest level of employment during a particular season and its lowest level of employment during the off-season in each of the previous three years as reported to the ~~department~~ Department, or employment with an employer on a temporary basis during a particular season.

Sec. 35b. 21 V.S.A. § 1452 is amended to read:

§ 1452. CRITERIA FOR APPROVAL

(a) An employer wishing to participate in an STC program shall submit a ~~department of labor~~ Department of Labor electronic application or a signed written short-time compensation plan to the ~~commissioner~~ Commissioner for approval. The ~~commissioner~~ Commissioner may approve an STC plan only if the following criteria are met:

* * *

(3) the plan ~~outlines to the commissioner the extent to which fringe benefits, including health insurance, of employees participating in the plan may be reduced, which shall be factored into the evaluation of the business~~

~~plan for resolving the conditions that lead to the need for the STC plan~~ provides that if the employer provides fringe benefits, including health benefits and retirement benefits under a defined benefit plan or contributions under a defined contribution plan, to any employee whose workweek is reduced under the program, that the benefits will continue to be provided to employees participating in the short-time compensation program under the same terms and conditions as though the workweek had not been reduced. However, reductions in the benefits of short-time compensation plan participants are permitted to the extent that the reductions also apply to nonparticipant employees;

* * *

(5) the plan certifies that the aggregate reduction in work hours is in lieu of ~~temporary total~~ layoffs of one or more workers which would have resulted in an equivalent reduction in work hours and which the c~~ommissioner~~ Commissioner finds would have caused an equivalent dollar amount to be payable in unemployment compensation;

* * *

(7) the identified workweek reduction is applied consistently throughout the duration of the plan unless otherwise approved by the ~~department~~ Department. The plan shall not subsidize seasonal employers during the off-season;

* * *

(11) the plan certifies that the collective bargaining agent or agents for the employees, if any, have agreed to participate in the program. If there is no bargaining unit, the employer specifies how he or she will notify the employees in the affected group and work with them to implement the program once the plan is approved; ~~and~~

(12) ~~in addition to subdivisions (1) through (11) of this section, the commissioner shall take into account any other factors which may be pertinent to the approval and proper implementation of the plan~~ the plan describes the manner in which the requirements of this section will be implemented and where feasible how notice will be given to an employee whose workweek is to be reduced and an estimate of the number of layoffs that would have occurred absent the ability to participate in the short-time compensation program and any other information that the U.S. Secretary of Labor determines is appropriate; and

(13) the employer certifies that the plan is consistent with employer obligations under applicable state and federal laws.

(b) In the event of any conflict between any provision of sections 1451–1460 of this title, or the regulations implemented pursuant to these sections, and applicable federal law, the federal law shall prevail and the provision shall be deemed invalid.

Sec. 35c. 21 V.S.A. § 1457 is amended to read:

§ 1457. ELIGIBILITY

(a) An individual is eligible to receive STC benefits with respect to any week only if, in addition to eligibility for monetary entitlement, the ~~commissioner~~ Commissioner finds that:

(1) the individual is employed during that week as a member of an affected unit under an approved short-time compensation plan which was in effect for that week;

(2) the individual is able to work and is available for the normal work week with the short-time employer;

(3) notwithstanding any other provisions of this chapter to the contrary, an individual is deemed unemployed in any week for which remuneration is payable to him or her as an employee in an affected unit for less than his or her normal weekly hours of work as specified under the approved short-time compensation plan in effect for the week;

(4) notwithstanding any other provisions of this chapter to the contrary, an individual shall not be denied STC benefits for any week by reason of the application of provisions relating to availability for work and active search for work with an employer other than the short-time employer.

(b) Eligible employees may participate, as appropriate, in training, including employer-sponsored training or worker training funded under the Workforce Investment Act of 1998, to enhance job skills if the program has been approved by the Department.

Sec. 35d. 21 V.S.A. § 1253 is amended to read:

§ 1253. ELIGIBILITY

The ~~commissioner~~ Commissioner shall make all determinations for eligibility under this chapter. An individual shall be eligible for up to 26 weekly payments when the ~~commissioner~~ Commissioner determines that the individual voluntarily left work due to circumstances directly resulting from domestic and sexual violence, provided the individual:

(1) Leaves employment for one of the following reasons:

* * *

(D) The individual is physically or emotionally unable to work as a result of experiencing domestic or sexual violence as certified by a medical professional. The certification shall be reviewed by the Commissioner every six weeks and may be renewed until the individual is able to work or the benefits are exhausted.

* * *

Sec. 35e. 21 V.S.A. § 1254 is amended to read:

§ 1254. CONDITIONS

An individual shall be eligible to receive payments with respect to any week, only if the ~~commissioner~~ Commissioner finds that the individual complies with all of the following requirements:

(1) ~~Files~~ files a claim certifying that he or she did not work during the week~~.~~;

(2) ~~Is~~ is not eligible for unemployment compensation benefits~~.~~; and

(3) ~~Is taking steps to become employed~~ is working with the Department to determine work readiness and taking reasonable steps as determined by the Commissioner to become employed.

Sec. 35f. 21 V.S.A. § 1255 is amended to read:

§ 1255. PROCEDURES

(a) The ~~commissioner~~ Commissioner or designee shall review all claims for payment and shall promptly provide written notification to the individual of any claim that is denied and the reasons for the denial.

(b) Within 30 days after receipt of a denial, the individual may appeal the determination to the ~~commissioner~~ Commissioner by requesting a review of the decision. On appeal to the Commissioner the individual may provide supplementary evidence to the record. The ~~commissioner~~ Commissioner shall review the record within seven working days after the notice of the appeal is filed and promptly notify the individual in writing of the ~~commissioner's~~ Commissioner's decision. The decision of the ~~commissioner~~ Commissioner shall become final unless an appeal to the ~~supreme court~~ Supreme Court is taken within 30 days of the date of the ~~commissioner's~~ Commissioner's decision.

* * * Repeal * * *

Sec. 36. REPEAL

32 V.S.A. § 605(f) (relating to report of surcharges and assessments) is repealed.

* * * Effective Date * * *

Sec. 37. EFFECTIVE DATE

This act shall take effect on July 1, 2013.

TIMOTHY R. ASHE
MARK A. MACDONALD
MARGARET K FLORY

Committee on the part of the Senate

CAROLYN W. BRANAGAN
ALISON H. CLARKSON
DAVID D. SHARPE

Committee on the part of the House

Thereupon, the question, Shall the Senate accept and adopt the report of the Committee of Conference?, was decided in the affirmative.

Thereupon, on motion of Senator Campbell, the rules were suspended and the bill was ordered messaged to the House forthwith.

Rules Suspended; Report of Committee of Conference Accepted and Adopted on the Part of the Senate; Bill Messaged

H. 295.

Pending entry on the Calendar for notice, on motion of Senator Baruth, the rules were suspended and the report of the Committee of Conference on House bill entitled:

An act relating to technical tax changes.

Was taken up for immediate consideration.

Senator Mullin, for the Committee of Conference, submitted the following report:

To the Senate and House of Representatives:

The Committee of Conference to which were referred the disagreeing votes of the two Houses upon House bill entitled:

H. 295. An act relating to technical tax changes.

Respectfully reports that it has met and considered the same and recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

* * * Administrative Provisions * * *

Sec. 1. 2012 Acts and Resolves No. 143, Sec. 63(1) is amended to read:

(1) Secs. 1 (petroleum cleanup fee), 2 (petroleum cleanup fund outreach), 8 (extraordinary relief), 14 (reporting requirements), 21 (affordable housing tax credit), 22 (downtown tax credit for disaster expenses), 23 (limitation on downtown tax credits for fiscal year 2013), 24 (low income property transfer tax exemption), ~~and~~ 54 (dental equipment), and 62 (allocation to the emergency medical services special fund) of this act shall take effect on July 1, 2012.

Sec. 2. 14 V.S.A. § 3502(f) is amended to read:

(f) Notwithstanding any other provision of law, a power of attorney appointing a representative to represent a person before the Vermont ~~department of taxes~~ Department of Taxes that otherwise conforms ~~to the requirements of the U.S. Internal Revenue Service for a valid power of attorney and declaration of representative pursuant to 25 C.F.R. § 601.503 shall be deemed to be legally executed and shall be of the same force and effect for purposes of representation before the department of taxes as if executed in the manner prescribed in this chapter~~ to the provisions of this section is valid without the signature of a witness or notary.

Sec. 3. 18 V.S.A. § 908(a) is amended to read:

(a) The ~~emergency medical services special fund~~ Emergency Medical Services Fund is established pursuant to 32 V.S.A. chapter 7, subchapter 5 comprising revenues received by the ~~department~~ Department from the ~~general fund~~ Fire Safety Special Fund, pursuant to 32 V.S.A. Sec. 8557(a), that are designated for this special fund and public and private sources as gifts, grants, and donations together with additions and interest accruing to the fund. The ~~commissioner of health~~ Commissioner of Health shall administer the ~~fund~~ Fund to the extent funds are available to support online and regional training programs, data collection and analysis, and other activities relating to the training of emergency medical personnel and delivery of emergency medical services and ambulance services in Vermont, as determined by the ~~commissioner~~ Commissioner, after consulting with the EMS ~~advisory committee~~ Advisory Committee established under section 909 of this title. Any balance at the end of the fiscal year shall be carried forward in the ~~fund~~ Fund.

Sec. 4. 32 V.S.A. § 312(d) is added to read:

(d) Every tax expenditure in the tax expenditure report required by this section shall be accompanied in statute by a statutory purpose explaining the policy goal behind the exemption, exclusion, deduction, or credit applicable to

the tax. The statutory purpose shall appear as a separate subsection or subdivision in statute and shall bear the title "Statutory Purpose." Notwithstanding any other provision of law, a tax expenditure listed in the tax expenditure report that lacks a statutory purpose in statute shall not be implemented or enforced until a statutory purpose is provided.

Sec. 5. TAX EXPENDITURE PURPOSES

The Joint Fiscal Committee shall draft a statutory purpose for each tax expenditure in the report required by 32 V.S.A. § 312 that explains the policy goal behind the exemption, exclusion, deduction, or credit applicable to the tax. For the purpose of this report, the Committee shall have the assistance of the Department of Taxes, the Joint Fiscal Office, and the Office of Legislative Council. The Committee shall report its findings and recommendations to the Senate Committee on Finance and the House Committee on Ways and Means by January 15, 2014. The report of the Committee shall consist of a written catalogue for Vermont's tax expenditures and draft legislation, in bill form, providing a statutory purpose for each tax expenditure. Upon receipt of the report under this section, the Senate Committee on Finance shall introduce a bill to adopt statutory purposes during the 2014 legislative session.

Sec. 6. 32 V.S.A. § 3102(l) is added to read:

(l)(1) The Commissioner of the Department of Taxes and the Chief Fiscal Officer of the Joint Fiscal Office shall enter into a memorandum of understanding in order to provide the Joint Fiscal Office with state returns and return information necessary for the Joint Fiscal Office or its agents to perform its duties, including conducting its own statistical studies, forecasts, and fiscal analysis.

(2) The memorandum of understanding shall provide for:

(A) mechanisms to prevent the identification of individual taxpayers, including the redaction of any information that identifies a particular taxpayer;

(B) protocols for handling and transmitting returns and return information;

(C) the designation of specific employees of the Joint Fiscal Office with access to the information provided by the Department of Taxes;

(D) the incorporation of penalties for unauthorized disclosures under subsections (a) and (h) of this section.

Sec. 6a. TAX DATA

The Commissioner of Taxes and the Chief Fiscal Officer of the Joint Fiscal Officer shall enter into a memorandum of understanding under Sec. 6 of this act no later than August 1, 2013.

Sec. 7. 32 V.S.A. § 3262 is amended to read:

§ 3262. LIEN FEES; SERVICE OF PROCESS COSTS; ELECTRONIC FILING OF LIENS

(a) Notwithstanding section 502 of this title, the ~~commissioner~~ Commissioner may charge against any collection of any liability any related lien fees specified in subdivision 1671(a)(6) or subsection 1671(c) of this title and any related service of process costs awarded to the ~~department~~ Department and paid by the ~~commissioner~~ Commissioner. Fees and costs collected under this section shall be credited to a special ~~fund~~ Fund established and managed pursuant to subchapter 5 of chapter 7 of this title, and shall be available as payment for the fees of the clerk of the municipality and the costs of service.

(b) The Commissioner may file notice of any lien arising in favor of the State due to nonpayment of taxes with the clerk of a municipality in which the property subject to lien is located in electronic format, and such lien shall have the same force and effect as a lien filed in paper form.

Sec. 8. TAX COMPLIANCE

The General Assembly finds that there is a gap between the amount of taxes paid in this State and the amount of taxes due. Therefore, the General Assembly directs the Department of Taxes to develop and pursue further strategies to close the tax gap during state fiscal year 2014. The Department of Taxes shall redeploy resources to focus on these strategies with the goal of increasing current collections by $1,500,000.00 in fiscal year 2014.

* * * Cigarettes and Tobacco Products * * *

Sec. 9. 32 V.S.A. § 7772(b) is amended to read:

(b) At the purchaser's request, the ~~commissioner~~ Commissioner may sell stamps to be affixed to packages of cigarettes as evidence of the payment to the tax imposed by this chapter to licensed wholesale dealers and retail dealers for payment within 10 days, at a discount of one and five-tenths percent of their face value if timely paid. In determining whether to sell stamps for payment within 10 days, the ~~commissioner~~ Commissioner shall consider the credit history of the dealer; and the filing and payment history, with respect to any tax administered by the ~~commissioner~~ Commissioner, of the dealer or any individual, corporation, partnership, or other legal entity with which the dealer is or was associated as principal, partner, officer, director, employee, agent, or

incorporator. ~~No stamps may be purchased during the period June 15 through June 30 each year under the provisions of this subsection~~.

Sec. 10. 32 V.S.A. § 7817 is amended to read:

§ 7817. DETERMINATION OF TAX ON FAILURE TO FILE RETURN

(a) When the ~~commissioner~~ Commissioner discovers, by examination of the records of the taxpayer as provided in section 7816 of this title, or otherwise, that a person required to file a return under this subchapter, has filed an incorrect or insufficient return, the ~~commissioner~~ Commissioner may, at any time within three years after the date the return was due, determine the correct amount of tax and shall give notice to the taxpayer of the amount of any deficiency in such tax, together with penalty and interest as hereinafter provided. If no return has been filed as provided by law, the tax may be assessed at any time. When, before the expiration of the period prescribed herein for assessment of an additional tax, a taxpayer has consented in writing that the period be extended, the amount of the additional tax due may be determined at any time within the extended period. The period so extended may be further extended by subsequent consents in writing made before the expiration of the extended period.

* * *

Sec. 11. 32 V.S.A. § 7783 is amended to read:

§ 7783. APPEALS

Any person aggrieved because of any action or decision of the ~~commissioner~~ Commissioner under the provisions of this chapter may appeal therefrom within 30 days to the ~~superior court~~ Superior Court of the county in which such person resides. The appellant shall give security, approved by the ~~commissioner~~ Commissioner, conditioned to pay the tax levied, if it remains unpaid, with interest and costs. ~~Such appeals shall be preferred cases for hearing on the docket of such court. Such court may grant such relief as may be equitable and may order the state treasurer to pay to the aggrieved taxpayer the amount of such relief, with interest at the rate of six percent per annum. If the appeal shall have been taken without probable cause, the court may tax double or triple costs as the case shall demand. Upon all such appeals which may be denied, costs may be taxed against the appellant at the discretion of the court, but no costs shall be taxed against the state.~~

* * * Use Value Program * * *

Sec. 12. 32 V.S.A. § 3752 is amended to read:

§ 3752. DEFINITIONS

For the purposes of this subchapter:

* * *

(10) "Owner" means the person who is the owner of record of any land or the lessee under a perpetual lease as defined in 32 V.S.A. § 3610(a) provided the term of the lease exceeds 999 years exclusive of renewals. When enrolled land is mortgaged, the mortgagor shall be deemed the owner of the land for the purposes of this subchapter, until the mortgagee takes possession, either by voluntary act of the mortgagor or foreclosure, after which the mortgagee shall be deemed the owner.

* * *

Sec. 13. 32 V.S.A. § 3758 is amended to read:

§ 3758. APPEALS

(a) Whenever the ~~director~~ Director denies in whole or in part any application for classification as agricultural land or managed ~~forest land~~ forestland or farm buildings, or grants a different classification than that applied for, or the director or assessing officials fix a use value appraisal~~,~~ or determine that previously classified property is no longer eligible or that the property has undergone a change in use, the aggrieved owner may appeal the decision of the ~~director~~ Director to the ~~director~~ Commissioner within 30 days of the decision, and from there ~~in the same manner and under the same procedures as an appeal from a decision of a board of civil authority, as set forth in subchapter 2 of chapter 131 of this title; and may appeal the decision of the assessing officials in the same manner as an appeal of a grand list valuation~~ to Superior Court in the county in which the property is located.

(b) Any owner who is aggrieved by the determination of the fair market value of classified land for the purpose of computing the land use change tax may appeal in the same manner as an appeal of a grand list valuation.

(c) Whenever the ~~commissioner~~ Director denies a request for an exemption from the terms of the definition of a "farmer" as provided in subsection 3756(j) of this title, the aggrieved person may appeal the decision of the Director to the ~~commissioner~~ Commissioner within 30 days of the decision, and from there to the ~~superior court~~ Superior Court in ~~the same manner and under the same procedures as an appeal from a decision of the board of civil authority, as set~~

~~forth in subchapter 2 of chapter 131 of this title~~ the county in which the property is located.

(d) Any owner who is aggrieved by a decision of the ~~department of forests, parks and recreation~~ Department of Forests, Parks and Recreation concerning the filing of an adverse inspection report, ~~or~~ a denial of approval of a management plan, or a certification to the ~~director~~ Director with respect to land for which a wastewater permit is issued may appeal to the ~~commissioner of the department of forests, parks and recreation~~ Commissioner of the Department of Forests, Parks and Recreation within 60 days of the filing of the adverse inspection report, the decision to deny approval, or the certification to the Director. An appeal of this decision of the ~~commissioner~~ Commissioner may be taken to the ~~superior court~~ Superior Court in the same manner and under the same procedures as an appeal from a decision of a board of civil authority, as set forth in chapter 131, subchapter 2 of this title.

Sec. 14. REPEALS

The following are repealed:

(1) 2011 Acts and Resolves No. 45, Sec. 13a (wastewater permits).

(2) 2012 Acts and Resolves No. 143, Secs. 41 through 43 (wastewater permits).

* * * Estate Taxes * * *

Sec. 15. 32 V.S.A. § 7475 is amended to read:

§ 7475. ADOPTION OF FEDERAL ESTATE AND GIFT TAX LAWS

The laws of the United States~~,~~ relating to federal estate and gift taxes as in effect on ~~December 31, 2011~~ December 31, 2012, are hereby adopted for the purpose of computing the tax liability under this chapter, except:

(1) the credit for state death taxes shall remain as provided for under 26 U.S.C. §§ 2011 and 2604 as in effect on January 1, 2001;

(2) the applicable credit amount shall under 26 U.S.C. § 2010 shall not apply; and the tax imposed under section 7442a of this chapter shall be calculated as if the applicable exclusion amount under 26 U.S.C. § 2010 were $2,750,000.00; and

(3) the deduction for state death taxes under 26 U.S.C. § 2058 shall not apply.

Sec. 16. 32 V.S.A. § 7488(b) is amended to read:

(b) If the ~~commissioner~~ Commissioner determines, on a petition for refund or otherwise, that a taxpayer has paid an amount of tax under this chapter

which, as of the date of the determination, exceeds the amount of tax liability owing from the taxpayer to the ~~state~~ State, with respect to the current and all preceding taxable years, under any provision of this title, the ~~commissioner~~ Commissioner shall forthwith refund the excess amount to the taxpayer together with interest at the rate per annum established pursuant to section 3108 of this title. That interest shall be computed from the latest of 45 days after the date the return was filed or was due, including any extensions of time thereto or, if the taxpayer filed an amended return or otherwise requested a refund, 45 days after the date the petition or amended return was filed.

* * * Income Tax * * *

Sec. 17. 32 V.S.A. § 5811(18) is amended to read:

(18) "Vermont net income" means, for any taxable year and for any corporate taxpayer:

(A) the taxable income of the taxpayer for that taxable year under the laws of the United States, without regard to Section 168(k) of the Internal Revenue Code, and excluding income which under the laws of the United States is exempt from taxation by the states:

(i) increased by:

(I) the amount of any deduction for state and local taxes on or measured by income, franchise taxes measured by net income, franchise taxes for the privilege of doing business and capital stock taxes; and

(II) to the extent such income is exempted from taxation under the laws of the United States by the amount received by the taxpayer on and after January 1, 1986 as interest income from state and local obligation, other than obligations of Vermont and its political subdivisions, and any dividends or other distributions from any fund to the extent such dividend or distribution is attributable to such Vermont state or local obligations; ~~and~~

(III) the amount of any deduction for a federal net operating loss; and

* * *

Sec. 18. 32 V.S.A. § 5811(21)(B) is amended to read:

(B) Decreased by the following items of income (to the extent such income is included in federal adjusted gross income):

(i) income from United States government obligations;

(ii) with respect to adjusted net capital gain income as defined in Section 1(h) of the Internal Revenue Code reduced by the total amount of any qualified dividend income: either the first $5,000.00 of such adjusted net

capital gain income; or 40 percent of adjusted net capital gain income from the sale of assets held by the taxpayer for more than three years, except not adjusted net capital gain income from:

* * *

Sec. 19. 32 V.S.A. § 5812 is amended to read:

§ 5812. INCOME TAXATION OF PARTIES TO A CIVIL UNION

This chapter shall apply to parties to a civil union or civil marriage and surviving parties to a civil union or civil marriage as if federal income tax law recognized a civil union and civil marriage in the same manner as Vermont law.

Sec. 20. 32 V.S.A. § 5824 is amended to read:

§ 5824. ADOPTION OF FEDERAL INCOME TAX LAWS

The statutes of the United States relating to the federal income tax, as in effect for taxable year ~~2011~~ 2012, but without regard to federal income tax rates under ~~Section 1 of the Internal Revenue Code~~ 26 U.S.C. § 1, are hereby adopted for the purpose of computing the tax liability under this chapter.

Sec. 21. 32 V.S.A. § 5852(b) is amended to read:

(b) In lieu of the estimated payments provided in subsection (a) of this section, a taxpayer who pays federal estimated income tax in annualized income installments may pay for the installment period an amount equal to the ~~applicable percentage~~ 24 percent of the taxpayer's required payment for federal income tax purposes, reduced by a percentage equal to the percentage of the taxpayer's adjusted gross income for the taxable year which is not Vermont income, provided, however, that if a taxpayer's Vermont income exceeds the taxpayer's adjusted gross income, no reduction shall be made. ~~For purposes of this section, "applicable percentage" means the percentage of federal income tax liability specified in section 5822 of this title, as amended from time to time.~~

Sec. 22. 32 V.S.A. § 5859(b) and (c) are amended to read:

(b) Except as provided in subsection (c) of this section, the taxpayer shall be liable for interest at the rate per annum established from time to time by the ~~commissioner~~ Commissioner pursuant to section 3108 of this title upon the amount of any underpayment of estimated tax.

(1) For purposes of this subsection, the amount of any underpayment of estimated tax shall be the excess of:

(A) the amount of the installment which would be required to be paid if the estimated tax were equal to ~~80~~ 90 percent of the tax shown on the return

for the taxable year, or, if no return were filed ~~80~~, 90 percent of the tax for such year, over

(B) the amount, if any, of the installment paid on or before the last date prescribed for payment.

* * *

(c) No interest for underpayment of any installment or estimated tax shall be imposed if the total amount of all such payments made on or before the last date prescribed for the payment of such installment equals or exceeds the amount which would have been required to be paid on or before such date if the estimated tax were the lesser of:

(1) an amount equal to the tax computed at the rate applicable to the taxable year but otherwise on the basis of the facts shown on the return for, and the law applicable to, the preceding taxable year; or

(2) an amount equal to ~~80~~ 90 percent of the tax finally due for the taxable year.

Sec. 23. 32 V.S.A. § 5883 is amended to read:

§ 5883. DETERMINATION OF DEFICIENCY, REFUND, ~~PENALTY, OR INTEREST~~ OR ASSESSMENT

Upon receipt of a notice of deficiency, of denial or reduction of a refund claim, or of assessment of penalty or interest under section 3203 of this title, the taxpayer may, within 60 days after the date of mailing of the notice or assessment, petition the ~~commissioner~~ Commissioner in writing for a determination of that deficiency, refund, or assessment. The ~~commissioner~~ Commissioner shall thereafter grant a hearing upon the matter and notify the taxpayer in writing of his or her determination concerning the deficiency, ~~penalty or interest~~ refund, or assessment.

Sec. 24. WOOD PRODUCTS MANUFACTURERS TAX CREDIT

2005 Spec. Sess. Acts and Resolves No. 2, Sec. 2, as amended by 2006 Acts and Resolves No. 212, Sec. 9 and 2008 Acts and Resolves No. 190, Sec. 29, and as further amended by 2011 Acts and Resolves No. 45, Sec. 17, is further amended to read:

Sec. 2. EFFECTIVE DATE; SUNSET

Sec. 1 of this act (wood products manufacture tax credit) shall apply to taxable years beginning on or after July 1, 2005. 32 V.S.A. § 5930y is repealed ~~July 1, 2013~~ January 1, 2014, and no credit under that section shall be available for any taxable year beginning on or after ~~July 1, 2013~~ January 1, 2014.

Sec. 25. [Deleted.]

* * * Property Tax and Property Tax Adjustments * * *

Sec. 26. 10 V.S.A. § 6306(b)(3) is added to read:

(3) A certification granted to a qualified agency shall first affect the April 1 grand list following the date that all information deemed necessary by the Commissioner has been provided by the qualified organization.

Sec. 27. 32 V.S.A. § 3802(11)(B)(i) is amended to read:

(i) the definitions shall apply as if federal law recognized a civil union or a civil marriage in the same manner as Vermont law;

Sec. 28. 32 V.S.A. § 3802(18) is added to read:

(18) Any parcel of land that provides public access to public waters, as defined in 10 V.S.A. § 1422(6), and that is also:

(A) owned by the Town of Hardwick, and located in Greensboro, Vermont; or

(B) owned by the Town of Thetford, and located in Fairlee, Vermont, and West Fairlee, Vermont.

Sec. 29. 32 V.S.A. § 3802a is added to read:

§ 3802a. REQUIREMENT TO PROVIDE INSURANCE INFORMATION

Before April 1 of each year, owners of property exempt from taxation under subdivisions 3802(4)–(6), (9), and (12)–(15) and under subdivisions 5401(10)(D), (F), (G), and (J) of this title shall provide their local assessing officials with information regarding the insurance replacement cost of the exempt property or with a written explanation of why the property is not insured.

Sec. 30. 32 V.S.A. § 4152 is amended to read:

§ 4152. CONTENTS

(a) When completed, the grand list of a town shall be in such form as the director prescribes and shall contain such information as the director prescribes, including:

* * *

(6) For those parcels which are exempt, the insurance replacement value reported to the local assessing officials by the owner under section 3802a of this title, or what the full listed value of the property would be absent the exemption and the statutory authority for granting such exemption and, for properties exempt pursuant to a vote, the year in which the exemption became effective and the year in which the exemption ends;

* * *

(c) When the grand list of a town describes exempt property, the grand list shall identify if the value provided is the insurance replacement cost provided under section 3802a of this title or the full listed value under subdivision (a)(6) of this section.

Sec. 31. 32 V.S.A. § 4004 is amended to read:

§ 4004. RETURN OF INVENTORIES BY INDIVIDUALS

On or before April 20, unless otherwise required, every taxable person shall procure such inventory form, make full answers to all interrogatories therein, subscribe the same, make oath thereto, and deliver or forward the same to one of the listers in the town wherein such person owns or possesses property required by law to be set to him or her in the grand list. When notice in writing to file, deliver, or forward such inventory on or before a given date is delivered by one of the listers to a person, or mailed postage prepaid to him or her at his or her last known post office address, such person, within the time therein specified, shall properly fill out such inventory and deliver or forward the same to one of the listers, notwithstanding he or she may not own or possess property subject to taxation. Persons taxable only for real estate ~~and persons taxable only upon their polls~~ shall not be required to file such inventory unless notified so to do as herein provided.

Sec. 32. 32 V.S.A. § 4465 is amended to read:

§ 4465. APPOINTMENT OF ~~APPRAISER~~ PROPERTY TAX HEARING OFFICER; OATH; PAY

When an appeal to the ~~director~~ Director is not withdrawn, the ~~director~~ Director shall refer the appeal in writing to a person not employed by the ~~director~~ Director, appointed by the ~~director~~ Director as ~~an appraiser~~ hearing officer. The ~~director~~ Director shall have the right to remove ~~an appraiser~~ a hearing officer for inefficiency, malfeasance in office, or other cause. In like manner, the ~~director~~ Director shall appoint ~~an appraiser~~ a hearing officer to fill any vacancy created by resignation, removal, or other cause. Before entering into their duties, persons appointed as ~~appraisers~~ hearing officers shall take and subscribe the oath of the office prescribed in the ~~constitution~~ Constitution, which oath shall be filed with the ~~director~~ Director. The ~~director~~ Director shall pay each ~~appraiser~~ hearing officer a sum not to exceed $120.00 per diem for each day wherein hearings are held, together with reasonable expenses as the ~~director~~ Director may determine. ~~An appraiser~~ A hearing officer may subpoena witnesses, records, and documents in the manner provided by law for serving subpoenas in civil actions and may administer oaths to witnesses.

Sec. 33. 32 V.S.A. § 4466 is amended to read:

§ 4466. CONDUCT OF APPEAL BEFORE ~~APPRAISER~~ HEARING OFFICER

Unless expressly waived by all parties to the appeal, the provisions of 3 V.S.A. chapter 25 ~~of Title 3~~ shall govern all proceedings before ~~an appraiser~~ a hearing officer except where inconsistent with this subchapter. ~~An appraiser~~ A hearing officer shall promptly notify in writing the clerk of the town and all other parties to the appeal of the place within the town wherein the appeal is taken, of the place within such town and the time at which the parties shall be heard, such notice to be delivered in person or by mail, postage prepaid.

Sec. 34. 32 V.S.A. § 4467 is amended to read:

§ 4467. DETERMINATION OF APPEAL

Upon appeal to the ~~director~~ Director or the court, the ~~appraiser~~ hearing officer or court shall proceed de novo and determine the correct valuation of the property as promptly as practicable and to determine a homestead and a housesite value if a homestead has been declared with respect to the property for the year in which the appeal is taken. The ~~appraiser~~ hearing officer or court shall take into account the requirements of law as to valuation, and the provisions of Chapter I, Article 9 of the Constitution of Vermont and the 14th Amendment to the Constitution of the United States. If the ~~appraiser~~ hearing officer or court finds that the listed value of the property subject to appeal does not correspond to the listed value of comparable properties within the town, the ~~appraiser~~ hearing officer or court shall set said property in the list at a corresponding value. The findings and determinations of the ~~appraiser~~ hearing officer shall be made in writing and shall be available to the appellant. If the appeal is taken to the ~~director~~ Director, the ~~appraiser~~ hearing officer shall inspect the property prior to making a determination.

Sec. 35. REPEAL

32 V.S.A. § 5165 (report of delinquent taxes to director) is repealed.

Sec. 36. REPEAL

32 V.S.A. § 5166 (report of payment to director) is repealed.

Sec. 37. REPEAL

32 V.S.A. § 5167 (reporting method of collection to director) is repealed.

Sec. 38. 32 V.S.A. § 5401 is amended to read:

§ 5401. DEFINITIONS

* * *

(10) "Nonresidential property" means all property except:

* * *

(B) Property which is subject to the tax on railroads imposed by subchapter 2 of chapter 211 of this title, ~~the tax on steamboat, car and transportation companies imposed by subchapter 3 of chapter 211 of this title,~~ the tax on telephone companies imposed by subchapter 6 of chapter 211 of this title, or the tax on electric generating plants imposed by chapter 213 of this title.

* * *

Sec. 39. 32 V.S.A. § 5405(a) is amended to read:

(a) Annually, on or before April 1, the ~~commissioner~~ Commissioner shall determine the equalized education property tax grand list and coefficient of dispersion for each municipality in the ~~state~~ State; provided, however, that for purposes of equalizing grand lists pursuant to this section, the equalized education property tax grand list of a municipality that establishes a tax increment financing district shall include the fair market value of the property in the district and not the original taxable value of the property and further provided that the unified towns and gores of Essex County may be treated as one municipality for the purpose of determining an equalized education property grand list and a coefficient of dispersion if the Director determines that all such entities have a uniform appraisal schedule and uniform appraisal practices.

Sec. 40. 32 V.S.A. § 6066(b) and (c) are amended to read:

(b) An eligible claimant who rented the homestead ~~on the last day of the taxable year~~, whose household income does not exceed $47,000.00, and who submits a certificate of allocable rent shall be entitled to a credit against the claimant's tax liability under chapter 151 of this title equal to the amount by which the allocable rent upon the claimant's housesite exceeds a percentage of the claimant's household income for the taxable year as follows:

If household income (rounded to to the nearest dollar) is:	then the taxpayer is entitled credit for allocable rent paid in excess of this percent of that income:
$0 - 9,999.00	2.0
$10,000.00 - 24,999.00	4.5
$25,000.00 - 47,000.00	5.0

In no event shall the credit exceed the amount of the allocable rent.

(c) To be eligible for ~~a property tax~~ an adjustment or credit under this chapter the claimant:

(1) must have been domiciled in this ~~state~~ State during the entire taxable year; ~~and~~

(2) may not be a person claimed as a dependent by any taxpayer under the federal Internal Revenue Code during the taxable year; and

(3) in the case of a renter, shall have rented property during the entire taxable year.

Sec. 41. 32 V.S.A. § 8701(d) is added to read:

(d) The existence of a renewable energy plant subject to tax under subsection (b) of this section shall not alter the exempt status of any underlying property under section 3802 or 5401(10)(F) of this title.

Sec. 42. STUDY COMMITTEE ON CERTAIN PROPERTY TAX EXEMPTIONS

(a) Creation of committee. There is created a Property Tax Exemption Study Committee to study issues related to properties that fall within the public, pious, and charitable property tax exemption in 32 V.S.A. § 3802(4). The Committee shall study and make recommendations related to the definition, listing, valuation, and tax treatment of properties within this exemption.

(b) Membership. The Property Tax Exemption Study Committee shall be composed of seven members. Four members of the Committee shall be members of the General Assembly. The Committee on Committees of the Senate shall appoint two members of the Senate, not from the same political party, and the Speaker of the House shall appoint two members of the House, not from the same political party. The Chair and Vice Chair of the Committee shall be legislative members selected by all members of the Committee. Three members of the Committee shall be as follows:

(1) the Director of the Division of Property Valuation and Review;

(2) one member from Vermont's League of Cities and Towns, chosen by its board of directors; and

(3) one member of the Vermont Assessors and Listers Association, chosen by its board of directors.

(c) Powers and duties.

(1) The Committee shall study the definition, listing practices, valuation, and tax treatment of properties within the public, pious, and charitable exemption, including the following:

(A) ways to clarify the definitions of properties that fall within this exemption, including recreational facilities, educational facilities, and publically owned land and facilities;

(B) guidelines to ensure a uniform listing practice of public, pious, and charitable properties in different municipalities;

(C) methods of providing a valuation for properties within this exemption; and

(D) whether the policy justification for these exemptions continues to be warranted and whether a different system of taxation or exemption of these properties may be more appropriate.

(2) For purposes of its study of these issues, the Committee shall have the assistance of the Joint Fiscal Office, the Office of Legislative Council, and the Department of Taxes.

(d) Report. By January 15, 2014, the Committee shall report to the Senate Committee on Finance and the House Committee on Ways and Means its findings and any recommendations for legislative action.

(e) Number of meetings; term of Committee. The Committee may meet no more than six times, and shall cease to exist on January 16, 2014.

(f) Reimbursement. For attendance at meetings during adjournment of the general assembly, legislative members of the committee shall be entitled to compensation and reimbursement for expenses as provided in 2 V.S.A. § 406; and other members of the committee who are not employees of the state of Vermont shall be reimbursed at the per diem rate set in 32 V.S.A. § 1010.

Sec. 43. 2008 Acts and Resolves No. 190, Sec. 40, as amended by 2010 Acts and Resolves No. 160, Sec. 22, as amended by 2011 Acts and Resolves No. 45, Sec. 13f, is further amended to read:

Sec. 40. EDUCATION PROPERTY TAX EXEMPTION FOR ~~SKATINGRINKS~~ SKATING RINKS USED FOR PUBLIC SCHOOLS

Real and personal property operated as a skating rink, owned and operated on a nonprofit basis but not necessarily by the same entity, and which, in the most recent calendar year, provided facilities to local public schools for a sport officially recognized by the Vermont Principals' Association shall be exempt from 50 percent of the education property taxes for fiscal ~~year 2012~~ years 2013 and 2014 only.

* * * Property Transfer Tax * * *

Sec. 44. 32 V.S.A. § 9606 is amended to read:

§ 9606. PROPERTY TRANSFER RETURN

(a) A property transfer return complying with this section shall be delivered to a town clerk at the time a deed evidencing a transfer of title to property is delivered to the clerk for recording.

