

Journal of the Senate

TUESDAY, MAY 11, 2010

The Senate was called to order by the President *pro tempore*.

Devotional Exercises

A moment of silence was observed in lieu of devotions.

Pledge of Allegiance

The President *pro tempore* then led the members of the Senate in the pledge of allegiance.

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 a bill originating in the Senate of the following title:

S. 296. An act relating to sale or lease of the John H. Boylan state airport.

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

S. 207. An act relating to handling of milk samples.

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. 264. An act relating to stop and hauling charges.

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 resolution of the following title:

J.R.S. 54. Joint resolution related to the payment of dairy hauling costs.

And has adopted the same on its part.

Message from the Governor

A message was received from His Excellency, the Governor, by David Coriell, 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 May, 2010, he approved and signed bills originating in the Senate of the following titles were severally:

S. 122. An act relating to recounts in elections for statewide offices.

S. 165. An act relating to waiver of the statute of limitations in criminal prosecutions.

Message from the Governor

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

Mr. President:

I am directed by the Governor to inform the Senate that on the eighth day of May, 2010, he approved and signed bills originating in the Senate of the following titles were severally:

S. 187. An act relating to municipal financial audits.

S. 287. An act relating to the licensing and regulation of loan servicers.

Joint Resolution Referred

J.R.S. 65.

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

By Senator Illuzzi,

J.R.S. 65. Joint resolution relating to Challenges for Change and the legislative branch of state government.

Whereas, the General Assembly finds the Challenges for Change extends to all branches of government, including the legislative branch which includes the General Assembly, the Office of Legislative Council, and the Joint Fiscal Office, and

Whereas, the Office of Legislative Council and the Joint Fiscal Office will continue to work to make the delivery of services more effective, *now therefore be it*

Resolved by the Senate and House of Representatives:

That the Office of Legislative Council will continue to review its own outcomes and measures of effectiveness to ensure that the distribution of staff resources is appropriate and cost-effective, *and be it further*

Resolved: That until the 2011 biennial session is convened, the director of the Office of Legislative Council and the director of the Joint Fiscal Office shall continue to consider alternatives to achieve outcomes in a more efficient manner, *and be it further*

Resolved: That in order to enable the Office of Legislative Council to structure its staffing to meet its outcomes, the General Assembly will remain sensitive to evolving staffing patterns and not require staffing of interim committees, except as the speaker of the house and the president pro tempore shall jointly approve in advance, but ongoing committees and standing committees will continue to receive staffing when the general assembly is not in session, *and be it further*

Resolved: That the director of the Office of Legislative Council and the chief legislative fiscal officer shall continue to implement strategies to maximize the efficient delivery of services and report on the implementation of these strategies to the house and senate committees on appropriations on or before January 15, 2011, *and be it further*

Resolved: That the director of the Office of Legislative Council and the chief legislative fiscal officer shall continue to develop budgets that are designed to deliver desired outcomes, *and be it further*

Resolved: That the director of the Office of Legislative Council and the chief legislative officer shall, in consultation with the National Conference of State Legislatures, the Council of State Governments, and other organizations and individuals who have expertise relative to the staff structuring and operations of part-time state citizen state legislatures, develop two proposals for legislative staffing, one of which shall be based on the staffing model that the offices of the Clerk of the House, the Secretary of the Senate, and the Sergeant at Arms have used successfully, *and be it further*

Resolved: That the director of the Office of Legislative Council and the director of information technology shall, under the direction of the joint legislative information technology committee established under 2 V.S.A. § 751, develop proposals to achieve improvements in efficiency and

productivity through the use of technology in the committee rooms and in the senate and house chambers, and the committee shall provide a report with recommendations on or before January 15, 2011, to the house and senate committees on government operations, *and be it further*

Resolved: That with respect to the printing of bills, calendars and journals: the Office of Legislative Council shall continue to develop alternatives that reduce the number of copies printed; the Office of Legislative Council, the Secretary of the Senate, the Clerk of the House, and the director of information technology shall continue to develop alternative methods and formats by which members of the General Assembly and the public shall have access to the information contained in those documents; the Secretary of the Senate and the Clerk of the House shall, in consultation with their respective committees on rules and chamber's membership, draft proposed rules relative to legislative document printing that shall be considered for adoption prior to January 15, 2011, *and be it further*

Resolved: That printed bills, calendars and journals shall be available to members of the General Assembly and staff at no charge and that other entities of government shall be permitted at no charge to review bills, calendars and journals on public workstations provided in the state house, and that printed copies shall be printed on demand.

Thereupon, the President *pro tempore*, in his discretion, treated the joint resolution as a bill and referred it to the Committee on Rules.

President Assumes the Chair

Senate Resolution Referred

S.R. 27.

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

Senate resolution amending the Rules of the Senate relating to the introduction of bills.

By Senator Illuzzi,

S.R. 27. Senate resolution amending the Rules of the Senate relating to the introduction of bills.

Whereas, in order to clarify the rule pertaining to introduction of bills in the second year of the biennium, and to improve the efficiency of the bill drafting process prior to the second year of the biennium by allowing short-form bills, there is a need to amend the Rules of the Senate, *now therefore be it*

Resolved by the Senate:

That the Rules of the Senate are amended to read:

First: By amending Rule 39 to read:

39. During the regular session held in the first year of the biennium, standard and short-form bills may be introduced by a senator or a standing committee at any time.

During any adjourned session of the biennium (excluding the customary weekend adjournments), ~~no a member or committee may not introduce a bill may be introduced in standard form unless it has previously been filed with the Legislative Council and approved the request is submitted to the Legislative Council at least six weeks prior to the opening of the session with sufficient detail to create the draft, and the sponsor approves the bill for printing by the sponsor no less than twenty five calendar days preceding at least four weeks prior to the opening of the session or,~~ unless it is introduced by or with the consent of the Rules Committee. During the adjourned session, a member may request or introduce a bill in short form at any time.

Second: By amending Rule 41 to read:

41. (a) Each bill intended for ~~presentation by any member of the Senate introduction into the Senate~~ shall be presented ~~first~~ to the Legislative Council with sufficient detail to create the draft. The Legislative Council shall examine and revise it as to form and expression, so far as may be required. After certifying to the revision and after ~~approval by the sponsor approves,~~ the Legislative Council shall forward the bills bill to the printer ~~designated by the Purchasing Director~~.

(b) Each request for a bill drafted in short form shall consist only of the name of the introducer, the subject, the title, and a general statement of purpose. All short-form bills shall be presented to the Secretary for introduction in the manner of bills drafted in standard form.