(b) The property transfer return required by this section shall be in such form and with such signatures as the ~~commissioner, by regulation,~~ Commissioner shall prescribe~~, and shall be signed, under oath or affirmation, by each of the parties or their legal representatives, to the transfer of title to property with respect to which the return is filed~~. If the return is filed with respect to a transfer which is claimed to be exempt from the tax imposed by this chapter, the return shall set forth the basis for such exemption. If the return is filed with respect to a transfer subject to such tax, the return shall truly disclose the value of the property transferred, together with such other information as the ~~commissioner~~ Commissioner may reasonably require for the proper administration of this chapter. The return shall include notice that the property may be subject to regulations governing potable water supplies and wastewater systems under 10 V.S.A. chapter 64 and to building, zoning, and subdivision regulations; and that the parties have an obligation under law to investigate and disclose his or her knowledge regarding flood regulation, if any, affecting the property.

(c) ~~The property transfer return required under this section shall also contain a certificate in such form as the secretary of the agency of natural resources and the commissioner of taxes jointly shall prescribe and shall be signed under oath or affirmation by each of the parties or their legal representatives. The certificate shall indicate:~~

~~(1) whether the transfer is in compliance with or is exempt from regulations governing potable water supplies and wastewater systems under chapter 64 of Title 10; and~~

~~(2) that the seller has advised the purchaser that local and state building regulations, zoning regulations, subdivision regulations, and potable water supply and wastewater system requirements pertaining to the property may significantly limit the use of the property.~~

~~(d)~~ For receiving and acknowledging a property transfer return under this chapter, there shall be paid to the town clerk at the time of filing a fee as provided for in subdivision 1671(a)(6) of this title.

~~(e) The property transfer return required under this section shall also contain a certificate in such form as the secretary of the agency of natural resources shall prescribe and shall be signed under oath on affirmation by each of the parties or their legal representatives. The certificate shall indicate that each party has investigated and disclosed all of his or her knowledge relating to the flood regulations, if any, affecting the property.~~

~~(f)~~(d) The property transfer tax return shall not be required of properties qualified for the exemption stated in subdivision 9603(17) of this title. A public utility shall notify the listers of a municipality of the grantors, grantees, consideration, date of execution, and location of the easement when it files for recording a deed transferring a utility line easement that does not require a transfer tax return.

~~(g)~~(e) The ~~commissioner of taxes~~ Commissioner of Taxes is authorized to disclose to any person any information appearing on a property transfer tax return, including statistical information derived therefrom, and such information derived from research into information appearing on property transfer tax returns as is necessary to determine if the property being transferred is subject to 10 V.S.A. chapter 151.

* * * Sales and Use Tax * * *

Sec. 45. 32 V.S.A. § 9741 is amended to read:

§ 9741. SALES NOT COVERED

Retail sales and use of the following shall be exempt from the tax on retail sales imposed under section 9771 of this title and the use tax imposed under section 9773 of this title.

* * *

(2) Drugs intended for human use, durable medical equipment, mobility enhancing equipment, and prosthetic devices and supplies, including blood, blood plasma, insulin, and medical oxygen, used in diagnosis or treatment intended to alleviate human suffering or to correct, in whole or in part, human physical disabilities; provided however, that toothbrushes, floss, and similar items of nominal value given by dentists and hygienists to patients during treatment are supplies used in treatment to alleviate human suffering or to correct, in whole or part, human physical disabilities and are exempt under this subdivision.

* * *

Sec. 46. 32 V.S.A. § 9744(a)(2) is amended to read:

§ 9744. PROPERTY EXEMPT FROM USE TAX

(a) The following uses of property are not subject to the compensating use tax imposed under this chapter:

(1) Property used by the purchaser in this ~~state~~ State prior to June 1, 1969.

(2) Property purchased and used outside of the State by the user while a nonresident of this ~~state~~ State, except in the case of tangible personal property which the user, in the performance of a contract, incorporates into real property located in the ~~state~~ State.

* * *

Sec. 47. 32 V.S.A. § 9781(c) is amended to read:

(c) If the ~~commissioner~~ Commissioner determines, on a petition for refund or otherwise, that a taxpayer has paid an amount of tax under this chapter which, as of the date of the determination, exceeds the amount of tax liability owing from the taxpayer to the ~~state~~ State, with respect to the current and all preceding taxable periods, under any provision of this title, the ~~commissioner~~ Commissioner shall forthwith refund the excess amount to the taxpayer together with interest at the rate per annum established from time to time by the ~~commissioner~~ Commissioner pursuant to section 3108 of this title. That interest shall be computed from the latest of 45 days after the date the return was filed or from 45 days after the date the return was due, including any extensions of time thereto, with respect to which the excess payment was made or, ~~whichever is the later date~~ if the taxpayer filed an amended return or otherwise requested a refund, 45 days after the date of such amended return or request was filed.

* * * Health Care Provisions * * *

* * * Health Insurance Claims Tax * * *

Sec. 48. 32 V.S.A. chapter 243 is added to read:

CHAPTER 243. HEALTH CARE CLAIMS TAX

§ 10401. DEFINITIONS

As used in this section:

(1) "Health insurance" means any group or individual health care benefit policy, contract, or other health benefit plan offered, issued, renewed, or administered by any health insurer, including any health care benefit plan offered, issued, renewed, or administered by any health insurance company,

any nonprofit hospital and medical service corporation, any dental service corporation, or any managed care organization as defined in 18 V.S.A. § 9402. The term includes comprehensive major medical policies, contracts, or plans and Medicare supplemental policies, contracts, or plans, but does not include Medicaid or any other state health care assistance program in which claims are financed in whole or in part through a federal program unless authorized by federal law and approved by the General Assembly. The term does not include policies issued for specified disease, accident, injury, hospital indemnity, long-term care, disability income, or other limited benefit health insurance policies, except that any policy providing coverage for dental services shall be included.

(2) "Health insurer" means any person who offers, issues, renews, or administers a health insurance policy, contract, or other health benefit plan in this State and includes third party administrators or pharmacy benefit managers who provide administrative services only for a health benefit plan offering coverage in this State. The term does not include a third party administrator or pharmacy benefit manager to the extent that a health insurer has paid the fee which would otherwise be imposed in connection with health care claims administered by the third party administrator or pharmacy benefit manager.

§ 10402. HEALTH CARE CLAIMS TAX

(a) There is imposed on every health insurer an annual tax in an amount equal to 0.999 of one percent of all health insurance claims paid by the health insurer for its Vermont members in the previous fiscal year ending June 30. The annual fee shall be paid to the Commissioner of Taxes in one installment due by January 1.

(b) Revenues paid and collected under this chapter shall be deposited as follows:

(1) 0.199 of one percent of all health insurance claims into the Health IT-Fund established in section 10301 of this title; and

(2) 0.8 of one percent of all health insurance claims into the State Health Care Resources Fund established in 33 V.S.A. § 1901d.

(c) The annual cost to obtain Vermont Healthcare Claims Uniform Reporting and Evaluation System (VHCURES) data, pursuant to 18 V.S.A. § 9410, for use by the Department of Taxes shall be paid from the Vermont Health IT-Fund and the State Health Care Resources Fund in the same proportion as revenues are deposited into those Funds.

(d) It is the intent of the General Assembly that all health insurers shall contribute equitably through the tax imposed in subsection (a) of this section. In the event that the tax is found not to be enforceable as applied to third party

administrators or other entities, the tax owed by all other health insurers shall remain at the existing level and the General Assembly shall consider alternative funding mechanisms that would be enforceable as to all health insurers.

§ 10403. ADMINISTRATION OF TAX

(a) The Commissioner of Taxes shall administer and enforce this chapter and the tax. The Commissioner may adopt rules under 3 V.S.A. chapter 25 to carry out such administration and enforcement.

(b) All of the administrative provisions of chapter 151 of this title, including those relating to the collection and enforcement by the Commissioner of the withholding tax and the income tax, shall apply to the tax imposed by this chapter. In addition, the provisions of chapter 103 of this title, including those relating to the imposition of interest and penalty for failure to pay the tax as provided in section 10402 of this title, shall apply to the tax imposed by this chapter.

§ 10404. DETERMINATION OF DEFICIENCY, REFUND, PENALTY, OR INTEREST

(a) Within 60 days after the mailing of a notice of deficiency, denial or reduction of a refund claim, or assessment of penalty or interest, a health insurer may petition the Commissioner in writing for a determination of that deficiency, refund, or assessment. The Commissioner shall thereafter grant a hearing upon the matter and notify the health insurer in writing of his or her determination concerning the deficiency, penalty, or interest. This is the exclusive remedy of a health insurer with respect to these matters.

(b) Any hearing granted by the Commissioner under this section shall be subject to and governed by 3 V.S.A. chapter 25.

(c) Any aggrieved health insurer may, within 30 days after a determination by the Commissioner concerning a notice of deficiency, an assessment of penalty or interest, or a claim to refund, appeal that determination to the Washington Superior Court or to the Superior Court for the county in which the health insurer has a place of business.

Sec. 49. 32 V.S.A. § 3102(e) is amended to read:

(e) The ~~commissioner~~ Commissioner may, in his or her discretion and subject to such conditions and requirements as he or she may provide, including any confidentiality requirements of the Internal Revenue Service, disclose a return or return information:

* * *

(14) to the ~~office of the state treasurer~~ Office of the State Treasurer, only in the form of mailing labels, with only the last address known to the ~~department of taxes~~ Department of Taxes of any person identified to the ~~department~~ Department by the ~~treasurer~~ Treasurer by name and Social Security number, for the ~~treasurer's~~ Treasurer's use in notifying owners of unclaimed property; ~~and~~

(15) to the ~~department of liquor control~~ Department of Liquor Control, provided that the information is limited to information concerning the sales and use tax and meals and rooms tax filing history with respect to the most recent five years of a person seeking a liquor license or a renewal of a liquor license; and

(16) to the Commissioner of Financial Regulation and the Commissioner of Vermont Health Access, if such return or return information relates to obligations of health insurers under chapter 243 of this title.

Sec. 50. 32 V.S.A. § 10301 is amended to read:

§ 10301. HEALTH IT-FUND

* * *

(c) Into the fund shall be deposited:

(1) revenue from the ~~reinvestment fee~~ health care claims tax imposed on health insurers pursuant to ~~8 V.S.A. § 4089k~~ subdivision 10402(b)(1) of this title.

* * *

Sec. 51. 2008 Acts and Resolves No. 192, Sec. 9.001(g) is amended to read:

(g) Sec. 7.005 of this act shall sunset July 1, ~~2015~~ 2013.

Sec. 52. 32 V.S.A. § 10301 is amended to read:

§ 10301. HEALTH IT-FUND

* * *

(c) Into the fund shall be deposited:

(1) ~~revenue from the health care claims tax imposed on health insurers pursuant to subdivision 10402(b)(1) of this title.~~ [Deleted.]

* * *

Sec. 53. 32 V.S.A. § 10402 is amended to read:

§ 10402. HEALTH CARE CLAIMS TAX

(a) There is imposed on every health insurer an annual tax in an amount equal to ~~0.999~~ 0.8 of one percent of all health insurance claims paid by the health insurer for its Vermont members in the previous fiscal year ending June 30. The annual fee shall be paid to the Commissioner of Taxes in one installment due by January 1.

(b) Revenues paid and collected under this chapter shall be deposited ~~as follows:~~

~~(1) 0.199 of one percent of all health insurance claims into the Health IT-Fund established in section 10301 of this title; and~~

~~(2) 0.8 of one percent of all health insurance claims~~ into the State Health Care Resources Fund established in 33 V.S.A. § 1901d.

* * *

Sec. 54. REPEAL

8 V.S.A. § 4089l (health care claims assessment) is repealed on July 1, 2013.

Sec. 55. 33 V.S.A. § 1955a(a) is amended to read:

(a) Beginning October 1, 2011, each home health agency's assessment shall be 19.30 percent of its net operating revenues from core home health care services, excluding revenues for services provided under Title XVIII of the federal Social Security Act; provided, however, that each home health agency's annual assessment shall be limited to no more than six percent of its annual net patient revenue. The amount of the tax shall be determined by the ~~commissioner~~ Commissioner based on the home health agency's most recent audited financial statements at the time of submission, a copy of which shall be provided on or before ~~December 1~~ May 1 of each year to the ~~department~~ Department. For providers who begin operations as a home health agency after January 1, 2005, the tax shall be assessed as follows:

* * *

* * * Fuel Taxes * * *

Sec. 56. 33 V.S.A. § 2503 is amended to read:

§ 2503. FUEL GROSS RECEIPTS TAX

(a) There is imposed a gross receipts tax of 0.5 percent on the retail sale of the following types of fuel ~~by sellers receiving more than $10,000.00 annually for the sale of such fuels~~:

(1) heating oil, kerosene, and other dyed diesel fuel delivered to a residence or business;

(2) propane;

(3) natural gas;

(4) electricity;

(5) coal.

* * *

* * * Spirituous Liquor * * *

Sec. 57. 7 V.S.A. § 422 is amended to read:

§ 422. TAX ON SPIRITUOUS LIQUOR

A tax is assessed on the gross revenue on the retail sale of spirituous liquor in the ~~state~~ State of Vermont, including fortified wine, sold by the ~~liquor control board~~ Liquor Control Board or sold by a manufacturer or rectifier of spirituous liquor in accordance with the provisions of this title. The tax shall be at the following rates based on the gross revenue of the retail sales by the seller in the ~~previous~~ current year:

(1) if the gross revenue of the seller is ~~$100,000.00~~ $150,000.00 or lower, the rate of tax is five percent;

(2) if the gross revenue of the seller is between ~~$100,000.00~~ $150,000.00 and ~~$200,000.00~~ $250,000.00, the rate of tax is ~~$15,000.00~~ $7,500.00 plus 15 percent of gross revenues over ~~$100,000.00~~ $150,000.00;

(3) if the gross revenue of the seller is over ~~$200,000.00~~ $250,000.00, the rate of tax is 25 percent.

* * * Department of Financial Regulation * * *

Sec. 58. 8 V.S.A. § 15(c) is amended to read:

(c) The ~~commissioner~~ Commissioner may waive the requirements of 15 V.S.A. § 795(b) as the ~~commissioner~~ Commissioner deems necessary to permit the ~~department~~ Department to participate in any national licensing or registration systems with respect to any person or entity subject to the jurisdiction of the ~~commissioner~~ Commissioner under this title, Title 9, or 18 V.S.A. chapter 221 ~~of Title 18. The commissioner may waive the requirements of 32 V.S.A. § 3113(b) as the commissioner deems necessary to permit the department to participate in any national licensing or registration systems with respect to any person or entity not residing in this state and subject to the jurisdiction of the commissioner under this title, Title 9, or chapter 221 of Title 18~~.

Sec. 59. 32 V.S.A. § 3113(b) is amended to read:

(b) No agency of the ~~state~~ State shall grant, issue, or renew any license or other authority to conduct a trade or business (including a license to practice a profession) to, or enter into, extend, or renew any contract for the provision of goods, services, or real estate space with~~,~~ any person unless such person shall first sign a written declaration under the pains and penalties of perjury~~,~~ that the person is in good standing with respect to or in full compliance with a plan to pay~~,~~ any and all taxes due as of the date such declaration is made, except that the Commissioner may waive this requirement as the Commissioner deems appropriate to facilitate the Department of Financial Regulation's participation in any national licensing or registration systems for persons required to be licensed or registered by the Commissioner of Financial Regulation under Title 8, Title 9, or 18 V.S.A. chapter 221.

* * * Effective Dates * * *

Sec. 60. EFFECTIVE DATES

This act shall take effect on passage, except:

(1) Secs. 4 (tax expenditures), 30 (insurance values), and 31 (grand list) shall take effect on July 1, 2014.

(2) Sec. 13 (Use Value Program appeals) shall take effect with respect to appeals taken after the passage of this act.

(3) Sec. 15 (estate tax link to Internal Revenue Code) of this act shall apply to decedents dying on or after January 1, 2012.

(4) Sec. 20 (link to Internal Revenue Code) of this act shall apply to taxable years beginning on and after January 1, 2012.

(5) Sec. 28 (water access exemption) shall take effect on January 1, 2014.

(6) Secs. 32 through 34 (state appraiser name change), 55 (home health agencies), 56 (fuel gross receipts tax), and 57 (spirituous liquor) shall take effect on July 1, 2013.

(7) Sec. 39 (unified assessment districts) shall take effect for the study of the 2013 grand list.

(8) Sec. 44 (eliminating signature requirement on property transfer tax returns) shall take effect for returns filed in municipal offices on and after July 1, 2013.

(9) Sec. 47 (interest calculation on sales tax refunds) shall take effect for refund petitions filed after the date of passage of this act.

(10) Secs. 48–51 (health claims tax) shall take effect on July 1, 2013 and 52 and 53 (health claims sunset) shall take effect on July 1, 2017.

TIMOTHY R. ASHE
MARK A. MACDONALD
KEVIN J. MULLIN

Committee on the part of the Senate

JANET ANCEL
KESHA K. RAM
JEFFREY D. WILSON

Committee on the part of the House

Thereupon, the question, Shall the Senate accept and adopt the report of the Committee of Conference?, was decided in the affirmative.

Thereupon, on motion of Senator Baruth, the rules were suspended and the bill was ordered messaged to the House forthwith.

Recess

On motion of Senator Campbell the Senate recessed until 7:15 P.M.

Called to Order

The Senate was called to order by the President.

Message from the House No. 77

A message was received from the House of Representatives by Ms. H. Gwynn Zakov, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has considered Senate proposal of amendment to House bill of the following title:

H. 523. An act relating to jury questionnaires, the filing of foreign child custody determinations, court fees, and judicial record keeping.

And has severally concurred therein with a further proposal of amendment thereto, in the adoption of which the concurrence of the Senate is requested.

Rules Suspended; House Proposal of Amendment to Senate Proposal of Amendment Concurred In; Rules Suspended; Bill Messaged

H. 523.

Pending entry on the Calendar for notice, on motion of Senator Baruth, the rules were suspended and House proposal of amendment to Senate proposal of amendment to House bill entitled:

An act relating to jury questionnaires, the filing of foreign child custody determinations, court fees, and judicial record keeping.

Was taken up for immediate consideration.

The House concurs in the Senate proposal of amendment with the following amendment thereto:

By striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 4 V.S.A. § 955 is amended to read:

§ 955. QUESTIONNAIRE

The clerk shall send a jury questionnaire prepared by the ~~court administrator~~ Court Administrator to each person selected. When returned, it shall be retained in the ~~superior court clerk's office~~ Office of the Superior Court Clerk. ~~The questionnaire shall at all times during business hours be open to inspection by the court and attorneys of record of the state of Vermont.~~ Pursuant to section 952 of this title, the Court Administrator shall promulgate rules governing the inspection and availability of the juror questionnaires and the information contained in them.

Sec. 2. 15 V.S.A. § 1085 is amended to read:

§ 1085. REGISTRATION OF CHILD CUSTODY DETERMINATION

* * *

(b) On receipt of the documents required by subsection (a) of this section, the ~~court administrator~~ Family Division shall:

(1) ~~cause the determination to be filed~~ send the certified copy of the determination to the Court Administrator who shall file it as a foreign judgment~~, together with one copy of any accompanying documents and information, regardless of their form~~; and

* * *

Sec. 3. 32 V.S.A. § 1431 is amended to read:

§ 1431. FEES IN SUPREME AND SUPERIOR COURTS

* * *

(2) Prior to the entry of any divorce or annulment proceeding in the ~~superior court~~ Superior Court, there shall be paid to the ~~clerk of the court~~ Clerk of the Court for the benefit of the state a fee of $250.00 in lieu of all other fees not otherwise set forth in this section. If the divorce or annulment complaint is filed with a stipulation for a final order ~~acceptable to the court~~, the fee shall be $75.00 if one or both of the parties are residents, and $150.00 if neither party is a resident, except that if the stipulation is not acceptable to the Court or if a matter previously agreed to becomes contested, the difference between the full fee and the reduced fee shall be paid to the Court prior to the issuance of a final order.

(3) Prior to the entry of any parentage or desertion and support proceeding brought under 15 V.S.A. chapter 5 ~~of Title 15~~ in the ~~superior court~~ Superior Court, there shall be paid to the ~~clerk of the court~~ Clerk of the Court for the benefit of the ~~state~~ State a fee of $100.00 in lieu of all other fees not otherwise set forth in this section~~; however, if~~. If the parentage or desertion and support complaint is filed with a stipulation for a final order acceptable to the ~~court~~ Court, the fee shall be $25.00 except that if the stipulation is not acceptable to the Court or if a matter previously agreed to becomes contested, the difference between the full fee and the reduced fee shall be paid to the Court prior to the issuance of a final order.

(4) Prior to the entry of any motion or petition to enforce ~~an~~ a final order for parental rights and responsibilities, parent-child contact, property division, or maintenance in the ~~superior court~~ Superior Court, there shall be paid to the ~~clerk of the court~~ Clerk of the Court for the benefit of the ~~state~~ State a fee of $75.00 in lieu of all other fees not otherwise set forth in this section. Prior to the entry of any motion or petition to vacate or modify ~~an~~ a final order for parental rights and responsibilities, parent-child contact, or maintenance in the ~~superior court~~ Superior Court, there shall be paid to the ~~clerk of the court~~ Clerk of the Court for the benefit of the ~~state~~ State a fee of $100.00 in lieu of all other fees not otherwise set forth in this section. However, if the motion or petition is filed with a stipulation for an order ~~acceptable to the court~~, the fee shall be $25.00~~. All motions or petitions filed by one party at one time shall be assessed one fee~~ except that if the stipulation is not acceptable to the Court or if a matter previously agreed to becomes contested, the difference between the full fee and the reduced fee shall be paid to the Court prior to the issuance of a final order. All motions or petitions filed by one party under this subsection at one time shall be assessed one fee equal to the highest of the filing fees associated with the motions or petitions involved. There are no filing fees for prejudgment motions or petitions filed before a final divorce, legal separation, dissolution of civil union, parentage, desertion, or nonsupport judgment issued.

(5) Prior to the entry of any motion or petition to vacate or modify an order for child support in the ~~superior court~~ Superior Court, there shall be paid to the ~~clerk of the court~~ Clerk of the Court for the benefit of the ~~state~~ State a fee of $35.00 in lieu of all other fees not otherwise set forth in this section~~;~~ ~~however, if~~. If the motion or petition is filed with a stipulation for an order ~~acceptable to the court~~, there shall be no fee except that if the stipulation is not acceptable to the Court or if a matter previously agreed to becomes contested, the difference between the full fee and the reduced fee shall be paid to the Court prior to the issuance of a final order. A motion or petition to enforce an order for child support shall require no fee. All motions or petitions filed by one party at one time shall be assessed one fee; if a simultaneous motion is filed by a party under subdivision (4) of this subsection, the fee under subdivision (4) shall be the only fee assessed. There are no filing fees for prejudgment motions or petitions filed before a final divorce, legal separation, dissolution of civil union, parentage, desertion, or nonsupport judgment has issued.

(6) Prior to the registration in Vermont of a child custody determination issued by a court of another state, there shall be paid to the Clerk of the Court for the benefit of the State a fee of $75.00 unless the request for registration is filed with a simultaneous motion for enforcement, in which event the fee for registration shall be $30.00 in addition to the fee for the motion as provided in subdivision (4) of this subsection.

* * *

(d) Prior to the entry of any subsequent pleading which sets forth a claim for relief in the ~~supreme court~~ Supreme Court or the ~~superior court~~ Superior Court, there shall be paid to the ~~clerk of the court~~ Clerk of the Court for the benefit of the ~~state~~ State a fee of $100.00 for every appeal, cross-claim, or third-party claim and a fee of $75.00 for every counterclaim in the ~~superior court~~ Superior Court in lieu of all other fees not otherwise set forth in this section. The fee for an appeal of a magistrate's decision in the ~~superior court~~ Superior Court shall be $100.00. The filing fee for civil suspension proceedings filed pursuant to 23 V.S.A § 1205 shall be $75.00, which shall be taxed in the bill of costs in accordance with sections 1433 and 1471 of this title. This subsection does not apply to filing fees in the Family Division, except with respect to the fee for an appeal of a magistrate's decision.

(e) Prior to the filing of any postjudgment motion in the ~~superior court~~ Civil, Criminal, or Environmental Division of the Superior Court, including motions to reopen civil suspensions and motions for sealing or expungement in the criminal division pursuant to 13 V.S.A. § 7602, there shall be paid to the

~~clerk of the court~~ Clerk of the Court for the benefit of the ~~state~~ State a fee of $75.00 except for small claims actions.

* * *

(h) Pursuant to Vermont Rules of Civil Procedure 3.1 or Vermont Rules of Appellate Procedure 24(a), part or all of the filing fee may be waived if the ~~court~~ Court finds that the applicant is unable to pay it. The ~~clerk of the court~~ Clerk of the Court or the ~~clerk's~~ Clerk's designee shall establish the in forma pauperis fee in accordance with procedures and guidelines established by administrative order of the ~~supreme court~~ Supreme Court. If, during the course of the proceeding and prior to a final judgment, the Court determines that the applicant has the ability to pay all or a part of the waived fee, the Court shall require that payment be made prior to issuing a final judgment. If the applicant fails to pay the fee within a reasonable time, the Court may dismiss the proceeding.

Sec. 4. 32 V.S.A. § 1434 is amended to read:

§ 1434. PROBATE CASES

* * *

(b) ~~For economic cause, the probate judge may waive this fee.~~ Pursuant to Rule 3.1 of the Vermont Rules of Civil Procedure, part of the filing fee may be waived if the Court finds the applicant is unable to pay it. The Court shall use procedures established in subsection 1431(h) of this title to determine the fee. No fee shall be charged for necessary documents pertaining to the opening of estates, trusts, and guardianships, including the issuance of two certificates of appointment and respective letters. No fee shall be charged for the issuance of two certified copies of adoption decree and two certified copies of instrument changing name.

* * *

Sec. 5. 4 V.S.A. § 657 is amended to read:

§ 657. TRANSCRIBING DAMAGED RECORDS

When records in the ~~court clerk's office~~ Office of the Superior Court Clerk become faded, defaced, torn, or otherwise injured, so as to endanger the permanent legibility or proper preservation of the same, ~~by an order in writing recorded in the court clerk's office, the court administrator shall~~ the Court Administrator may direct the ~~court clerk~~ Court Clerk to provide suitable books and transcribe such records therein. At the end of a transcript of record so made, the ~~clerk~~ Clerk shall certify under official signature and the seal of the ~~court~~ Court that the same is a true transcript of the original record. Such transcript or a duly certified copy thereof shall be entitled to the same faith and

credit and have the same force as the original record. The expense of making such transcript shall be paid by the ~~state~~ State.

Sec. 6. 4 V.S.A. § 659 is amended to read:

§ 659. PRESERVATION OF COURT RECORDS

(a) The ~~supreme court~~ Supreme Court by administrative order may provide for permanent preservation of all court records by any photographic or electronic or comparable process ~~which will provide compact records in reduced size,~~ in accordance with standards ~~established by the secretary of state which~~ that shall be no less protective of the records than the standards established by the state archives and records administration programs that take into account the quality and security of the records, and ready access to the record of any cause so recorded.

(b) After preservation in accordance with subsection (a) of this section, the ~~supreme court~~ Supreme Court by administrative order may provide for the disposition of original court records by destruction or in cases where the original court record may have historical or intrinsic value by transfer to the archives of the ~~secretary of state, the Vermont historical society, or the University of Vermont~~ Secretary of State.

Sec. 7. 4 V.S.A. § 732 is amended to read:

§ 732. LOST ~~WRIT OR COMPLAINT FILING OF NEW PAPERS~~ DOCUMENT OR RECORD

When ~~the writ or complaint~~ a court document, record, or file in an action pending in court is lost, mislaid, or destroyed, the court~~, on written motion for that purpose,~~ may order a ~~writ or a complaint for the same cause of action~~ duplicate document, record, or file to be filed under such ~~regulations~~ conditions as the court prescribes~~, and the same proceedings shall be had thereon as though it were the original writ or complaint. If the plaintiff refuses to file such writ or complaint, the court shall direct a nonsuit in the action, and tax costs for the defendant~~. A duplicate document or record shall have the same validity and may be used in evidence in the same manner as the original document, record, or file.

Sec. 8. 4 V.S.A. § 740 is amended to read:

§ 740. COURT RECORDS; DOCKETS; CERTIFIED COPIES

The ~~supreme court~~ Supreme Court by administrative order or directive shall provide for the preparation, maintenance, recording, indexing, docketing, preservation, and storage of all court records and the provision, subject to confidentiality requirements of law or court rules, of certified copies of those records to persons requesting them.

Sec. 9. 12 V.S.A. § 5 is amended to read:

§ 5. DISSEMINATION OF ELECTRONIC CASE RECORDS

(a) The court shall not permit public access via the Internet to criminal or family case records. The court may permit criminal justice agencies, as defined in 20 V.S.A. § 2056a, Internet access to criminal case records for criminal justice purposes, as defined in section 2056a.

(b) This section shall not be construed to prohibit the court from providing electronic access to:

(1) court schedules of the ~~superior court~~ Superior Court, or opinions of the ~~criminal division of the superior court~~ Criminal Division of the Superior Court; ~~or~~

(2) state agencies in accordance with data dissemination contracts entered into under Rule 6 of the Vermont Rules of Electronic Access to Court Records; or

(3) decisions, recordings of oral arguments, briefs, and printed cases of the Supreme Court.

Sec. 10. 4 V.S.A. § 908 is amended to read:

§ 908. ATTORNEYS' ADMISSION, LICENSING, AND PROFESSIONAL RESPONSIBILITY SPECIAL FUND

There is established the attorneys' admission, licensing, and professional responsibility special fund which shall be managed in accordance with 32 V.S.A. chapter 7, subchapter 5. Fees collected for licensing of attorneys, administration of the bar examination, admitting attorneys to practice in Vermont, and administration of mandatory continuing legal education shall be deposited and credited to this fund. This fund shall be available to the ~~judicial branch~~ Judicial Branch to offset the cost of operating the ~~professional responsibility board~~ Professional Responsibility Board, the ~~board of bar examiners~~ Board of Bar Examiners, the ~~judicial conduct board~~ Judicial Conduct Board, the ~~committee on character and fitness~~ Committee on Character and Fitness, the mandatory continuing legal education program for attorneys and, at the discretion of the ~~supreme court~~ Supreme Court, to make grants for access to justice programs or to the Vermont ~~bar foundation~~ Bar Foundation to be used to support legal services for the disadvantaged.

Sec. 11. MEDICATION-ASSISTED TREATMENT FOR INMATES

(a) The Department of Corrections, in collaboration with the Department of Health's Division of Alcohol and Drug Abuse Programs, shall establish a work group for the purpose of examining medication-assisted treatment for inmates,

including for persons who were receiving treatment in the community immediately prior to incarceration.

(b) The Work Group shall be composed of the following members:

(1) the Deputy Commissioner of the Department of Health's Division of Alcohol and Drug Abuse Programs or designee, who shall serve as Chair;

(2) the Commissioner of Corrections or designee;

(3) a member appointed by the Defender General's Prisoners' Rights Office;

(4) a member appointed by the Howard Center; and

(5) a physician providing medication-assisted treatment through an opioid treatment program, appointed by the Commissioner of Health.

(c)(1) The first meeting of the Work Group shall be held on or before September 1, 2013.

(2) The Work Group shall receive administrative and staff support from the Department of Corrections and the Department of Health's Division of Alcohol and Drug Abuse Programs.

(d)(1) The Work Group shall examine:

(A) any federal and state legal parameters that apply to medication-assisted treatment for persons who are incarcerated;

(B) existing time limits on medication-assisted treatment for persons who are incarcerated, specifically with regard to health outcomes and recidivism rates;

(C) the effectiveness of directing medication-assisted treatment to persons who are incarcerated by offense category;

(D) the prioritization of medication-assisted treatment by:

(i) providers of the Hub and Spoke Opioid Integrated Treatment Initiative to persons ordered to receive treatment by a drug court; and

(ii) the Department of Corrections to opiate-addicted persons prior to their release from prison; and

(E) any other factors to determine prioritization for medication-assisted treatment.

(2) On or before January 1, 2014, the Work Group shall report its findings and recommendations, including recommendations for legislative action, to the House Committees on Corrections and Institutions, on Human

Services, and on Judiciary and the Senate Committees on Health and Welfare and on Judiciary.

Sec. 12. 13 V.S.A. § 353 is amended to read:

§ 353. DEGREE OF OFFENSE; SENTENCING UPON CONVICTION

(a) Penalties.

* * *

(4)(A) Except as provided in subdivision (B) of this subdivision (4), a person found in violation of subdivision 352(3), (4), or (9) of this title pursuant to this subdivision shall be imprisoned not more than one year or fined not more than $2,000.00, or both. Second and subsequent convictions shall be punishable by a sentence of imprisonment of not more than two years or a fine of not more than $5,000.00, or both.

(B) ~~A~~ In lieu of a criminal citation or arrest, a law enforcement officer ~~shall~~ may issue a civil citation to a person who violates subdivision 352(3), (4), or (9) of this title if the person has not been previously adjudicated in violation of this chapter. A person adjudicated in violation of subdivision 352(3), (4), or (9) of this title pursuant to this subdivision shall be assessed a civil penalty of not more than $500.00. At any time prior to the person admitting the violation and paying the assessed penalty, the state's attorney may withdraw the complaint filed with the ~~judicial bureau~~ Judicial Bureau and file an information charging a violation of subdivision 352(3), (4), or (9) of this title in the ~~criminal division of the superior court~~ Criminal Division of the Superior Court.

(C) Nothing in this subdivision shall be construed to require that a civil citation be issued prior to a criminal charge of violating subdivision 352(3), (4), or (9) of this title.

* * *

Sec. 13. INCIDENT REPORTS OF ANIMAL CRUELTY

(a) The Commissioner of Public Safety, in consultation with the Vermont Center for Justice Research, shall collect data on:

(1) the number and nature of complaints or incident reports to law enforcement based on a suspected violation of 13 V.S.A. chapter 8 (humane and proper treatment of animals); and

(2) how such complaints or incidents are generally addressed, such as referral to others, investigation, civil penalties, or criminal charges.

(b) Based upon examination of the data requested in subsection (a) of this section, the Commissioner shall make recommendations to the Senate and

House Committees on Judiciary on or before November 15, 2013 for improving the statewide response to complaints of animal cruelty.

(c) The Commissioner of Public Safety shall report recommendations to the Senate and House Committees on Judiciary on or before November 15, 2013 for improving the animal cruelty forfeiture proceedings held pursuant to 13 V.S.A. chapter 8.

Sec. 14. 23 V.S.A. § 800 is amended to read:

§ 800. MAINTENANCE OF FINANCIAL RESPONSIBILITY

(a) No owner of a motor vehicle required to be registered, or operator required to be licensed or issued a learner's permit, shall operate or permit the operation of the vehicle upon the highways of the ~~state~~ State without having in effect an automobile liability policy or bond in the amounts of at least $25,000.00 for one person and $50,000.00 for two or more persons killed or injured and $10,000.00 for damages to property in any one accident. In lieu thereof, evidence of self-insurance in the amount of $115,000.00 must be filed with the ~~commissioner of motor vehicles~~ Commissioner of Motor Vehicles, and shall be maintained and evidenced in a form prescribed by the ~~commissioner~~ Commissioner. The ~~commissioner~~ Commissioner may require that evidence of financial responsibility be produced before motor vehicle inspections are performed pursuant to the requirements of section 1222 of this title.

(b) A person who violates this section shall be assessed a civil penalty of ~~not less than $250.00 and~~ not more than $500.00, and such violation shall be a traffic violation within the meaning of chapter 24 of this title.

Sec. 15. REPEAL

4 V.S.A. §§ 652 (records of judgments and other proceedings; dockets; certified copies), 655 (court accounts), 656 (index of records), 658 (Supreme Court records), 695 (accounts of court officer and reporter), 734 (copy of lost petition), 735 (record of proceedings), 736 (lost records or judgment files; recording of copy), 737 (appeal or exception), and 738 (costs for recording); 2009 Acts and Resolves No. 4, Sec. 121 (transitional provisions for merger of Bennington and Manchester probate courts); and 2009 Acts and Resolves No. 4, Sec. 125 (transitional provisions of the consolidated probate court system) are repealed.

Sec. 16. EFFECTIVE DATES

(a) This section and Sec. 2 (registration of child custody determination) of this act shall take effect on passage.

(b) All remaining sections of this act shall take effect on July 1, 2013.

And that after passage the title of the bill be amended to read:

An act relating to court administration and procedure

Thereupon, the question, Shall the Senate concur in the House proposal of amendment to the Senate proposal of amendment?, was decided in the affirmative.

Thereupon, on motion of Senator Baruth, the rules were suspended, and the bill was ordered messaged to the House forthwith.

Recess

On motion of Senator Baruth the Senate recessed until 8:15 P.M.

Evening

The Senate was called to order by the President.

Message from the House No. 78

A message was received from the House of Representatives by Ms. H. Gwynn Zakov, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has considered the report of the Committee of Conference upon the disagreeing votes of the two Houses on Senate bill of the following title:

S. 1. An act relating to consideration of financial cost of criminal sentencing options.

And has adopted the same on its part.

The House has considered the report of the Committee of Conference upon the disagreeing votes of the two Houses on Senate bill of the following title:

S. 20. An act relating to increasing the statute of limitations for certain sex offenses against children.

And has adopted the same on its part.

Message from the House No. 79

A message was received from the House of Representatives by Ms. H. Gwynn Zakov, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has considered Senate proposal of amendment to House proposal of amendment to Senate bill of the following title:

S. 37. An act relating to tax increment financing districts.

And has concurred therein.

Rules Suspended; Report of Committee of Conference Accepted and Adopted on the Part of the Senate; Bill Delivered

S. 1.

Pending entry on the Calendar for notice, on motion of Senator Baruth, the rules were suspended and the report of the Committee of Conference on Senate bill entitled:

An act relating to consideration of financial cost of criminal sentencing options.

Was taken up for immediate consideration.