Third: By amending Rule 44 to read:

44. (a) The Secretary shall submit the original bill to the President for examination, after which it shall be read the first time and referred to an appropriate committee by the President.

(b) The Legislative Council shall draft short-form bills in standard form only if the committee, to which the bill has been referred, so requests. A committee request to draft a short-form bill in standard form may be for any reason it deems appropriate, and shall not, in itself, indicate an approval of the bill or an intention to act favorably on it.

(c) When a committee reports a short-form bill which it was requested to change to standard form, the bill shall appear on the Notice Calendar for two legislative days before being placed in the Orders of the Day. Also, when a committee is relieved of a short-form bill for Senate consideration, the Legislative Council shall, within five legislative days, draft it in standard form and present it to the Secretary who shall place it on the Notice Calendar for two legislative days before placing it in the Orders of the Day.

Thereupon, the President, in his discretion, treated the resolution as a bill and referred it to the Committee on Rules.

Rules Suspended; Proposal of Amendment; Third Reading Ordered

H. 542.

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

An act relating to transfers of mobile homes and rent-to-own transactions.

Was taken up for immediate consideration.

Senator Ashe, for the Committee on Economic Development, Housing and General Affairs, 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. 9 V.S.A. § 2602 is amended to read:

§ 2602. SALE OR TRANSFER; PRICE DISCLOSURE; UNIFORM MOBILE HOME UNIFORM BILL OF SALE

* * *

~~(b) No mobile home may be sold unless a mobile home uniform bill of sale as described in subsection (c) is completed and furnished by the seller to the buyer. The mobile home uniform bill of sale must be filed with the town clerk of the town in which the mobile home is to be located. Prior to resale, a mobile home uniform bill of sale must be endorsed by the town clerk of the town in which the mobile home is located and a copy sent to the town clerk where the mobile home will be located. Sale or transfer of all mobile homes.~~

(1) Prior to the sale or transfer of ownership of a mobile home, the seller or transferor shall provide a copy of a completed, unexecuted, mobile home bill of sale:

(A) to the town clerk in which the mobile home is located for his or her endorsement; and

(B) in the case of a mobile home being sold or transferred separately from the real property on which it is located, to the record owner of the real property on which the mobile home is located by certified mail, return receipt requested, at least 21 days prior to the transfer or sale.

(2) A clerk shall not endorse a mobile home uniform bill of sale unless:

(A) all property taxes due and payable on the mobile home, but not the real property on which the mobile home is located if separately owned, have been paid in full as of the most recent assessment, or if the town collects taxes in installments pursuant to 32 V.S.A. § 4872, as of the most recent installment; or

(B) in the case of removal of a mobile home from the municipality, or of a sale, trade, or transfer that will result in the removal of the mobile home from the municipality, all property taxes assessed with regard to the mobile home, but not the mobile home site, have been paid.

(3) The seller or transferor shall execute and provide the endorsed bill of sale to the buyer or transferee at the time of sale or transfer.

(4) The buyer or transferee shall execute and file the bill of sale with the clerk of the town in which the mobile home will be located within 10 days of receipt from the seller or transferor. A clerk shall not accept a mobile home uniform bill of sale for filing that is not completed, executed, and endorsed as required by this subsection. Upon filing the clerk shall note the transfer on the mobile home uniform bill of sale whereby the seller acquired ownership of the mobile home, if available.

(5) If the mobile home will be relocated to real property that is not owned by the buyer or transferee, the buyer or transferee shall provide a copy of the mobile home uniform bill of sale to the record owner of the real property on which the mobile home will be located.

(6) Within 14 days of the filing of the bill of sale, the town clerk shall mail a copy of the bill of sale to each buyer, seller, and owner of real property for whom a mailing address is provided.

(7) The requirements of this subsection shall apply to a mobile home that is physically relocated by its owner to another town.

(8) This subsection shall not apply to:

(A) the valid transfer of a mobile home by deed when financed as residential real estate pursuant to this chapter;

(B) the valid transfer of a mobile home by a mobile home uniform bill of sale issued by the court pursuant to the abandonment process set forth in 10 V.S.A. § 6249;

(C) the physical relocation of a mobile home that is held as inventory by a manufacturer, distributor, or dealer, is stored or displayed on a sales lot, and is not connected to utilities.

~~(e) No mobile home shall be moved over the highways of this state unless the operator of the vehicle hauling such mobile home has in his or her possession a copy of the mobile home uniform bill of sale endorsed pursuant to 32 V.S.A. § 5079 by the town clerk of the town in which the mobile home was last listed and by the clerk of the town in which the mobile home was last located. The mobile home uniform bill of sale shall contain the make, model, serial, size, year manufactured and location of each mobile home. It shall give the name and address of the owner of the property and whether the property is subject to a security interest and shall be substantially in the following form:~~

~~VERMONT MOBILE HOME UNIFORM BILL OF SALE KNOW ALL PEOPLE BY THESE PRESENTS THAT
Seller(s), of County of
..... and State of in
consideration of Dollars (\$) paid by
....., Buyer(s), of
County of and State of
the receipt and sufficiency whereof is hereby acknowledged, do hereby grant,
sell, transfer and deliver unto said Buyer(s) the following goods and chattels,
namely:~~

~~Mobile Home Make: Model: Year:
..... Serial Number: Size:
Color: presently located at in the Town of
.....~~

~~Mobile Home will remain at above location.~~

~~Mobile Home will be located at in Town of
.....~~

~~TO HAVE AND TO HOLD all and singular the goods and chattels to the said Buyer(s) and Buyer(s) executors, administrators, and assigns, to Buyer(s) own use and behoof forever. And the Seller(s) hereby covenant(s) with the said Buyer(s) that Seller(s) is/are the lawful owner(s) of said goods and chattels, that they are free from all encumbrances, that Seller(s)~~

~~has/have good right to sell the same as aforesaid, and that Seller(s) will warrant and defend the same against the lawful claims and demands of all persons.~~

~~IN WITNESS WHEREOF, the Seller(s) hereto set(s) his/her/their hand(s), this day of A.D. 20~~

.....
Witness Seller

.....
Witness Seller

~~NOTICE: Title 32 V.S.A. § 5079 requires that this Mobile Home Uniform Bill of Sale be signed by Sellers, Town Clerk of the Town where the Mobile Home is located prior to sale, and filed by Buyer with the Town Clerk of the Town where the Mobile Home will be located after the sale.~~