Senator Sears, for the Committee of Conference, submitted the following report:

To the Senate and House of Representatives:

The Committee of Conference to which were referred the disagreeing votes of the two Houses upon Senate bill entitled:

S. 1. An act relating to consideration of financial cost of criminal sentencing options.

Respectfully reports that it has met and considered the same and recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. CRIMINAL OFFENSE CLASSIFICATION WORKING GROUP

(a) Findings:

(1) Vermont's criminal offense classification structure is minimal. Any offense for which the maximum term of imprisonment is two years or less is a misdemeanor, and any offense punishable by more than two years is a felony. Most offenses have a statutory maximum term of imprisonment and no minimum or recommended average. The sentence for each offense is distinct with regard to both imprisonment and fine amount.

(2) Over time, this structure has resulted in a lack of uniformity among sentences for comparable crimes and too little guidance for the courts with regard to the General Assembly's policy on an appropriate sentence based upon the seriousness of an offense. For instance, the statutory penalty for

embezzlement is imprisonment for not more than 10 years. This penalty applies whether the embezzlement was $5.00 or $5,000,000.00.

(3) In recent years, the General Assembly has undertaken substantial initiatives to provide equal access to justice throughout the State and to employ data-driven policies to reduce recidivism and divert nonviolent offenders from incarceration. A review and subsequent revision of the classification of and penalties for crimes is essential to continue this work and ensure that lawmakers' policy decisions concerning Vermont's approach to criminal justice is applied consistently throughout the State.

(b) Creation of Working Group. There is created a Criminal Offense Classification Working Group for the purpose of developing a criminal offense system that is well-organized and reflective of appropriate grading of liability and punishment and increasing uniformity in application of the law throughout the State.

(c) Membership. The Working Group shall be composed of five members as follows:

(1) the Attorney General or designee;

(2) the Executive Director of the Department of State's Attorneys and Sheriffs or designee;

(3) the Defender General or designee;

(4) a criminal defense attorney appointed by the Defender General; and

(5) a retired trial court judge who shall be appointed by the Administrative Judge.

(d) Powers and duties.

(1) The Working Group shall:

(A) collect the statutory sentencing ranges for all criminal offenses under Vermont law;

(B) examine the sentencing structure of the model penal code, criminal codes in other jurisdictions, and earlier attempts by the General Assembly to revise the criminal code;

(C)(i) develop recommendations for creating a classification of offenses for Vermont that includes consistent sentences that should be no more severe than necessary to achieve the societal purpose or purposes for which they are authorized; and

(ii) develop a sentencing range consistent with the gravity of the offense, the culpability of the offender, the offender's criminal history, and the

personal characteristics of an individual offender that may be taken into account.

(2) The Vermont Center for Justice Research shall staff the Working Group.

(3) In its work, the Working Group shall consult with the Office of Legislative Council.

(e) Report. By November 1, 2014, the Working Group shall report to the Senate and House Committees on Judiciary its proposal for classifying offenses and penalties.

(f) Appropriation. The sum of $6,500.00 is appropriated to the Joint Fiscal Committee from the General Fund in fiscal year 2014 for a contract with the Vermont Center for Justice Research for providing data and staffing necessary for the Working Group's charge.

Sec. 2. 13 V.S.A. § 2531 is amended to read:

§ 2531. EMBEZZLEMENT GENERALLY

(a) An officer, agent, bailee for hire, clerk or servant of a banking association or an incorporated company, or a clerk, agent, bailee for hire, officer or servant of a private person, partnership, tradesunion, joint stock company, unincorporated association, fraternal or benevolent association, except apprentices and other persons under the age of 16 years, who embezzles or fraudulently converts to his or her own use, or takes or secretes with intent to embezzle or fraudulently convert to his or her own use, money or other property which comes into his or her possession or is under his or her care by virtue of such employment, notwithstanding he or she may have an interest in such money or property, shall be guilty of embezzlement ~~and shall be imprisoned not more than 10 years or fined not more than $500.00, or both~~.

(b) If the money or property embezzled does not exceed $100.00 in value, the person shall be imprisoned not more than one year or fined not more than $1,000.00, or both. If the money or property embezzled exceeds $100.00 in value, the person shall be imprisoned not more than 10 years or fined not more than $10,000.00, or both.

Sec. 3. CRIMINAL JUSTICE CONSENSUS COST-BENEFIT WORKING GROUP

(a)(1) A Criminal Justice Consensus Cost-Benefit Working Group is established to develop a criminal and juvenile justice cost-benefit model for Vermont for the purpose of providing policymakers with the information necessary to weigh the pros and cons of various strategies and programs, and enable them to identify options that are not only cost-effective, but also have

the greatest net social benefit. The model will be used to estimate the costs related to the arrest, prosecution, defense, adjudication, and correction of criminal and juvenile defendants, and victimization of citizens by defendants.

(2) The Working Group shall:

(A) develop estimates of costs associated with the arrest, prosecution, defense, adjudication, and correction of criminal and juvenile defendants in Vermont by using the cost-benefit methodology developed by the Washington State Institute for Public Policy and currently used collaboratively by the Joint Fiscal Office and the PEW Charitable Trust for the Vermont Results First Project;

(B) estimate costs incurred by citizens who are the victims of crime by using data from the Vermont Center for Crime Victim Services, supplemented where necessary with national survey data;

(C) assess the quality of justice data collection systems and make recommendations for improved data integration, data capture, and data quality as appropriate;

(D) develop a throughput model of the Vermont criminal and juvenile justice systems which will serve as the basic matrix for calculating the cost and benefit of Vermont justice system programs and policies;

(E) investigate the need for and the most appropriate entity within state government to be responsible for:

(i) revising the statewide cost benefit model in light of legislative or policy changes, or both, in the criminal or juvenile justice systems;

(ii) updating cost estimates; and

(iii) updating throughput data for the model.

(3) The Working Group shall be convened and staffed by the Vermont Center for Justice Research.

(4) The costs associated with staffing the Working Group shall be underwritten through December 31, 2013 by funding previously obtained by the Vermont Center for Justice Research from the Bureau of Justice Statistics, U.S. Department of Justice.

(b) The Working Group shall be composed of the following members:

(1) the Administrative Judge or designee;

(2) the Chief Legislative Fiscal Officer or designee;

(3) the Attorney General or designee;

(4) the Commissioner of Corrections or designee;

(5) the Commissioner for Children and Families or designee;

(6) the Executive Director of State's Attorneys and Sheriffs or designee;

(7) the Defender General or designee;

(8) the Commissioner of Public Safety or designee;

(9) the Director of the Vermont Center for Crime Victim Services or designee;

(10) the President of the Chiefs of Police Association of Vermont or designee;

(11) the President of the Vermont Sheriffs' Association or designee; and

(12) the Director of the Vermont Center for Justice Research.

(c) On or before November 15, 2013, the Working Group shall report its preliminary findings to the Senate Committee on Judiciary, the House Committee on Judiciary, and the House Committee on Corrections and Institutions. The Working Group shall issue a final report to the General Assembly on or before January 1, 2014.

Sec. 4. ADMINISTRATIVE HEARING OFFICERS STUDY COMMITTEE

(a) Creation. There is created an Administrative Hearing Officers Study Committee to report on the duties, powers, current practices, sources of authority, and qualifications of administrative hearing officers used in Vermont government.

(b) Membership. The Committee shall be composed of the following members:

(1) the Chair of the House Committee on Judiciary or designee;

(2) the Chair of the Senate Committee on Judiciary or designee;

(3) the Chair of the House Committee on Government Operations or designee;

(4) the Chair of the Senate Committee on Government Operations or designee.

(5) one member of the Senate Committee on Judiciary appointed by the Committee on Committees; and

(6) one member of the House Committee on Judiciary appointed by the Speaker of the House.

(c) Duties. The Committee shall examine the manner and context in which administrative hearing officers are used by the State. The Committee shall consider the duties, powers, and minimum qualifications for each administrative hearing officer, including those authorized by statute, agency rule, or any other means.

(d) Number of meetings; staffing. The Committee shall meet no more than four times and shall have the assistance of all relevant state agencies, the Office of the Legislative Council, and the Joint Fiscal Office.

(e) Report. The Committee shall report its recommendations and any proposals for legislative action to the House and Senate Committees on Judiciary and on Government Operations on or before December 15, 2013, on which date it shall cease to exist.

(f) Reimbursement. For attendance at meetings during adjournment of the General Assembly, members of the Committee shall be entitled to compensation and reimbursement for expenses as provided in 2 V.S.A. § 406.

Sec. 5. EFFECTIVE DATE

This act shall take effect on passage.

And that after passage the title of the bill be amended to read:

An act relating to studies on classification of criminal offenses, development of a cost-benefit model for assessing criminal and juvenile justice programs, and the role of administrative hearing officers.

TIMOTHY R. ASHE
RICHARD W. SEARS
JOSEPH C. BENNING

Committee on the part of the Senate

WILLIAM J. LIPPERT
MAXINE JO GRAD
THOMAS F. KOCH

Committee on the part of the House

Thereupon, the question, Shall the Senate accept and adopt the report of the Committee of Conference?, was decided in the affirmative.

Thereupon, on motion of Senator Baruth, the rules were suspended and the bill was ordered delivered to the Governor forthwith.

Rules Suspended; Report of Committee of Conference Accepted and Adopted on the Part of the Senate; Bill Delivered

S. 20.

Pending entry on the Calendar for notice, on motion of Senator Baruth, the rules were suspended and the report of the Committee of Conference on Senate bill entitled:

An act relating to increasing the statute of limitations for certain sex offenses against children.

Was taken up for immediate consideration.

Senator Nitka, for the Committee of Conference, submitted the following report:

To the Senate and House of Representatives:

The Committee of Conference to which were referred the disagreeing votes of the two Houses upon Senate bill entitled:

S. 20. An act relating to increasing the statute of limitations for certain sex offenses against children.

Respectfully reports that it has met and considered the same and recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 13 V.S.A. § 4501 is amended to read:

§ 4501. LIMITATION OF PROSECUTIONS FOR CERTAIN CRIMES

(a) Prosecutions for aggravated sexual assault, aggravated sexual assault of a child, human trafficking, aggravated human trafficking, murder, arson causing death, and kidnapping may be commenced at any time after the commission of the offense.

(b) Prosecutions for manslaughter, sexual assault, lewd and lascivious conduct, sexual exploitation of children under chapter 64 of this title, sexual abuse of a vulnerable adult, grand larceny, robbery, burglary, embezzlement, forgery, bribery offenses, false claims, fraud under 33 V.S.A. § 141(d), and felony tax offenses shall be commenced within six years after the commission of the offense, and not after.

(c) Prosecutions for any of the following offenses alleged to have been committed against a child under 18 years of age shall be commenced within 40 years after the commission of the offense, and not after:

(1) sexual assault~~,~~;

(2) lewd and lascivious conduct~~,~~;

(3) sexual exploitation of a minor as defined in subsection ~~3258(b)~~ 3258(c) of this title~~,~~; and

(4) lewd or lascivious conduct with a child~~, alleged to have been committed against a child under 18 years of age shall be commenced within the earlier of the date the victim attains the age of 24 or 10 years from the date the offense is reported, and not after. For purposes of this subsection, an offense is reported when a report of the conduct constituting the offense is made to a law enforcement officer by the victim~~.

(d) Prosecutions for arson shall be commenced within 11 years after the commission of the offense, and not after.

(e) Prosecutions for other felonies and for misdemeanors shall be commenced within three years after the commission of the offense, and not after.

Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.

ALICE W. NITKA
JOSEPH C. BENNING
RICHARD W. SEARS

Committee on the part of the Senate

MAXINE JO GRAD
SUSAN L. WIZOWATY
LINDA J. WAITE-SIMPSON

Committee on the part of the House

Thereupon, the question, Shall the Senate accept and adopt the report of the Committee of Conference?, was decided in the affirmative.

Thereupon, on motion of Senator Baruth, the rules were suspended and the bill was ordered delivered to the Governor forthwith.

Joint Senate Resolution Adopted on the Part of the Senate; Rules Suspended; Resolution Messaged

Joint Senate resolution of the following title was offered, read and adopted on the part of the Senate, and is as follows:

By Senator Campbell,

J.R.S. 32. Joint resolution relating to final adjournment of the General Assembly in 2013.

Resolved by the Senate and House of Representatives

That when the President of the Senate and the Speaker of the House of Representatives adjourn their respective houses on the fourteenth or fifteenth day of May, 2013, they shall do so to reconvene on the twenty-first day of June, 2013, at ten o'clock in the forenoon if the Governor should fail to approve and sign any bill and should he return it to the house of origin with his objections in writing after such adjournment, or to reconvene on the seventh day of January, 2014, at ten o'clock in the forenoon, if the Governor should *not* so return any bill to either house.

Thereupon, on motion of Senator Campbell, the rules were suspended, and the joint resolution was ordered messaged to the House forthwith.

Rules Suspended; Bill Delivered

On motion of Senator Baruth, the rules were suspended, and the following bill was ordered delivered to the Governor forthwith:

S. 37.

Rules Suspended; Proposal of Amendment; Third Reading Ordered; Rules Suspended; Bill Passed in Concurrence with Proposal of Amendment; Bill Messaged

H. 538.

Pending entry on the Calendar for notice, on motion of Senator Campbell, the rules were suspended and House bill entitled:

An act relating to making miscellaneous amendments to education funding laws.

Was taken up for immediate consideration.

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 by striking out all after the enacting clause and inserting in lieu thereof the following:

* * * Excess Spending (Sec. 1 applies to budgets in fiscal years 2015 and 2016; Sec. 2 applies in fiscal year 2017 and after) * * *

Sec. 1. 32 V.S.A. § 5401(12) is amended to read:

(12) "Excess spending" means:

(A) the per-equalized-pupil amount of the district's education spending, as defined in 16 V.S.A. § 4001(6), plus any amount required to be added from a capital construction reserve fund under 24 V.S.A. § 2804(b);

(B) in excess of ~~125~~ 123 percent of the statewide average district education spending per equalized pupil in the prior fiscal year, as determined by the ~~commissioner of education~~ Secretary of Education on or before November 15 of each year based on the passed budgets to date.

Sec. 2. 32 V.S.A. § 5401(12) is amended to read:

(12) "Excess spending" means:

(A) the per-equalized-pupil amount of the district's education spending, as defined in 16 V.S.A. § 4001(6), plus any amount required to be added from a capital construction reserve fund under 24 V.S.A. § 2804(b);

(B) in excess of ~~123~~ 121 percent of the statewide average district education spending per equalized pupil in the prior fiscal year, as determined by the Secretary of Education on or before November 15 of each year based on the passed budgets to date.

* * * Tuition Overcharges and Undercharges * * *

Sec. 3. 16 V.S.A. § 836 is amended to read:

§ 836. TUITION OVERCHARGE OR UNDERCHARGE

(a) Annually, on or before November 1, the ~~commissioner~~ Secretary shall inform each ~~school board of a receiving public school, each board of trustees of a receiving approved independent school for which the commissioner has calculated a net cost per pupil,~~ receiving school district and each sending school district in Vermont of the calculated net cost per elementary or secondary pupil in the receiving schools. Each ~~school board or board of trustees of a receiving school~~ receiving district shall then determine whether it overcharged or undercharged any sending district for tuition charges and shall notify the district by December 15 of the same year of the amount due or the amount to be refunded or credited.

(b) If the sending district has paid tuition charges in excess of three percent of the calculated net cost per elementary or secondary pupil and is not sending enough students to the receiving ~~school~~ district to use the overcharge funds as credit against tuition, the ~~school board or board of trustees of the receiving school~~ receiving district shall refund the overcharge money by July 31~~. However, interest~~; provided, however, that the refund shall be in the amount that exceeded a three percent overcharge. Interest owed the sending district on overcharge monies shall begin to accrue on December 1, at the rate of one-half percent per month.

(c) If the receiving district has undercharged tuition in an amount three percent or more than the calculated net cost per elementary or secondary pupil, the ~~school board or the board of trustees of the sending school~~ sending district

shall pay the ~~amount of the undercharge~~ receiving district an amount equal to the amount of the undercharge that is between three percent and ten percent of the net cost per pupil. If payment is not made by July 31 of the year following the year in which the undercharge was determined, interest owed the ~~sending~~ receiving district on ~~overcharge moneys~~ undercharge monies shall begin to accrue on August 1, at the rate of one percent per month.

* * * Renters; Study * * *

Sec. 4. RENTERS; STUDY

The Joint Fiscal Office shall report to the General Assembly on how the State can provide assistance to renters. The report shall review issues with the current renter rebate program and examine other ways to provide assistance to renters with high rents and low incomes. The report shall be due on or before January 15, 2014 and shall include specific findings and recommendations. The Joint Fiscal Office shall have the assistance of the Department of Taxes and the Office of Legislative Council.

* * * Student-to-Staff Ratios * * *

Sec. 5. STUDENT-TO-STAFF RATIOS

(a) The Secretary of Education shall collect data necessary to inform development of a comprehensive plan to establish minimum student-to-staff ratios, student-to-administrator ratios, student-to-classroom teacher ratios, and student-to-teacher ratios in public elementary and secondary schools and supervisory unions in a manner that promotes educational opportunities and outcomes for students in Vermont.

(b) As used in this section:

(1) "Teacher" includes any person licensed to be employable as a teacher who is employed as a teacher and is providing direct instruction to students in one or more elementary or secondary grades.

(2) "Administrator" includes any person employed as a superintendent, assistant superintendent, principal, assistant principal, special education director, essential early education director, or Title I coordinator.

(3) "Staff" includes all paid personnel employed by a school district or supervisory union, but shall exclude:

(A) central services business office personnel;

(B) operations and maintenance personnel;

(C) transportation personnel;

(D) food service personnel; and

(E) enterprise or community service operations personnel.

(c) At a minimum, the Secretary's data shall be sufficient to inform development of a comprehensive plan that might include:

(1) mandatory minimum ratios at the district or the school level, which may include variations by grade, school size, and other factors such as the unique needs of students from economically deprived backgrounds and students who are English language learners;

(2) mandatory minimum ratios at the supervisory union level;

(3) incentives for compliance; and

(4) implementation dates that would require mandatory staffing ratios beginning in school year 2015–2016 with tax penalties for noncompliance beginning in school year 2016–2017.

(d) On or before January 15, 2014, the Secretary shall present the data to the House and Senate Committees on Appropriations and on Education, the House Committee on Ways and Means, and the Senate Committee on Finance.

* * * Effective Dates * * *

Sec. 6. EFFECTIVE DATES

(a) Sec. 1 (excess spending; 123 percent) of this act shall take effect on July 1, 2014 and shall apply to education budgets for fiscal years 2015 and 2016.

(b) Sec. 2 (excess spending; 121 percent) of this act shall take effect on July 1, 2016 and shall apply to education budgets for fiscal year 2017 and after.

(c) Sec. 3 (tuition overcharges and undercharges) of this act shall take effect on July 1, 2013 and shall apply to tuition charged for the 2013–2014 academic year and after.

(d) This section and Secs. 4 (renter study) and 5 (student-to-staff ratio data) of this act shall take effect on passage.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, the recommendation of amendment was agreed to, and third reading of the bill was ordered on a roll call, Yeas 29, Nays 0.

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, Ayer, Baruth, Benning, Bray, Campbell, Collins, Cummings, Doyle, Flory, Fox, Galbraith, Hartwell, Kitchel, Lyons, MacDonald, Mazza, McAllister, McCormack, Mullin, Nitka, Pollina, Rodgers, Sears, Snelling, Starr, Westman, White, Zuckerman.

Those Senators who voted in the negative were: None.

The Senator absent and not voting was: French.

Thereupon, on motion of Senator Campbell, the rules were suspended and the bill was placed on all remaining stages of its passage in concurrence with proposal of amendment.

Thereupon, the bill was read the third time and passed in concurrence with proposal of amendment.

Thereupon, on motion of Senator Campbell, the rules were suspended, and the bill was ordered messaged to the House forthwith.

Rules Suspended; Report of Committee of Conference Accepted and Adopted on the Part of the Senate; Bill Messaged

H. 530.

Appearing on the Calendar for notice, on motion of Senator Campbell, the rules were suspended and the report of the Committee of Conference on House bill entitled:

An act relating to making appropriations for the support of government.

Was taken up for immediate consideration.

Senator Kitchel, for the Committee of Conference, submitted the following report:

To the Senate and House of Representatives:

The Committee of Conference to which were referred the disagreeing votes of the two Houses upon House bill entitled:

H. 530. An act relating to making appropriations for the support of government.

Respectfully reports that it has met and considered the same and recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. A.100 SHORT TITLE

(a) This bill may be referred to as the BIG BILL – Fiscal Year 2014 Appropriations Act.

Sec. A.101 PURPOSE

(a) The purpose of this act is to provide appropriations for the operations of state government during fiscal year 2014. It is the express intent of the General Assembly that activities of the various agencies, departments, divisions, boards, and commissions be limited to those which can be supported by funds appropriated in this act or other acts passed prior to June 30, 2013. Agency and department heads are directed to implement staffing and service levels at the beginning of fiscal year 2014 so as to meet this condition unless otherwise directed by specific language in this act or other acts of the General Assembly.

Sec. A.102 APPROPRIATIONS

(a) It is the intent of the General Assembly that this act serve as the primary source and reference for appropriations for fiscal year 2014.

(b) The sums herein stated are appropriated for the purposes specified in the following sections of this act. When no time is expressly stated during which any of the appropriations are to continue, the appropriations are single-year appropriations and only for the purpose indicated and shall be paid from funds shown as the source of funds. If in this act there is an error in either addition or subtraction, the totals shall be adjusted accordingly. Apparent errors in referring to section numbers of statutory titles within this act may be disregarded by the Commissioner of Finance and Management.

(c) Unless codified or otherwise specified, all narrative portions of this act apply only to the fiscal year ending June 30, 2014.

Sec. A.103 DEFINITIONS

(a) For the purposes of this act:

(1) "Encumbrances" means a portion of an appropriation reserved for the subsequent payment of existing purchase orders or contracts. The Commissioner of Finance and Management shall make final decisions on the appropriateness of encumbrances.

(2) "Grants" means subsidies, aid, or payments to local governments, to community and quasi-public agencies for providing local services, and to persons who are not wards of the State for services or supplies and means cash or other direct assistance, including pension contributions.

(3) "Operating expenses" means property management, repair and maintenance, rental expenses, insurance, postage, travel, energy and utilities, office and other supplies, equipment, including motor vehicles, highway materials, and construction, expenditures for the purchase of land, and construction of new buildings and permanent improvements, and similar items.

(4) "Personal services" means wages and salaries, fringe benefits, per diems, and contracted third party services, and similar items.

Sec. A.104 RELATIONSHIP TO EXISTING LAWS

(a) Except as specifically provided, this act shall not be construed in any way to negate or impair the full force and effect of existing laws.

Sec. A.105 OFFSETTING APPROPRIATIONS

(a) In the absence of specific provisions to the contrary in this act, when total appropriations are offset by estimated receipts, the state appropriations shall control, notwithstanding receipts being greater or less than anticipated.

Sec. A.106 FEDERAL FUNDS

(a) In fiscal year 2014, the Governor, with the approval of the Legislature or the Joint Fiscal Committee if the Legislature is not in session, may accept federal funds available to the State of Vermont, including block grants in lieu of or in addition to funds herein designated as federal. The Governor, with the approval of the Legislature or the Joint Fiscal Committee if the Legislature is not in session, may allocate all or any portion of such federal funds for any purpose consistent with the purposes for which the basic appropriations in this act have been made.

(b) If, during fiscal year 2014, federal funds available to the State of Vermont and designated as federal in this and other acts of the 2013 session of the Vermont General Assembly are converted into block grants or are abolished under their current title in federal law and reestablished under a new title in federal law, the Governor may continue to accept such federal funds for any purpose consistent with the purposes for which the federal funds were appropriated. The Governor may spend such funds for such purposes for no more than 45 days prior to legislative or Joint Fiscal Committee approval. Notice shall be given to the Joint Fiscal Committee without delay if the Governor intends to use the authority granted by this section, and the Joint Fiscal Committee shall meet in an expedited manner to review the Governor's request for approval.

Sec. A.107 NEW POSITIONS

(a) Notwithstanding any other provision of law, the total number of authorized state positions, both classified and exempt, excluding temporary

positions as defined in 3 V.S.A. § 311(11), shall not be increased during fiscal year 2014 except for new positions authorized by the 2013 session. Limited service positions approved pursuant to 32 V.S.A. § 5 shall not be subject to this restriction.

Sec. A.108 LEGEND

(a) The bill is organized by functions of government. The sections between B.100 and B.9999 contain appropriation of funds for the upcoming budget year. The sections between E.100 and E.9999 contain language that relates to specific appropriations or government functions, or both. The function areas by section numbers are as follows:

B.100–B.199 and E.100–E.199	General Government
B.200–B.299 and E.200–E.299	Protection to Persons and Property
B.300–B.399 and E.300–E.399	Human Services
B.400–B.499 and E.400–E.499	Labor
B.500–B.599 and E.500–E.599	General Education
B.600–B.699 and E.600–E.699	Higher Education
B.700–B.799 and E.700–E.799	Natural Resources
B.800–B.899 and E.800–E.899	Commerce and Community Development
B.900–B.999 and E.900–E.999	Transportation
B.1000–B.1099 and E.1000–E.1099	Debt Service
B.1100–B.1199 and E.1100–E.1199	One-time and other appropriation actions

(b) The C sections contain any amendments to the current fiscal year and the D sections contain fund transfers and reserve allocations for the upcoming budget year.

Sec. B.100 Secretary of administration - secretary's office

Personal services	844,340
Operating expenses	129,219
Total	973,559
Source of funds	
General fund	746,543
Interdepartmental transfers	227,016
Total	973,559

Sec. B.101 Secretary of administration - finance

Personal services	1,214,086
Operating expenses	174,974
Total	1,389,060
Source of funds	
Interdepartmental transfers	1,389,060
Total	1,389,060

Sec. B.102 Secretary of administration - workers' compensation insurance

Personal services	1,362,068
Operating expenses	339,297
Total	1,701,365
Source of funds	
Internal service funds	1,701,365
Total	1,701,365

Sec. B.103 Secretary of administration - general liability insurance

Personal services	282,457
Operating expenses	63,401
Total	345,858
Source of funds	
Internal service funds	345,858
Total	345,858

Sec. B.104 Secretary of administration - all other insurance

Personal services	24,398
Operating expenses	22,065
Total	46,463
Source of funds	
Internal service funds	46,463
Total	46,463

Sec. B.105 Information and innovation - communications and information technology

Personal services	10,850,041
Operating expenses	9,583,673
Grants	735,000
Total	21,168,714
Source of funds	
Internal service funds	21,168,714
Total	21,168,714

Sec. B.106 Finance and management - budget and management

Personal services	1,101,626
Operating expenses	241,073
Total	1,342,699
Source of funds	
General fund	1,099,521
Interdepartmental transfers	243,178
Total	1,342,699

Sec. B.107 Finance and management - financial operations

Personal services	2,878,757
Operating expenses	327,711
Total	3,206,468
Source of funds	
Internal service funds	3,206,468
Total	3,206,468

Sec. B.108 Human resources - operations

Personal services	6,837,121
Operating expenses	949,416
Total	7,786,537
Source of funds	
General fund	1,721,503
Special funds	244,912
Internal service funds	5,150,473
Interdepartmental transfers	669,649
Total	7,786,537

Sec. B.109 Human resources - employee benefits & wellness

Personal services	1,080,565
Operating expenses	818,530
Total	1,899,095
Source of funds	
Internal service funds	1,884,796
Interdepartmental transfers	14,299
Total	1,899,095

Sec. B.110 Libraries

Personal services	2,094,320
Operating expenses	1,670,470
Grants	67,163
Total	3,831,953

Source of funds	
General fund	2,644,496
Special funds	127,019
Federal funds	963,293
Interdepartmental transfers	97,145
Total	3,831,953

Sec. B.111 Tax - administration/collection

Personal services	13,452,030
Operating expenses	3,606,359
Total	17,058,389
Source of funds	
General fund	15,513,545
Special funds	1,299,400
Interdepartmental transfers	245,444
Total	17,058,389

Sec. B.112 Buildings and general services - administration

Personal services	718,740
Operating expenses	61,999
Total	780,739
Source of funds	
Interdepartmental transfers	780,739
Total	780,739

Sec. B.113 Buildings and general services - engineering

Personal services	2,507,282
Operating expenses	474,850
Total	2,982,132
Source of funds	
Interdepartmental transfers	2,982,132
Total	2,982,132

Sec. B.114 Buildings and general services - information centers

Personal services	3,254,150
Operating expenses	1,399,962
Grants	33,000
Total	4,687,112
Source of funds	
General fund	678,129
Transportation fund	3,930,356
Special funds	78,627
Total	4,687,112

Sec. B.115 Buildings and general services - purchasing

Personal services	990,356
Operating expenses	190,439
Total	1,180,795
Source of funds	
General fund	1,180,795
Total	1,180,795

Sec. B.116 Buildings and general services - postal services

Personal services	640,226
Operating expenses	133,400
Total	773,626
Source of funds	
General fund	79,157
Internal service funds	694,469
Total	773,626

Sec. B.117 Buildings and general services - copy center

Personal services	719,383
Operating expenses	153,027
Total	872,410
Source of funds	
Internal service funds	872,410
Total	872,410

Sec. B.118 Buildings and general services - fleet management services

Personal services	598,336
Operating expenses	164,579
Total	762,915
Source of funds	
Internal service funds	762,915
Total	762,915

Sec. B.119 Buildings and general services - federal surplus property

Personal services	31,036
Operating expenses	13,891
Total	44,927
Source of funds	
Enterprise funds	44,927
Total	44,927

Sec. B.120 Buildings and general services - state surplus property

Personal services	143,737
Operating expenses	107,035
Total	250,772
Source of funds	
Internal service funds	250,772
Total	250,772

Sec. B.121 Buildings and general services - property management

Personal services	1,306,056
Operating expenses	1,191,640
Total	2,497,696
Source of funds	
Internal service funds	2,497,696
Total	2,497,696

Sec. B.122 Buildings and general services - fee for space

Personal services	12,619,641
Operating expenses	14,837,602
Total	27,457,243
Source of funds	
Internal service funds	27,457,243
Total	27,457,243

Sec. B.123 Geographic information system

Grants	378,700
Total	378,700
Source of funds	
Special funds	378,700
Total	378,700

Sec. B.124 Executive office - governor's office

Personal services	1,200,333
Operating expenses	437,916
Total	1,638,249
Source of funds	
General fund	1,451,749
Interdepartmental transfers	186,500
Total	1,638,249

Sec. B.125 Legislative council	
Personal services	3,042,428
Operating expenses	724,016
Total	3,766,444
Source of funds	
General fund	3,766,444
Total	3,766,444
Sec. B.126 Legislature	
Personal services	3,467,973
Operating expenses	3,412,007
Total	6,879,980
Source of funds	
General fund	6,879,980
Total	6,879,980
Sec. B.127 Joint fiscal committee	
Personal services	1,314,830
Operating expenses	125,858
Total	1,440,688
Source of funds	
General fund	1,440,688
Total	1,440,688
Sec. B.128 Sergeant at arms	
Personal services	514,458
Operating expenses	70,127
Total	584,585
Source of funds	
General fund	584,585
Total	584,585
Sec. B.129 Lieutenant governor	
Personal services	146,082
Operating expenses	28,963
Total	175,045
Source of funds	
General fund	175,045
Total	175,045

Sec. B.130 Auditor of accounts

Personal services	3,378,241
Operating expenses	155,467
Total	3,533,708
Source of funds	
General fund	396,784
Special funds	53,145
Internal service funds	3,083,779
Total	3,533,708

Sec. B.131 State treasurer

Personal services	2,907,173
Operating expenses	297,164
Total	3,204,337
Source of funds	
General fund	976,216
Special funds	2,123,541
Interdepartmental transfers	104,580
Total	3,204,337

Sec. B.132 State treasurer - unclaimed property

Personal services	886,715
Operating expenses	251,413
Total	1,138,128
Source of funds	
Private purpose trust funds	1,138,128
Total	1,138,128

Sec. B.133 Vermont state retirement system

Personal services	6,588,449
Operating expenses	30,370,108
Total	36,958,557
Source of funds	
Pension trust funds	36,958,557
Total	36,958,557

Sec. B.134 Municipal employees' retirement system

Personal services	2,163,385
Operating expenses	537,207
Total	2,700,592

Source of funds	
Pension trust funds	2,700,592
Total	2,700,592

Sec. B.135 State labor relations board

Personal services	181,889
Operating expenses	43,272
Total	225,161
Source of funds	
General fund	206,051
Special funds	6,788
Interdepartmental transfers	12,322
Total	225,161

Sec. B.136 VOSHA review board

Personal services	25,288
Operating expenses	20,026
Total	45,314
Source of funds	
General fund	22,657
Interdepartmental transfers	22,657
Total	45,314

Sec. B.137 Homeowner rebate

Grants	13,967,000
Total	13,967,000
Source of funds	
General fund	13,967,000
Total	13,967,000

Sec. B.138 Renter rebate

Grants	8,838,400
Total	8,838,400
Source of funds	
General fund	2,651,500
Education fund	6,186,900
Total	8,838,400

Sec. B.139 Tax department - reappraisal and listing payments

Grants	3,293,196
Total	3,293,196
Source of funds	

Education fund	3,293,196
Total	3,293,196

Sec. B.140 Municipal current use

Grants	13,475,000
Total	13,475,000
Source of funds	
General fund	13,475,000
Total	13,475,000

Sec. B.141 Lottery commission

Personal services	1,757,229
Operating expenses	1,280,936
Grants	150,000
Total	3,188,165
Source of funds	
Enterprise funds	3,188,165
Total	3,188,165

Sec. B.142 Payments in lieu of taxes

Grants	5,800,000
Total	5,800,000
Source of funds	
Special funds	5,800,000
Total	5,800,000

Sec. B.143 Payments in lieu of taxes - Montpelier

Grants	184,000
Total	184,000
Source of funds	
Special funds	184,000
Total	184,000

Sec. B.144 Payments in lieu of taxes - correctional facilities

Grants	40,000
Total	40,000
Source of funds	
Special funds	40,000
Total	40,000

Sec. B.145 Total general government

Source of funds	
General fund	69,657,388

Transportation fund	3,930,356
Special funds	10,336,132
Education fund	9,480,096
Federal funds	963,293
Internal service funds	69,123,421
Interdepartmental transfers	6,974,721
Enterprise funds	3,233,092
Pension trust funds	39,659,149
Private purpose trust funds	1,138,128
Total	214,495,776

Sec. B.200 Attorney general

Personal services	7,633,012
Operating expenses	1,084,151
Total	8,717,163
Source of funds	
General fund	4,269,409
Special funds	1,253,751
Tobacco fund	348,000
Federal funds	798,366
Interdepartmental transfers	2,047,637
Total	8,717,163

Sec. B.201 Vermont court diversion

Grants	1,916,483
Total	1,916,483
Source of funds	
General fund	1,396,486
Special funds	519,997
Total	1,916,483

Sec. B.202 Defender general - public defense

Personal services	8,930,535
Operating expenses	947,591
Total	9,878,126
Source of funds	
General fund	9,364,838
Special funds	513,288
Total	9,878,126

Sec. B.203 Defender general - assigned counsel

Personal services	3,945,930
Operating expenses	49,819

Total	3,995,749
Source of funds	
General fund	3,870,485
Special funds	125,264
Total	3,995,749

Sec. B.204 Judiciary

Personal services	32,218,222
Operating expenses	8,707,574
Grants	70,000
Total	40,995,796
Source of funds	
General fund	35,067,633
Special funds	3,235,319
Tobacco fund	39,871
Federal funds	714,176
Interdepartmental transfers	1,938,797
Total	40,995,796

Sec. B.205 State's attorneys

Personal services	9,856,733
Operating expenses	1,539,920
Total	11,396,653
Source of funds	
General fund	8,990,262
Special funds	9,982
Federal funds	31,000
Interdepartmental transfers	2,365,409
Total	11,396,653

Sec. B.206 Special investigative unit

Personal services	99,676
Operating expenses	162
Grants	1,420,000
Total	1,519,838
Source of funds	
General fund	1,519,838
Total	1,519,838

Sec. B.207 Sheriffs

Personal services	3,493,064
Operating expenses	335,464
Total	3,828,528

Source of funds	
General fund	3,828,528
Total	3,828,528

Sec. B.208 Public safety - administration

Personal services	2,098,413
Operating expenses	1,584,079
Total	3,682,492
Source of funds	
General fund	2,773,807
Federal funds	908,685
Total	3,682,492

Sec. B.209 Public safety - state police

Personal services	48,640,226
Operating expenses	7,532,421
Grants	7,645,120
Total	63,817,767
Source of funds	
General fund	24,925,517
Transportation fund	25,238,498
Special funds	2,536,320
Federal funds	10,057,432
Interdepartmental transfers	1,060,000
Total	63,817,767

Sec. B.210 Public safety - criminal justice services

Personal services	7,158,220
Operating expenses	2,410,980
Total	9,569,200
Source of funds	
General fund	7,026,613
Special funds	1,684,945
Federal funds	525,967
ARRA funds	331,675
Total	9,569,200

Sec. B.211 Public safety - emergency management

Personal services	2,064,284
Operating expenses	547,084
Grants	13,137,210
Total	15,748,578
Source of funds	

General fund	719,580
Federal funds	15,028,998
Total	15,748,578

Sec. B.212 Public safety - fire safety

Personal services	5,368,821
Operating expenses	1,548,070
Grants	157,000
Total	7,073,891
Source of funds	
General fund	646,809
Special funds	5,981,178
Federal funds	400,904
Interdepartmental transfers	45,000
Total	7,073,891