~~SECURITY INTEREST~~

~~This property is subject to the following security interest or interests of record:~~

~~Secured Party Date Discharged Town Record Number~~

~~TO BE COMPLETED BY TOWN CLERK WHERE MOBILE HOME IS PRESENTLY LOCATED.~~

~~I hereby acknowledge that:~~

~~1. Notation of above transfer has been made on the margin of the retained copy of the Mobile Home Uniform Bill of Sale whereby Seller(s) herein acquired title.~~

~~2. Copy of this bill of sale has been forwarded to Town Clerk of Town where above Mobile Home will be located.~~

~~3. Notation of security interest has been made.~~

~~DATED: ATTEST: TOWN CLERK~~

~~(c) Mobile home uniform bill of sale.~~

~~(1) A mobile home uniform bill of sale shall contain the following information regarding each mobile home being transferred:~~

~~(A) the name and address of each seller or transferor;~~

~~(B) the name and address of each buyer or transferee, and if more than one buyer or transferee, the estate under which the buyers or transferees will hold title to the mobile home;~~

(C) the make, model, serial number, size, and year manufactured;

(D) the current address or location of the mobile home;

(E) whether the mobile home will be moved following the sale or transfer, and if so, the future address of the mobile home;

(F) the name and address of the owner of the real property on which the mobile home is located;

(G) the name and address of the owner of the real property on which the mobile home will be located following the sale or transfer;

(H) the sale constitutes a “retail installment transaction” as defined in 9 V.S.A. § 2351(4) and is subject to 9 V.S.A. Chapter 59 (motor vehicle and mobile home retail installment sales financing);

(I) an itemized list of the mobile home’s deficiencies known to the seller at the time of the sale, if the mobile home is sold “as is;” and

(J) an itemized list of known liens on the mobile home.

(2) A mobile home uniform bill of sale shall be substantially in the following form:

VERMONT MOBILE HOME UNIFORM BILL OF SALE
NOTICE

Vermont statute requires that this Mobile Home Uniform Bill of Sale be signed by each Buyer and Seller, endorsed by the Town Clerk of the Town where the Mobile Home is located at the time of sale, and filed by Buyer with the Town Clerk of the Town where the Mobile Home will be located after the sale. A financing statement evidencing a security interest in the Mobile Home must be filed with the Secretary of State.

Seller or Transferor (“Seller”):

Name:.....

Street:.....

Town/State/ZIP:.....

County:.....

Mailing Address (if different):

Street:.....

Town/State/ZIP:.....

Buyer or Transferee ("Buyer"):

Name:.....

Street:.....

Town/State/ZIP:.....

County:.....

Mailing Address (if different):

Street:.....

Town/State/ZIP:.....

If more than one Buyer, Buyers take title as:

Joint tenants (co-owners with right of survivorship).

Tenants by the entirety (joint tenancy of persons who are married).

Tenants in common (individual interests without right of survivorship).

.....

Mobile Home Being Sold or Transferred ("Mobile Home")

Specifications:

Make:

Model:.....

Year:.....

Serial Number:

Size:.....

Color:.....

Current Location:

Street:.....

Town/State/ZIP:.....

County:.....

Owner of Real Property on which Mobile Home is Located:

Name:.....

Street:.....

Town/State/ZIP:.....

Mailing Address (if different):

Street:.....

Town/State/ZIP:.....

Location of Mobile Home Following Sale

Mobile Home will remain at current location.

Mobile Home will be relocated to the following address:

Street:.....

Town/State/ZIP:.....

County:.....

Owner of Real Property on which Mobile Home will be Located:

Name:.....

Street:.....

Town/State/ZIP:.....

Mailing Address (if different):

Street:.....

Town/State/ZIP:.....

Retail Installment Transaction

This sale constitutes a "retail installment transaction" as defined in 9 V.S.A. § 4451(8) and is subject to 9 V.S.A. Chapter 59 (motor vehicle and mobile home retail installment sales financing).

KNOWN DEFICIENCIES IN "AS IS" SALES

In the case of an "as is" sale, the Seller is aware of the following deficiencies and defects of the Mobile Home:

.....
.....
.....

KNOWN LIENS

The Seller is aware of the following liens on the Mobile Home:

.....
.....

.....
For good and valuable consideration, the receipt and sufficiency of which is acknowledged, Seller hereby transfers to the Buyer the Mobile Home identified in this Bill of Sale, and Seller covenants with Buyer that Seller is the lawful owner of the Mobile Home, that it is free from all encumbrances, that Seller has good right to sell the Mobile Home, and that Seller will warrant and defend the same against the lawful claims and demands of all persons.

Seller Signature.....Date.....

Witness Signature.....Date.....

Buyer Signature.....Date.....

Witness Signature.....Date.....

TOWN CLERK ENDORSEMENT

TO BE COMPLETED BY TOWN CLERK WHERE MOBILE HOME IS CURRENTLY LOCATED PRIOR TO EXECUTION BY THE BUYER AND SELLER.

I hereby acknowledge that:

[] all property taxes due and payable on the mobile home, but not the real property on which the mobile home is located if separately owned, have been paid in full as of the most recent assessment, or if the town collects taxes in installments pursuant to 32 V.S.A. § 4872, as of the most recent installment; or

[] in the case of removal of a mobile home from the municipality, or of a sale, trade, or transfer that will result in the removal of the mobile home from the municipality, all property taxes assessed with regard to the mobile home, but not the mobile home site, have been paid.

Town Clerk Signature:.....Date:.....

(d) Relocation of mobile home.

Unless excluded under subdivision (b)(8) of this section, a mobile home shall not be moved over the highways of this state unless the operator of the vehicle hauling the mobile home has in his or her possession a copy of the mobile home uniform bill of sale endorsed pursuant to subsection (b) of this section. In addition to any penalty or remedy imposed under section 2607 of this title, a violation of this subsection shall be subject to the collection and enforcement provisions set forth in 32 V.S.A. § 5079.

(e) Mobile home rent to own agreements.

(1) Definition of rent to own agreements for mobile homes.

For purposes of this subsection, “an agreement to purchase a mobile home on a rent-to-own, lease-purchase, or similar basis” means any agreement, other than an agreement to purchase a mobile home, that will be financed as residential real estate, under which:

(A) a buyer or lessee, however named, agrees to pay consideration in one or more installments to the owner of a mobile home, or to a third party designated by the owner of the mobile home to receive payment on behalf of the owner, for the right to use or occupy the mobile home; and

(B) upon full compliance with the terms of the agreement, the buyer or lessee, however named, is bound to become, or for no further or a merely nominal additional consideration, has the option of becoming, the owner of the mobile home.

(2) Requirements to consummate sale under rent to own agreements. An agreement to purchase a mobile home on a rent-to-own, lease-purchase, or similar basis shall not transfer ownership of the mobile home, or the rights, duties, and liabilities arising from ownership of the mobile home, unless and until:

(A) the buyer and seller execute a written retail installment contract complying with the requirements set forth in chapter 59 of this title; and

(B) a mobile home uniform bill of sale transferring the mobile home from the seller to the buyer is completed, endorsed, executed, and filed pursuant to subsection (b) of this section.

(3) Compliance; sale. Notwithstanding any provision of 9A V.S.A. Article 2 (uniform commercial code; sale of goods) to the contrary, an agreement to purchase a mobile home on a rent-to-own, lease-purchase, or similar basis that meets the requirements of subdivision (2) of this subsection shall constitute a “retail installment transaction” as defined in subdivision 2351(4) of this title, is subject to 9 V.S.A. Chapter 59, and shall not be subject to chapter 137 of this title relating to residential rental agreements.

(4) Failure to comply; lease. Notwithstanding any provision of 9A V.S.A. Article 2A (uniform commercial code; leases) to the contrary, an agreement to purchase a mobile home on a rent-to-own, lease-purchase, or similar basis that does not meet the requirements of subdivision (2) of this subsection shall constitute a residential rental agreement as defined in subdivision 4451(8) of this title, and shall be governed by chapter 137 of this title relating to residential rental agreements.

(f) Sale of mobile homes in non-rent to own transactions.

(1) The sale of a mobile home under subsection (b) of this section, is a sale of goods under 9A V.S.A. Article 2 (uniform commercial code; sale of goods), except to the extent of a direct conflict with this section.

(2) The sale of a mobile home under this section is subject to the provisions governing express and implied warranties on the sale of goods set forth in 9A V.S.A. Article 2, Part 3, with the following modifications:

(A) the warranty of title in a contract of sale under 9A V.S.A. § 2-312 may be excluded or modified only by a written agreement that is executed by the buyer and seller prior to sale and clearly states any deficiency or limitation on the seller's title, as well as any security interest, lien, or encumbrance on the mobile home that excludes or modifies the warranty of title;

(B) in the case of a new mobile home, the implied warranty of merchantability under 9A V.S.A. § 2-314 and the implied warranty of fitness for a particular purpose under 9A V.S.A. § 2-315 may not be waived if the seller has notice that the mobile home will be used by the buyer as his or her primary residence; and

(C) in the case of a used mobile home, the implied warranty of merchantability under 9A V.S.A. § 2-314 and the implied warranty of fitness for a particular purpose under 9A V.S.A. § 2-315 may be waived only if the seller notifies the buyer in writing that the mobile home is being offered for sale "as is."

Sec. 2. 32 V.S.A. § 5079 is amended to read:

§ 5079. SALE OR TRANSFER OF MOBILE HOMES; COLLECTION OF TAXES

~~(a) Within 10 days of acquiring ownership by sale, trade, transfer, or other means, an owner of a mobile home as defined in 9 V.S.A. § 2601 or 10 V.S.A. § 6201 shall file with the clerk of the municipality in which the mobile home is located a mobile home uniform bill of sale, containing the make, model, serial number, size, year manufactured, and location of the mobile home. It shall give the name and address of the owner of the property, and whether the property is subject to a security interest, and shall be substantially in the form prescribed in 9 V.S.A. § 2602(e). This subsection shall not apply to mobile homes held solely for sale by a manufacturer, distributor, or dealer that are stored or displayed on a sales lot and are not connected to utilities. A transfer of ownership of a mobile home shall be made pursuant to the requirements set forth in chapter 72 of Title 9.~~

(b) Repealed.

(c) Repealed.

(d) A mobile home removed from a town without a mobile home uniform bill of sale endorsed by the clerk of the municipality where the mobile home was located as required by ~~subsection (b) of this section~~ 9 V.S.A. § 2602 may be taken into possession by any sheriff, deputy sheriff, constable, or police officer, or by the treasurer or tax collector of the town in which the mobile home was last listed if known, or by the commissioner of taxes if that town is unknown. A mobile home taken into possession under this section ~~by an officer other than the collector of taxes~~ shall be ~~delivered promptly to the collector of taxes of the town in which the mobile home was last listed~~ in the constructive custody of the official, who shall control the use and movement of the mobile home. In taking possession, the authorized officer may proceed without judicial process only in the event that the taking of possession can be done without breach of the peace. Proceedings for collection of the taxes assessed against and due with respect to the mobile home shall then be conducted in accordance with subchapter 9 of chapter 133 of this title.

(e) Taxes assessed against a mobile home shall be considered due for purposes of this section as of the date of removal of the mobile home from the town in which the mobile home was last listed, and the owner shall be liable for fees provided for in section 1674 of this title from the date of removal.

(f) The treasurer or tax collector of any town from which a mobile home is removed, without an endorsed mobile home uniform bill of sale as required by ~~subsection (b) of this section~~ 9 V.S.A. § 2602(b) may notify the director of the division of property valuation and review of the removal giving a description of the mobile home by serial or other number if known. If the director is notified of the seizure of a mobile home as provided in subsection (d) of this section, he or she shall immediately notify the treasurer or tax collector of the town, if known, in which the mobile home was last listed on the grand list.

(g) Taxes lawfully assessed upon a mobile home shall attach as a lien on the mobile home as provided in section 5061 of this title.

Sec. 3. 10 V.S.A. § 6204(d) is amended to read:

(d) A mobile home occupied on the basis of a lease-purchase or ~~“rent to own”~~ rent-to-own contract, however named, shall be subject to the provisions of 9 V.S.A. ~~chapter 59~~ § 2602(e).

Sec. 4. AVAILABILITY OF MOBILE HOME UNIFORM BILL OF SALE

The agency of commerce and community development shall make publicly available on its website:

(a) a mobile home uniform bill of sale in a format substantially similar to the form set forth in 9 V.S.A. § 2602(c); and

(b) a copy of this act.

Sec. 5. EFFECTIVE DATE

This act shall take effect on September 1, 2010.

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

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

Rules Suspended; Bills on Notice Calendar for Immediate Consideration

On motion of Senator Shumlin, 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.207, S. 264; J.R.S. 54.