Sec. B.213 Public safety - homeland security

Personal services	5,100,032
Operating expenses	265,297
Grants	3,997,535
Total	9,362,864
Source of funds	
General fund	169,950
Federal funds	9,192,914
Total	9,362,864

Sec. B.214 Radiological emergency response plan

Personal services	685,174
Operating expenses	331,379
Grants	1,618,062
Total	2,634,615
Source of funds	
Special funds	2,634,615
Total	2,634,615

Sec. B.215 Military - administration

Personal services	493,465
Operating expenses	392,436
Grants	100,000
Total	985,901
Source of funds	
General fund	985,901
Total	985,901

Sec. B.216 Military - air service contract

Personal services	5,119,918
Operating expenses	1,118,130
Total	6,238,048
Source of funds	
General fund	471,703
Federal funds	5,766,345
Total	6,238,048

Sec. B.217 Military - army service contract

Personal services	3,905,112
Operating expenses	9,138,297
Total	13,043,409
Source of funds	
General fund	125,876
Federal funds	12,917,533
Total	13,043,409

Sec. B.218 Military - building maintenance

Personal services	986,686
Operating expenses	464,967
Total	1,451,653
Source of funds	
General fund	1,402,437
Federal funds	49,216
Total	1,451,653

Sec. B.219 Military - veterans' affairs

Personal services	524,453
Operating expenses	115,841
Grants	223,984
Total	864,278
Source of funds	
General fund	735,457
Special funds	65,000
Federal funds	63,821
Total	864,278

Sec. B.220 Center for crime victims' services

Personal services	1,662,830
Operating expenses	297,792
Grants	8,987,173

Total	10,947,795
Source of funds	
General fund	1,164,554
Special funds	6,284,237
Federal funds	3,499,004
Total	10,947,795

Sec. B.221 Criminal justice training council

Personal services	1,345,876
Operating expenses	1,296,267
Total	2,642,143
Source of funds	
General fund	2,347,571
Interdepartmental transfers	294,572
Total	2,642,143

Sec. B.222 Agriculture, food and markets - administration

Personal services	1,281,364
Operating expenses	614,401
Grants	344,410
Total	2,240,175
Source of funds	
General fund	1,126,129
Special funds	963,797
Federal funds	150,249
Total	2,240,175

Sec. B.223 Agriculture, food and markets - food safety and consumer protection

Personal services	2,942,103
Operating expenses	664,900
Grants	2,400,000
Total	6,007,003
Source of funds	
General fund	2,142,097
Special funds	3,142,064
Federal funds	682,544
Global Commitment fund	34,006
Interdepartmental transfers	6,292
Total	6,007,003

Sec. B.224 Agriculture, food and markets - agricultural development

Personal services	1,028,318
Operating expenses	658,717
Grants	2,727,474
Total	4,414,509
Source of funds	
General fund	871,062
Special funds	2,988,352
Federal funds	444,844
Interdepartmental transfers	110,251
Total	4,414,509

Sec. B.225 Agriculture, food and markets - laboratories, agricultural resource management and environmental stewardship

Personal services	3,538,132
Operating expenses	563,711
Grants	1,340,475
Total	5,442,318
Source of funds	
General fund	2,383,659
Special funds	1,911,422
Federal funds	794,341
Global Commitment fund	56,272
Interdepartmental transfers	296,624
Total	5,442,318

Sec. B.226 Financial regulation - administration

Personal services	1,649,226
Operating expenses	191,025
Total	1,840,251
Source of funds	
Special funds	1,840,251
Total	1,840,251

Sec. B.227 Financial regulation - banking

Personal services	1,411,547
Operating expenses	262,123
Total	1,673,670
Source of funds	
Special funds	1,673,670
Total	1,673,670

Sec. B.228 Financial regulation - insurance

Personal services	6,203,711
Operating expenses	482,988
Total	6,686,699
Source of funds	
Special funds	4,590,443
Federal funds	1,504,283
Global Commitment fund	165,946
Interdepartmental transfers	426,027
Total	6,686,699

Sec. B.229 Financial regulation - captive insurance

Personal services	3,822,779
Operating expenses	455,696
Total	4,278,475
Source of funds	
Special funds	4,278,475
Total	4,278,475

Sec. B.230 Financial regulation - securities

Personal services	548,649
Operating expenses	165,856
Total	714,505
Source of funds	
Special funds	714,505
Total	714,505

Sec. B.231 Financial regulation - health care administration

Personal services	127,672
Operating expenses	4,500
Total	132,172
Source of funds	
Special funds	132,172
Total	132,172

Sec. B.232 Secretary of state

Personal services	6,994,156
Operating expenses	1,981,411
Grants	812,715
Total	9,788,282
Source of funds	
Special funds	7,713,282

Federal funds	2,000,000
Interdepartmental transfers	75,000
Total	9,788,282

Sec. B.233 Public service - regulation and energy

Personal services	8,115,051
Operating expenses	830,251
Grants	5,336,427
Total	14,281,729
Source of funds	
Special funds	12,367,430
Federal funds	802,249
ARRA funds	1,074,354
Enterprise funds	37,696
Total	14,281,729

Sec. B.234 Public service board

Personal services	2,736,114
Operating expenses	428,852
Total	3,164,966
Source of funds	
Special funds	3,091,566
ARRA funds	73,400
Total	3,164,966

Sec. B.235 Enhanced 9-1-1 Board

Personal services	3,386,718
Operating expenses	516,908
Grants	885,000
Total	4,788,626
Source of funds	
Special funds	4,788,626
Total	4,788,626

Sec. B.236 Human rights commission

Personal services	432,141
Operating expenses	74,532
Total	506,673
Source of funds	
General fund	422,882
Federal funds	83,791
Total	506,673

Sec. B.237 Liquor control - administration

Personal services	2,102,914
Operating expenses	647,264
Total	2,750,178
Source of funds	
Enterprise funds	2,750,178
Total	2,750,178

Sec. B.238 Liquor control - enforcement and licensing

Personal services	2,153,635
Operating expenses	445,222
Total	2,598,857
Source of funds	
Special funds	25,000
Tobacco fund	218,444
Federal funds	254,841
Interdepartmental transfers	5,000
Enterprise funds	2,095,572
Total	2,598,857

Sec. B.239 Liquor control - warehousing and distribution

Personal services	859,469
Operating expenses	436,065
Total	1,295,534
Source of funds	
Enterprise funds	1,295,534
Total	1,295,534

Sec. B.240 Total protection to persons and property

Source of funds	
General fund	118,749,083
Transportation fund	25,238,498
Special funds	75,064,951
Tobacco fund	606,315
Federal funds	66,671,503
ARRA funds	1,479,429
Global Commitment fund	256,224
Interdepartmental transfers	8,670,609
Enterprise funds	6,178,980
Total	302,915,592

Sec. B.300 Human services - agency of human services - secretary's office

Personal services	10,337,270
Operating expenses	3,232,916
Grants	5,473,998
Total	19,044,184
Source of funds	
General fund	5,135,482
Special funds	91,017
Tobacco fund	291,127
Federal funds	9,843,546
Global Commitment fund	415,000
Interdepartmental transfers	3,268,012
Total	19,044,184

Sec. B.301 Secretary's office - global commitment

Grants	1,206,362,208
Total	1,206,362,208
Source of funds	
General fund	157,611,068
Special funds	20,795,259
Tobacco fund	35,975,693
State health care resources fund	267,531,579
Federal funds	724,408,609
Interdepartmental transfers	40,000
Total	1,206,362,208

Sec. B.302 Rate setting

Personal services	840,348
Operating expenses	82,162
Total	922,510
Source of funds	
Global Commitment fund	922,510
Total	922,510

Sec. B.303 Developmental disabilities council

Personal services	223,211
Operating expenses	58,633
Grants	248,388
Total	530,232
Source of funds	
Federal funds	530,232
Total	530,232

Sec. B.304 Human services board

Personal services	309,988
Operating expenses	47,907
Total	357,895
Source of funds	
General fund	117,962
Federal funds	153,851
Interdepartmental transfers	86,082
Total	357,895

Sec. B.305 AHS - administrative fund

Personal services	350,000
Operating expenses	4,650,000
Total	5,000,000
Source of funds	
Interdepartmental transfers	5,000,000
Total	5,000,000

Sec. B.306 Department of Vermont health access - administration

Personal services	122,057,685
Operating expenses	3,809,070
Grants	26,367,955
Total	152,234,710
Source of funds	
General fund	1,700,505
Special funds	3,625,432
Federal funds	90,687,335
Global Commitment fund	51,144,321
Interdepartmental transfers	5,077,117
Total	152,234,710

Sec. B.307 Department of Vermont health access - Medicaid program - global commitment

Grants	656,405,249
Total	656,405,249
Source of funds	
Global Commitment fund	656,405,249
Total	656,405,249

Sec. B.308 Department of Vermont health access - Medicaid program - long term care waiver

Grants	201,375,033
Total	201,375,033
Source of funds	
General fund	87,690,448
Federal funds	113,684,585
Total	201,375,033

Sec. B.309 Department of Vermont health access - Medicaid program - state only

Grants	35,151,737
Total	35,151,737
Source of funds	
General fund	28,033,910
Global Commitment fund	7,117,827
Total	35,151,737

Sec. B.310 Department of Vermont health access - Medicaid non-waiver matched

Grants	43,923,308
Total	43,923,308
Source of funds	
General fund	18,960,907
Federal funds	24,962,401
Total	43,923,308

Sec. B.311 Health - administration and support

Personal services	6,012,508
Operating expenses	2,750,348
Grants	3,465,000
Total	12,227,856
Source of funds	
General fund	1,947,664
Special funds	1,019,232
Federal funds	5,259,091
Global Commitment fund	4,001,869
Total	12,227,856

Sec. B.312 Health - public health

Personal services	33,426,366
Operating expenses	6,305,676

Grants	37,042,390
Total	76,774,432
Source of funds	
General fund	7,336,654
Special funds	10,931,733
Tobacco fund	2,393,377
Federal funds	36,266,649
Global Commitment fund	18,816,779
Interdepartmental transfers	1,004,240
Permanent trust funds	25,000
Total	76,774,432

Sec. B.313 Health - alcohol and drug abuse programs

Personal services	2,967,468
Operating expenses	391,758
Grants	29,048,769
Total	32,407,995
Source of funds	
General fund	3,022,339
Special funds	442,829
Tobacco fund	1,386,234
Federal funds	6,539,025
Global Commitment fund	20,667,568
Interdepartmental transfers	350,000
Total	32,407,995

Sec. B.314 Mental health - mental health

Personal services	22,230,696
Operating expenses	1,633,320
Grants	175,280,477
Total	199,144,493
Source of funds	
General fund	1,048,819
Special funds	6,836
Federal funds	6,093,289
Global Commitment fund	191,975,549
Interdepartmental transfers	20,000
Total	199,144,493

Sec. B.316 Department for children and families - administration & support services

Personal services	40,229,665
Operating expenses	8,271,811

Grants	1,242,519
Total	49,743,995
Source of funds	
General fund	16,482,195
Special funds	633,798
Federal funds	15,366,271
Global Commitment fund	17,049,231
Interdepartmental transfers	212,500
Total	49,743,995

Sec. B.317 Department for children and families - family services

Personal services	24,364,141
Operating expenses	3,285,261
Grants	63,714,577
Total	91,363,979
Source of funds	
General fund	21,918,167
Special funds	1,691,637
Federal funds	26,974,257
Global Commitment fund	40,615,864
Interdepartmental transfers	164,054
Total	91,363,979

Sec. B.318 Department for children and families - child development

Personal services	3,518,830
Operating expenses	370,166
Grants	68,147,170
Total	72,036,166
Source of funds	
General fund	33,255,661
Special funds	1,820,000
Federal funds	26,781,519
Global Commitment fund	10,178,986
Total	72,036,166

Sec. B.319 Department for children and families - office of child support

Personal services	9,170,808
Operating expenses	4,022,077
Total	13,192,885
Source of funds	
General fund	3,135,551
Special funds	455,718
Federal funds	9,214,016

Interdepartmental transfers	387,600
Total	13,192,885

Sec. B.320 Department for children and families - aid to aged, blind and disabled

Personal services	1,870,826
Grants	11,445,414
Total	13,316,240
Source of funds	
General fund	9,566,240
Global Commitment fund	3,750,000
Total	13,316,240

Sec. B.321 Department for children and families - general assistance

Grants	8,290,504
Total	8,290,504
Source of funds	
General fund	6,486,713
Federal funds	1,111,320
Global Commitment fund	692,471
Total	8,290,504

Sec. B.322 Department for children and families - 3SquaresVT

Grants	26,813,146
Total	26,813,146
Source of funds	
Federal funds	26,813,146
Total	26,813,146

Sec. B.323 Department for children and families - reach up

Operating expenses	253,242
Grants	50,866,723
Total	51,119,965
Source of funds	
General fund	21,195,902
Special funds	19,916,856
Federal funds	7,882,807
Global Commitment fund	2,124,400
Total	51,119,965

Sec. B.324 Department for children and families - home heating fuel assistance/LIHEAP

Grants	17,657,664
Total	17,657,664
Source of funds	
General fund	6,000,000
Federal funds	11,657,664
Total	17,657,664

Sec. B.325 Department for children and families - office of economic opportunity

Personal services	484,606
Operating expenses	67,957
Grants	5,213,713
Total	5,766,276
Source of funds	
General fund	1,458,486
Special funds	57,990
Federal funds	4,047,312
Global Commitment fund	202,488
Total	5,766,276

Sec. B.326 Department for children and families - OEO - weatherization assistance

Personal services	241,413
Operating expenses	131,692
Grants	11,613,465
Total	11,986,570
Source of funds	
Special funds	11,986,570
Total	11,986,570

Sec. B.327 Department for children and families - Woodside rehabilitation center

Personal services	4,092,905
Operating expenses	632,294
Total	4,725,199
Source of funds	
General fund	891,786
Global Commitment fund	3,778,521
Interdepartmental transfers	54,892
Total	4,725,199

Sec. B.328 Department for children and families - disability determination services

Personal services	4,493,121
Operating expenses	1,138,949
Total	5,632,070
Source of funds	
Federal funds	5,385,553
Global Commitment fund	246,517
Total	5,632,070

Sec. B.329 Disabilities, aging, and independent living - administration & support

Personal services	26,187,084
Operating expenses	3,871,829
Total	30,058,913
Source of funds	
General fund	7,785,111
Special funds	1,390,457
Federal funds	12,027,023
Global Commitment fund	6,322,467
Interdepartmental transfers	2,533,855
Total	30,058,913

Sec. B.330 Disabilities, aging, and independent living - advocacy and independent living grants

Grants	21,431,825
Total	21,431,825
Source of funds	
General fund	8,258,815
Federal funds	7,640,264
Global Commitment fund	5,377,121
Interdepartmental transfers	155,625
Total	21,431,825

Sec. B.331 Disabilities, aging, and independent living - blind and visually impaired

Grants	1,481,457
Total	1,481,457
Source of funds	
General fund	364,064
Special funds	223,450
Federal funds	648,943

Global Commitment fund	245,000
Total	1,481,457

Sec. B.332 Disabilities, aging, and independent living - vocational rehabilitation

Grants	8,795,971
Total	8,795,971
Source of funds	
General fund	1,535,695
Special funds	70,000
Federal funds	4,062,389
Global Commitment fund	7,500
Interdepartmental transfers	3,120,387
Total	8,795,971

Sec. B.333 Disabilities, aging, and independent living - developmental services

Grants	169,880,574
Total	169,880,574
Source of funds	
General fund	155,125
Special funds	15,463
Federal funds	359,857
Global Commitment fund	169,292,129
Interdepartmental transfers	58,000
Total	169,880,574

Sec. B.334 Disabilities, aging, and independent living - TBI home and community based waiver

Grants	4,861,903
Total	4,861,903
Source of funds	
Global Commitment fund	4,861,903
Total	4,861,903

Sec. B.335 Corrections - administration

Personal services	2,097,495
Operating expenses	226,070
Total	2,323,565
Source of funds	
General fund	2,323,565
Total	2,323,565

Sec. B.336 Corrections - parole board

Personal services	257,161
Operating expenses	70,819
Total	327,980
Source of funds	
General fund	327,980
Total	327,980

Sec. B.337 Corrections - correctional education

Personal services	3,794,353
Operating expenses	530,774
Total	4,325,127
Source of funds	
Education fund	3,929,242
Interdepartmental transfers	395,885
Total	4,325,127

Sec. B.338 Corrections - correctional services

Personal services	103,240,653
Operating expenses	19,147,376
Grants	8,703,309
Total	131,091,338
Source of funds	
General fund	123,930,845
Special funds	483,963
Federal funds	470,962
Global Commitment fund	5,809,253
Interdepartmental transfers	396,315
Total	131,091,338

Sec. B.339 Corrections - Correctional services-out of state beds

Personal services	10,507,763
Total	10,507,763
Source of funds	
General fund	10,507,763
Total	10,507,763

Sec. B.340 Corrections - correctional facilities - recreation

Personal services	466,118
Operating expenses	345,501
Total	811,619
Source of funds	

Special funds	811,619
Total	811,619

Sec. B.341 Corrections - Vermont offender work program

Personal services	954,670
Operating expenses	548,231
Total	1,502,901
Source of funds	
Internal service funds	1,502,901
Total	1,502,901

Sec. B.342 Vermont veterans' home - care and support services

Personal services	16,395,081
Operating expenses	5,107,960
Total	21,503,041
Source of funds	
General fund	1,344,225
Special funds	12,145,964
Federal funds	7,601,866
Global Commitment fund	410,986
Total	21,503,041

Sec. B.343 Commission on women

Personal services	287,700
Operating expenses	71,135
Total	358,835
Source of funds	
General fund	353,835
Special funds	5,000
Total	358,835

Sec. B.344 Retired senior volunteer program

Grants	151,096
Total	151,096
Source of funds	
General fund	151,096
Total	151,096

Sec. B.345 Green Mountain Care Board

Personal services	6,608,296
Operating expenses	289,175
Total	6,897,471
Source of funds	

General fund	473,118
Special funds	1,010,428
Global Commitment fund	2,360,462
Interdepartmental transfers	3,053,463
Total	6,897,471

Sec. B.346 Total human services

Source of funds	
General fund	590,507,696
Special funds	89,631,251
Tobacco fund	40,046,431
State health care resources fund	267,531,579
Education fund	3,929,242
Federal funds	1,186,473,782
Global Commitment fund	1,224,791,971
Internal service funds	1,502,901
Interdepartmental transfers	25,378,027
Permanent trust funds	25,000
Total	3,429,817,880

Sec. B.400 Labor - programs

Personal services	24,253,334
Operating expenses	5,293,630
Grants	1,781,436
Total	31,328,400
Source of funds	
General fund	3,054,572
Special funds	3,363,869
Federal funds	23,846,533
Interdepartmental transfers	1,063,426
Total	31,328,400

Sec. B.401 Total labor

Source of funds	
General fund	3,054,572
Special funds	3,363,869
Federal funds	23,846,533
Interdepartmental transfers	1,063,426
Total	31,328,400

Sec. B.500 Education - finance and administration

Personal services	7,072,845
Operating expenses	2,019,419

Grants	12,591,200
Total	21,683,464
Source of funds	
General fund	3,007,875
Special funds	13,293,157
Education fund	892,795
Federal funds	3,624,185
Global Commitment fund	865,452
Total	21,683,464

Sec. B.501 Education - education services

Personal services	12,643,713
Operating expenses	1,434,792
Grants	124,242,308
Total	138,320,813
Source of funds	
General fund	6,203,344
Special funds	2,578,228
Federal funds	129,539,241
Total	138,320,813

Sec. B.502 Education - special education: formula grants

Grants	163,454,037
Total	163,454,037
Source of funds	
Education fund	163,454,037
Total	163,454,037

Sec. B.503 Education - state-placed students

Grants	15,100,000
Total	15,100,000
Source of funds	
Education fund	15,100,000
Total	15,100,000

Sec. B.504 Education - adult education and literacy

Grants	7,351,468
Total	7,351,468
Source of funds	
General fund	787,995
Education fund	5,800,000
Federal funds	763,473
Total	7,351,468

Sec. B.505 Education - adjusted education payment

Grants	1,223,114,508
Total	1,223,114,508
Source of funds	
Education fund	1,223,114,508
Total	1,223,114,508

Sec. B.506 Education - transportation

Grants	16,726,497
Total	16,726,497
Source of funds	
Education fund	16,726,497
Total	16,726,497

Sec. B.507 Education - small school grants

Grants	7,491,286
Total	7,491,286
Source of funds	
Education fund	7,491,286
Total	7,491,286

Sec. B.508 Education - capital debt service aid

Grants	130,000
Total	130,000
Source of funds	
Education fund	130,000
Total	130,000

Sec. B.509 Education - tobacco litigation

Personal services	145,029
Operating expenses	45,378
Grants	576,134
Total	766,541
Source of funds	
Tobacco fund	766,541
Total	766,541

Sec. B.510 Education - essential early education grant

Grants	6,141,155
Total	6,141,155
Source of funds	

Education fund	6,141,155
Total	6,141,155

Sec. B.511 Education - technical education

Grants	13,274,423
Total	13,274,423
Source of funds	
Education fund	13,274,423
Total	13,274,423

Sec. B.512 Education - Act 117 cost containment

Personal services	1,080,553
Operating expenses	154,437
Grants	91,000
Total	1,325,990
Source of funds	
Special funds	1,325,990
Total	1,325,990

Sec. B.513 Appropriation and transfer to education fund

Grants	288,921,564
Total	288,921,564
Source of funds	
General fund	288,921,564
Total	288,921,564

Sec. B.514 State teachers' retirement system

Personal services	7,291,783
Operating expenses	27,671,276
Grants	71,783,200
Total	106,746,259
Source of funds	
General fund	71,783,200
Pension trust funds	34,963,059
Total	106,746,259

Sec. B.515 Total general education

Source of funds	
General fund	370,703,978
Special funds	17,197,375
Tobacco fund	766,541
Education fund	1,452,124,701
Federal funds	133,926,899

Global Commitment fund	865,452
Pension trust funds	34,963,059
Total	2,010,548,005

Sec. B.600 University of Vermont

Grants	42,469,032
Total	42,469,032
Source of funds	
General fund	38,462,876
Global Commitment fund	4,006,156
Total	42,469,032

Sec. B.601 Vermont Public Television

Grants	547,683
Total	547,683
Source of funds	
General fund	547,683
Total	547,683

Sec. B.602 Vermont state colleges

Grants	24,300,464
Total	24,300,464
Source of funds	
General fund	24,300,464
Total	24,300,464

Sec. B.603 Vermont state colleges - allied health

Grants	1,149,998
Total	1,149,998
Source of funds	
General fund	744,591
Global Commitment fund	405,407
Total	1,149,998

Sec. B.604 Vermont interactive technology

Grants	809,249
Total	809,249
Source of funds	
General fund	809,249
Total	809,249

Sec. B.605 Vermont student assistance corporation

Grants	19,414,515
Total	19,414,515

Source of funds	
General fund	19,414,515
Total	19,414,515

Sec. B.606 New England higher education compact

Grants	84,000
Total	84,000
Source of funds	
General fund	84,000
Total	84,000

Sec. B.607 University of Vermont - Morgan Horse Farm

Grants	1
Total	1
Source of funds	
General fund	1
Total	1

Sec. B.608 Total higher education

Source of funds	
General fund	84,363,379
Global Commitment fund	4,411,563
Total	88,774,942

Sec. B.700 Natural resources - agency of natural resources - administration

Personal services	3,176,914
Operating expenses	799,518
Grants	45,510
Total	4,021,942
Source of funds	
General fund	3,739,109
Special funds	55,343
Federal funds	30,000
Interdepartmental transfers	197,490
Total	4,021,942

Sec. B.701 Natural resources - state land local property tax assessment

Operating expenses	2,153,733
Total	2,153,733
Source of funds	
General fund	1,732,233
Interdepartmental transfers	421,500
Total	2,153,733

Sec. B.702 Fish and wildlife - support and field services

Personal services	14,603,485
Operating expenses	4,946,802
Grants	650,000
Total	20,200,287
Source of funds	
General fund	4,328,935
Special funds	20,000
Fish and wildlife fund	8,914,102
Federal funds	6,742,250
Interdepartmental transfers	195,000
Total	20,200,287

Sec. B.703 Forests, parks and recreation - administration

Personal services	1,266,011
Operating expenses	550,951
Grants	1,806,971
Total	3,623,933
Source of funds	
General fund	1,057,402
Special funds	1,307,878
Federal funds	1,169,535
Interdepartmental transfers	89,118
Total	3,623,933

Sec. B.704 Forests, parks and recreation - forestry

Personal services	4,947,666
Operating expenses	649,757
Grants	521,500
Total	6,118,923
Source of funds	
General fund	3,514,173
Special funds	975,000
Federal funds	1,500,000
Interdepartmental transfers	129,750
Total	6,118,923

Sec. B.705 Forests, parks and recreation - state parks

Personal services	6,251,094
Operating expenses	2,299,709
Total	8,550,803
Source of funds	

General fund	805,451
Special funds	7,745,352
Total	8,550,803

Sec. B.706 Forests, parks and recreation - lands administration

Personal services	449,568
Operating expenses	1,213,158
Total	1,662,726
Source of funds	
General fund	403,521
Special funds	179,205
Federal funds	1,050,000
Interdepartmental transfers	30,000
Total	1,662,726

Sec. B.707 Forests, parks and recreation - youth conservation corps

Grants	522,702
Total	522,702
Source of funds	
General fund	50,320
Special funds	188,382
Federal funds	94,000
Interdepartmental transfers	190,000
Total	522,702

Sec. B.708 Forests, parks and recreation - forest highway maintenance

Personal services	95,000
Operating expenses	84,925
Total	179,925
Source of funds	
General fund	179,925
Total	179,925

Sec. B.709 Environmental conservation - management and support services

Personal services	4,745,461
Operating expenses	1,256,590
Grants	113,780
Total	6,115,831
Source of funds	
General fund	1,070,011
Special funds	167,258

Federal funds	192,691
Interdepartmental transfers	4,685,871
Total	6,115,831

Sec. B.710 Environmental conservation - air and waste management

Personal services	10,067,224
Operating expenses	8,246,278
Grants	2,131,238
Total	20,444,740
Source of funds	
General fund	683,446
Special funds	16,330,510
Federal funds	3,230,784
Interdepartmental transfers	200,000
Total	20,444,740

Sec. B.711 Environmental conservation - office of water programs

Personal services	14,753,079
Operating expenses	4,695,933
Grants	1,929,702
Total	21,378,714
Source of funds	
General fund	7,674,248
Special funds	6,028,489
Federal funds	6,828,349
Interdepartmental transfers	847,628
Total	21,378,714

Sec. B.712 Environmental conservation - tax-loss Connecticut river flood control

Operating expenses	34,700
Total	34,700
Source of funds	
General fund	3,470
Special funds	31,230
Total	34,700

Sec. B.713 Natural resources board

Personal services	2,431,059
Operating expenses	364,618
Total	2,795,677
Source of funds	
General fund	829,791

Special funds	1,965,886
Total	2,795,677

Sec. B.714 Total natural resources

Source of funds	
General fund	26,072,035
Special funds	34,994,533
Fish and wildlife fund	8,914,102
Federal funds	20,837,609
Interdepartmental transfers	6,986,357
Total	97,804,636

Sec. B.800 Commerce and community development - agency of commerce and community development - administration

Personal services	2,095,805
Operating expenses	656,454
Grants	1,404,570
Total	4,156,829
Source of funds	
General fund	2,986,829
Federal funds	1,100,000
Interdepartmental transfers	70,000
Total	4,156,829

Sec. B.801 Economic development

Personal services	2,908,179
Operating expenses	801,097
Grants	2,108,179
Total	5,817,455
Source of funds	
General fund	4,456,655
Special funds	605,350
Federal funds	751,550
Interdepartmental transfers	3,900
Total	5,817,455

Sec. B.802 Housing & community development

Personal services	6,353,668
Operating expenses	782,325
Grants	2,454,341
Total	9,590,334
Source of funds	
General fund	2,266,663

Special funds	3,754,534
Federal funds	3,510,337
Interdepartmental transfers	58,800
Total	9,590,334

Sec. B.803 Historic sites - special improvements

Operating expenses	13,000
Total	13,000
Source of funds	
Special funds	13,000
Total	13,000

Sec. B.804 Community development block grants

Grants	25,449,135
Total	25,449,135
Source of funds	
Federal funds	25,449,135
Total	25,449,135

Sec. B.805 Downtown transportation and capital improvement fund

Personal services	86,884
Grants	297,082
Total	383,966
Source of funds	
Special funds	383,966
Total	383,966

Sec. B.806 Tourism and marketing

Personal services	1,079,788
Operating expenses	1,909,597
Grants	238,500
Total	3,227,885
Source of funds	
General fund	3,137,885
Interdepartmental transfers	90,000
Total	3,227,885

Sec. B.807 Vermont life

Personal services	761,087
Operating expenses	65,916
Total	827,003
Source of funds	

Enterprise funds	827,003
Total	827,003

Sec. B.808 Vermont council on the arts

Grants	641,607
Total	641,607
Source of funds	
General fund	641,607
Total	641,607

Sec. B.809 Vermont symphony orchestra

Grants	141,214
Total	141,214
Source of funds	
General fund	141,214
Total	141,214

Sec. B.810 Vermont historical society

Grants	882,219
Total	882,219
Source of funds	
General fund	882,219
Total	882,219

Sec. B.811 Vermont housing and conservation board

Grants	28,203,945
Total	28,203,945
Source of funds	
Special funds	14,180,600
Federal funds	14,023,345
Total	28,203,945

Sec. B.812 Vermont humanities council

Grants	217,959
Total	217,959
Source of funds	
General fund	217,959
Total	217,959

Sec. B.813 Total commerce and community development

Source of funds	
General fund	14,731,031
Special funds	18,937,450

Federal funds	44,834,367
Interdepartmental transfers	222,700
Enterprise funds	827,003
Total	79,552,551

Sec. B.900 Transportation - finance and administration

Personal services	9,952,251
Operating expenses	1,973,579
Grants	245,000
Total	12,170,830
Source of funds	
Transportation fund	11,246,130
Federal funds	924,700
Total	12,170,830

Sec. B.901 Transportation - aviation

Personal services	3,628,764
Operating expenses	8,158,027
Grants	185,000
Total	11,971,791
Source of funds	
Transportation fund	4,542,791
Federal funds	7,429,000
Total	11,971,791

Sec. B.902 Transportation - buildings

Operating expenses	2,873,000
Total	2,873,000
Source of funds	
Transportation fund	993,000
TIB fund	1,880,000
Total	2,873,000

Sec. B.903 Transportation - program development

Personal services	38,955,555
Operating expenses	261,230,552
Grants	23,614,529
Total	323,800,636
Source of funds	
Transportation fund	35,403,238
TIB fund	15,162,888
Federal funds	257,658,307
Interdepartmental transfers	4,019,000

Local match	1,169,703
TIB proceeds fund	10,387,500
Total	323,800,636

Sec. B.904 Transportation - rest areas construction

Personal services	170,000
Operating expenses	1,275,753
Total	1,445,753
Source of funds	
Transportation fund	50,000
TIB fund	174,476
Federal funds	1,221,277
Total	1,445,753

Sec. B.905 Transportation - maintenance state system

Personal services	39,744,134
Operating expenses	48,877,536
Grants	75,000
Total	88,696,670
Source of funds	
Transportation fund	78,151,670
Federal funds	10,445,000
Interdepartmental transfers	100,000
Total	88,696,670

Sec. B.906 Transportation - policy and planning

Personal services	4,179,113
Operating expenses	1,610,228
Grants	4,969,497
Total	10,758,838
Source of funds	
Transportation fund	2,057,947
Federal funds	8,387,344
Interdepartmental transfers	313,547
Total	10,758,838

Sec. B.907 Transportation - rail

Personal services	4,883,127
Operating expenses	28,446,710
Grants	1,600,000
Total	34,929,837
Source of funds	
Transportation fund	12,432,950

TIB fund	2,970,667
Federal funds	19,526,220
Total	34,929,837

Sec. B.908 Transportation - public transit

Personal services	1,148,922
Operating expenses	125,062
Grants	27,296,244
Total	28,570,228
Source of funds	
Transportation fund	7,528,574
Federal funds	21,041,654
Total	28,570,228

Sec. B.909 Transportation - central garage

Personal services	3,931,872
Operating expenses	16,388,084
Total	20,319,956
Source of funds	
Internal service funds	20,319,956
Total	20,319,956

Sec. B.910 Department of motor vehicles

Personal services	15,927,083
Operating expenses	9,035,884
Grants	158,000
Total	25,120,967
Source of funds	
Transportation fund	23,085,000
Federal funds	2,035,967
Total	25,120,967

Sec. B.911 Transportation - town highway structures

Grants	6,333,500
Total	6,333,500
Source of funds	
Transportation fund	6,333,500
Total	6,333,500

Sec. B.912 Transportation - town highway Vermont local roads

Grants	400,000
Total	400,000
Source of funds	

Transportation fund	235,000
Federal funds	165,000
Total	400,000

Sec. B.913 Transportation - town highway class 2 roadway

Grants	7,248,750
Total	7,248,750
Source of funds	
Transportation fund	7,248,750
Total	7,248,750

Sec. B.914 Transportation - town highway bridges

Personal services	3,800,000
Operating expenses	12,127,597
Grants	639,000
Total	16,566,597
Source of funds	
Transportation fund	1,123,394
TIB fund	933,963
Federal funds	13,495,630
Local match	1,013,610
Total	16,566,597

Sec. B.915 Transportation - town highway aid program

Grants	25,982,744
Total	25,982,744
Source of funds	
Transportation fund	25,982,744
Total	25,982,744

Sec. B.916 Transportation - town highway class 1 supplemental grants

Grants	128,750
Total	128,750
Source of funds	
Transportation fund	128,750
Total	128,750

Sec. B.917 Transportation - town highway: state aid for nonfederal disasters

Grants	1,150,000
Total	1,150,000
Source of funds	
Transportation fund	1,150,000
Total	1,150,000

Sec. B.918 Transportation - town highway: state aid for federal disasters

Grants	3,600,000
Total	3,600,000
Source of funds	
Transportation fund	400,000
Federal funds	3,200,000
Total	3,600,000

Sec. B.919 Transportation - municipal mitigation grant program

Grants	1,551,000
Total	1,551,000
Source of funds	
Transportation fund	440,000
Federal funds	1,111,000
Total	1,551,000

Sec. B.920 Transportation - public assistance grant program

Grants	29,235,250
Total	29,235,250
Source of funds	
Special funds	2,235,250
Federal funds	27,000,000
Total	29,235,250

Sec. B.921 Transportation board

Personal services	181,114
Operating expenses	18,886
Total	200,000
Source of funds	
Transportation fund	200,000
Total	200,000

Sec. B.922 Total transportation

Source of funds	
Transportation fund	218,733,438
TIB fund	21,121,994
Special funds	2,235,250
Federal funds	373,641,099
Internal service funds	20,319,956
Interdepartmental transfers	4,432,547

Local match	2,183,313
TIB proceeds fund	10,387,500
Total	653,055,097

Sec. B.1000 Debt service

Operating expenses	77,216,569
Total	77,216,569
Source of funds	
General fund	70,521,584
Transportation fund	2,414,979
TIB debt service fund	2,397,816
Special funds	628,910
ARRA funds	1,253,280
Total	77,216,569

Sec. B.1001 Total debt service

Source of funds	
General fund	70,521,584
Transportation fund	2,414,979
TIB debt service fund	2,397,816
Special funds	628,910
ARRA funds	1,253,280
Total	77,216,569

Sec. B.1100 NEXT GENERATION; APPROPRIATIONS AND TRANSFERS

(a) In fiscal year 2014, $3,293,000 is appropriated or transferred from the Next Generation Initiative Fund created in 16 V.S.A. § 2887 as prescribed below:

(1) Workforce development. The amount of $1,377,500 as follows:

(A) Workforce Education and Training Fund (WETF). The amount of $817,500 is transferred to the Vermont Workforce Education and Training Fund created in 10 V.S.A. § 543 and subsequently appropriated to the Department of Labor for workforce development. Up to seven percent of the funds may be used for administration of the program. Of this amount, $350,000 shall be allocated for the Vermont Career Internship Program pursuant to 10 V.S.A. § 544.

(B) Adult Technical Education Programs. The amount of $360,000 is appropriated to the Department of Labor working with the Workforce Development Council. This appropriation is for the purpose of awarding grants to regional technical centers and comprehensive high schools to provide

adult technical education, as that term is defined in 16 V.S.A. § 1522, to unemployed and underemployed Vermont adults.

(C) The amount of $200,000 is appropriated to the Agency of Commerce and Community Development to issue performance grants to the University of Vermont and the Vermont Center for Emerging Technologies for patent development and commercialization of technology and to enhance the development of high technology businesses and Next Generation employment opportunities throughout Vermont.

(2) Loan repayment. The amount of $330,000 as follows:

(A) Health care loan repayment. The amount of $300,000 is appropriated to the Agency of Human Services – Global Commitment for the Department of Health to use for health care loan repayment. The department shall use these funds for a grant to the Area Health Education Centers (AHEC) for repayment of commercial or governmental loans for postsecondary health-care-related education or training owed by persons living and working in Vermont in the health care field.

(B) Large animal veterinarians' loan forgiveness. The amount of $30,000 is appropriated to the Agency of Agriculture, Food and Markets for a loan forgiveness program for large animal veterinarians pursuant to 6 V.S.A. § 20.