Report of Committee of Conference Accepted and Adopted on the Part of the Senate**S. 207.**

Senator Kittell, 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:

An act relating to handling of milk samples.

Respectfully reports that it has met and considered the same and recommends that the House recede from its proposal of amendment, and that the bill be further amended as follows:

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

Sec. 3. REPORT ON RAW MILK QUALITY PROBLEMS

(a) By September 30, 2010, the agency of agriculture, food and markets shall study raw milk quality problems, including PI count and the handling of raw milk samples.

(b) On or before January 15, 2011, the agency shall report to the house and senate committees on agriculture the extent to which milk quality problems, including PI count, exist in Vermont's milk supply and advise the committees regarding potential regulatory and legislative solutions to address these problems.

Second: By striking out Sec. 4 in its entirety and inserting in lieu thereof a new Sec. 4 to read as follows:

Sec. 4. 13 V.S.A. §§ 3601–3604 are added to read:

§ 3601. DEFINITIONS

As used in this chapter:

(1) “Diameter breast height” or “DBH” means the diameter of a standing tree at four and one-half feet from the ground.

(2) “Harvest” means the cutting, felling, or removal of timber.

(3) “Harvest unit” means the area of land from which timber will be harvested or the area of land on which timber stand improvement will occur.

(4) “Harvester” means a person, firm, company, corporation, or other legal entity that harvests timber.

(5) “Landowner” means the person, firm, company, corporation, or other legal entity that owns or controls the land or owns or controls the right to harvest timber on the land.

(6) “Landowner’s agent” means a person, firm, company, corporation, or other legal entity representing the landowner in a timber sale, timber harvest, or land management.

(7) “Stump diameter” means the diameter of a tree stump remaining after cutting, felling, or destruction.

§ 3602. UNLAWFUL CUTTING OF TREES

(a) Any person who cuts, fells, destroys to the point of no value, or substantially damages the potential value of a tree without the consent of the owner of the property on which the tree stands shall be assessed a civil penalty in the following amounts for each tree over two inches in diameter that is cut, felled, or destroyed:

(1) if the tree is no more than six inches in stump diameter or DBH, not more than \$25.00;

(2) if the tree is more than six inches and not more than ten inches in stump diameter or DBH, not more than \$50.00;

(3) if the tree is more than 10 inches and not more than 14 inches in stump diameter or DBH, not more than \$150.00;

(4) if the tree is more than 14 inches and not more than 18 inches in stump diameter or DBH, not more than \$500.00;

(5) if the tree is more than 18 inches and not more than 22 inches in stump diameter or DBH, not more than \$1,000.00;

(6) if the tree is greater than 22 inches in stump diameter or DBH, not more than \$1,500.00.

(b) In calculating the diameter and number of trees cut, felled, or destroyed under this section, a law enforcement officer may rely on a written damage assessment completed by a professional arborist or forester.

§ 3603. MARKING HARVEST UNITS

A landowner who authorizes timber harvesting or who in fact harvests timber shall clearly and accurately mark with flagging or other temporary and visible means the harvest unit. Each mark of a harvest unit shall be visible from the next and shall not exceed 100 feet apart. The marking of a harvest unit shall be completed prior to commencement of a timber harvest. If a violation as described in section 3602 of this title occurs due to the failure of a landowner to mark a harvest unit, the landowner who failed to mark a harvest unit in accordance with the requirements of this subsection shall be assessed a civil penalty of not less than \$250.00 and not more than \$1,000.00.

§ 3604. EXEMPTIONS

The cutting, felling, or destruction of a tree or the harvest of timber by the following is exempt from the requirements of sections 3602, 3603, and 3606 of this title:

(1) the agency of transportation conducting brush removal on state highways or agency-maintained trails;

(2) a municipality conducting brush removal subject to the requirements of 19 V.S.A. § 904;

(3) a utility conducting vegetation maintenance within the boundaries of the utility's established right-of-way;

(4) a harvester harvesting timber that a landowner has authorized for harvest within a harvest unit that has been marked by a landowner under section 3603 of this title. A landowner who harvests timber on his or her own property shall not be a “harvester” for the purposes of this subdivision;

(5) a railroad conducting vegetation maintenance or brush removal in the railroad right-of-way;

(6) a licensed surveyor establishing boundaries between abutting parcels under 27 V.S.A. § 4.

Third: By adding a new section to be numbered Sec. 5 to read as follows:

Sec. 5. 13 V.S.A. § 3606 is amended to read:

§ 3606. TREBLE DAMAGES FOR CONVERSION OF TREES OR DEFACING MARKS ON LOGS

If a person cuts down, destroys, or carries away any tree or trees placed or growing for any use or purpose whatsoever, or timber, wood, or underwood standing, lying, or growing belonging to another person, without leave from the owner of such trees, timber, wood, or underwood, or cuts out, alters, or defaces the mark of a log or other valuable timber, in a river or other place, the party injured may recover of such person, in an action on this statute, treble damages in an action on this statute or for each tree the same amount that would be assessed as a civil penalty under section 3602 of this title, whichever is greater. However, if it appears on trial that the defendant acted through mistake, or had good reason to believe that the trees, timber, wood, or underwood belonged to him or her, or that he or she had a legal right to perform the acts complained of, the plaintiff shall recover single damages only, with costs. For purposes of this section, “damages” shall include any damage caused to the land or improvements thereon as a result of a person cutting, felling, destroying to the point of no value, substantially reducing the potential value, or carrying away a tree, timber, wood, or underwood without the consent of the owner of the property on which the tree stands. If a person cuts down, destroys, or carries away a tree or trees placed or growing for any use or purpose whatsoever or timber, wood, or underwood standing, lying, or growing belonging to another person due to the failure of the landowner or the landowner’s agent to mark the harvest unit properly, as required under section 3603 of this title, a cause of action for damages may be brought against the landowner.

Fourth: By adding a new section to be numbered Sec. 6 to read as follows:

Sec. 6. 4 V.S.A. § 1102(b) is amended to read:

(b) The judicial bureau shall have jurisdiction of the following matters:

* * *

(18) Violations of 23 V.S.A. § 3327(d), relating to obeying a law enforcement officer while operating a vessel.

(19) Violations of 13 V.S.A. §§ 3602 and 3603, relating to the unlawful cutting of trees and the marking of harvest units.

Fourth: By adding a new section to be numbered Sec. 7 to read as follows:

Sec. 7. EFFECTIVE DATES

(a) This section and Secs. 1 and 3 shall take effect upon passage.

(b) Sec. 2 of this act shall take effect on July 1, 2011.

(c) Secs. 4 (unlawful cutting of trees), 5 (damages for unlawful cutting of trees), and 6 (judicial bureau offenses) of this act shall take effect July 1, 2010.

*MATTHEW A. CHOATE
M. JANE KITCHEL
ROBERT A. STARR*

Committee on the part of the Senate

*DAVID M. AINSWORTH
JAMES L. MCNEIL
CATHERINE B. TOLL*

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.

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

S. 264.

Senator Giard, 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:

An act relating to stop and hauling charges.

Respectfully reports that it has met and considered the same and recommends that the House recede from its proposal of amendment.

*SARA BRANON KITTELL
ROBERT A. STARR
HAROLD W. GIARD*

Committee on the part of the Senate

*JOHN W. MALCOLM
DAVID M. AINSWORTH
NORMAN H. MCALLISTER*

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.

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

J.R.S. 54.

Senator Giard, 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 joint Senate resolution entitled:

Joint resolution related to the payment of dairy hauling costs.

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

Whereas, the Vermont secretary of agriculture, food and markets recently has warned that there is a grave possibility that Vermont could lose up to 20 percent of its dairy farms in 2010, and

Whereas, in virtually every other nonagricultural industry, the purchaser of goods pays the costs of transporting the goods from the place of manufacture to the purchaser, and

Whereas, in the past three years, the Vermont General Assembly has carefully considered the issue of dairy hauling costs and the impact upon Vermont dairy farmers, and

Whereas, in New England, dairy farmers typically are responsible for the majority of the costs of hauling milk from the farm to a buyer's processing plant or similar facility, and

Whereas, dairy hauling costs are incurred by dairy farmers, regardless of the price of milk, and

Whereas, the average dairy hauling costs for a Vermont farm milking approximately 200 cows can exceed \$20,000.00 per year, and

Whereas, according to a recent New York study of dairy hauling costs, hauling charges paid by dairy producers range from an annual average of \$0.50 to \$0.57 per hundredweight of milk for all size farms, and the average hauling charge, including transportation credits, ranges from 3.1 to 4.4 percent of the gross value of the farm milk, and

Whereas, pursuant to Vermont's Act 50 (2007), the Vermont Milk Commission carefully considered the potential economic impacts of shifting responsibility for dairy hauling costs from the producer to the purchaser of milk, and

Whereas, the Vermont Milk Commission has concluded, and legislative testimony received from the Vermont agency of agriculture, food and markets, industry representatives, and dairy farmers has confirmed that shifting the payment of dairy hauling costs from producer to purchaser will result in Vermont milk being more expensive than milk produced in neighboring states, thereby making Vermont milk less competitive in the northeastern dairy market, and

Whereas, Vermont, or any other state which unilaterally mandates a shift in the cost of dairy hauling from producer to purchaser, will suffer a competitive disadvantage relative to neighboring producer states due to the increased cost of its milk, and

Whereas, given this reality and the economic crisis facing dairy farmers throughout New England, it is extremely unlikely that any state will elect to be the first to mandate this shift in dairy hauling costs, therefore requiring a solution that is national in scope, and

Whereas, in November 2009, United States Representatives Michael Arcuri and Chris Lee of New York introduced federal legislation (H.R. 4117) to eliminate all hauling costs for milk producers, and

Whereas, United States Secretary of Agriculture Thomas Vilsack has convened a 17-member United States Department of Agriculture Dairy Industry Advisory Committee to review the issues of farm milk price volatility and dairy farmer profitability, and to offer suggestions and ideas on how the United States Department of Agriculture can best address these issues to meet the dairy industry's needs, now therefore be it

Resolved by the Senate and House of Representatives:

That the Vermont General Assembly urges United States Secretary of Agriculture Thomas Vilsack and the United States Department of Agriculture Dairy Industry Advisory Committee to pursue a national policy requiring that dairy hauling costs be borne by the marketplace rather than dairy producers as a means to address dairy farmer profitability, and be it further

Resolved: That the Secretary of State be directed to send a copy of this resolution to United States Secretary of Agriculture Thomas Vilsack, the Vermont congressional delegation, and the members of the United States Department of Agriculture Dairy Industry Advisory Committee.

*SARA BRANON KITTELL
HAROLD W. GIARD
ROBERT A. STARR*

Committee on the part of the Senate

*CHRISTOPHER A. BRAY
CHARLES W. CONQUEST
NORMAN H. MCALLISTER*

Committee on the part of the House

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

Rules Suspended; Bills Delivered

On motion of Senator Shumlin, the rules were suspended, and the following bills were severally ordered delivered to the Governor forthwith:

S.207, S. 264.

Senate Concurrent Resolution

The following joint concurrent resolution, 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, is hereby adopted on the part of the Senate:

By All Members of the Senate,

By All Members of the House,

S.C.R. 52.

Senate concurrent resolution honoring Green Up Day on its 40th anniversary.

[The full text of the Senate concurrent resolutions appeared in the Senate calendar addendum for May 7, 2010, and, if adopted in concurrence by the House, will appear in the volume of the Public Acts and Resolves to be published for this session of the sixty-ninth biennial session of the Vermont General Assembly.]

Adjournment

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

Afternoon

The Senate was called to order by the President *pro tempore*.

Senate Concurrent Resolution Adopted

Senate concurrent resolution of the following title was offered, read and adopted in concurrence:

S.C.R. 54. Senate concurrent resolution in memory of Baseball Hall of Famer and Vermont Mountaineers' board member Robin Roberts.