(3) Scholarships and grants. The amount of $1,444,500 as follows:

(A) Nondegree VSAC grants. The amount of $494,500 is appropriated to the Vermont Student Assistance Corporation. These funds shall be for the purpose of providing nondegree grants to Vermonters to improve job skills and increase overall employability, enabling them to enroll in a postsecondary education or training program, including adult technical education that is not part of a degree or accredited certificate program. A portion of these funds shall be used for grants for indirect educational expenses to students enrolled in training programs. The grants shall not exceed $3,000 per student. None of these funds shall be used for administrative overhead.

(B) National Guard Educational Assistance. The amount of $150,000 is appropriated to Military – administration to be transferred to the Vermont Student Assistance Corporation for the National Guard Educational Assistance Program established in 16 V.S.A. § 2856.

(C) Dual enrollment programs. The amount of $800,000 is appropriated to the Vermont State Colleges for dual enrollment programs. The State Colleges shall develop a voucher program that will allow Vermont students to attend programs at a postsecondary institution other than the state

college system when programs at the other institutions are better academically or geographically suited to student need.

(4) Science Technology Engineering and Math (STEM) Incentive. The amount of $141,000 is appropriated to the Agency of Commerce and Community Development for an incentive payment pursuant to 2011 Acts and Resolves No. 52, Sec. 6.

Sec. B.1100.1 DEPARTMENT OF LABOR RECOMMENDATION FOR FISCAL YEAR 2015 NEXT GENERATION FUND DISTRIBUTION

(a) The Department of Labor, in coordination with the Agency of Commerce and Community Development, the Agency of Human Services, and the Agency of Education, and in consultation with the Workforce Development Council, shall recommend to the Governor no later than November 1, 2013 how $3,293,000 from the Next Generation Fund should be allocated or appropriated in fiscal year 2015 to provide maximum benefit to workforce development, participation in postsecondary education by underrepresented groups, and support for promising economic sectors in Vermont. The Department of Labor shall actively and publically promote the availability of these funds to eligible entities that have not previously been funded.

Sec. B.1101 UNEMPLOYMENT INSURANCE INTEREST

(a) The amount of $202,009 in general funds is appropriated in fiscal year 2014 to the Department of Labor for unemployment insurance interest payments to the federal government.

Sec. B.1102 WORKING LANDSCAPE APPROPRIATION

(a) The amount of $1,425,000 in General Funds is appropriated in fiscal year 2014 to the Agency of Agriculture, Food and Markets for transfer to the Vermont Working Lands Enterprise Special Fund established in 6 V.S.A. § 4605 for expenditure by the Working Lands Enterprise Board established in 6 V.S.A. § 4606 for direct grants and investments in food and forest systems pursuant to 6 V.S.A. § 4607 and consistent with the funding priorities in 2012 Acts and Resolves No. 142, Sec. 5, including grants that enable farmers' markets to accept electronic benefit transfer funds, and to continue to fund two (2) limited service working landscape staff positions in the Agency.

Sec. B.1103 DEPOSIT OF MORTGAGE PROCESSING SERVICES SETTLEMENT; APPROPRIATIONS TO THE DEPARTMENT OF FINANCIAL REGULATION

(a) The amount of $371,000 received from Lender Processing Services, Inc., et al., relating to improperly executed mortgage loan documents and deposited into the Fees and Reimbursement Special Fund (#21638) in the

Office of the Attorney General, shall be transferred to the General Fund in fiscal year 2014.

(b) The amount of $125,000 in General Funds is appropriated in fiscal year 2014 to the Department of Financial Regulation – Banking Division for grants providing continued support of the Home Ownership Centers, which provide foreclosure intervention, homeowner counseling, assistance to mobile home owners, and similar services.

(c) The amount of $75,000 in General Funds is appropriated in fiscal year 2014 to the Department of Financial Regulation – Banking Division for a grant to Vermont Legal Aid to fund legal services for homeowners facing foreclosure.

Sec. B.1104 FISCAL YEAR 2014 SURPLUS CONTINGENT RESERVE TRANSFERS AND APPROPRIATIONS

(a) Of the amount reserved in the General Fund Balance Reserve also known as the "rainy day reserve" at the close of fiscal year 2014:

(1) One-quarter of that amount is unreserved for transfer to the Education Fund in fiscal year 2015.

(2) One-quarter of that amount is unreserved and appropriated in fiscal year 2015 to the Secretary of Administration to be used only upon Emergency Board action to transfer these funds to appropriations to offset selected reduced federal funding.

Sec. B.1201 GENERAL FUND REDUCTION; AUTHORIZED POSITION COUNT

(a) The Secretary of Administration shall reduce appropriations and make transfers to the General Fund for a total of $200,000, within the Executive Branch of state government as a result of budgeted positions not being authorized in fiscal year 2014.

Sec. B.1202 SECRETARY OF ADMINISTRATION; FISCAL YEAR 2014 MANAGEMENT INITIATIVE SAVINGS

(a) The Secretary of Administration shall reduce appropriations and make transfers to the General Fund for a total of $2,500,000, within the Executive Branch of state government from management savings initiatives.

Sec. C.100 2012 Acts and Resolves, No. 162, Sec. B.1101 is amended to read:

Sec. B.1101 ONE-TIME ELECTIONS ~~EXPENSE APPROPRIATION~~ AND AUTOMATED BUSINESS REGISTRATION SYSTEM EXPENSES APPROPRIATIONS

(a) In fiscal year 2013, there is appropriated to the ~~secretary of state~~ Secretary of State for 2012 primary and general elections:

General fund		$135,000
Special fund	~~$375,000~~	$240,000

(b) In fiscal year 2013, notwithstanding 17 V.S.A. § 2856(a), there is appropriated to the Secretary of State from the Vermont Campaign Fund for expenses related to automating its business registration system:

Special fund	$135,000

Sec. C.100.1 SECRETARY OF STATE; VERMONT CAMPAIGN FUND DEPOSIT; EXPENDITURES

(a) The amount of $30,000 in civil penalties received by the Attorney General from the Republican Governors' Association and $10,000 in other receipts from the parties pursuant to a settlement with the Attorney General during 2013 shall be deposited into the Vermont Campaign Fund.

(b) The Secretary of State is authorized to expend up to $50,000 from the Vermont Campaign Fund during fiscal year 2013 for development costs for campaign finance system development expenditures. The Secretary of State shall report to the Joint Fiscal Committee at its September 2013 meeting on the use of these funds.

Sec. C.101 2012 Acts and Resolves No. 162, Sec. B.200, as amended by 2013 Acts and Resolves No. 1, Sec. 8, is further amended to read:

Sec. B.200 Attorney general		
Personal services	7,660,981	7,660,981
Operating expenses	977,285	977,285
Total	8,638,266	8,638,266
Source of funds		
General fund	3,943,997	3,943,997
Special funds	~~1,278,455~~	1,389,455
Tobacco fund	~~459,000~~	348,000
Federal funds	745,364	745,364
Interdepartmental transfers	2,211,450	2,211,450
Total	8,638,266	8,638,266

Sec. C.102 2012 Acts and Resolves No. 162, Sec. B.240, as amended by 2013 Acts and Resolves No. 1, Sec. 15, is further amended to read:

Sec. B.240 Total protection to persons and property		
	282,833,185	282,833,185
Source of funds		
General fund	109,237,894	109,237,894
Transportation fund	25,238,498	25,238,498
Special funds	~~67,957,274~~	68,068,274
Tobacco fund	~~790,816~~	679,816
Federal funds	58,191,789	58,191,789
ARRA funds	5,160,681	5,160,681
Global Commitment fund	1,138,944	1,138,944
Interdepartmental transfers	8,701,945	8,701,945
Enterprise funds	6,415,344	6,415,344
Total	282,833,185	282,833,185

Sec. C.103 2012 Acts and Resolves No. 162, Sec. B.903 as amended by 2013 Acts and Resolves No. 1, Sec. 51.1, is further amended to read:

Sec. B.903 Transportation - program development		
Personal services	36,309,069	36,309,069
Operating expenses	247,904,463	247,904,463
Grants	37,369,326	37,369,326
Total	321,582,858	321,582,858
Source of funds		
Transportation fund	34,178,585	34,178,585
TIB fund	16,673,911	16,673,911
Federal funds	256,588,181	256,588,181
Interdepartmental transfers	3,770,000	3,770,000
Transportation local fund	1,372,181	1,372,181
TIB proceeds fund		9,000,000
Total	~~312,582,858~~	321,582,858

Sec. C.104 2012 Acts and Resolves No. 162, Sec. D.101(a)(3) is amended to read:

(3) from the transportation infrastructure bond fund established by 19 V.S.A. § 11f to the transportation infrastructure bonds debt service fund for the purpose of funding fiscal year 2014 transportation infrastructure bonds debt service: ~~$1,764,213~~ $1,702,378.

Sec. C.105 2012 Acts and Resolves No. 162, Secs. B.1000 and B.1001 are amended to read:

Sec. B.1000 Debt service		
Operating expenses	~~72,111,263~~	71,962,178
Total	~~72,111,263~~	71,962,178
Source of funds		

General fund	63,667,340	63,667,340
General obligation bonds debt service fund	2,321,565	2,321,565
Transportation fund	2,482,442	2,482,442
TIB debt service fund	~~1,758,486~~	1,609,401
Special funds	628,150	628,150
ARRA funds	1,253,280	1,253,280
Total	~~72,111,263~~	71,962,178

Sec. B.1001 Total debt service

Source of funds		
General fund	63,667,340	63,667,340
General obligation bonds debt service fund	2,321,565	2,321,565
Transportation fund	2,482,442	2,482,442
TIB debt service fund	~~1,758,486~~	1,609,401
Special funds	628,150	628,150
ARRA funds	1,253,280	1,253,280
Total	~~72,111,263~~	71,962,178

Sec. C.106 ADMINISTRATION OF IRENE RECOVERY CDBG GRANT; LIMITED SERVICE POSITION

(a) The establishment of one (1) new classified limited service position – Grants Specialist – is authorized in fiscal year 2013 in the Agency of Commerce and Community Development.

Sec. C.107 TRANSFER; TOURISM AND MARKETING

(a) The Commissioner of Finance and Management is authorized to transfer up to $50,000 in General Funds in fiscal year 2013 from the Vermont Information Centers program to the Department of Tourism and Marketing.

Sec. C.108 CRISIS FUEL TRANSFER AUTHORITY

(a) Notwithstanding any other law to the contrary, the Commissioner of Finance and Management shall have the authority to transfer funds from the Energy and Regulation Fund (#21698) of the Public Service Department to meet fiscal year 2013 LIHEAP crisis fuel needs.

Sec. D.100 APPROPRIATIONS; PROPERTY TRANSFER TAX

(a) This act contains the following amounts appropriated from special funds that receive revenue from the property transfer tax. Expenditures from these appropriations shall not exceed available revenues.

(1) The sum of $518,000 is appropriated from the Property Valuation and Review Administration Special Fund to the Department of Taxes for administration of the Use Tax Reimbursement Program. Notwithstanding

32 V.S.A. § 9610(c), amounts above $518,000 from the property transfer tax that are deposited into the Property Valuation and Review Administration Special Fund shall be transferred into the General Fund.

(2) The sum of $14,014,000 is appropriated from the Vermont Housing and Conservation Trust Fund to the Vermont Housing and Conservation Board. Notwithstanding 10 V.S.A. § 312, amounts above $14,014,000 from the property transfer tax that are deposited into the Vermont Housing and Conservation Trust Fund shall be transferred into the General Fund.

(3) The sum of $3,587,154 is appropriated from the Municipal and Regional Planning Fund. Notwithstanding 24 V.S.A. § 4306(a), amounts above $3,587,154 from the property transfer tax that are deposited into the Municipal and Regional Planning Fund shall be transferred into the General Fund. The $3,587,154 shall be allocated as follows:

(A) $2,758,884 for disbursement to regional planning commissions in a manner consistent with 24 V.S.A. § 4306(b);

(B) $449,570 for disbursement to municipalities in a manner consistent with 24 V.S.A. § 4306(b);

(C) $378,700 to the Vermont Center for Geographic Information.

Sec. D.101 FUND TRANSFERS AND RESERVES

(a) Notwithstanding any other provision of law, the following amounts are transferred from the funds indicated:

(1) from the General Fund to the:

(A) Communications and Information Technology Internal Service Fund established by 22 V.S.A. § 902a: $735,000.

(B) Next Generation Initiative Fund established by 16 V.S.A. § 2887: $3,293,000.

(C) Facilities Operations Fund established in 29 V.S.A. § 160a: $1,862,785.

(D) Clean Energy Development Fund established in 30 V.S.A. § 8015: $250,000.

(2) from the Transportation Fund to the Downtown Transportation and Related Capital Improvement Fund established by 24 V.S.A. § 2796 to be used by the Vermont Downtown Development Board for the purposes of the fund: $383,966.

(3) from the Transportation Infrastructure Bond Fund established by 19 V.S.A. § 11f to the Transportation Infrastructure Bonds Debt Service Fund

for the purpose of funding transportation infrastructure bonds debt service for a new bond issue in fiscal year 2014 and to fund fiscal year 2015 transportation infrastructure bonds debt service: $2,450,788.

(4) from the Emergency Relief and Assistance Fund established in 20 V.S.A. § 45 to the General Fund: $6,500,000.

(5) from the state funds within the Fleet Management Internal Service Fund established pursuant to 29 V.S.A. § 902(f)(6) or from the state funds credited or rebated to state agencies from this fund to the General Fund: $237,000.

Sec. D.102 TOBACCO LITIGATION SETTLEMENT FUND BALANCE

(a) Notwithstanding 18 V.S.A. § 9502(b), the actual balances at the end of fiscal year 2013 in the Tobacco Litigation Settlement Fund shall remain for appropriation in fiscal year 2014.

Sec. D.103 TRANSFER OF TOBACCO TRUST FUNDS

(a) Notwithstanding 18 V.S.A. § 9502(a)(3) and (4), the actual amount of investment earnings of the Tobacco Trust Fund at the end of fiscal year 2014 and any additional amount necessary to ensure the balance in the Tobacco Litigation Settlement Fund at the close of fiscal year 2014 is not negative shall be transferred from the Tobacco Trust Fund to the Tobacco Litigation Settlement Fund in fiscal year 2014.

Sec. D.104 DEPOSIT OF WITHHELD TOBACCO SETTLEMENT FUNDS

(a) Notwithstanding any other provision of law, any payments to the State of Vermont, including principal and interest, that have been withheld beginning in fiscal year 2003, by the tobacco manufacturing companies pursuant to the Master Tobacco Settlement, shall be deposited in the Tobacco Trust Fund for the purpose of sustaining the Vermont Tobacco Prevention and Control Programs.

Sec. D.105 AMERICAN ELECTRIC POWER (AEP) SETTLEMENT TO THE CLEAN ENERGY DEVELOPMENT FUND

(a) Any funds recovered by the Attorney General as a result of the American Electric Power Service Corporation settlement shall be deposited into the Clean Energy Development Fund established by 30 V.S.A. § 8015.

Sec. D.106 [DELETED]

Sec. D.107 CLARIFICATION OF FISCAL YEAR 2014 REQUIRED TRANSFERS

(a) 32 V.S.A. § 6075(b) requires a calculation of the increase in the amount of General Fund forecasted for fiscal year 2014 comparing the last official

forecast to the forecast made in July 2013. Any increase in the forecasted available General Fund under this calculation shall further be reduced by revenue growth attributable to changes in federal tax law such as contemplated under the Marketplace Fairness Act of 2013.

Sec. D.108 GENERAL FUND BALANCE RESERVE; UNRESERVED

(a) Amounts in the General Fund Balance Reserve established in 32 V.S.A. § 308c(a), also known as the "Rainy Day Reserve," are hereby unreserved at the close of fiscal year 2014 to the extent needed to offset any General Fund deficit prior to the use of the General Fund Budget Stabilization Reserves as provided for in 32 V.S.A. § 308(c).

* * * GENERAL GOVERNMENT * * *

Sec. E.100 EXECUTIVE BRANCH – POSITIONS AUTHORIZED IN FISCAL YEAR 2014

(a) The establishment of the following new classified positions is authorized in fiscal year 2014 as follows:

(1) In the Department of Information and Innovation – one (1) Enterprise Architect position – for work on the Judiciary's information technology project.

(2) In the Treasurer's Office – one (1) Financial Specialist.

(3) In the Agency of Agriculture, Food and Markets – one (1) Chief Policy Enforcement Officer.

(4) In the Department of Health – one (1) Hub and Spoke Program Manager.

(5) In the Department of Mental Health – seventeen (17) positions – for work at the new state hospital anticipated to be operational by April 2014. The specific position titles are to be established by the Department with approval by the Commissioner of Human Resources.

(6) In the Department for Children and Families – Fifteen (15) positions: Fourteen (14) Benefits Program Specialist and one (1) Continuous Quality Improvement (CQI) Specialist.

(7) In the Department of Forests, Parks and Recreation – one (1) Forester II.

(8) In the Department of Housing and Community Development – one (1) Housing Program Coordinator.

(9) Fourteen (14) positions are established in the position pool of the Executive Branch of state government. The Secretary of Administration in

consultation with the Commissioner of Human Resources may assign pool positions to executive branch entities provided the requesting entities demonstrate both need for the position and the fiscal capacity to fund the requested positions. The administration may convert one of these positions to an exempt position if needed.

(b) The establishment of the following new limited service positions is authorized in fiscal year 2014 as follows:

(1) In the Department of Buildings and General Services – four (4) classified positions – for engineering-related work. The specific position titles are to be established by the Department with approval by the Commissioner of Human Resources.

(2) In the Department of Public Safety – two (2) classified positions and one (1) exempt position – for grant management and public assistance. The specific position titles are to be established by the Department with approval by the Commissioner of Human Resources. These positions shall be for a term of five years.

(3) In the Department of Environmental Conservation – three (3) classified positions – relating to the Department reengineering initiative. The specific position titles are to be established by the Department with approval by the Commissioner of Human Resources.

(c) The Secretary of Administration and the Commissioner of Human Resources shall provide a written report to the Joint Fiscal Committee at its November 2013 meeting on the status of positions authorized in this section and existing pool positions that have been assigned to date.

Sec. E.100.1 FEDERAL EMERGENCY MANAGEMENT AGENCY REPORTING AND OVERSIGHT

(a) The Secretary of Administration shall report to the Joint Fiscal Committee at each of its scheduled meetings in fiscal year 2014 on funding received from the Federal Emergency Management Agency (FEMA) Public Assistance Program and associated emergency relief and assistance funds match for the damages due to Tropical Storm Irene. The report shall include:

(1) a projection of the total funding needs for the FEMA Public Assistance Program and to the extent possible, details about the projected funding by state agency or municipality;

(2) spending authority (appropriated and excess receipts) granted to date for the FEMA Public Assistance Program and the associated emergency relief and assistance funds match;

(3) information on any audit findings that may result in financial impacts to the State; and

(4) actual expenditures to date made from the spending authority granted and to the extent possible, details about the expended funds by state agency or municipality.

(b) Reports shall be posted on the legislative and administration websites after submission.

Sec. E.100.2 3 V.S.A. § 2222 is amended to read:.

§ 2222. POWERS AND DUTIES; BUDGET AND REPORT

* * *

(g)(1) The ~~secretary of administration~~ Secretary of Administration shall obtain independent expert review of any recommendation for any information technology activity initiated after July 1, 1996, as information technology activity is defined by subdivision (a)(10) of this section, when its total cost is ~~$500,000.00~~ $1,000,000.00 or greater or when required by the ~~state chief information officer~~ State Chief Information Officer. Documentation of this independent review shall be included when plans are submitted for review pursuant to subdivisions (a)(9) and (10) of this section. The independent review shall include:

(A) an acquisition cost assessment;

(B) a technology architecture review;

(C) an implementation plan assessment;

(D) a cost analysis and a model for benefit analysis; ~~and~~

(E) a procurement negotiation advisory services contract~~.~~; and

(F) an impact analysis on net operating costs for the agency carrying out the activity.

* * *

Sec. E.101 29 V.S.A. § 1401 is amended to read:

§ 1401. PURCHASE OF INSURANCE

The ~~commissioner of buildings and general services~~ Secretary of Administration shall secure insurance coverage for the benefit of the ~~state~~ State and its employees while performing official duties, in fire and casualty companies authorized to do business in this ~~state~~ State in such amounts and such coverages as deemed for the best interests of the ~~state~~ State. Insurance policies covering the ~~state~~ State shall provide that loss, if any, shall be payable to the ~~state~~ State. All policies shall be filed and kept in the office of the

~~commissioner of buildings and general services~~ Secretary of Administration. The cost of all insurance purchased and the cost of managing such purchases shall be borne by the department or board for whose benefit it is purchased.

Sec. E.101.1 REPEAL

(a) 29 V.S.A. § 1402 (preference to Vermont companies, agents) is repealed.

Sec. E.101.2 29 V.S.A. § 1405 is amended to read:

§ 1405. INVENTORIES OF STATE PROPERTY

State departments, institutions, and agencies having property belonging to the ~~state~~ State or in their charge on or before February 1 in each ~~even numbered~~ even-numbered year shall render an inventory to the ~~commissioner of buildings and general services~~ Secretary of Administration of all such property, and its value, on hand on January 1 preceding, on such forms and in such detail as the ~~commissioner of buildings and general services~~ Secretary of Administration may require.

Sec. E.101.3 29 V.S.A. § 1406 is amended to read:

§ 1406. LIABILITY INSURANCE

(a) The ~~commissioner of buildings and general services~~ Secretary of Administration, on behalf of the ~~state~~ State, may contract or enter into agreements with any insurance company or companies or insurance corporation or corporations licensed to do business within the ~~state~~ State for the purpose of insuring the ~~state~~ State against liability or may ~~self-insure~~ self-insure against liability.

(b) The ~~commissioner of buildings and general services~~ Secretary of Administration is directed to charge back against individual departmental appropriations in all funds the proper amounts necessary to pay the cost of the insurance or ~~self-insurance~~ self-insurance referred to in subsection (a) of this section.

(c) The ~~state liability self-insurance fund~~ State Liability Self-Insurance Fund is created to provide a program of ~~self-insuring~~ self-insuring liability coverages for all state agencies, legislature, departments, state colleges, judiciary, quasi-state agencies, boards, commissions, and employees, as defined in 3 V.S.A. § 1101. All covered entities shall participate in the program and shall contribute to the ~~fund~~ Fund. The ~~fund~~ Fund shall be administered by the ~~commissioner of buildings and general services~~ Secretary of Administration to adjust claims, to pay judgments, and to reimburse contractors and state agencies for services rendered.

* * *

Sec. E.101.4 29 V.S.A. § 1408 is amended to read:

§ 1408. WORKERS' COMPENSATION INSURANCE

(a) The ~~state employees' workers' compensation fund~~ State Employees' Workers' Compensation Fund is created to provide a program for self-insurance coverage for all officers and state employees, as defined in ~~section~~ 3 V.S.A. § 1101 ~~of Title 3~~, of all state agencies, departments, boards, and commissions pursuant to ~~chapters~~ 21V.S.A. chapter 9 ~~and 11 of Title 21~~. All state agencies, departments, boards, and commissions shall participate in the program and contribute to the ~~fund~~ Fund. The ~~fund~~ Fund shall be administered by the ~~commissioner of buildings and general services~~ Secretary of Administration who:

(1) shall authorize payments from the ~~fund~~ Fund in accordance with the provisions of this section and ~~chapters~~ 21 V.S.A. chapter 9 ~~and 11 of Title 21~~;

* * *

(c) ~~On February 1, 1990, the commissioner shall assess each program participant an amount to be deposited in the fund. The assessment shall be the greater of:~~

~~(1) 115 percent of the yearly average workers' compensation losses suffered by the program participant during the preceding four years, or during the years, not to exceed four, which are documented in the insurance section of the department of buildings and general service; or~~

~~(2) 50 percent of the standard workers' compensation premium based on the National Council on Compensation Insurance rate classifications for Vermont in effect on the first day of the preceding fiscal year for that program participant.~~ [Repealed.]

(d) ~~In subsequent years, the~~ ~~commissioner~~ The Secretary shall annually assess each program participant an amount to be deposited in the ~~state employees' workers' compensation fund~~ State Employees' Workers' Compensation Fund. The ~~commissioner~~ Secretary may adjust the annual assessment to assure that the debts and obligations of the program are adequately funded.

* * *

Sec. E.101.5 23 V.S.A. § 3214 is amended to read:

§ 3214. ALLOCATION OF FEES AND PENALTIES; LIABILITY INSURANCE; AUTHORITY TO CONTRACT FOR LAW ENFORCEMENT SERVICES

* * *

(b) VAST shall purchase a trails' liability insurance policy in the amount of $1,000,000.00. The ~~state~~ State of Vermont shall be named an additional insured. The policy shall extend to all VAST affiliated snowmobile clubs and their respective employees and agents to provide for trails' liability coverage for development and maintenance of the statewide snowmobile trails program including groomer use and operation. The ~~department of buildings and general services~~ Office of the Secretary of Administration shall assist VAST with the procurement of trails liability and other related insurance.

* * *

Sec. E.101.6 23 V.S.A. § 3217 is amended to read:

§ 3217. LIABILITY INSURANCE; TRAIL MAINTENANCE

The ~~state~~ State may extend coverage of its liability insurance to parties under contract with the ~~department of forests, parks and recreation~~ Department of Forests, Parks and Recreation for development and maintenance of the snowmobile trail system. Insurance coverage shall match the ~~state's~~ State's current financial liability limits and shall be limited to those activities defined by the development and maintenance contract. The ~~department of buildings and general services~~ Secretary of Administration shall pay for this extended coverage with funds from snowmobile registration receipts.

Sec. E.101.7 23 V.S.A. § 3513 is amended to read:

§ 3513. LIABILITY INSURANCE; AUTHORITY TO CONTRACT FOR LAW ENFORCEMENT SERVICES

* * *

(b) The ~~department of buildings and general services~~ Office of the Secretary of Administration shall assist VASA with the procurement of trail liability and other related insurance.

* * *

Sec. E.101.8 29 V.S.A. § 1902 is amended to read:

§ 1902. DUTIES OF COMMISSIONER OF BUILDINGS AND GENERAL SERVICES

* * *

(b) ~~The commissioner of buildings and general services shall purchase state insurance as provided in chapter 55 of this title.~~

* * *

Sec. E.105 Information and innovation – communications and information technology

(a) Of this appropriation, $735,000 is for a grant to the Vermont Telecommunications Authority established in 30 V.S.A. § 8061.

Sec. E.105.1 22 V.S.A. § 901 is amended to read:

§ 901. DEPARTMENT OF INFORMATION AND INNOVATION

* * *

(4)(C) to review and approve in accordance with ~~agency of administration~~ Agency of Administration policies the assignment of appropriate project managers for information technology activities within state government with a cost in excess of ~~$100,000.00~~ $500,000.00; and

* * *

Sec. E.106 32 V.S.A. § 305a(a) is amended to read:

(a) On or about January 15 and again by July 31 of each year, and at such other times as the ~~emergency board~~ Emergency Board or the ~~governor~~ Governor deems proper, the ~~joint fiscal office~~ Joint Fiscal Office and the ~~secretary of administration~~ Secretary of Administration shall provide to the ~~emergency board~~ Emergency Board their respective estimates of state revenues in the general, transportation, transportation infrastructure bond, education, and state health care resources funds~~, and revenues from the gross receipts tax under 33 V.S.A. § 2503~~. The January revenue estimate shall be for the current and next two succeeding fiscal years, and the July revenue estimate shall be for the current and immediately succeeding fiscal years. Federal fund estimates shall be provided at the same times for the current fiscal year. Global Commitment fund estimates shall be provided in January for the current and immediately succeeding fiscal year and in July for the current fiscal year.

Sec. E.111 Tax – administration/collection

(a) Of this appropriation, $30,000 is from the Current Use Application Fee Special Fund and shall be appropriated for programming changes to the CAPTAP software used by municipalities for establishing property values and administering their grand lists.

(b) The Department shall allocate resources as needed to increase the collection of taxes due the State. The Tax Commissioner shall provide a report to the House and Senate Committees on Appropriations, the House Committee

on Ways and Means, and the Senate Committee on Finance on or before January 15, 2014 on compliance program revenue targets, collection trends, and program activities. The report shall include program outcomes and measures to evaluate program activity.

Sec. E.113 Buildings and general services – engineering

(a) The $2,982,132 interdepartmental transfer in this appropriation shall be from the General Bond Fund appropriation in the Capital Appropriations Act of the 2013 session.

Sec. E.114 Buildings and general services – information centers

(a) In fiscal year 2014, the amount of $125,000 in General Funds appropriated to the Department of Buildings and General Services – information centers shall revert to the General Fund.

Sec. E.118 2010 Acts and Resolves No. 156, Sec. E.114(a), as amended by 2011 Acts and Resolves No. 3, Sec. 60 is further amended to read:

(a) The ~~commissioner of the department of buildings and general services~~ Commissioner of Buildings and General Services shall submit a report to the ~~house and senate committees on appropriations~~ House and Senate Committees on Appropriations by January 15th of each year through fiscal year 2015 detailing the number of state employees, by department, that exceeded a ~~$14,000~~ 11,400 mileage ~~reimbursement~~ amount for use of their private vehicle during the previous fiscal year.

Sec. E.118.1 Buildings and general services - fleet management services

(a) Any state employee that uses the standard mileage reimbursement rate for use of their private vehicle shall be required to use a state-owned or -leased vehicle if the mileage that is submitted for reimbursement exceeds 11,400 on a fiscal year basis. Exceptions may be made if the employee receives approval from his or her agency secretary or department head to exceed the 11,400 limit on mileage that is eligible for reimbursement for use of a private vehicle.

Sec. E.123 Geographic information system

(a) No transfer of functions of the Geographic Information System (GIS) program shall occur in fiscal year 2014 without legislative approval. The Executive Director of the GIS program shall report on or before November 30, 2013 to the Joint Fiscal Committee on potential options for administrative and business office functions to be supported by an appropriate state entity and any other recommendations for long-term financial sustainability of the program.

Sec. E.125 Legislative council

(a) Notwithstanding any other provision of law, from fiscal year 2013 funds appropriated to the Legislative Council and carried forward into fiscal year 2014, the amount of $25,000 shall revert to the General Fund.

Sec. E.126 Legislature

(a) Notwithstanding any other provision of law, from fiscal year 2013 funds appropriated to the Legislature and carried forward into fiscal year 2014, the amount of $375,000 shall revert to the General Fund.

(b) It is the intent of the General Assembly that funding for the Legislature in fiscal year 2015 be included at a level sufficient to support an 18-week legislative session.

Sec. E.126.1 LAKE SHORELAND PROTECTION COMMISSION

(a) There is created a Lake Shoreland Protection Commission to:

(1) provide information regarding current laws or regulations in place to protect the waters of the State that are held in trust for the public.

(2) take testimony regarding the regulation of disturbance, clearing, and creation of impervious surfaces in the shorelands of lakes.

(b) The Commission shall be composed of:

(1) The current members of the Senate Committee on Natural Resources and Energy; and

(2) Five members from the House Committee on Fish, Wildlife and Water Resources, two of whom shall be the Chair and Vice Chair of the Committee and three of whom shall be appointed by the Chair of the Committee on Fish, Wildlife and Water Resources, provided that the Chair shall appoint different committee members to attend different meetings of the Commission in order to provide Commission membership that reflects the geographic region of the State where a public meeting of the Commission will be held under subsection (c) of this section.

(c) The Commission may conduct five public meetings in the State to provide information and collect public input regarding the proposed regulation of activities in the shorelands of lakes. The Commission shall collaborate with regional and municipal planning organizations. The Commission shall hold four of the five meetings in different regions of the State. The fifth meeting shall be held in Montpelier.

(d) The Commission, with the assistance of the Agency of Natural Resources, shall:

(1) summarize the scope and requirements of existing regulation of activities that preserve and improve water quality and avoid degradation, including a summary of the proposed rules to implement the antidegradation policy and the programs and requirements the State may need to implement in order to meet the Total Maximum Daily Load plan for Lake Champlain;

(2) summarize the findings of the Agency of Natural Resources' State Water Quality Remediation, Implementation, and Funding Report of 2012, as required by 2012 Acts and Resolves No. 138, Sec. 19, including how Vermont ranks in relation to other states with regard to clean water protection;

(3) summarize the need for regulation in the shorelands of lakes as part of an integrated policy to preserve and protect clean water in the State;

(4) summarize how other states regulate activities in shoreland areas of lakes, including:

(A) what activities are regulated;

(B) how development, construction, or creation of nonvegetated surface in shoreland areas of lakes is regulated;

(C) whether activities in shoreland areas of lakes are regulated by the state, a local authority, or some combination of state and local authority;

(D) whether a buffer or other area of vegetated surface is required within a specified distance of a lake; and

(E) what activities in shoreland areas of lakes are exempt from regulation.

(5) provide educational materials regarding shoreland protection, including copies of the Agency of Natural Resources' draft standards for the regulation of the shorelands of lakes and vegetation management; and

(6) shall solicit and hear input and proposals from the public regarding, in response to the information provided under subdivisions (1)-(5) of this subsection, how the State of Vermont should protect water quality, aquatic habitat, and shoreland habitat while also preserving reasonable use of the property.

(e) For purposes of fulfilling its charge under this section, the Commission shall have technical services of the Agency of Natural Resources. The Office of Legislative Council shall provide legal and administrative services to the Commission. The Commission may request financial services from the Joint Fiscal Office.

(f) The Commission shall consider the public input and proposals provided under subsection (d) of this section and shall publish a report of the

Commission's recommendations for legislative action for the protection of the shorelands of the lakes of the State. The Commission may make recommendations for consideration by the General Assembly. The report of the Commission shall be posted to the website of the General Assembly on or before January 15, 2014.

(g) In addition to the public meetings required under subsection (c) of this section, the Commission may meet no more than three times, and shall cease to exist on July 1, 2014.

(h) For attendance at meetings during adjournment of the General Assembly, legislative members of the Commission shall be entitled to compensation and reimbursement for expenses as provided in 2 V.S.A. § 406.

(i) There is created a Lake Shoreland Protection Commission Working Group to develop, prior to July 15, 2013, the information and educational materials to be presented or provided at the public meetings of the Lake Shoreland Protection Commission under subsection (d) of this section. The Working Group shall consist of the Chair and Vice Chair of the Senate Committee on Natural Resources and Energy, the Chair and Vice Chair of the House Committee on Fish, Wildlife and Water Resources, and the Commissioner of Environmental Conservation or his or her designee. The Working Group shall have the same services as provided to the Lake Shoreland Protection Commission under subsection (e) of this section.

Sec. E.126.2 32 V.S.A. § 1053 is amended to read:

§ 1053. OFFICERS OF THE GENERAL ASSEMBLY

~~For each week of each session, the~~ The clerk of the house, the first assistant clerk of the house, the second assistant clerk of the house, the secretary of the senate and the assistant secretary of the senate shall be entitled to their necessary expenses and salaries as determined by the rules committee of the house or senate, as the case may be.

Sec. E.127 Joint fiscal committee

(a) Notwithstanding any other provision of law, from fiscal year 2013 funds appropriated to the Joint Fiscal Committee and carried forward into fiscal year 2014, the amount of $75,000 shall revert to the General Fund.

(b) The amount of $85,000 shall be transferred from the fiscal year 2013 Legislature budget to the Joint Fiscal Committee budget to help fund expected costs for a contract for evaluation of the health care exchange proposal, financial analysis for a Health Care Advisory group, and increased Joint Fiscal Office revenue analysis staff capacity.

Sec. E.130 AUDITOR RECOMMENDATION ON SPECIAL EDUCATION PERFORMANCE AUDIT

(a) The State Auditor shall review the feasibility of conducting a performance audit of special education in Vermont. The Office of the State Auditor shall consider whether a performance audit could:

(1) identify differences and causes thereof in special education services provided among Vermont school districts and other jurisdictions;

(2) identify opportunities to improve special education planning, budgeting, and financial controls;

(3) evaluate educational outcomes for special education students;

(4) provide strategies for delivery of cost-effective special education services without compromising service quality.

(b) The State Auditor shall report to the Joint Fiscal Committee at its September 2013 meeting on the items identified in subsection (a) of this section and define a scope and plan that could be used to guide the performance audit process if one is determined to be feasible.

Sec. E.131 [DELETED]

Sec. E.131.1 VERMONT COMMUNITY LOAN FUND INVESTMENT

(a) Notwithstanding 32 V.S.A. § 433, the State Treasurer is authorized to invest up to $500,000 of short-term operating or restricted funds in the Vermont Community Loan Fund on terms acceptable to the Treasurer and consistent with 32 V.S.A. § 433(b).

Sec. E.131.2 24 V.S.A. § 1759(a) is amended to read:

(a) Any bond issued under this subchapter shall draw interest at a rate not to exceed the rate approved by the voters of the municipal corporation in accordance with section 1758 of this title, or if no rate is specified in the vote under that section, at a rate approved by the legislative branch of the municipal corporation, such interest to be payable semiannually. Such bonds or bond shall be payable serially, the first payment to be deferred not later than from one to five years after the issuance of the bonds and subsequent payments to be continued annually in equal or diminishing amounts so that the entire debt will be paid in not more than 20 years from the date of issue. In the case of bonds issued for the purchase or development of a municipal forest, the first payment may be deferred not more than 30 years from the date of issuance thereof. Thereafter such bonds or bond shall be payable annually in equal or diminishing amounts so that the entire debt will be paid in not more than 60 years from the date of issue. In the case of bonds issued for

~~improvements on public highways~~ any capital project that ~~have~~ has a useful life of at least 30 years ~~and that involve bridge construction or roadway reconstruction, including a bridge component~~, the entire debt will be paid in not more than 30 years from the date of issue.

Sec. E.133 Vermont state retirement system

(a) Notwithstanding 3 V.S.A. § 473(d), in fiscal year 2014, investment fees shall be paid from the corpus of the fund.