Whereas, major league baseball Hall of Famer and all-star pitcher Robin Roberts was a special human being whose loyalty to his baseball family in both Philadelphia and in Montpelier was extraordinary, and

Whereas, from 1948 to 1961, his accomplishments on the pitcher's mound at Shibe Park (Connie Mack Stadium) are now inscribed as legendary on the history pages of the Philadelphia Phillies, and

Whereas, Robin Roberts pitched six consecutive 20-win seasons starting in 1950 when, as one of the Phillies "Whiz Kids," he played a leading role in the team's clinching its first National League pennant in 35 years, and

Whereas, as a Philly ace pitcher, he was the National League hurler with the most victories for the 1952–1956 seasons, and his overall major league career highlights featured 286 wins, 45 shutouts, 2,357 strikeouts, and an earned run average of 3.41, and

Whereas, in 1976, Robin Roberts was awarded the national pastime's ultimate honor when he was inducted into the Baseball Hall of Fame in Cooperstown, New York, and

Whereas, before Robin Roberts threw his first pitch as a major leaguer, central Vermont baseball fans had come to know and root for this Michigan State University pitching sensation, and

Whereas, during the summers of 1946 and 1947, Robin Roberts pitched for the Northern League's Twin City Trojans, whose home park was the Montpelier Recreation Field where the Vermont Mountaineers now play, and

Whereas, in 1946, Robin Roberts pitched an 11–8 season including a no-hitter against the Keene, New Hampshire, Blue Jays, and in 1947, he overwhelmed the opposing teams as he compiled a nearly astonishing 18–3 record, which enabled the Trojans to win that season's Northern League championship, and

Whereas, Robin Robert's loyalty to Montpelier baseball fans proved amazingly enduring as he had a wonderful contemporary association with summertime collegiate baseball in Vermont's capital city, and

Whereas, in 2003, when the Vermont Mountaineers were established in the New England Collegiate Baseball League, the team held a Robin Roberts Day to honor its home field's most illustrious player, and

Whereas, not only did Robin Roberts travel to Montpelier for this special commemorative occasion, he became an enthusiastic member of the team's board of directors and was participating this spring in Mountaineer fund-raising, and

Whereas, baseball fans in both Vermont and Philadelphia were saddened to learn that Robin Roberts, the great baseball player and loving father, grandfather and great-grandfather died this past week at his home in Temple Terrace, Florida, *now therefore be it*

Resolved by the Senate and House of Representatives:

That the General Assembly expresses its condolences to the family of Robin Roberts and fondly remembers his great contributions, both recent and long ago, to summertime baseball in the Green Mountain State, *and be it further*

Resolved: That the Secretary of State be directed to send a copy of this resolution to Vermont Mountaineers' General Manager Brian Gallagher, to Philadelphia Phillies Vice President for Alumni Relations Larry Shenk, and to each of Robin Roberts's sons.

House Proposal of Amendment Concurred In with Amendment

S. 292.

House proposal of amendment to Senate bill entitled:

An act relating to term probation, the right to bail, medical care of inmates, and a reduction in the number of nonviolent prisoners, probationers, and detainees.

Was taken up.

Senator Sears requested and was granted leave to withdraw the proposals of amendment as moved by him on the next previous legislative day.

Senator Sears on behalf of the Committee on Judiciary moved that the Senate concur with the House proposals of amendment and that the bill be further amended as follows:

First: In Sec. 3, 13 V.S.A. § 5411(1), in the last sentence by striking out the following: “rule 75 of the Vermont rules of civil procedure” and inserting in lieu thereof the following: Rule 75 of the Vermont Rules of Civil Procedure

Second: In Sec. 10(a)(2), following “13 V.S.A. § 5301(7)” by inserting the following: , or

Third: In Sec. 12, at the end of the section by adding a new subdivision (b)(4) to read as follows:

(4) a plan to improve and increase restorative justice, diversion, and other innovative municipal programs in each county so that the need for correctional services shall be reduced. The plan shall show how recommended strategies could lead to an increase in use of restorative justice programs, diversion, and innovative municipal programs and at least a ten-percent decrease in nonviolent offenders entering the corrections system.

Fourth: By striking out Secs. 17 and 18 in their entirety and inserting in lieu thereof six new sections to be Secs. 17 through 22 to read as follows:

Sec. 17. 21 V.S.A. § 306 is added to read:

§ 306. PUBLIC POLICY OF THE STATE OF VERMONT; EMPLOYMENT SEPARATION AGREEMENTS

In support of the state’s fundamental interest in protecting the safety of minors and vulnerable adults, as defined in 33 V.S.A. § 6902, it is the policy of the state of Vermont that no confidential employment separation agreement shall inhibit the disclosure to prospective employers of factual information about a prospective employee’s background that would lead a reasonable person to conclude that the prospective employee has engaged in conduct jeopardizing the safety of a minor or vulnerable adult. Any provision in an agreement entered into on or after the effective date of this section that attempts to do so is void and unenforceable.

Sec. 18. 21 V.S.A. § 307 is added to read:

§ 307. DISCLOSURE OF INFORMATION; WAIVER

(a) Each prospective employee whose duties may place that person in a position of power, authority, or supervision over or permit unsupervised contact with a minor or vulnerable adult shall sign a waiver prior to employment authorizing:

(1) the prospective employer to request information about the prospective employee from current employers and former employers who employed the person within the previous ten years regarding conduct jeopardizing the safety of a minor or vulnerable adult; and

(2) the current and former employers to disclose the requested information as provided in subsection (c) of this section.

(b) The prospective employer of a prospective employee described in subsection (a) of this section shall request in writing that the current and former employers disclose all factual information that would lead a reasonable person to conclude that the prospective employee engaged in conduct jeopardizing the safety of a minor or vulnerable adult.

(c) Upon receiving an inquiry from a prospective employer pursuant to subsection (b) of this section, a current or former employer promptly shall disclose in writing all factual information in its possession that is responsive to that inquiry; provided that the affected employee shall have had the opportunity to review and respond to the information and the employee's response, if any, shall be included with the disclosure. Current and former employers shall provide a copy of the disclosure, or a statement that there is nothing to disclose, to both the prospective employer and the prospective employee.

Sec. 19. REPORT; CIVIL IMMUNITY

Legislative counsel shall review the potential impacts on hiring practices in Vermont if the state were to grant civil immunity for prospective, current, and former employers in connection with the disclosure of information concerning conduct jeopardizing the safety of a minor or vulnerable adult contained in a prospective employee's personnel file from the previous ten years, including the manner in which these matters are addressed in other jurisdictions. On or before January 15, 2011, the legislative counsel shall submit a report regarding the review to the general assembly.

Sec. 20. REPORT; SUSPECTED CHILD ABUSE

The commissioner of education and the commissioner for children and families, in consultation with the Vermont Superintendents Association, the Vermont School Boards Association, the Vermont Principals' Association, and the Vermont-National Education Association, shall examine the effectiveness

of the memorandum of understanding entered into between the department of education and the department for children and families dated November 23, 2009 regarding sharing reported information concerning the behaviors of individuals regulated by the department of education. On or before December 15, 2010, the commissioners shall jointly report their conclusions, together with any proposed statutory amendments, to the senate and house committees on judiciary and on education.