Sec. E.139 GRAND LIST LITIGATION ASSISTANCE

(a) The towns currently engaged in litigation regarding grand list appeals of the assessment of TransCanada hydroelectric property may submit to the Attorney General legal expenditures made by those towns as a result of this litigation, as those values were established by reference to information from the Department of Taxes, Division of Property Valuation and Review. The Attorney General shall review the submitted bills and, if reasonable, approve reimbursement up to the amount transferred in subsection (b) of this section.

(b) As the litigation may have a substantial impact on the education grand list, $50,000 of the appropriation in Sec. B.139 of this act shall be transferred to the Attorney General and reserved for payment of expenses incurred by towns in defense of grand list appeals as provided herein. Expenditures for this purpose shall be considered qualified expenditures under 16 V.S.A. § 4025(c).

Sec. E.141 Lottery commission

(a) Of this appropriation, the Lottery Commission shall transfer $150,000 to the Department of Health, Office of Alcohol and Drug Abuse Programs, to support the gambling addiction program.

(b) The Vermont State Lottery shall provide assistance and work with the Vermont Council on Problem Gambling on systems and program development.

(c) The Executive Director of the Vermont State Lottery Commission shall report to the Joint Fiscal Committee at its November 2013 meeting on the operational, fiscal, and public policy issues of allowing Keno games in Vermont.

(d) The Executive Director of the Lottery Commission and the Secretary of Human Services shall submit recommendations to the House and Senate Committees on Appropriations on or before January 15, 2014 on the advisability of transferring the Problem Gambling Program from a grant program to a program performed by state employees.

Sec. E.142 Payments in lieu of taxes

(a) This appropriation is for state payments in lieu of property taxes under 32 V.S.A. chapter 123, subchapter 4, and the payments shall be calculated in addition to and without regard to the appropriations for PILOT for Montpelier and for correctional facilities elsewhere in this act.

Sec. E.143 Payments in lieu of taxes – Montpelier

(a) Payments in lieu of taxes under this section shall be paid from the PILOT Special Fund under 32 V.S.A. § 3709.

Sec. E.144 Payments in lieu of taxes – correctional facilities

(a) Payments in lieu of taxes under this section shall be paid from the PILOT Special Fund under 32 V.S.A. § 3709.

* * * PROTECTION TO PERSONS AND PROPERTY * * *

Sec. E.200 Attorney general

(a) Notwithstanding any other provisions of law, the Office of the Attorney General, Medicaid Fraud and Residential Abuse Unit, is authorized to retain, subject to appropriation, one-half of the state share of any recoveries from Medicaid fraud settlements, excluding interest, that exceed the state share of restitution to the Medicaid Program. All such designated additional recoveries retained shall be used to finance Medicaid Fraud and Residential Abuse Unit activities.

(b) Of the revenue available to the Attorney General under 9 V.S.A. § 2458(b)(4), $725,000 is appropriated in Sec. B.200 of this act.

Sec. E.204 4 V.S.A. § 28(e) is added to read:

(e) Upon completion of the agreements authorized by this section, the remaining balance in the Fund shall be deposited in the Court Technology Special Fund pursuant to section 27 of this title.

Sec. E.207 32 V.S.A. § 1591 is amended to read:

§ 1591. SHERIFFS AND OTHER OFFICERS

* * *

(2)(A) For necessary assistance in arresting or transporting prisoners, juveniles, or persons with mental illness the sum of ~~$15.40~~ $18.00 per hour for each deputy sheriff or assistant so required if the sheriff or constable makes oath that the deputy sheriff, assistant, or assistants were required giving the name of the assistant or assistants if there were more than one; provided, however, a full-time law enforcement officer shall not receive compensation under this subsection if otherwise compensated for the hours during which

such transportation is performed. In addition to the rate established in this section, the sheriffs' department shall be reimbursed for the costs of the employers' contribution to Social Security and workers' compensation insurance attributable to services provided under this section. Reimbursement shall be calculated on an hourly basis; the sheriff's department shall also be reimbursed for the costs of employer contributions for unemployment compensation, when a claim is filed and the percentage owed from the sheriff's department to the ~~state~~ State can be accounted for under this section;

* * *

Sec. E.207.1 [DELETED]

Sec. E.208 Public safety – administration

(a) The Commissioner of Public Safety is authorized to enter into a performance-based contract with the Essex County Sheriff's Department to provide law enforcement service activities agreed upon by both the Commissioner of Public Safety and the Sheriff.

Sec. E.209 Public safety – state police

(a) Of this appropriation, $35,000 in Special Funds shall be available for snowmobile law enforcement activities and $35,000 in General Funds shall be available to the Southern Vermont Wilderness Search and Rescue Team, which comprises State Police, the Department of Fish and Wildlife, county sheriffs, and local law enforcement personnel in Bennington, Windham, and Windsor Counties, for snowmobile enforcement.

(b) Of this appropriation, $405,000 is allocated for grants in support of the Drug Task Force and the Gang Task Force. Of this amount, $190,000 shall be used by the Vermont Drug Task Force to fund three town task force officers. These town task force officers shall be dedicated to enforcement efforts with respect to both regulated drugs as defined in 18 V.S.A. § 4201(29) and the diversion of legal prescription drugs. Any unobligated funds may be allocated by the Commissioner to fund the work of the Drug Task Force and to support the efforts of the Mobile Enforcement Team (Gang Task Force), or carried forward.

Sec. E.209.1 VERMONT TROOPERS' ASSOCIATION BARGAINING AGREEMENT; FUNDING

(a) The State of Vermont and Vermont Troopers' Association, Inc. (VTA) agreed to terms for a new two-year collective bargaining agreement to commence on July 1, 2013. The VTA membership does not have a reasonable opportunity to ratify the agreement before the General Assembly adjourns. Accordingly, pursuant to 3 V.S.A. § 982(c), the Governor submitted the

tentative agreement to the General Assembly pending ratification, to request sufficient funds to implement the agreement should VTA ratify. Contingent upon VTA ratification, the funds appropriated by the General Assembly are considered sufficient to fund the collective bargaining agreement between the State and VTA effective at the beginning of fiscal year 2014.

Sec. E.211 [DELETED]

Sec. E.212 Public safety – fire safety

(a) Of this General Fund appropriation, $55,000 shall be granted to the Vermont Rural Fire Protection Task Force for the purpose of designing dry hydrants.

Sec. E.214 Radiological emergency response plan

(a) Of the funds appropriated in Sec. B.214 of this act, the Division of Emergency Management and Homeland Security (Emergency Management) may use up to $250,000 for the American Red Cross as a subgrantee of the Radiological Emergency Response Program Special Fund (the Special Fund) in order to enhance sheltering capacity in response to any potential future incident involving the Vermont Yankee Nuclear Power Plant (the Plant).

(b) The sheltering capacity shall be not less than 20 percent of the population in the emergency planning zone. Prior to entering into any agreement with or disbursing funds to the American Red Cross under this section, Emergency Management shall negotiate with the owner of the Plant to reach an agreement on the appropriate cost and level of sheltering capacity above this 20-percent minimum. If no such agreement is reached on or before September 1, 2013, Emergency Management shall determine the appropriate cost and the appropriate level of additional sheltering capacity based on the best available information.

(c) Regardless of the operational or ownership status of the Plant, this appropriation is the first in a multi-year plan of appropriations to the Special Fund for the purpose of enhancing sheltering capacity in response to an incident involving the Plant.

Sec. E.215 Military – administration

(a) The amount of $250,000 shall be disbursed to the Vermont Student Assistance Corporation for the National Guard Educational Assistance Program established in 16 V.S.A. § 2856. Of this amount, $100,000 shall be General Funds from this appropriation, and $150,000 shall be Next Generation Special Funds, as appropriated in Sec. B.1100(a)(3)(B) of this act.

Sec. E.219 Military – veterans' affairs

(a) Of this appropriation, $5,000 shall be used for continuation of the Vermont Medal Program, $4,800 shall be used for the expenses of the Governor's Veterans' Advisory Council, $7,500 shall be used for the Veterans' Day parade, $5,000 shall granted to the Vermont State Council of the Vietnam Veterans of America to fund the Service Officer Program, and $5,000 shall be used for the Military, Family, and Community Network.

(b) Of this General Fund appropriation, $16,484 shall be deposited into the Armed Services Scholarship Fund established in 16 V.S.A. § 2541.

Sec. E.219.1 16 V.S.A. § 2538 is amended to read:

§ 2538. AMOUNT, DURATION~~, RESIDENCE~~

(a) ~~An~~ Subject to subsection (c) of this section, an armed services scholarship shall pay tuition for ~~an approved program~~ academic credit at a Vermont postsecondary institution eligible for student assistance funds under Title IV of the Higher Education Act of 1965 and leading to ~~a~~ an undergraduate certificate or degree ~~other than a postgraduate degree~~ as follows:

(1) ~~at a Vermont university, college, or technical institute supported in whole or in part by public funds appropriated from the state treasury; or~~ If the person attends the University of Vermont, the scholarship shall pay an amount equal to the actual tuition charged by the University to the person.

(2) ~~tuition expenses at a Vermont postsecondary institution up to an amount equal to the in-state tuition fee for that year at the Vermont state colleges~~ If the person attends a Vermont State College, the scholarship shall pay an amount equal to the actual tuition charged by the institution to the person.

(3) If the person attends any other postsecondary institution located in Vermont, the scholarship shall pay an amount equal to the actual tuition charged by the institution to the person, or an amount equal to that which the scholarship would have paid if the person attended the University of Vermont pursuant to subdivision (1) of this subsection, whichever is less.

(b) An armed services scholarship ~~shall be tenable~~ may be used for a maximum of 130 academic credits ~~or less as may be necessary to complete requirements~~ for ~~graduation~~ an undergraduate certificate or degree.

(c) A person eligible and applying for an armed forces scholarship shall apply for a Federal Pell Grant. The amount of the armed services scholarship awarded shall be the remaining tuition ~~costs~~ to be paid pursuant to subsection (a) of this section, following receipt of a Pell Grant.

(d) A person who has obtained a bachelor's degree is not eligible for an armed services scholarship.

Sec. E.219.2 16 V.S.A. § 2539(b) and (c) are amended to read:

(b) On being notified of ~~the~~ an eligible applicant's matriculation at an institution as specified in subsection 2538(a) of this title, the ~~adjutant general or office of veterans' affairs shall certify eligibility to the commissioner of finance and management who~~ Adjutant and Inspector General or the Office of Veterans' Affairs shall provide funds from the special fund established in section 2541 of this title to the Vermont Student Assistance Corporation, which, upon verifying enrollment, shall disburse the scholarship award to the institution ~~from the armed services scholarship fund established in section 2541 of this title~~.

(c) Application for renewal of an armed services scholarship shall be made annually with written endorsement by the proper officer of the institution attended that the holder of the scholarship has maintained satisfactory scholastic standing. On receipt of this certification, the ~~adjutant general or office of veterans' affairs shall forward it to the commissioner of finance and management who~~ Adjutant and Inspector General or the Office of Veterans' Affairs shall provide funds from the special fund established in section 2541 of this title to the Vermont Student Assistance Corporation, which, upon verifying enrollment, shall disburse the scholarship award to the institution ~~from the armed services scholarship fund established in section 2541 of this title~~.

Sec. E.219.3 16 V.S.A. § 2541 is amended to read:

§ 2541. ARMED SERVICES SCHOLARSHIP FUND

(a) An ~~armed services scholarship fund~~ Armed Services Scholarship Fund is established ~~in the office of the state treasurer~~ to comprise appropriations made by the ~~general assembly~~ General Assembly. The fund shall be managed pursuant to 32 V.S.A. chapter 7, subchapter 5, and shall be available to the Military Department for the armed services scholarships established in section 2537 of this title.

(b) ~~The state treasurer may invest the monies in the fund.~~

~~(c) Monies in the fund shall be used to fund armed services scholarships established in section 2537 of this title.~~

~~(d)~~ All balances in the ~~fund~~ Fund at the end of any fiscal year shall be carried forward and used only for the purposes set forth in this section. Earnings of the ~~fund~~ Fund which are not withdrawn pursuant to this section shall remain in the ~~fund~~ Fund.

Sec. E.219.4 20 V.S.A. § 1548 is amended to read:

§ 1548. VERMONT VETERANS' FUND

(a) There is created a special fund to be known as the Vermont ~~veterans' fund~~ Veterans' Fund. This ~~fund~~ Fund shall be administered by the ~~state treasurer~~ Military Department and shall be paid out in grants on the recommendations of a nine-member committee comprising:

(1) The ~~adjutant general~~ Adjutant and Inspector General or designee;

(2) The Vermont ~~veterans home administrator~~ Veterans' Home Administrator or designee;

(3) The ~~commissioner of the department of labor~~ Commissioner of Labor or designee;

(4) The ~~secretary of the agency of human resources~~ Secretary of Human Services or designee;

(5) The ~~director~~ Director of the White River Junction VA medical center or designee;

(6) The ~~director~~ Director of the White River Junction VA benefits office, or designee; and

(7) Three members of the ~~governor's veterans' council~~ Governor's Veterans' Council to be appointed by that ~~council~~ Council.

(b) The purpose of this ~~fund~~ Fund shall be to provide grants or other support to individuals and organizations:

(1) For the long-term care of veterans.

(2) To aid homeless veterans.

(3) For transportation services for veterans.

(4) To fund veterans' service programs.

(5) To recognize veterans.

(c) The Vermont ~~veterans' fund~~ Veterans' Fund shall consist of revenues paid into it from the Vermont ~~veterans' fund~~ Veterans' Fund checkoff established in 32 V.S.A. § 5862e and from any other source. The Fund shall be managed pursuant to 32 V.S.A. chapter 7, subchapter 5, and shall be available to the Military Department for the purposes in subsection (b) of this section.

(d) ~~For purposes of~~ As used in this section, "veteran" means a resident of Vermont who served on active duty in the United States ~~armed forces~~ Armed

Forces or the Vermont ~~national guard~~ National Guard or Vermont ~~air national guard~~ Air National Guard and who received an honorable discharge.

Sec. E.220 Center for crime victims' services

(a) Of the funds appropriated in Sec. B.220 of this act, $30,000 is from the Domestic and Sexual Violence Special Fund created in 13 V.S.A. § 5360 to be used as a grant from the Center for Crime Victims Services to the Vermont Network Against Domestic and Sexual Violence for the acquisition of a data collection system.

Sec. E.220.1 STUDY COMMITTEE ON FUTURE FUNDING FOR THE VERMONT CENTER FOR CRIME VICTIMS SERVICES

(a) There is created a Study Committee on Future Funding for the Vermont Center for Crime Victims Services (CCVS). The purpose of the Committee is to address an anticipated decrease in available revenue for CCVS and to develop a financial plan of action that will ensure that CCVS will be able to continue to provide the services that victims of crime need in order to recover from the physical, emotional, and financial aftermath of criminal victimization.

(b) The Committee shall be composed of:

(1) One Representative from each of the House Committees on Appropriations, on Judiciary, and on Ways and Means appointed by the Speaker of the House.

(2) One Senator from each of the Senate Committees on Appropriations, on Judiciary, and on Finance appointed by the Committee on Committees.

(3) One representative from the Agency of Administration, appointed by the Secretary of Administration.

(4) The Executive Director of the Vermont Center for Crime Victims Services.

(c) The members of the Committee shall elect a Chair, who shall convene meetings and set meeting agendas.

(d) The Committee shall:

(1) analyze the factors that affect the revenue generated by 13 V.S.A. § 7282 and deposited into the Victims' Compensation Fund and the Crime Victims' Restitution Fund;

(2) assess the trends that are affecting the revenue of these funds, and develop revenue projections for fiscal year 2015 and beyond, based on these trends;

(3) identify strategies the State can engage in that will maximize revenue from these funding sources;

(4) identify alternative or new funding sources, including the State's General Fund;

(5) review how other states fund victim services;

(6) review federal grant programs, identify impending cuts to federal funding, and develop a plan of action for implementing these cuts; and

(7) analyze victim service programs mandated by state statute and funded with state special funds and make recommendations that contain costs and achieve greater efficiencies.

(e) For purposes of its study of these issues, the Committee shall have the assistance of the Office of Legislative Council, the Joint Fiscal Office, the Department of Finance and Management, and the Center for Crime Victims Services.

(f) By January 15, 2014, the Committee shall report to the House Committees on Appropriations, on Judiciary, and on Ways and Means and Senate Committees on Appropriations, on Judiciary, and on Finance on its findings and any legislative or administrative recommendations.

(g) The Committee shall meet no more than six times, and shall cease to exist upon filing its report. For attendance at meetings during adjournment of the General Assembly, legislative members of the Committee shall be entitled to compensation and reimbursement for expenses under 2 V.S.A. § 406.

Sec. E.221 Criminal justice training council

(a) Notwithstanding any other provision of law, from the fiscal year 2013 funds appropriated to the Criminal Justice Training Council and carried forward into fiscal year 2014, the amount of $40,000 shall revert to the General Fund.

Sec. E.223 Agriculture, food and markets – food safety and consumer protection

(a) The Agency of Agriculture, Food and Markets shall use the Global Commitment Funds appropriated in this section for the Food Safety and Consumer Protection Division to provide public health approaches and other innovative programs to improve the health outcomes, health status, and quality of life for uninsured, underinsured, and Medicaid-eligible individuals in Vermont.

Sec. E.225 Agriculture, food and markets – laboratories, agricultural resource management and environmental stewardship

(a) The Agency of Agriculture, Food and Markets shall use the Global Commitment Funds appropriated in this section for the Administration Division to provide public health approaches and other innovative programs to improve the health outcomes, health status, and quality of life for uninsured, underinsured, and Medicaid-eligible individuals in Vermont.

Sec. E.228 Financial regulation – insurance

(a) The Department of Financial Regulation shall use the Global Commitment Funds appropriated in this section for the Insurance Division for the purpose of funding certain health-care-insurance-related Department of Financial Regulation programs, projects, and activities to increase the access of quality health care to uninsured persons, underinsured persons, and Medicaid beneficiaries.

Sec. E.233 PUBLIC SERVICE DEPARTMENT; ELECTRIC GENERATION SITING

(a) On or before July 1, 2013, the Department of Public Service (the Department) shall submit to the House and Senate Committees on Natural Resources and Energy:

(1) a summary review of the report of the Governor's Energy Generation Siting Policy Commission, entitled Siting Generation in Vermont: Analysis and Recommendations (April 2013) (the Report). The summary review shall identify and include the specific recommendations in the Report that correspond to or address:

(A) establishing a comprehensive planning process for the siting of electric generation plants that integrates state energy planning with local and regional land use planning and strengthens the role of local and regional plans in the siting review process;

(B) increasing the accessibility of the siting review process for electric generation plants to local and regional governments and concerned citizens, including recommended statutory revisions to improve notice of proposed plants and the siting review process; and

(C) creating a publicly accessible inventory of peer-reviewed research on any impacts of electric generation plants on public health, the environment, and land use, and establishing specific standards applicable to electric generation plants to address any such impacts, including noise limits and setback requirements; and

(2) a recommendation on issues related to the curtailment of in-state electric generation plants.

(b) There is created the Electric Generation Advisory Committee (the Advisory Committee) to consist of the Chairs and Vice Chairs of the House and Senate Committees on Natural Resources and Energy (the Committees). On or before September 15, 2013, the Advisory Committee shall propose to the Committees a process for reviewing the Report and for completing their tasks under S.30 of 2013 and may recommend draft legislation on electric generation plants for consideration by the Committees. The Advisory Committee shall cease to exist on February 1, 2014. For attendance at meetings of the Advisory Committee, members of the Advisory Committee shall be entitled to compensation and reimbursement for expenses as provided in 2 V.S.A. § 406.

Sec. E.235 Enhanced 9-1-1 Board

(a) Up to $75,000 of the funds appropriated in Sec. B.235 of this act shall be used to ensure that on or before January 15, 2014, the Enhanced 911 Board, in coordination with the Secretary of Education, shall provide technical assistance and guidance to school districts to comply with the requirement in 30 V.S.A. § 7057 that accurate location information is associated with each landline telephone installed in a school. The General Assembly anticipates the Board will seek a budget adjustment if insufficient funds are available within this appropriation.

Sec. E.236 9 V.S.A. § 4504 is amended to read:

§ 4504. RENTAL OF HOUSING; EXEMPTIONS

* * *

(2) if the dwelling unit is in a building with three or fewer units and the owner or a member of the owner's immediate family resides in one of the units, provided any notice, statement, or advertisement with respect to the unit complies with subdivision 4503(a)(3) of this title;

* * *

* * * HUMAN SERVICES * * *

Sec. E.300 HOUSING SUBSIDY; AGENCY EVALUATION; REPORT

(a) Agency of Human Services' spending, represented in the Agency's Housing Inventory, initiated in 2011 contains 193 discrete funding lines. It is in the interest of the State to systematically review the State's spending on all State housing subsidies funded in whole or in part by the General Fund.

(b) The Agency of Human Services shall continue its work on the Housing Inventory. As part of the review, the Secretary shall evaluate the eligibility criteria, duration of the subsidy, expected outcomes for those receiving financial support, and the possible overlaps in the programs.

(c) On or before November 15, 2013, the Secretary shall report findings to the Joint Fiscal Committee, the House Committees on Human Services and on General, Housing and Military Affairs and the Senate Committees on Health and Welfare and Economic Development, Housing and General Affairs accompanied with recommendations to maximize the State's investment of funds and other supports that enhance the ability of Vermonters to achieve stability and independence in their living arrangements.

Sec. E.300.1 AGENCY OF HUMAN SERVICES PROGRAMS AND SUBSTANCE ABUSE CONTINUUM OF SERVICES; REVIEW AND RECOMMENDATION

(a) To ensure Agency programs serve persons with substance abuse and persons with co-occurring substance abuse, medical, and mental health conditions, the Secretary of Human Services shall report on the capacity of the system, including outpatient, inpatient, residential treatment, and recovery substance abuse, medical, and mental health services to address these needs. In addition to the resources of the Agency, the Secretary may seek the advice and consultation of independent persons with clinical case management and public policy expertise to assess current policies and resources available within the Agency and make recommendations to change current policies, change the allocations of resources, restructure payment systems, and prioritize future additional resources. The Secretary of Education, the Commissioner of Labor, the Administrative Judge in the Judiciary, and leaders in the State's law enforcement agencies are expected to be available as needed for consultation in this effort as well as the report on opioid addiction required in H.522 of the 2013 legislative session. The Secretary of Human Services shall report to the General Assembly with this assessment and recommendations by January 15, 2014.

Sec. E.301 Secretary's office – Global Commitment

(a) The Agency of Human Services shall use the funds appropriated in this section for payment of the actuarially certified premium required under the intergovernmental agreement between the Agency of Human Services and the managed care entity, the Department of Vermont Health Access, as provided for in the Global Commitment for Health Waiver ("Global Commitment") approved by the Centers for Medicare and Medicaid Services under Section 1115 of the Social Security Act.

(b) In addition to the state funds appropriated in this section, a total estimated sum of $27,761,422 is anticipated to be certified as state matching funds under the Global Commitment as follows:

(1) $17,641,800 certified state match available from local education agencies for eligible special education school-based Medicaid services under the Global Commitment. This amount combined with $22,858,200 of Federal Funds appropriated in Sec. B.301 of this act equals a total estimated expenditure of $40,500,000. An amount equal to the amount of the federal matching funds for eligible special education school-based Medicaid services under Global Commitment shall be transferred from the Global Commitment Fund to the Medicaid Reimbursement Special Fund created in 16 V.S.A. § 2959a.

(2) $3,901,341 certified state match available from local education agencies for direct school-based health services, including school nurse services, that increase the access of quality health care to uninsured persons, underinsured persons, and Medicaid beneficiaries.

(3) $2,179,180 certified state match available from local education agencies for eligible services as allowed by federal regulation for early periodic screening, diagnosis, and treatment programs for school-aged children.

(4) $1,852,303 certified state match available via the University of Vermont's Child Health Improvement Program for quality improvement initiatives for the Medicaid program.

(5) $2,186,798 certified state match available from local designated mental health and developmental services agencies for eligible mental health services provided under Global Commitment.

Sec. E.301.1 2011 Acts and Resolves No. 60, Sec. 3 is amended to read:

Sec. 3. REQUEST FOR A WAIVER

By no later than July 1, 2012, the ~~agency of human services~~ Agency of Human Services shall include as a part of its application request for a demonstration project from the Centers for Medicare and Medicaid Services to integrate care for dual eligible individuals the additional proposal of allowing the ~~state~~ State to provide for an "enhanced hospice access" benefit, whereby the definition of "terminal illness" is expanded from six months' life expectancy to that of 12 months and participants may access hospice without being required to first discontinue curative therapy. Also, by no later than July 1, 2013, the ~~agency of human services~~ Agency of Human Services shall submit a Global Commitment Medicaid waiver ~~amendment~~ renewal application to provide funding for the same enhanced hospice access benefit.

Sec. E.302 PAYMENT RATES FOR PRIVATE NONMEDICAL INSTITUTIONS PROVIDING RESIDENTIAL CHILD CARE SERVICES

(a) Notwithstanding any other provision of law, for the first quarter of state fiscal year 2014, the Division of Rate Setting shall calculate payment rates for private nonmedical institutions (PNMI) providing residential child care services as 100 percent of each program's final per diem rate in effect on June 30, 2013.

(1) For programs whose final per diem rate as of June 30, 2013 includes an approved rate adjustment, the per diem rate for the first quarter of state fiscal year 2014 will include provisions from the Division of Rate Setting's rate adjustment order.

(2) For programs whose final per diem rate as of June 30, 2013 is categorized as a start-up rate, the per diem rate for the first quarter of state fiscal year 2014 will include provisions from the Division of Rate Setting's final order on the start-up rate.

(b) The Division of Rate Setting shall propose a rule to set rates effective on October 1, 2013 for PNMI facilities providing residential child care services based on actual historical costs in a base year.

Sec. E.306 32 V.S.A. § 305a(c) is amended to read:

(c) The January estimates shall include estimated caseloads and estimated ~~per-member per-month~~ per-member per-month expenditures for the current and next succeeding fiscal years for each Medicaid enrollment group as defined by the ~~agency~~ Agency and the ~~joint fiscal office~~ Joint Fiscal Office for state health care assistance programs or premium assistance programs supported by the state health care resources and Global Commitment funds, ~~for VermontRx,~~ and for the programs under ~~the Choices for Care~~ any Medicaid Section 1115 waiver. For Board consideration, there shall be provided two versions of the next succeeding fiscal year's estimated per-member per-month expenditures: one shall include an increase in Medicaid provider reimbursements in order to ensure that the expenditure estimates reflect amounts attributable to health care inflation as required by subdivisions 307(d)(5) and (d)(6) of this title and one shall be without the inflationary adjustment. For VPharm, the January estimates shall include estimated caseloads and estimated per-member per-month expenditures for the current and next succeeding fiscal years by income category. The January estimates shall include the expenditures for the current and next succeeding fiscal years for the Medicare Part D phased-down state contribution payment and for the disproportionate share hospital payments. In July, the ~~administration~~ Administration and the ~~joint fiscal office~~ Joint Fiscal Office shall make a report to the ~~emergency board~~ Emergency Board on the most recently ended fiscal year for all Medicaid and

Medicaid-related programs, including caseload and expenditure information for each Medicaid eligibility group. Based on this report, the ~~emergency board~~ Emergency Board may adopt revised estimates for the current fiscal year and estimates for the next succeeding fiscal year.

Sec. E.306.1 32 V.S.A. § 307(d) is amended to read:

(d) The ~~governor's~~ Governor's budget shall include his or her recommendations for an annual budget for Medicaid and all other health care assistance programs administered by the ~~agency of human services~~ Agency of Human Services. The ~~governor's~~ Governor's proposed Medicaid budget shall include a proposed annual financial plan, and a proposed five-year financial plan, with the following information and analysis:

* * *

(5) health care inflation trends consistent with provider reimbursements approved under 18 V.S.A. § 9376 and hospital budgets approved by the Green Mountain Care Board under 18 V.S.A. chapter 221, subchapter 7;

(6) recommendations for funding provider reimbursement at levels sufficient to ensure reasonable access to care, and at levels at least equal to Medicare reimbursement;

* * *

Sec. E.307 33 V.S.A. § 1802(9) is added to read:

(9) "Modified adjusted gross income" shall have the same meaning as in 26 U.S.C. § 36B(d)(2)(B).

Sec. E.307.1 33 V.S.A. § 1812 is added to read:

§ 1812. FINANCIAL ASSISTANCE TO INDIVIDUALS

(a)(1) An individual or family eligible for federal premium tax credits under 26 U.S.C. § 36B with income less than or equal to 300 percent of federal poverty level shall be eligible for premium assistance from the State of Vermont.

(2) The Department of Vermont Health Access shall establish a premium schedule on a sliding scale based on modified adjusted gross income for the individuals and families described in subdivision (1) of this subsection. The Department shall reduce the premium contribution for these individuals and families by 1.5 percent below the premium amount established in 26 U.S.C. § 36B.

(3) Premium assistance shall be available for the same qualified health benefit plans for which federal premium tax credits are available.

(b)(1) An individual or family with income at or below 300 percent of the federal poverty guideline shall be eligible for cost-sharing assistance, including a reduction in the out-of-pocket maximums established under Section 1402 of the Affordable Care Act.

(2) The Department of Vermont Health Access shall establish cost-sharing assistance on a sliding scale based on modified adjusted gross income for the individuals and families described in subdivision (1) of this subsection. Cost-sharing assistance shall be established as follows:

(A) for households with income at or below 150 percent of the federal poverty level (FPL): 94 percent actuarial value;

(B) for households with income above 150 percent FPL and at or below 200 percent FPL: 87 percent actuarial value;

(C) for households with income above 200 percent FPL and at or below 250 percent FPL: 77 percent actuarial value;

(D) for households with income above 250 percent FPL and at or below 300 percent FPL: 73 percent actuarial value.

(3) Cost-sharing assistance shall be available for the same qualified health benefit plans for which federal cost-sharing assistance is available and administered using the same methods as set forth in Section 1402 of the Affordable Care Act.

(c) To the extent feasible, the Department shall use the same mechanisms provided in the Affordable Care Act to establish financial assistance under this section in order to minimize confusion and complication for individuals, families, and health insurers.

Sec. E.307.2 REDUCTION IN MEDICAID COST-SHIFT

(a) Beginning on November 1, 2013, the Agency of Human Services shall increase Medicaid reimbursements to participating providers for services provided by an amount equal to three percent of fiscal year 2012 expenditures for those services.

(b) It is the intent of the General Assembly that the Agency of Human Services increase Medicaid reimbursement methodologies in fiscal year 2014 across all programs and services, except as follows:

(1) providers with an existing process for rate inflation, such as nursing homes and private nonmedical institutions (PNMI), should not receive an additional increase;

(2) managed care organization (MCO) investments will be reviewed individually by the appropriate Department within the Agency of Human Services; and

(3) the Department of Vermont Health Access will not implement increases to primary care case management payments until the Department creates a new attribution model that more accurately identifies which providers should receive these payments.

(c) The Department of Vermont Health Access shall establish a mechanism that connects increases to payments for inpatient and outpatient hospital services with achieving high-quality outcomes.

(d) The Agency of Human Services shall allocate inflation increases to Medicaid reimbursement rates for fiscal years after 2014 in a manner that is consistent with Vermont's payment reform strategic plan.

(e) The Department of Vermont Health Access shall implement a new attribution model for primary care case management payments to ensure that providers seeing Medicaid patients for primary care receive those payments.

Sec. E.307.3 POTENTIAL INVESTMENT TO HELP WITH HIGH OUT-OF-POCKET HEALTH CARE COSTS

(a) It is the intent of the General Assembly to ensure that low- and middle-income individuals purchasing health insurance through the Vermont Health Benefit Exchange (Exchange) have financial protection from large out-of-pocket costs. The Department shall provide a report on the waiver renewal and the capacity for managed-care entity investments to the General Assembly when renewal-specific provisions are available. In the event that such capacity is available, the Department shall consider proposals to reduce high out-of-pocket health care costs for Vermonters, including but not limited to the following:

(1) modification of the cost-sharing subsidy established in 33 V.S.A. § 1812(b);

(2) other strategies that may include establishing a high risk pool or reinsurance or both;

(3) methods to mitigate the financial impact of low- and middle-income individuals purchasing health insurance through the Exchange who transition to Medicare coverage.

Sec. E.307.4 33 V.S.A. § 1901d is amended to read:

§ 1901d. STATE HEALTH CARE RESOURCES FUND

(a) The ~~state health care resources fund~~ State Health Care Resources Fund is established in the ~~treasury~~ State Treasury as a special fund to be a source of financing for health care coverage for beneficiaries of the state health care assistance programs under the Global Commitment to ~~health~~ Health waiver approved by the Centers for Medicare and Medicaid Services under Section 1115 of the Social Security Act ~~and for the Catamount Health assistance program under subchapter 3A of chapter 19 of this title~~ and a source of financing for the Vermont Health Benefit Exchange established in chapter 18, subchapter 1 of this title.

* * *

(d) All monies received by or generated to the ~~fund~~ Fund shall be used only as allowed by appropriation of the ~~general assembly~~ General Assembly for the administration and delivery of health care covered through state health care assistance programs administered by the ~~agency~~ Agency under the Global Commitment for Health Medicaid Section 1115 waiver, ~~the Catamount Health assistance program under subchapter 3A of chapter 19 of this title, employer-sponsored insurance premium assistance under section 1974 of this title,~~ the Vermont Health Benefit Exchange established in chapter 18, subchapter 1 of this title, immunizations under 18 V.S.A. § 1130, and the development and implementation of the Blueprint for Health under 18 V.S.A. § 702.

Sec. E.307.5 NOTIFICATIONS TO PHARMACY PROGRAM BENEFICIARIES

(a) The Department shall ensure that at least once a year a notification is included in a written correspondence to beneficiaries of pharmacy programs to inform the beneficiary that it may be advisable to consult with local community service organizations or state program eligibility officials to review the financial advisability of continuing enrollment in the program. The Department shall submit the notification for review to the Health Care Oversight Committee and the Joint Fiscal Committee not later than November 1, 2013.

Sec. E.307.6 2012 Acts and Resolves No. 162, Sec. E.307.2 is amended to read:

Sec. E.307.2 VHAP AND MEDICAID CO-PAYS

(a) The following co-payments for individuals enrolled in the VHAP and Medicaid programs are hereby authorized and set by the general assembly,

pursuant to 33 V.S.A. § 1901(b), and may be promulgated in rules by the secretary of human services or designee, in accordance with 33 V.S.A. § 1901(a)(1), and are effective upon adoption of rules pursuant to Sec. E.307.10 of this act:

(1) co-payments that apply to prescriptions ~~and durable medical equipment/supplies~~: enrolled individuals shall contribute a co-payment of not more than $1.00 for prescriptions ~~or durable medical equipment/supplies~~ costing less than $30.00, a co-payment of $2.00 for prescriptions ~~or durable medical equipment/supplies~~ costing $30.00 or more but less than $50.00, and a co-payment of $3.00 for prescriptions ~~or durable medical equipment/supplies~~ costing $50.00 or more;

* * *

Sec. E.308 CHOICES FOR CARE; SAVINGS, REINVESTMENTS, AND SYSTEM ASSESSMENT

(a) In the Choices for Care program, "savings" means the difference between the annual amount of funds appropriated for Choices for Care, excluding allocations for the provision of acute care services, and the sum of expended and obligated funds remaining at the conclusion of the fiscal year.

(b)(1) Any funds appropriated for long-term care under the long-term care waiver authorized by this section shall be used for long-term services and supports to recipients. In using these funds, the Department of Disabilities, Aging, and Independent Living shall give priority for services to individuals assessed as having high and highest needs and meeting the terms and conditions of the waiver as approved by the Centers for Medicare and Medicaid Services.

(2) Priority for the use of any savings from the long-term care appropriation after the needs of all individuals meeting the terms and conditions of the waiver have been met shall be given to home- and community-based services. Savings may be used for quality improvement purposes in nursing homes. Savings either shall be allocated and spent in ways that are sustainable into the future and that do not create an unsustainable base budget or shall be spent as one-time reinvestments that do not require sustainability into the future. Excluding appropriations allocated for the provision of acute services, any unexpended and unobligated state General or Special Fund appropriation at the close of a fiscal year shall be carried over to the next fiscal year. The Department of Disabilities, Aging, and Independent Living shall not obligate funds to reduce the calculation of savings in any fiscal year or reduce the base funding needed in a subsequent fiscal year prior to calculating savings for the current fiscal year.

(c) The Department in collaboration with long-term care providers shall conduct an annual assessment of the adequacy of the provider system for delivery of home- and community-based services and nursing home services. On or before October 1 of each year, the Department of Disabilities, Aging, and Independent Living shall report the results of this assessment to the House Committees on Appropriations and on Human Services and to the Senate Committees on Appropriations and on Health and Welfare for the purpose of informing the reinvestment of savings during the budget adjustment process.

(d) Annually on or before January 15, the Department of Disabilities, Aging, and Independent Living shall propose reinvestment of savings as calculated pursuant to this section to the General Assembly as part of the Department's proposed budget adjustment presentation.

(e) Concurrent with the procedures set forth in 32 V.S.A. § 305a, the Joint Fiscal Office and the Secretary of Administration shall provide to the Emergency Board their respective estimates of caseloads and expenditures for programs under the Choices for Care Medicaid Section 1115 waiver.

Sec. E.308.1 FISCAL YEAR 2104 ACCELERATED CHOICES FOR CARE REINVESTMENT

(a) In fiscal year 2014, as a result of federal action or emergency system funding needs, the Commissioner may present proposals for reinvestment of choices for care savings to the Joint Fiscal Committee at its September 2013 meeting. Upon approval of the Joint Fiscal Committee, such reinvestments shall be authorized, notwithstanding Sec. E.308 of this act.

Sec. E.312 Health – public health

(a) AIDS/HIV funding:

(1) In fiscal year 2014 and as provided in this section, the Department of Health shall provide grants in the amount of $475,000, of which $135,000 is state General Funds and $340,000 is AIDS Medication Rebates Special Funds to the Vermont AIDS service and peer-support organizations for client-based support services. It is the intent of the General Assembly that if the AIDS Medication Rebates Special Funds appropriated in this subsection are unavailable, the funding for Vermont AIDS service and peer-support organizations for client-based support services shall be maintained through the General Fund or other state-funding sources. The Department of Health AIDS Program shall meet at least quarterly with the Community Advisory Group (CAG) with current information and data relating to service initiatives. The funds shall be allocated as follows:

(A) AIDS Project of Southern Vermont, $120,281;

(B) HIV/HCV Resource Center, $38,063;

(C) VT CARES, $219,246;

(D) Twin States Network, $45,160;

(E) People with AIDS Coalition, $52,250.

(2) Ryan White Title II funds for AIDS services and the Vermont Medication Assistance Program (VMAP) shall be distributed in accordance with federal guidelines. The federal guidelines shall not apply to programs or services funded solely by state General Funds.

(3)(A) The Secretary of Human Services shall immediately notify the Joint Fiscal Committee if at any time there are insufficient funds in VMAP to assist all eligible individuals. The Secretary shall work in collaboration with persons living with HIV/AIDS to develop a plan to continue access to VMAP medications until such time as the General Assembly can take action.

(B) As provided in this section, the Secretary of Human Services shall work in collaboration with the VMAP Advisory Committee, which shall be composed of no less than 50 percent of members who are living with HIV/AIDS. If a modification to the program's eligibility requirements or benefit coverage is considered, the Committee shall make recommendations regarding the program's formulary of approved medication, related laboratory testing, nutritional supplements, and eligibility for the program.

(4) In fiscal year 2014, the Department of Health shall provide grants in the amount of $100,000 in General Funds to Vermont AIDS service organizations and other Vermont HIV/AIDS prevention providers for community-based HIV prevention programs and services. These funds shall be used for HIV/AIDS prevention purposes, including improving the availability of confidential and anonymous HIV testing; prevention work with at-risk groups such as women, intravenous drug users, and people of color; and anti-stigma campaigns. No more than 15 percent of the funds may be used for the administration of such services by the recipients of these funds. The method by which these prevention funds are distributed shall be determined by mutual agreement of the Department of Health and the Vermont AIDS service organizations and other Vermont HIV/AIDS prevention providers.

(b) Funding for the tobacco programs in fiscal year 2014 shall consist of the $2,393,377 in Tobacco Funds and $302,507 in Global Commitment Funds appropriated in Sec. B.312 of this act. The Tobacco Evaluation and Review Board shall determine how these funds are allocated to tobacco cessation, community-based, media, public education, surveillance, and evaluation activities. This allocation shall include funding for tobacco cessation programs that serve pregnant women.

Sec. E.312.1 33 V.S.A. § 2004 is amended to read:

§ 2004. MANUFACTURER FEE

* * *

(b) Fees collected under this section shall fund collection and analysis of information on pharmaceutical marketing activities under 18 V.S.A. §§ 4632 and 4633, analysis of prescription drug data needed by the ~~attorney general's office~~ Office of the Attorney General for enforcement activities, the Vermont prescription monitoring system established in 18 V.S.A. chapter 84A, ~~and~~ the ~~evidence-based~~ evidence-based education program established in 18 V.S.A. chapter 91, subchapter 2, and any opioid-antagonist education and training program operated by the Department of Health or its agents. The fees shall be collected in the evidence-based education and advertising fund established in section 2004a of this title.

Sec. E.312.2 33 V.S.A. § 2004a is amended to read:

§ 2004a. EVIDENCE-BASED EDUCATION AND ADVERTISING FUND

(a) The ~~evidence-based education and advertising fund~~ Evidence-Based Education and Advertising Fund is established in the ~~treasury~~ State Treasury as a special fund to be a source of financing for activities relating to fund collection and analysis of information on pharmaceutical marketing activities under 18 V.S.A. §§ 4632 and 4633, for analysis of prescription drug data needed by the ~~attorney general's office~~ Office of the Attorney General for enforcement activities, for the Vermont prescription monitoring system established in 18 V.S.A. chapter 84A, ~~and~~ for the evidence-based education program established in 18 V.S.A. chapter 91, subchapter 2, and for the support of any opioid-antagonist education and training program operated by the Department of Health or its agents. Monies deposited into the ~~fund~~ Fund shall be used for the purposes described in this section.

Sec. E.312.3 18 V.S.A. § 9708 is amended to read:

§ 9708. AUTHORITY AND OBLIGATIONS OF HEALTH CARE PROVIDERS, HEALTH CARE FACILITIES, AND RESIDENTIAL CARE FACILITIES REGARDING DO-NOT-RESUSCITATE ORDERS AND CLINICIAN ORDERS FOR LIFE SUSTAINING TREATMENT

* * *

(f) The ~~department of health~~ Department of Health shall adopt by rule no later than ~~March 1, 2013~~ July 1, 2014, criteria for individuals who are not the patient, agent, or guardian, but who are giving informed consent for a DNR/COLST order. The rules shall include the following:

* * *

(h) A clinician who issues a DNR order shall authorize issuance of a DNR identification to the patient. Uniform minimum requirements for DNR identification shall be determined by rule by the ~~department of health~~ Department of Health no later than ~~March 1, 2012~~ July 1, 2014.

* * *

Sec. E.312.4 Sec. 4 (organ and tissue donation working group) of H.178 of 2013, as enacted, is amended in subsection (b), subdivisions (5) and (6), by inserting before the respective semicolon ", appointed by the Governor".

Sec. E.313 Health – alcohol and drug abuse programs

(a) For the purpose of meeting the need for outpatient substance abuse services when the preferred provider system has a waiting list of five days or more or there is a lack of qualified clinicians to provide services in a region of the State, a state-qualified alcohol and drug abuse counselor may apply to the Department of Health, Division of Alcohol and Drug Abuse Programs, for time-limited authorization to participate as a Medicaid provider to deliver clinical and case coordination services, as authorized.

(b)(1) In accordance with federal law, the Division of Alcohol and Drug Abuse Programs may use the following criteria to determine whether to enroll a state-supported Medicaid and uninsured population substance abuse program in the Division's network of designated providers, as described in the state plan:

(A) The program is able to provide the quality, quantity, and levels of care required under the Division's standards, licensure standards, and accreditation standards established by the Commission on Accreditation of Rehabilitation Facilities, the Joint Commission on Accreditation of Health Care Organizations, or the Commission on Accreditation for Family Services.

(B) Any program that is currently being funded in the existing network shall continue to be a designated program until further standards are developed, provided the standards identified in this subdivision (b)(1) are satisfied.

(C) All programs shall continue to fulfill grant or contract agreements.

(2) The provisions of subdivision (1) of this subsection shall not preclude the Division's "request for bids" process.

(c) The Department of Health shall compile and maintain a waitlist containing the unduplicated number of individuals in the State who are in need of substance abuse treatment.

(d) Of the funds appropriated in Sec. B.313 of this act, $100,000 in General Funds is intended for increasing the capacity across the continuum of substance abuse prevention and treatment services. The use of these funds shall be determined by the Secretary of Human Services subsequent to the report required in Sec. E.300.1 (Substance Abuse Continuum) of this act. The proposed use of these funds shall be included with the fiscal year 2014 budget adjustment proposal made by the Agency.

(e) The appropriation of funds in Sec. B.313 of this act for an expansion of substance abuse treatment beds shall not abrogate or interfere with the statutory requirements for a certificate of need in 18 V.S.A. § 9434. If the Green Mountain Care Board does not approve a certificate of need under 18 V.S.A. § 9434, the appropriated amount shall be reserved for reallocation by the General Assembly in the fiscal year 2014 budget adjustment process or the fiscal year 2015 budget process.

Sec. E.314 [DELETED]

Sec. E.314.1 REDUCTION IN FORCE OF VERMONT STATE HOSPITAL EMPLOYEES

(a) The reduction in force rights of employees formerly employed at the Vermont State Hospital are governed by 2012 Acts and Resolves No. 79, Sec. 37a.

Sec. E.314.2 LEVEL 1 PSYCHIATRIC CARE EVALUATION

(a)(1) The Mental Health Oversight Committee and the Health Care Oversight Committee shall hold a joint meeting in November 2013 for the purpose of evaluating the capacity needed to treat patients in the care and custody of the Commissioner of Mental Health, specifically regarding the capacity needed within the Level 1 system of care as established in 2012 Acts and Resolves No. 79. The evaluation shall include:

(A) an assessment of the census trends for the Level 1 system of care during the last fiscal year;

(B) the status of the census capacity at Rutland Regional Medical Center and Brattleboro Retreat's Level 1 unit;

(C) the status of the construction at the state-owned and -operated psychiatric hospital in Berlin;

(D) the status of the census capacity at the intensive and secure residential recovery programs; and

(E) an assessment of whether the budget provides adequate capacity for Level 1 treatment through the end of the 2014 fiscal year and the estimated budget need for the duration of the 2015 fiscal year.

(2) The evaluation shall include a projection of the daily census need for Level 1 inpatient care in excess of the six beds projected to operate at the Rutland Regional Medical Center and the 14 beds projected to operate at the Brattleboro Retreat as of April 1, 2014. The Committees shall solicit input from those hospitals providing Level 1 care that will be discontinued once the state-owned and -operated hospital is opened. The Committees' evaluation shall be submitted to the House and Senate Committees on Appropriations on or before December 15, 2013.

(3) The evaluation shall assess the number and type of personnel necessary to staff the state-owned and -operated hospital in Berlin as of April 1, 2014. On or before December 15, 2013, the Mental Health Oversight Committee and the Health Care Oversight Committee shall make a recommendation to the Joint Fiscal Committee as to the number and type of personnel needed to operate the state-owned and -operated hospital on April 1, 2014.

(4) It is the intent of the General Assembly that the 2015 fiscal year budget provide adequate resources to fund fully the community programs as funded in fiscal year 2014 and inpatient capacity established in 2012 Acts and Resolves No. 79, including the 25 beds at the state-owned and -operated hospital in Berlin. If the Mental Health Oversight Committee and the Health Care Oversight Committee in their evaluation and recommendation to the Joint Fiscal Committee find that less need exists than anticipated, the Joint Fiscal Committee may recommend reconsideration by the General Assembly.

(b) Each month between June and December 2013, the Department of Mental Health shall provide the following information to the Mental Health Oversight Committee and the Health Care Oversight Committee:

(1) The number of Level 1 patients receiving acute inpatient care in a hospital setting other than the renovated unit at Rutland Regional Medical Center, the renovated unit at the Brattleboro Retreat, and the Green Mountain Psychiatric Center in Morrisville, including the number of individuals treated in each setting and the single combined one-day highest number each month;

(2) The number of individuals waiting for admission to a Level 1 psychiatric inpatient unit after the determination of need for admission to

emergency departments, correctional facilities, or any other identified settings is made and the number of days individuals are waiting;

(3) The total census capacity and average daily census of new intensive recovery residence beds opened in accordance with 2012 Acts and Resolves No. 79, and the annual daily census of the secure residential recovery facility in Middlesex. The census capacity shall not include a duplicate count for beds that replace those currently in operation elsewhere.

Sec. E.314.3 SUICIDE PREVENTION

(a) The funds appropriated to the Department of Mental Health for suicide prevention shall be used in accordance with best practices to enhance coordination in youth and adult suicide prevention programs, including the creation of a unified grant process for a single entity with prior experience implementing statewide prevention initiatives.

Sec. E.314.4 STANDARDIZED LEVEL OF CARE

(a) Contracts with designated hospitals participating in the no refusal system, as defined in 18 V.S.A. § 7101, for the treatment of Level 1 patients shall include standards of care equivalent to those developed and provided at the state-owned and -operated hospital.

Sec. E.314.5 RATE INCREASE

(a) Revenue generated from the Medicaid rate increases in this act shall be used by designated agencies and specialized service agencies to provide a commensurate increase in compensation for direct care workers. Each designated and specialized service agency shall report to the Agency of Human Services how it has complied with this provision.

Sec. E.316 [DELETED]

Sec. E.317 [DELETED]

Sec. E.321 HOUSING ASSISTANCE BENEFITS; FLEXIBILITY PROGRAM

(a) For state fiscal year 2014, the Agency of Human Services may continue a housing assistance program within the General Assistance program to create flexibility to provide these General Assistance benefits. The purpose of the program is to mitigate poverty and serve applicants more effectively than they are currently being served with the same amount of General Assistance funds. The program shall operate in a consistent manner within existing statutes and rules and new policies to be effective on July 1, 2013 and may create programs and provide services consistent with these policies. Eligible activities shall include, among others, the provision of shelter, overflow shelter, case

management, transitional housing, deposits, down payments, rental assistance, upstream prevention, and related services that ensure that all Vermonters have access to shelter, housing, and the services they need to become safely housed. The assistance provided under this section is not an entitlement and may be discontinued when the appropriation has been fully spent.

(b) The program may operate in up to 12 districts designated by the Secretary of Human Services. The Agency shall establish outcomes and procedures for evaluating the program overall, and for each district in which the Agency operates the program, it shall establish procedures for evaluating the district program and its effects.

(c) The Agency shall continue to engage interested parties, including both statewide organizations and local agencies, in the design, implementation, and evaluation of the General Assistance flexibility program.

Sec. E.321.1 GENERAL ASSISTANCE EMERGENCY HOUSING

(a) Up to $1,500,000 of the funds appropriated to the Agency of Human Services in the General Assistance program in fiscal year 2014 may be used for emergency housing in catastrophic situations, for the cold weather exemption, and, with supervisory approval, for vulnerable populations as defined in subsection (d) of this section, except in instances when:

(A) appropriate shelter space is available; and

(B) the recipient is responsible for his or her eviction, whether court-ordered or constructive, due to circumstances over which the individual had control.

(b) Except as described in subsections (a) and (c) of this section, the Agency may only provide General Assistance emergency housing benefits in catastrophic situations as defined in rules adopted pursuant to 3 V.S.A. chapter 25. All emergency and temporary housing policies and guidelines issued by the Agency in effect as of June 30, 2013 shall be rescinded, except that the cold weather exemption issued by the Department for Children and Families' Economic Services Division dated October 25, 2012, and any succeeding amendments to it, shall remain in effect.

(c) The Department for Children and Families shall adopt emergency rules pursuant to 3 V.S.A. § 844 to take effect July 1, 2013 that implement an eligibility system for emergency housing based on the physical health of and safety risks to vulnerable populations that do not have a catastrophic need. Emergency housing under the eligibility system shall be subject to available funds, supervisory review, and approval.

(d)(1) As used in this section, "vulnerable populations" means households with a member who is:

(A) 65 years of age or older;

(B) in receipt of or an applicant for either Supplemental Security Income (SSI) or Social Security Disability Insurance (SSDI);

(C) a child under six years of age; or

(D) in the third trimester of pregnancy.

(2) Eligibility for vulnerable populations shall be limited to 28 calendar days.

(3) Subdivision (1) of this subsection shall remain in effect until the eligibility system for emergency housing based on the physical health of and safety risks to vulnerable populations is adopted by the Department for Children and Families by rule pursuant to subsection (c) of this section.

Sec. E.321.2 EMERGENCY HOUSING; REPORTS

(a) The Agency of Human Services shall develop the following systems with respect to General Assistance emergency housing services:

(1) an intake system for individuals and families receiving emergency housing services, including collecting basic statistical information about the clients served;

(2) a system to track payments to motels; and

(3) a system for ensuring the safety and health of clients who are housed in motels.

(b) On or before January 15, 2014, the Agency of Human Services shall report to the House Committee on General, Housing and Military Affairs, the Senate Committee on Economic Development, Housing and General Affairs, and the House and Senate Committees on Appropriations regarding the development and implementation of the systems required by subsection (a) of this section.

(c) On or before January 15 and July 15 of each year beginning in 2014, the Agency of Human Services shall report statewide statistics related to the use of emergency housing vouchers during the preceding calendar half-year, including demographic information, deidentified client data, shelter and motel usage rates, clients' primary stated cause of homelessness, average lengths of stay in emergency housing by demographic group and by type of housing, and such other relevant data as the Secretary deems appropriate. When the General Assembly is in session, the Agency shall provide its report to the House Committee on General, Housing and Military Affairs, the Senate Committee on Economic Development, Housing and General Affairs, and the House and

Senate Committees on Appropriations. When the General Assembly is not in session, the Agency shall provide its report to the Joint Fiscal Committee.

Sec. E.323 33 V.S.A. § 1107 is amended to read:

§ 1107. CASE MANAGEMENT; FAMILY DEVELOPMENT PLANS; COORDINATED SERVICES

(a)(1) The ~~commissioner~~ Commissioner shall provide all Reach Up services to participating families through a case management model informed by knowledge of the family's home, community, employment, and available resources. Services may be delivered in the district office, the family's home, or community in a way that facilitates progress toward accomplishment of the family development plan. Case management may be provided to other eligible families. The case manager, with the full involvement of the family, shall recommend, and the ~~commissioner~~ Commissioner shall modify as necessary a family development plan established under the Reach First or Reach Up program for each participating family, with a right of appeal as provided by section 1132 of this title. A case manager shall be assigned to each participating family as soon as the family begins to receive financial assistance. If administratively feasible and appropriate, the case manager shall be the same case manager the family was assigned in the Reach First program. The applicant for or recipient of financial assistance, under this chapter, shall have the burden of demonstrating the existence of his or her condition.

(2) In addition to the services provided pursuant to subsection (b) of this section, the Commissioner shall provide for a mandatory case review for each participating family with a program director or the program director's designee when the family reaches 18 and 36 months of enrollment, respectively, in the Reach Up program to assess whether the participating family:

(A) is in compliance with a family development plan or work requirement;

(B) is properly claiming a deferment, if applicable; and

(C) has any unaddressed barriers to self-sufficiency and, if so, how those barriers may be better addressed by the Department for Children and Families or other state programs.

* * *

Sec. E.323.1 33 V.S.A. § 1108 is amended to read:

§ 1108. ~~OBLIGATION TO ASSIST ELIGIBLE FAMILIES WITH DEPENDENT CHILDREN~~ LIMITS ON FAMILY FINANCIAL ASSISTANCE

~~Except as specifically authorized herein, the commissioner shall not adopt any rule that would result in the termination of financial assistance to a participating family, including a dependent child, on the basis of an adult family member's having received TANF-funded financial assistance, as an adult, for 60 or more months in his or her lifetime. This provision shall not prevent the commissioner from adopting rules that impose limitations on how many months that families, including a parent who has received an associate or bachelor's degree while receiving support from the postsecondary education program authorized by section 1121 of this chapter, may receive financial assistance authorized by this chapter in the five-year period immediately following the receipt of such associate or bachelor's degree.~~

(a) Except for grants to children in the care of persons other than their parents, only participating families who have received fewer than 60 cumulative months of financial assistance, including those months in which any type of cash assistance funded by a TANF block grant was received in other states or territories of the United States, shall be eligible for benefits under the Reach Up program.

(b) Deferment granted for the following reasons shall not count toward the Reach Up program's cumulative 60-month lifetime eligibility period:

(1) The participant is not able-to-work.

(2) The participant is a parent or caretaker who is caring for a child during the first year of a possible two-year deferment pursuant to subdivision 1114(b)(3) of this chapter.

(3) The participant is affected by domestic violence pursuant to subdivision 1114(b)(9) of this chapter.

(4) The participant is needed in the home on a full-time basis to care for an ill or disabled parent, spouse, or child pursuant to subdivision 1114(b)(5) of this chapter.

(c) The cumulative 60-month lifetime eligibility period shall not begin to toll until the parent or parents of a participating family have reached the age of 18.

(d) Notwithstanding subsection (a) of this section, a participating family that does not have a qualifying deferment under section 1114 of this title and that has exceeded the cumulative 60-month lifetime eligibility period set forth

in subsection (a) of this section shall qualify for a hardship exemption that allows the adult member of the participating family to receive:

(1) a wage equivalent to that of the participating family's cash benefit under the Reach Up program for participation in community service employment; or

(2) supplemental benefits to the wages of the adult member of the participating family if the work requirement is otherwise being met.

Sec. E.323.2 33 V.S.A. § 1114 is amended to read:

§ 1114. DEFERMENTS, MODIFICATIONS, AND REFERRAL

* * *

(b) The work requirements shall be either modified or deferred for:

* * *

(5) A participant who is needed in the home on a full or part-time basis in order to care for an ill or disabled parent, spouse, or child. In granting deferments, the ~~department~~ Department shall fully consider the participant's preference as to the number of hours the participant is able to leave home to participate in work activities. A deferral or modification of the work requirement exceeding 60 days due to the existence of illness or disability pursuant to this subdivision shall be confirmed by the independent medical review of one or more physicians designated by the Secretary of Human Services prior to receipt of continued financial assistance under the Reach Up program.

* * *

(d) Absent an apparent condition or claimed physical, emotional, or mental condition, participants are presumed to be able-to-work. A participant shall have the burden of demonstrating the existence of the ~~circumstances or~~ condition asserted as the basis for a deferral or modification of the work requirement. A deferral or modification of the work requirement exceeding 60 days due to the existence of conditions rendering the participant unable-to-work shall be confirmed by the independent medical review of one or more physicians designated by the Secretary of Human Services prior to receipt of continued financial assistance under the Reach Up program.

* * *

Sec. E.323.3 INTERIM REACH UP CASE MANAGEMENT

(a) During the interim between passage of this act and the implementation of the cumulative 60-month lifetime eligibility period pursuant to

section E.323.1 of this act on May 1, 2014, the Commissioner for Children and Families shall:

(1) ensure that each participating family has a designated case manager who is primarily accountable for the family's progress in the Reach Up program; and

(2) conduct a case review of each participating family that has reached the cumulative 60-month lifetime eligibility period pursuant to section E.323.1 of this act, beginning with families under sanction, to understand better the profile of families receiving long-term assistance.

(b) On or before January 15, 2014, the Commissioner shall submit a written report to the House Committees on Appropriations and on Human Services and to the Senate Committees on Appropriations and on Health and Welfare regarding:

(1) the Department's preparedness to implement the cumulative 60-month lifetime eligibility period pursuant to Sec. E.323.1 of this act;

(2) the aggregated profile of participating families receiving long-term assistance from the Reach Up program pursuant to subdivision (a)(2) of this section, including any common barriers that prevent participating families from moving to self-sufficiency;

(3) the anticipated impact on participating families reaching the cumulative 60-month lifetime eligibility period pursuant to section E.323.1 of this act; and

(4) the fiscal impact of changes made to the Reach Up program in accordance with this act.

(c) On or before February 15, 2015, the Commissioner shall report to the General Assembly on the status of families 60 days after the family becomes ineligible for the Reach Up program pursuant to subsection E.323.1(a) of this act.

Sec. E.323.4 33 V.S.A. § 1116(e) is amended to read:

(e) ~~Any family that has received 60 or more cumulative months of financial assistance that also has one or more adult participants who have been sanctioned for 12 or more cumulative months, and who are currently being sanctioned shall have their grant reduced by $225.00 per month for each adult sanctioned under this subsection.~~ [Repealed.]

Sec. 323.5 33 V.S.A. § 1122(i) is added to read:

(i) The Department shall offer written and verbal information pertaining to postsecondary education to an appropriate Reach Up participant based on the participant's assessment.

Sec. E.323.6 REACH UP POLICY WORK GROUP

(a) It is the policy of the State of Vermont that:

(1) parents and guardians take primary responsibility for the care and financial support of their children;

(2) parents and guardians model self-sufficient behavior and personal responsibility for their children by availing themselves of employment and educational opportunities when possible; and

(3) the system of aid and services to needy families with children shall recognize clearly defined reciprocal responsibilities and obligations on the part of both parents and government.

(b) The Commissioner for Children and Families shall convene a work group to examine public policy options for restructuring the Reach Up program in a manner that emphasizes participant responsibility for receipt of benefits. The Work Group shall:

(1) assess the effectiveness of the Reach Up program in meeting the purposes outlined in 33 V.S.A. § 1102;

(2) identify programmatic strengths or weaknesses in the Reach Up program, including a review of and recommendations pertaining to the State's existing sanction policies, work requirements for two-parent families, and deferment standards to ensure statewide consistency in application;

(3) assess the effectiveness of the State and providers under contract with the State in administering the Reach Up program;

(4) identify the average caseload per case manager and assess the efficacy of case management services provided to Reach Up participants, including the training provided to case managers and requisite skills for performing case management responsibilities;

(5) evaluate whether the skills of the Department of Labor's Reach Up case managers would be better used in providing job placement and workforce development services to Reach Up participants;

(6) examine the Reach Up program's alignment with the Agency of Human Services' Integrated Family Services initiative;

(7) assess the availability and adequacy of education and training programs for Reach Up participants;

(8) survey successful models used by other states' Temporary Assistance for Needy Families (TANF) programs that emphasize participant responsibility;

(9) consider the feasibility and effectiveness of incorporating restorative justice principles into the Reach Up program through the involvement of Vermont's community justice centers;

(10) assess whether the State should maintain the exemption to 21 U.S.C. § 862a (denial of assistance and benefits for certain drug-related convictions) in 33 V.S.A. § 1103; and

(11) evaluate the coordination between the Reach Up program and other state and community services that provide assistance pertaining to housing, employment, transportation, or mental health and substance abuse.

(c)(1) The Commissioner, who shall serve as Chair, shall select individuals with policy expertise related to TANF, child welfare, child development, substance abuse, and workforce development issues to serve on the Work Group, as well as a current or former participating parent of the Reach Up program. The Commissioner may also select national consultants or experts to serve on or assist the Work Group. The Work Group shall seek input from Vermont advocates for children and families prior to finalizing its findings and recommendations.

(2) The Commissioner shall convene the first meeting of the Work Group on or before July 15, 2013.

(d) On or before November 1, 2013, the Work Group shall submit a written report to the General Assembly containing its findings and recommendations on each of the issues identified in subsection (b) of this section. The report shall also contain a proposal for restructuring the Reach Up Program in a manner that is cost-effective, is consistent with federal law, and empowers participants to attain self-sustaining employment. Thereafter, the Work Group shall cease to exist.

(e) Members of the Work Group who are not state employees and who are not otherwise compensated by their employment or association for their participation shall be entitled to per diem compensation as provided in 32 V.S.A. § 1010.

Sec. E.323.7 REACH UP; REALLOCATION OF RESOURCES

(a) Up to $300,000 of the funds formerly budgeted within the Reach Up program for transfer to Vocational Rehabilitation and subsequently to the

Department of Labor may be reallocated, including a transfer through the Global Commitment waiver by the Commissioner for Children and Families with the approval of the Secretary of Human Services and the Commissioner of Finance and Management. The funds shall be used to address substance abuse and mental health as a barrier to employment for Reach Up participants. The Commissioner for Children and Families shall report to the Joint Fiscal Committee in November 2013 on the proposed use of these funds, specifically with regard to the amount allocated for treatment, therapy, and case management. The Department for Children and Families shall report on the number and status of families served with these funds. The Department for Children and Families may seek further reallocation of these funds in the budget adjustment process if doing so comports with the recommendations required by Secs. E.300.1 (Substance Abuse Continuum) and E.323.6 (Reach Up Policy Work Group) of this act.

Sec. E.324 HOME HEATING FUEL ASSISTANCE/LIHEAP

(a) For the purpose of a crisis set-aside, for seasonal home heating fuel assistance through December 31, 2013, and for program administration, the Commissioner of Finance and Management shall transfer $2,550,000 from the Home Weatherization Assistance Trust Fund to the Home Heating Fuel Assistance Fund to the extent that federal LIHEAP or similar federal funds are not available. An equivalent amount shall be returned to the Home Weatherization Trust Fund from the Home Heating Fuel Assistance Fund to the extent that federal LIHEAP or similar federal funds are received. Should a transfer of funds from the Home Weatherization Assistance Trust Fund be necessary for the 2013–2014 crisis set-aside and for seasonal home heating fuel assistance through December 31, 2013 and if LIHEAP funds awarded as of December 31, 2013 for fiscal year 2014 do not exceed $2,550,000, subsequent payments under the Home Heating Fuel Assistance Program shall not be made prior to January 30, 2014. Notwithstanding any other provision of law, payments authorized by the Office of Home Heating Fuel Assistance shall not exceed funds available, except that for fuel assistance payments made through December 31, 2013, the Commissioner of Finance and Management may anticipate receipts into the Home Weatherization Assistance Trust Fund.

Sec. E.324.1 33 V.S.A. § 2502(d) is amended to read:

(d) ~~Amounts raised by the gross receipts tax on retail sales of fuel imposed~~ Subject to budgetary approval by the General Assembly, or approval by the Emergency Board, amounts in the Home Weatherization Assistance Trust Fund created by section ~~2503~~ 2501 of this title may be transferred to the Home Heating Fuel Assistance Trust Fund created by section 2603 of this title, and used for energy assistance to low income persons, provided that such transfer

does not reduce the fiscal capacity of the ~~state office of economic opportunity~~ State Office of Economic Opportunity to meet the budgetary obligations of the weatherization program as set forth in this chapter, and that in the event of approval by the Emergency Board, the Emergency Board so certifies.

Sec. E.324.2 REPEAL

(a) 33 V.S.A. § 2502(e) (use of amounts raised by the gross receipts tax, for home heating fuel assistance) is repealed.

Sec. E.324.3 REDESIGNATION BY LEGISLATIVE COUNCIL

(a) The Legislative Council is directed to remove the word "trust" from the name "home weatherization assistance trust fund" and from the name "home heating fuel assistance trust fund" wherever it appears in the Vermont Statutes Annotated.

Sec. E.324.4 33 V.S.A. § 2602 is amended to read:

§ 2602. ADMINISTRATION

* * *

(d) The Secretary shall require that an applicant to the Home Heating Fuel Assistance Program submit the approximate number of square feet and bedroom count of the household's dwelling unit. For those households that receive a Home Heating Fuel Assistance benefit, the Secretary shall provide the dwelling unit's square footage and bedroom count and each household's heating fuel consumption for the previous year to the Administrator of the Home Weatherization Assistance Program established under chapter 25 of this title.

Sec. E.324.5 33 V.S.A. § 2604 is amended to read:

§ 2604. ELIGIBLE BENEFICIARIES; REQUIREMENTS

* * *

(b) Fuel cost requirements. The ~~secretary of human services~~ Secretary of Human Services or designee shall by procedure establish a table that contains amounts that will function as a proxy for applicant households' annual heating fuel cost for the previous year. The seasonal fuel expenditure estimates contained within such table shall closely approximate the actual home heating costs experienced by participants in the ~~home heating fuel assistance program~~ Home Heating Fuel Assistance Program. Data on actual heating costs collected pursuant to subsection 2602(d) of this title shall be used in lieu of the proxy table when available. Such table shall be revised no less frequently than every three years based on data supplied by certified fuel suppliers, the ~~department of public service~~ Department of Public Service, and other industry

sources to the office of home heating fuel assistance. The ~~secretary~~ Secretary or designee shall provide a draft of the table to the ~~home energy assistance task force~~ Home Energy Assistance Task Force established pursuant to subsection 2501a(c) of this title and solicit input from the task force prior to finalizing the table.

* * *

Sec. E.324.6 33 V.S.A. § 2605 is amended to read:

§ 2605. BENEFIT AMOUNTS

(a) The ~~secretary of human services~~ Secretary of Human Services or designee shall by rule establish a table that specifies maximum percentages of applicant households' annual heating fuel costs, based on the proxy table established pursuant to subsection 2604(b) of this title and, when available, the data collected pursuant to subsection 2602(d) of this title, that can be authorized for payment as annual home heating fuel assistance benefits for the following year. The maximum percentages contained within this table shall vary by household size and annual household income. In no instance shall the percentage exceed 90 percent.

* * *

Sec. E.324.7 33 V.S.A. § 2608 is amended to read:

§ 2608. WEATHERIZATION PROGRAM AGREEMENTS

The ~~director~~ Director of the ~~home energy assistance program~~ Home Energy Assistance Program shall inform the ~~administrator~~ Administrator of the ~~home weatherization assistance program~~ Home Weatherization Assistance Program, established under chapter 25 of this title, of all participants in the ~~home heating fuel assistance program~~ Home Heating Fuel Assistance Program and of the information required by subsection 2602(d) of this title. The ~~agency of human services~~ Agency of Human Services shall provide all participants in the ~~home heating fuel assistance program~~ Home Heating Fuel Assistance Program with information regarding the efficiency utility established under 30 V.S.A. § 209. All participants in the ~~home heating fuel assistance program~~ Home Heating Fuel Assistance Program shall be deemed to comply with any income requirements of the ~~home weatherization program~~ Home Weatherization Program, but to receive weatherization services, recipients shall be required to meet any other eligibility requirements of the ~~weatherization program~~ Home Weatherization Program. As a condition of receipt of benefits under the ~~home heating fuel assistance program~~ Home Heating Fuel Assistance Program, a recipient shall consent to receive services of the ~~home weatherization assistance program~~ Home Weatherization Assistance Program. The Home Weatherization Assistance Program shall use the information required by

subsection 2602(d) of this title to determine the number of British thermal units (Btus) needed to heat a square foot of space for each participant in the Home Energy Assistance Program. ~~The home weatherization assistance program~~ The Home Weatherization Assistance Program shall give the highest priority to providing services to participants ~~with high energy consumption~~ within the Home Heating Fuel Assistance Program and, among those participants, to those who require the most Btus to heat a square foot of space.

Sec. E.324.8 FUEL PURCHASING; HOME HEATING FUEL ASSISTANCE

(a) Under 33 V.S.A. chapter 26 (home heating fuel assistance), a system of fuel purchasing shall be developed that ensures that the recipients of such assistance are offered the lowest possible fuel prices. To participate in the LIHEAP program, certified petroleum fuel suppliers shall choose one or more of the following options:

(1) Margin Over Rack pricing; or

(2) Fixed discount in addition to dealer's regular cash or prompt payment discount; or

(3) Summer fuel contract with a capped maximum per gallon price and downside protection.

(b) On or before August 1, 2013, the Secretary of Human Services shall adopt a revised system of fuel purchasing under 33 V.S.A. chapter 26 that meets the standard set forth in subsection (a) of this section.

(c) This section shall supersede Sec. 21 (fuel purchasing; home heating fuel assistance) of H.520 of 2013.

Sec. E.324.9 33 V.S.A. § 2609 is amended to read:

§ 2609. CRISIS RESERVES; ELIGIBILITY AND ASSISTANCE

(a) Annually, the ~~secretary of human services~~ Secretary of Human Services or designee shall determine an appropriate amount of funds in the home heating fuel assistance fund to be set aside for expenditure for the crisis fuel assistance component of the home heating fuel program. The ~~secretary~~ Secretary or designee shall also adopt rules to define crisis situations for the expenditure of the home heating fuel crisis funds, and to establish the income and asset eligibility requirements of households for receipt of crisis home heating fuel assistance, provided that no household shall be eligible whose gross household income is greater than 200 percent of the federal poverty level or is in excess of income maximums established by LIHEAP based on the income of all persons residing in the household. To the extent allowed by federal law, the ~~secretary~~ Secretary or designee shall establish by rule a

calculation of gross income based on the same rules used in 3SquaresVT, except that the ~~secretary~~ Secretary or designee shall include additional deductions or exclusions from income required by LIHEAP.

(b) Crisis fuel grants shall be limited per winter heating season to one grant for households that are income-eligible and have received a seasonal fuel assistance grant and meet all eligibility requirements for crisis fuel assistance, or to two grants for households that are not income-eligible for seasonal fuel assistance and meet all eligibility requirements for crisis fuel assistance.

Sec. E.325 Department for children and families – office of economic opportunity

(a) Of the General Fund appropriation in Sec. B.325 of this act, $792,000 shall be granted to community agencies for homeless assistance by preserving existing services, increasing services, or increasing resources available statewide. These funds may be granted alone or in conjunction with federal McKinney Emergency Shelter Funds. Grant decisions shall be made with assistance from the Vermont Coalition to End Homelessness.

Sec. E.326 Department for children and families – OEO – weatherization assistance

(a) Of the Special Fund appropriation in Sec. B.326 of this act, $750,000 is for the replacement and repair of home heating equipment.

Sec. E.326.1 33 V.S.A. § 2502 is amended to read:

§ 2502. HOME WEATHERIZATION ASSISTANCE PROGRAM

(a) The ~~director~~ Director of the ~~state office of economic opportunity~~ State Office of Economic Opportunity shall administer a ~~home weatherization assistance program~~ Home Weatherization Assistance Program under such rules, regulations, funding, and funding requirements as may be imposed by federal law.

(b) In addition, the ~~director~~ Director shall supplement, or supplant, any federal program with a ~~state home weatherization assistance program~~ State Home Weatherization Assistance Program.

(1) The state program shall provide an enhanced weatherization assistance amount exceeding the federal per unit limit allowing amounts up to an average of ~~$6,000.00~~ $8,000.00 per unit allocated on a cost-effective basis. In units where costs exceed the allowable average by more than 25 percent, prior approval of the ~~director~~ Director of the ~~state economic opportunity office~~ State Economic Opportunity Office shall be required before work commences. This amount shall be adjusted annually by increasing the last year's amount by the percentage increase in the Consumer Price Index for the previous year.

(2) The state program shall provide amounts for ~~low income~~ low-income customers utilizing any high operating cost fuel, to convert to another fuel source under rules adopted by the ~~director~~ Director based on the cost effectiveness of the converted facility over the life cycle of the equipment.

(3) The ~~director~~ Director, in collaboration with the weatherization service providers and other stakeholders, shall develop the state program so that it will include:

(A) Facilitating the development and implementation of a statewide common energy-audit tool or tools that work well on all Vermont housing, including multi-family buildings.

(B) With regard to multi-family buildings, requiring either of the following requirements to be met:

(i) at least 25 percent or more of the tenants in the building are eligible for the ~~weatherization program~~ Program; or

(ii) at least 50 percent of the units are weatherization affordable, and at least one tenant of the building has applied for the ~~weatherization program~~ Program and has been determined to be eligible. For purposes of this subdivision, "weatherization affordable" means a unit having a rent that is established at less than 30 percent of the income level established by computing ~~60~~ 80 percent of the area median income level or ~~60~~ 80 percent of the ~~state~~ State median income level, whichever is higher, for the relevant household size. Relevant household size means the number of bedrooms in the unit, plus one.

(C) Establishing ~~program~~ Program eligibility levels at ~~60~~ 80 percent of the area median income, or ~~60~~ 80 percent of the ~~state~~ State median income, whichever is higher. Subject to the priority under section 2608 of this title given to participants in the Home Heating Fuel Assistance Program, the state program shall, when weighing factors to assign priority to buildings or units eligible for weatherization assistance, assign the greatest weight to those buildings and units that require the most Btus to heat a square foot of space.

* * *

(G) With respect to multi-family buildings housing recipients of home heating fuel assistance under chapter 26 of this title, targeting outreach efforts to ensure the highest weatherization participation rates by owners of such buildings.

* * *

Sec. E.328 [DELETED]

Sec. E.329 VERMONT VETERANS' HOME; REGIONAL BED CAPACITY

(a) The Agency of Human Services shall not include the bed count at the Vermont Veterans' Home when recommending and implementing policies that are based on or intended to impact regional nursing home bed capacity in the State.

Sec. E.333 Disabilities, aging, and independent living - developmental services

(a) The Department of Disabilities, Aging, and Independent Living, the Agency of Human Services, the Department of Finance and Management, and the Joint Fiscal Office shall:

(1) After review of preliminary fiscal year 2013 close out of the developmental services appropriation unit, present an estimate to the Joint Fiscal Committee at its July 2013 meeting regarding the amount, if any, of the fiscal year 2014 Developmental Services program budget that needs to be addressed through administrative or operational changes in order to manage the service needs within the appropriated funds;

(2) Review the methodology for forecasting both the caseload and utilization for developmental disabilities programs and shall report any recommendations for changing this methodology to the Joint Fiscal Committee at its September 2013 meeting;

(3) Recommend a consensus estimate for the fiscal year 2015 developmental services caseload, utilization, and budget to the Emergency Board at its January 2014 meeting.

(b) In anticipation that there will be some fiscal year 2014 amount of administrative or operational changes needed to manage the service needs within the appropriated funds, the Secretary of Human Services, or designee shall convene a Work Group to:

(1) assess whether the methods of developmental service case planning and oversight should be revised;

(2) assess whether alternate practices could be identified, resulting in more cost-effective use of the resources available for developmental services;

(3) determine what changes could be reasonably implemented in fiscal year 2014 to manage the service needs within the appropriated funds and identify the fiscal year 2014 amount, if any, of budgetary management that will be accomplished through existing System of Care Plan rescission processes based upon the estimate provided in subdivision (a)(1) of this section;

(4) report to the Joint Fiscal Committee at its September 2013 meeting on subdivisions (b)(1)-(3) of this section;

(5) identify cost-effective, innovative models of care and develop recommendations as to how these models could be implemented in Vermont; and

(6) inform participants working to update the System of Care Plan for June 2014 on these findings and recommendations.

(c) There is created a Work Group composed of the following members:

(1) the Secretary of Human Services or designee, who shall be chair;

(2) the Commissioner of Disabilities, Aging, and Independent Living or designee;

(3) the Director of Developmental Services or designee;

(4) two members appointed by the Vermont Council of Developmental and Mental Health Services;

(5) two members appointed by the Developmental Disabilities Council who may be any combination of a parent of, a family member of, or a person living with a disability; and

(6) up to three additional members appointed by the Secretary or designee deemed desirable for policy expertise or stakeholder input.

(d) For fiscal year 2014, no modifications or rescissions to the System of Care Plan shall be initiated until September 1, 2013.

(e) The members of the Work Group created in subsection (c) of this section, shall be appointed as soon as is practicable following the effective date of this section. Members of the Work Group who are not employees of the State of Vermont and who are not otherwise compensated by their employer or association for their participation in the Work Group shall be reimbursed at the per diem rate set forth in 32 V.S.A. § 1010.

Sec. E.335 JOINT CORRECTIONS OVERSIGHT COMMITTEE; HOME DETENTION; HOME CONFINEMENT

(a) The Joint Committee on Corrections Oversight, in consultation with the Commissioner of Corrections and other stakeholders, shall develop a proposal to increase the use of home detention and home confinement in lieu of incarceration in a correctional facility. The Committee shall consider the following:

(1) establishment of a unit that provides 24-hour electronic monitoring of detainees and offenders, the costs associated with such a unit, including any

costs to communities, and whether services could be contracted with another state or entity currently operating a similar program;

(2) revisions to the statutes concerning bail and conditions of release; and

(3) alternatives to detention or incarceration for persons charged with nonviolent misdemeanors.

(b) The Committee shall report its recommendations to the Joint Fiscal Committee prior to its regularly scheduled November meeting for consideration for inclusion in the Budget Adjustment Act.

Sec. E.335.1 DEPARTMENT OF CORRECTIONS; FISCAL YEAR 2013 CARRYFORWARD APPROPRIATIONS REPORT

(a) The Department shall report to the Joint Committee on Corrections Oversight in September 2013 on the amount of General Fund appropriations that have been carried forward from fiscal year 2013 into fiscal year 2014. The Department shall identify the amount of these funds that are unobligated, and of that unobligated amount, the amount of funds that could be available for ongoing justice reinvestment initiatives and the amount of funds that could be available for one-time expenditures. If such funds are available for ongoing or one-time investment, the Committee shall include its recommendations for such expenditure in the fiscal year 2014 budget adjustment process and or in the fiscal year 2015 budget process.

Sec. E.338 Corrections – correctional services

(a) The Steering Committee of the Vermont Community Justice Network and the Association of Vermont Court Diversion Programs, in consultation with their funders, stakeholders, and other providers of community-based restorative justice, shall report to the Joint Committee on Corrections Oversight by October 15, 2013, on the work they are doing to strengthen the coordination of and access to the community-based restorative justice delivery system.

Sec. E.342 Vermont veterans' home – care and support services

(a) The Vermont Veterans' Home will use the Global Commitment Funds appropriated in this section for the purpose of increasing the access of quality health care to uninsured persons, underinsured persons, and Medicaid beneficiaries.

Sec. E.342.1 20 V.S.A. § 1714 is amended to read:

§ 1714. POWERS AND DUTIES OF THE BOARD OF TRUSTEES

Except as otherwise provided in this chapter, the ~~board~~ Board shall have all powers necessary and convenient for governing the home, providing services to veterans and other residents, and otherwise performing its duties under this chapter, including the authority to:

* * *

(12) Admit and care for veterans and other residents whose admission does not interfere with the Board's ability to serve its core mission of caring for veterans. No resident shall be admitted whose admission precludes federal funding or otherwise violates federal law or regulation governing the Vermont Veterans' Home.

Sec. E.345 Green mountain care board

(a) The Green Mountain Care Board shall use the Global Commitment Funds appropriated in this section to encourage the formation and maintenance of public-private partnerships in health care, including initiatives to support and improve the health care delivery system.

Sec. E.345.1 COST SHIFT ACCOUNTABILITY

(a)(1) In fiscal year 2014 the amount of $14,300,000 in Global Commitment Funds is appropriated in this act to the Agency of Human Services to address health care inflation and reduce costs shifted to private insurers due to the underpayment of health care providers by Medicaid and Medicaid waiver programs. This amount annualizes to over $21,000,000. As part of the report required by 2000 Acts and Resolves No. 152, Sec. 117b on or before December 15, 2015, the Department of Vermont Health Access shall report on the impact of investments on the cost shift.

(2) The Green Mountain Care Board (GMCB) shall develop consistent, reportable measures to account for the impact on the cost shift of this and future investments as required by 2000 Acts and Resolves No. 152, Sec. 117b. The GMCB shall report to the General Assembly on or before March 15, 2014 on the impact to hospital budgets and health insurer rates due to the investment in fiscal year 2014, including the difference between Medicare and Medicaid reimbursement rates.

* * * K–12 EDUCATION * * *

Sec. E.500 Education – finance and administration

(a) The Global Commitment Funds appropriated in this section for school health services, including school nurses, shall be used for the purpose of

funding certain health-care-related projects. It is the goal of these projects to reduce the rate of uninsured or underinsured persons, or both, in Vermont and to increase the access of quality health care to uninsured persons, underinsured persons, and Medicaid beneficiaries.

Sec. E.501 Education - education services

(a) Notwithstanding 16 V.S.A. § 4014(f), in fiscal year 2014, the Secretary may use up to $100,000 of the early education grant appropriation for grants to increase the capacity of districts to start early education programs that do not currently have them.

Sec. E.501.1 16 V.S.A. § 1262a is amended to read:

§ 1262a. AWARD OF GRANTS

(a)(1) The ~~state board of education~~ Agency may, from funds appropriated for this subsection to the ~~department of education~~ Agency, award grants to:

(A) supervisory unions for the use of member school boards that establish and operate food programs;

(B) independent school boards that establish and operate food programs; and

(C) approved education programs, as defined in subdivision 11(a)(34) of this title and operating under private nonprofit ownership as defined in the National School Lunch Act, that establish and operate food programs for students engaged in a teen parent education program or students enrolled in a Vermont public school.

(2) The amount of any grant awarded under this subsection shall not be more than the amount necessary, in addition to ~~the charge made for the meal and~~ any reimbursement from federal funds, to pay the actual cost of the meal.

(b) The ~~state board~~ Agency may, from funds available to the ~~department of education~~ Agency for this subsection, award grants to supervisory unions consisting of one or more school districts that need to initiate or expand food programs in order to meet the requirements of section 1264 of this title and that seek assistance in meeting the cost of initiation or expansion. The amount of the grants shall be limited to 75 percent of the cost deemed necessary by the ~~commissioner~~ Secretary to construct, renovate, or acquire additional facilities and equipment to provide lunches to all ~~pupils~~ students, and shall be reduced by the amount of funds available from federal or other sources, including those funds available under section 3448 of this title. The ~~state board, upon recommendation of the commissioner~~ Agency shall direct supervisory unions seeking grants under this section to share facilities and equipment within the supervisory union and with other supervisory unions for the provision of

lunches wherever more efficient and effective operation of food programs can be expected to result.

(c) On a quarterly basis, from state funds appropriated to the ~~department of education~~ Agency for this subsection, the ~~state board~~ Agency shall award to each supervisory union, independent school board, and approved education program as described in subsection (a) of this section a sum equal to the amount that would have been the student share of the cost of all breakfasts and lunches actually provided in the district during the previous quarter to students eligible for a ~~reduced price~~ reduced-price breakfast under the federal school breakfast program and students eligible for a reduced-price lunch under the federal school lunch program.

Sec. E.501.2. 16 V.S.A. § 1264(c) is amended to read:

(c) The ~~state~~ State shall be responsible for the student share of the cost of breakfasts provided to all students eligible for a ~~reduced price~~ reduced-price breakfast under the federal school breakfast program and for the student share of the cost of lunches provided to all students eligible for a reduced-price lunch under the federal school lunch program.

Sec. E.502 Education – special education: formula grants

(a) Of the appropriation authorized in this section, and notwithstanding any other provision of law, an amount not to exceed $3,447,584 shall be used by the Agency of Education in fiscal year 2014 as funding for 16 V.S.A. § 2967(b)(2)–(6). In distributing such funds, the Secretary shall not be limited by the restrictions contained within 16 V.S.A. § 2969(c) and (d). In addition to funding for 16 V.S.A. § 2967(b)(2)–(6), up to $176,840 may be used by the Agency of Education for its participation in the higher education partnership plan.

Sec. E.503 Education – state-placed students

(a) The Independence Place Program of the Lund Family Center shall be considered a 24-hour residential program for the purposes of reimbursement of education costs.

Sec. E.504 Education – adult education and literacy

(a) Of this appropriation, $4,000,000 from the Education Fund shall be distributed to school districts for reimbursement of high school completion services pursuant to 16 V.S.A. § 1049a(c).

Sec. E.512 Education – Act 117 cost containment

(a) Notwithstanding any other provision of law, expenditures made from this section shall be counted under 16 V.S.A. § 2967(b) as part of the State's

60 percent of the statewide total special education expenditures of funds which are not derived from federal sources.

Sec. E.513 Appropriation and transfer to education fund

(a) Pursuant to Sec. B.513, there is appropriated in fiscal year 2014 from the General Fund for transfer to the Education Fund the amount of $288,921,564.

Sec. E.514 State teachers' retirement system

(a) The annual contribution to the Vermont State Teachers' Retirement System shall be $73,102,825, of which $68,352,825 shall be contributed in accordance with 16 V.S.A. § 1944(g)(2) and an additional $4,750,000 in General Funds.

(b) In accordance with 16 V.S.A. § 1944(c)(2), of the annual contribution, $11,259,501 is the "normal contribution," and $57,093,324 is the "accrued liability contribution."

(c) A combination of $71,783,200 in General Funds and an estimated $1,319,625 of Medicare Part D reimbursement funds is used to achieve funding at $4,750,000 above the actuarially recommended level of $68,352,825.

* * * HIGHER EDUCATION * * *

Sec. E.600 University of Vermont

(a) The Commissioner of Finance and Management shall issue warrants to pay one-twelfth of this appropriation to the University of Vermont on or about the 15th day of each calendar month of the year.

(b) Of this appropriation, $380,326 shall be transferred to EPSCoR (Experimental Program to Stimulate Competitive Research) for the purpose of complying with state matching fund requirements necessary for the receipt of available federal or private funds, or both.

(c) If Global Commitment Fund monies are unavailable, the total grant funding for the University of Vermont shall be maintained through the General Fund or other state funding sources.

(d) The University of Vermont will use the Global Commitment Funds appropriated in this section to support Vermont physician training. The University of Vermont prepares students, both Vermonters and out-of-state, and awards approximately 100 medical degrees annually. Graduates of this program, currently representing a significant number of physicians practicing in Vermont, deliver high-quality health care services to Medicaid beneficiaries

and to the uninsured or underinsured persons, or both, in Vermont and across the nation.

Sec. E.600.1 UNIVERSITY OF VERMONT AND VERMONT STATE COLLEGES – INCREASE TO BASE APPROPRIATIONS

(a) The General Fund increase from fiscal year 2013 to fiscal year 2014 to the base appropriations for the University of Vermont and Vermont State Colleges shall be used for financial aid to Vermont students. An amount equal to that increase shall be used for financial aid to Vermont students each subsequent year unless the base appropriation is reduced below the fiscal year 2014 level.

Sec. E.602 Vermont state colleges

(a) The Commissioner of Finance and Management shall issue warrants to pay one-twelfth of this appropriation to the Vermont State Colleges on or about the 15th day of each calendar month of the year.

(b) Of this appropriation, $427,898 shall be transferred to the Vermont Manufacturing Extension Center for the purpose of complying with state matching fund requirements necessary for the receipt of available federal or private funds, or both.

Sec. E.603 Vermont state colleges – allied health

(a) If Global Commitment fund monies are unavailable, the total grant funding for the Vermont State Colleges shall be maintained through the General Fund or other state funding sources.

(b) The Vermont State Colleges shall use the Global Commitment funds appropriated in this section to support the dental hygiene, respiratory therapy, and nursing programs which graduate approximately 250 health care providers annually. These graduates deliver direct, high-quality health care services to Medicaid beneficiaries and uninsured or underinsured persons, or both.

Sec. E.605 Vermont student assistance corporation

(a) Of this appropriation, $25,000 is appropriated from the General Fund to the Vermont Student Assistance Corporation to be deposited into the Trust Fund established in 16 V.S.A. § 2845.

(b) Except as provided in subsection (a) of this section, not less than 93 percent of grants shall be used for direct student aid.

(c) Funds available to the Vermont Student Assistance Corporation pursuant to Sec. E.215(a) of this act shall be used for the purposes of 16 V.S.A. § 2856. Any unexpended funds from this allocation shall carry forward for this purpose.

* * * NATURAL RESOURCES * * *

Sec. E.700 30 V.S.A. § 255 is amended to read:

§ 255. REGIONAL COORDINATION TO REDUCE GREENHOUSE GASES

* * *

(c) Allocation of tradable carbon credits.

(1) The ~~secretary of natural resources~~ Secretary of Natural Resources, by rule, shall establish a set of annual carbon budgets for emissions associated with the electric power sector in Vermont that are consistent with the 2005 RGGI MOU, including any amendments to that MOU and any reduced carbon cap resulting from a subsequent program review by RGGI, and that are on a reciprocal basis with the other states participating in the RGGI process.

* * *

Sec. E.704 Forests, parks and recreation - forestry

(a) This Special Fund appropriation shall be authorized, notwithstanding the provisions of 3 V.S.A. § 2807(c)(2).

Sec. E.706 Forests, parks and recreation – lands administration

(a) This Special Fund appropriation shall be authorized, notwithstanding the provisions of 3 V.S.A. § 2807(c)(2).

Sec. E.709 [DELETED]

Sec. E.711 [DELETED]

* * * COMMERCE AND COMMUNITY DEVELOPMENT * * *

Sec. E.800 VERMONT TRAINING PROGRAM

(a) Notwithstanding 10 V.S.A. § 531, the Secretary may authorize up to ten percent of the funds allocated within the Vermont Training Program for employers that meet at least one but fewer than three of the criteria specified within 10 V.S.A. § 531(b) and (c)(3). The Secretary shall report to the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General Affairs by January 15, 2014 on the use or proposed use of funds under this provision.

Sec. E.801 [DELETED]

Sec. E.802 [DELETED]

Sec. E.802.1 32 V.S.A. § 1003(b)(1) is amended to read:

(1) Heads of the following departments and agencies:

Base Salary as of July 1, 2012

* * *

(J) ~~Economic housing, and community development~~ Economic Development 76,953

* * *

(Q) ~~[Repealed]~~ Housing and Community Development 76,953

* * *

Sec. E.804 Community development block grants

(a) Community Development Block Grants shall carry forward until expended.

* * * TRANSPORTATION * * *

Sec. E.909 Transportation – central garage

(a) Of this appropriation, $6,688,735 is appropriated from the Transportation Equipment Replacement Account within the Central Garage Fund for the purchase of equipment as authorized in 19 V.S.A. § 13(b).

Sec. E.915 Transportation – town highway aid program

(a) This appropriation is authorized, notwithstanding the provisions of 19 V.S.A. § 306(a).

Sec. F.100 EFFECTIVE DATES

(a) This section and Secs. C.100 (fiscal year 2013 budget adjustment, Secretary of State), C.100.1 (RGA settlement; Secretary of State), C.101 (fiscal year 2013 budget adjustment, Attorney General), C.102 (fiscal year 2013 budget adjustment, protection function total), C.103 (fiscal year 2013 budget adjustment, Transportation – program development), C.104 (fiscal year 2013 budget adjustment, Transportation Infrastructure Bonds Debt Service), C.105 (fiscal year 2013 budget adjustment, Debt service and Debt service function total), C.106 (limited service position, ACCD), C. 107 (carry forward reallocation), C.108 (crisis fuel transfer authority), D.102 (tobacco litigation settlement fund balance), E.126.2 (Officers of General Assembly), E.127(b) (Legislative fund transfer to Joint Fiscal), E.233 (Public Service Department-Electric Generation Siting; Report), E.321.1(c) (General Assistance emergency housing), E.323.3 (interim Reach Up case management), E.323.6 (Reach Up

Policy Work Group), and E.333 (DAIL-developmental services) of this act shall take effect upon passage.

(b) Sec. E.802.1 shall take effect upon passage and shall apply as of the effective date of Executive Order No. 01-13.

(c) Secs. E.307 (modified adjusted gross income) and E.307.1 (exchange financial assistance) of this act shall take effect on October 1, 2013 to allow for their application to insurance plans with coverage beginning on January 1, 2014.

(d) Sec. E.307.2 (reduction in Medicaid cost-shift) shall take effect on July 1, 2013, except that subsection (e) of that section shall take effect on passage.

(e) Secs. E.324.4 (Administration) and E.324.8 (fuel purchasing assistance) shall take effect on July 2, 2013.

(f) Sec. E.323.1 (Reach Up limits on family financial assistance) and E.323.4 (Reach Up sanctions) shall take effect on May 1, 2014.

And by renumbering all of the sections of the bill to be numerically correct (including internal references) and adjusting all of the totals to be arithmetically correct.

M. JANE KITCHEL
RICHARD W. SEARS, JR.
DIANE B. SNELLING

Committee on the part of the Senate

MARTHA P. HEATH
MITZI JOHNSON
ANNE T. O'BRIEN

Committee on the part of the House

Thereupon, the question, Shall the Senate accept and adopt the report of the Committee of Conference?, was decided in the affirmative.

Thereupon, on motion of Senator Campbell, the rules were suspended and the bill was ordered messaged to the House forthwith.

Message from the House No. 80

A message was received from the House of Representatives by Ms. H. Gwynn Zakov, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has considered joint resolution originating in the Senate of the following title:

J.R.S. 32. Joint resolution relating to final adjournment of the General Assembly in 2013.

And has adopted the same in concurrence.

The House has considered the report of the Committee of Conference upon the disagreeing votes of the two Houses on House bill of the following title:

H. 240. An act relating to Executive Branch fees.

And has adopted the same on its part.

The House has considered the report of the Committee of Conference upon the disagreeing votes of the two Houses on House bill of the following title:

H. 295. An act relating to technical tax changes.

And has adopted the same on its part.

The House has considered the report of the Committee of Conference upon the disagreeing votes of the two Houses on House bill of the following title:

H. 530. An act relating to making appropriations for the support of government.

And has adopted the same on its part.

The House has considered Senate proposals of amendment to the following House bills:

H. 200. An act relating to civil penalties for possession of marijuana.

H. 538. An act relating to making miscellaneous amendments to education funding laws.

And has severally concurred therein.

The House has considered Senate proposal of amendment to House proposal of amendment to Senate proposal of amendment to House bill of the following title:

H. 522. An act relating to strengthening Vermont's response to opioid addiction and methamphetamine abuse.

And has concurred therein.

The House has considered Senate proposal of amendment to House proposal of amendment to Senate bill of the following title:

S. 77. An act relating to patient choice and control at end of life.

And has concurred therein.

Message from the House No. 81

A message was received from the House of Representatives by Ms. H. Gwynn Zakov, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that the House has on its part completed the business of the first half of the Biennial session and is ready to adjourn until January 7, 2014, pursuant to the provisions of J.R.S. 32.

Secretary Directed to Inform the House of Completion of Business

On motion of Senator Campbell, the Secretary was directed to inform the House that the Senate has completed the business of the session and is ready to adjourn to a day certain, June 21, 2013, if necessary, or, if not necessary, then to January 7, 2014, pursuant to the provisions of J.R.S. 32.

Committee Appointed to Inform Governor of Completion of Business

On motion of Senator Campbell, the President appointed the following five Senators as members of a committee to wait upon His Excellency, Peter E. Shumlin, the Governor, and inform him that the Senate has completed the business of the session and is ready to adjourn to a day certain, June 21, 2013, if necessary, or, if not necessary, then to January 7, 2014, pursuant to the provisions of J.R.S. 32:

Senator Campbell
Senator Baruth
Senator Benning
Senator Fox
Senator Ayer

Report of Committee

The Committee appointed to wait upon His Excellency, the Governor, to inform him that the Senate had, on its part, completed the business of the session and was ready to adjourn to a day certain, June 21, 2013, if necessary, or, if not necessary, then to January 7, 2014, pursuant to the provisions of **J.R.S. 32**, performed the duties assigned to it and escorted the Governor to the rostrum where he delivered his remarks in person.

Remarks of Governor

The Governor, the Honorable Peter E. Shumlin, assumed the rostrum and briefly addressed the Senate.

Departure of Governor

The Governor, having completed the delivery of his message, was escorted from the Chamber by the committee appointed by the Chair.

Final Adjournment

On motion of Senator Campbell, at nine o'clock and twenty minutes in the evening (9:20 P.M.), the Senate adjourned to a day certain, June 21, 2013, at ten o'clock in the forenoon, if necessary to attend to any bills returned by the Governor to the House or to the Senate, or, if not so necessary, then to January 7, 2014, at ten o'clock in the forenoon, pursuant to the provisions of **J.R.S. 32**.

Messages Received After Final Adjournment

After final adjournment, the following messages were received by the Secretary:

Message from the Governor

A message was received from His Excellency, the Governor, by Louis Porter, Secretary of Civil and Military Affairs, as follows:

Mr. President:

I am directed by the Governor to inform the Senate that on the twentieth day of May, 2013 he approved and signed bills originating in the Senate of the following titles were severally:

S. 14. An act relating to payment of agency fees and collective bargaining service fees.

S. 30. An act relating to siting of electric generation plants.

S. 77. An act relating to patient choice and control at end of life.

S. 88. An act relating to telemedicine services delivered outside a health care facility.

S. 99. An act relating to the standard measure of recidivism.

S. 104. An act relating to expedited partner therapy.

Message from the Governor

A message was received from His Excellency, the Governor, by Louis Porter, Secretary of Civil and Military Affairs, as follows:

Mr. President:

I am directed by the Governor to inform the Senate that on the twenty-second day of May, 2013 he approved and signed a bill originating in the Senate of the following title:

S. 11. An act relating to the Austine School.

Message from the Governor

A message was received from His Excellency, the Governor, by Louis Porter, Secretary of Civil and Military Affairs, as follows:

Mr. President:

I am directed by the Governor to inform the Senate that on the twenty-fourth day of May, 2013 he approved and signed bills originating in the Senate of the following titles:

S. 7. An act relating to social networking privacy protection.

S. 59. An act relating to independent direct support providers.

S. 132. An act relating to sheriffs, deputy sheriffs, and the service of process.

Message from the Governor

A message was received from His Excellency, the Governor, by Louis Porter, Secretary of Civil and Military Affairs, as follows:

Mr. President:

I am directed by the Governor to inform the Senate that on the twenty-ninth day of May, 2013 he approved and signed a bill originating in the Senate of the following title:

S. 152. An act relating to health care financing.

Message from the Governor

A message was received from His Excellency, the Governor, by Louis Porter, Secretary of Civil and Military Affairs, as follows:

Mr. President:

I am directed by the Governor to inform the Senate that on the thirtieth day of May, 2013 he approved and signed a bill originating in the Senate of the following title:

S. 150. An act relating to miscellaneous amendments to laws related to motor vehicles.

Message from the Governor

A message was received from His Excellency, the Governor, by Louis Porter, Secretary of Civil and Military Affairs, as follows:

Mr. President:

I am directed by the Governor to inform the Senate that on the third day of June, 2013 he approved and signed bills originating in the Senate of the following titles:

S. 1. An act relating to studies on classification of criminal offenses, development of a cost-benefit model for assessing criminal and juvenile justice programs, and the role of administrative hearing officers.

S. 20. An act relating to increasing the statute of limitations for certain sex offenses against children.

S. 31. An act relating to consideration of interests in revocable estate planning instruments when making a property settlement in a divorce proceeding.

S. 61. An act relating to alcoholic beverages.

S. 73. An act relating to the moratorium on home health agency certificates of need.

S. 156. An act relating to home visiting standards.

Message from the Governor

A message was received from His Excellency, the Governor, by Louis Porter, Secretary of Civil and Military Affairs, as follows:

Mr. President:

I am directed by the Governor to inform the Senate that on the fourth day of June, 2013, he approved and signed bills originating in the Senate of the following titles:

S. 4. An act relating to health and schools.

S. 18. An act relating to automated license plate recognition systems.

S. 148. An act relating to criminal investigation records and the Vermont Public Records Act.

Message from the Governor

A message was received from His Excellency, the Governor, by Louis Porter, Secretary of Civil and Military Affairs, as follows:

Mr. President:

I am directed by the Governor to inform the Senate that on the fourth day of June, 2013, he approved and signed a bill originating in the Senate of the following title:

S. 38. An act relating to expanding eligibility for driving and identification privileges in Vermont.

Message from the Governor

A message was received from His Excellency, the Governor, by Louis Porter, Secretary of Civil and Military Affairs, as follows:

Mr. President:

I am directed by the Governor to inform the Senate that on the sixth day of June, 2013, he approved and signed a bill originating in the Senate of the following title:

S. 130. An act relating to encouraging flexible pathways to secondary school completion.

Message from the Governor

A message was received from His Excellency, the Governor, by Louis Porter, Secretary of Civil and Military Affairs, as follows:

Mr. President:

I am directed by the Governor to inform the Senate that on the seventh day of June, 2013, he approved and signed bills originating in the Senate of the following titles:

S. 37. An act relating to tax increment financing districts.

S. 155. An act relating to creating a strategic workforce development needs assessment and strategic plan.

Message from the Governor

A message was received from His Excellency, the Governor, by Louis Porter, Secretary of Civil and Military Affairs, as follows:

Mr. President:

I am directed by the Governor to inform the Senate that on the tenth day of June, 2013, he approved and signed a bill originating in the Senate of the following title:

S. 157. An act relating to modifying the requirements for hemp production in the State of Vermont.

Message from the Governor

A message was received from His Excellency, the Governor, by Louis Porter, Secretary of Civil and Military Affairs, as follows:

Mr. President:

I am directed by the Governor to inform the Senate that on the thirteenth day of June, 2013, he approved and signed bills originating in the Senate of the following titles:

S. 81. An act relating to the regulation of octaBDE, pentaBDE, decaBDE, and the flame retardant known as Tris in consumer products .

S. 85. An act relating to workers' compensation for firefighters and rescue or ambulance workers.

Message from the House No. 82

A message was received from the House of Representatives by Ms. H. Gwynn Zakov, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has passed a House bill of the following title:

H. 112. An act relating to the labeling of food produced with genetic engineering.

In the passage of which the concurrence of the Senate is requested.

The Governor has informed the House that on the March 7, 2013, he approved and signed a bill originating in the House of the following title:

H. 47. An act relating to fiscal year 2013 budget adjustment.

The Governor has informed the House that on the March 20, 2013, he approved and signed a bill originating in the House of the following title:

H. 41. An act relating to civil forfeiture of retirement payments to public officials convicted of certain crimes.

The Governor has informed the House that on the March 27, 2013, he approved and signed a bill originating in the House of the following title:

H. 63. An act relating to repealing an annual survey of municipalities.

The Governor has informed the House that on the April 23, 2013, he approved and signed bills originating in the House of the following titles:

H. 13. An act relating to statutory revision.

H. 51. An act relating to payment of workers' compensation benefits by electronic payroll card.

H. 531. An act relating to Building 617 in Essex.

The Governor has informed the House that on the April 26, 2013, he approved and signed a bill originating in the House of the following title:

H. 431. An act relating to mediation in foreclosure actions.

The Governor has informed the House that on the April 29, 2013, he approved and signed bills originating in the House of the following titles:

H. 510. An act relating to the State's transportation program and miscellaneous changes to the State's transportation laws.

H. 511. An act relating to automated sales suppression devices, also known as "zappers".

The Governor has informed the House that on the May 3, 2013, he approved and signed bills originating in the House of the following titles:

H. 71. An act relating to tobacco products.

H. 280. An act relating to payment of wages.

The Governor has informed the House that on the May 6, 2013, he approved and signed a bill originating in the House of the following title:

H. 401. An act relating to municipal and regional planning and flood resilience.

The Governor has informed the House that on the May 7, 2013, he approved and signed bills originating in the House of the following titles:

H. 2. An act relating to the Governor's Snowmobile Council.

H. 527. An act relating to approval of the adoption and the codification of the charter of the Town of Northfield.

H. 529. An act relating to approval of an amendment to the charter of the Winooski Incorporated School District related to the term of district treasurer.

The Governor has informed the House that on the May 8, 2013, he approved and signed bills originating in the House of the following titles:

H. 406. An act relating to town listers, assessors and auditors.

H. 518. An act relating to miscellaneous amendments to Vermont retirement laws.

H. 525. An act relating to approval of amendments to the charter of the Town of Stowe.

The Governor has informed the House that on the May 13, 2013, he approved and signed bills originating in the House of the following titles:

H. 54. An act relating to Public Records Act exemptions.

H. 131. An act relating to harvesting guidelines and procurement standards.

H. 136. An act relating to cost-sharing for preventive services.

H. 182. An act relating to search and rescue.

H. 205. An act relating to professions and occupations regulated by the Office of Professional Regulation.

H. 474. An act relating to amending the membership and charge of the Government Accountability Committee.

H. 512. An act relating to approval of amendments to the charter of the City of Barre.

H. 513. An act relating to the Department of Financial Regulation.

The Governor has informed the House that on the May 14, 2013, he approved and signed bills originating in the House of the following titles:

H. 50. An act relating to the sale, transfer, or importation of pets.

H. 99. An act relating to equal pay.

H. 178. An act relating to anatomical gifts.

H. 403. An act relating to community supports for persons with serious functional impairments.

H. 517. An act relating to approval of the adoption and the codification of the charter of the Town of St. Albans.

The Governor has informed the House that on the May 20, 2013, he approved and signed bills originating in the House of the following titles:

H. 26. An act relating to technical corrections.

H. 315. An act relating to group health coverage for same-sex spouses.

H. 450. An act relating to expanding the powers of regional planning commissions.

H. 541. An act relating to approval of amendments to the charter of the Village of Essex Junction.

The Governor has informed the House that on the May 21, 2013, he approved and signed a bill originating in the House of the following title:

H. 95. An act relating to unclaimed life insurance benefits.

The Governor has informed the House that on the May 22, 2013, he approved and signed a bill originating in the House of the following title:

H. 299. An act relating to amending consumer protection provisions for propane refunds, unsolicited demands for payment, bad faith assertions of patent infringement and failure to comply with civil investigations.

The Governor has informed the House that on the May 23, 2013, he approved and signed a bill originating in the House of the following title:

H. 535. An act relating to the approval of the adoption and to the codification of the charter of the Town of Woodford.

The Governor has informed the House that on the May 24, 2013, he approved and signed bills originating in the House of the following titles:

H. 105. An act relating to adult protective services reporting requirements.

H. 537. An act relating to approval of amendments to the charter of the Town of Brattleboro.

The Governor has informed the House that on the May 28, 2013, he approved and signed a bill originating in the House of the following title:

H. 530. An act relating to making appropriations for the support of government.

The Governor has informed the House that on the May 29, 2013, he approved and signed bills originating in the House of the following titles:

H. 265. An act relating to the education property tax rates and base education amount for fiscal year 2014.

H. 533. An act relating to capital construction and state bonding.

H. 536. An act relating to the National Guard.

The Governor has informed the House that on the May 30, 2013, he approved and signed bills originating in the House of the following titles:

H. 226. An act relating to the regulation of underground storage tanks.

H. 521. An act relating to making miscellaneous amendments to education law.

The Governor has informed the House that on the June 3, 2013, he approved and signed bills originating in the House of the following titles:

H. 262. An act relating to establishing a program for the collection and recycling of paint.

H. 377. An act relating to neighborhood planning and development for municipalities with designated centers.

H. 538. An act relating to making miscellaneous amendments to education funding laws.

The Governor has informed the House that on the June 4, 2013, he approved and signed bills originating in the House of the following titles:

H. 523. An act relating to court administration and procedure.

H. 534. An act relating to approval of amendments to the charter of the City of Winooski.

The Governor has informed the House that on the June 5, 2013, he approved and signed bills originating in the House of the following titles:

H. 65. An act relating to limited immunity from liability for reporting a drug or alcohol overdose.

H. 240. An act relating to Executive Branch fees.

H. 295. An act relating to technical tax changes.

H. 522. An act relating to strengthening Vermont's response to opioid addiction and methamphetamine abuse.

The Governor has informed the House that on the June 6, 2013, he approved and signed a bill originating in the House of the following title:

H. 200. An act relating to civil penalties for possession of marijuana.

The Governor has informed the House that on the June 7, 2013, he approved and signed bills originating in the House of the following titles:

H. 101. An act relating to hunting, fishing, and trapping.

H. 107. An act relating to health insurance, Medicaid, the Vermont Health Benefit Exchange, and the Green Mountain Care Board.

The Governor has informed the House that on the June 10, 2013, he approved and signed bills originating in the House of the following titles:

H. 169. An act relating to relieving employers' experience-rating records.

H. 515. An act relating to miscellaneous agricultural subjects.

The Governor has informed the House that on the June 17, 2013, he approved and signed bills originating in the House of the following titles:

H. 395. An act relating to the establishment of the Vermont Clean Energy Loan Fund.

H. 405. An act relating to manure management and anaerobic digesters.

H. 520. An act relating to reducing energy costs and greenhouse gas emissions.

CERTIFICATION

"STATE OF VERMONT

Office of the Secretary of the Senate
Senate Chamber
State House
Montpelier, Vermont 05633

I hereby certify that the foregoing Journal is a true and correct record of the proceedings of the Senate of the State of Vermont for the first year of the biennial session of 2013.

This was the first year of the seventy-second biennial session of the General Assembly, beginning Constitutionally on the first Wednesday after the first Monday of January (being the ninth day of January, 2013), and ending on the fourteenth day of May, 2013.

Attest:

/s/John H. Bloomer, Jr.

JOHN H. BLOOMER, JR.
Secretary of the Senate"