Sec. 21. COMMISSIONER OF CORRECTIONS; AID TO COMMUNITIES WITH A HIGH PERCENTAGE PER CAPITA OF PEOPLE UNDER THE CUSTODY OF THE COMMISSIONER

Notwithstanding Sec. D.12 of H.792 of 2010, for expenditures from funds reinvested in community level services pursuant to Sec. D9 of H.792 of 2010 (Challenges Bill) and Sec. 338 of H.789 of 2010 (Appropriations Act), the commissioner shall give priority to projects located in communities which have a high percentage per capita of people under his or her custody, including those living in the community and residents who are incarcerated, and not limited to those four communities that have the highest number of people under his or her custody.

Sec. 22. EFFECTIVE DATES

(a) Sec. 18 of this act shall take effect on April 1, 2011.

(b) This section and Secs. 17, 19, 20, and 21 of this act shall take effect on passage.

(c) The remaining sections of this act shall take effect on July 1, 2010.

Thereupon, pending the question, Shall the Senate concur in the House proposal of amendment with further proposal of amendment?, Senators Campbell, Nitka and McCormack moved that the proposal of amendment to the House proposal of amendment as moved by Senator Sears be amended as follows:

First: By inserting a new section to be numbered Sec. 22 to read as follows:

Sec. 22. SOUTHEAST STATE CORRECTIONAL FACILITY; CLOSING

If the state closes the southeast state correctional facility, it shall assign the building and associated land to the town of Windsor.

Second: By renumbering Sec. 22 to be Sec. 23.

Thereupon, pending the question, Shall the proposal of amendment to the House proposal of amendment be amended as recommended by Senators

Campbell, Nitka and McCormack?, Senator Campbell requested and was granted leave to withdraw the motion to amend the proposal of amendment.

Thereupon, the pending question, Shall the Senate concur in the House proposal of amendment with further proposal of amendment as moved by Senator Sears?, was decided in the affirmative.

On motion of Senator Shumlin, the rules were suspended and the bill was messaged to the House forthwith.

Rules Suspended; Proposal of Amendment; Consideration Postponed

H. 760.

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

An act relating to the repeal or revision of certain boards and commissions.

Was taken up for immediate consideration.

Senator Flanagan, for the Committee on Government Operations, 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. 3 V.S.A. § 2504(a) is amended to read:

(a) The secretary of the agency of agriculture, food and markets and the secretary of the agency of commerce and community development, ~~in consultation with the market Vermont board,~~ shall develop categories and standards designed to identify those Vermont goods, services, and experiences which best portray and promote Vermont's reputation for high standards of quality.

Sec. 2. 8 V.S.A. § 4089b(d)(1)(C) is amended to read:

(C) Prior to the adoption of rules pursuant to this subdivision, the commissioner shall consult with the commissioner of mental health ~~and the task force established pursuant to subsection (h) of this section~~ concerning:

* * *

Sec. 3. 10 V.S.A. § 647 is amended to read:

§ 647. ANNUAL REPORT

Annually, on or before March 1, the board of directors of the Vermont film corporation shall submit a report to the department of tourism and marketing and to the ~~general assembly~~ house and senate committees on government

operations for the prior 12-month period. The report shall:

- (1) describe the activities of the board during the preceding year;
- (2) ~~and shall also~~ include an accounting of revenues received by and expenditures of the board;
- (3) describe outcomes and revenues, if known, that are generated by activities of the corporation; and
- (4) include plans to minimize future state funding of the corporation's activities.

Sec. 4. 10 V.S.A. § 2606a(b) is amended to read:

(b) ~~Specific sites.~~

~~(4) Mountaintop designation. The state-owned mountaintops to which this section shall apply are: Ascutney Mountain North Peak and Ascutney Mountain South Peak, Burke Mountain, Okemo Mountain, and Killington Mountain. Before any applicable permitting process is commenced regarding Okemo Mountain, the Okemo Mountain technical site committee, created by subdivision (2) of this subsection, shall hold a public hearing in the Town of Ludlow before authorizing any use of the Okemo Mountain site for communications purposes. Upon a request for use or other indication of need for establishing additional communications facilities by either public or private parties, additional mountaintop communications sites may be designated by the department when consistent with long range management plans for state-owned land and subject to public input. Such designations shall be by rule adopted pursuant to chapter 25 of Title 3.~~

* * *

Sec. 5. 15 V.S.A. § 1140(b) is amended to read:

(b) The commission shall be comprised of ~~15~~ 17 members, consisting of the following:

* * *

- (14) a physician, appointed by the governor; ~~and~~
- (15) the executive director of the Vermont criminal justice training council; or his or her designee;
- (16) the commissioner of mental health or his or her designee; and
- (17) one judge, appointed by the chief justice of the Vermont supreme court.

Sec. 6. 16 V.S.A. § 216(b) is amended to read:

(b) The commissioner with the approval of the state board shall establish an advisory council on wellness and comprehensive health which shall include at least three members associated with the health services field. The members shall serve without compensation but shall receive their actual expenses incurred in the pursuit of their duties relating to wellness and comprehensive health programs. The council shall assist the department of education in planning, coordinating, and encouraging wellness and comprehensive health programs in the public schools.

Sec. 7. 18 V.S.A. § 1700 is amended to read:

§ 1700. CREATION; MEMBERSHIP; OFFICERS; QUORUM

(a) There is created a nuclear advisory panel which shall consist of the following:

* * *

(3) the commissioner of the department of public service, or his or her designee;

* * *

(f) The department of public service shall:

(1) keep the panel informed of the status of matters within the jurisdiction of the panel;

(2) notify members of the panel in a timely manner upon receipt of information relating to matters within the jurisdiction of the panel; and

(3) provide to all members of the panel all relevant information relating to subjects within the scope of the duties of the panel.

Sec. 8. 18 V.S.A. § 1701 is amended to read:

§ 1701. DUTIES

The duties of the panel shall be:

(1) To hold ~~regular~~ a minimum of three public meetings each year for the purpose of discussing issues relating to the present and future use of nuclear power and to advise the governor, the general assembly and the agencies of the state thereon with a written report being provided annually to the governor and to the energy committees of the general assembly;

* * *

Sec. 9. 18 V.S.A. § 4702(a) is amended to read:

(a) The department of health, ~~in collaboration with the opiate addiction treatment advisory committee,~~ shall develop by rule comprehensive guidelines for a regional system of opiate addiction treatment.

Sec. 10. 18 V.S.A. § 5212b(c) is amended to read:

(c) The commissioner of housing and community affairs may authorize disbursements from the fund for use in any municipality in which human remains are discovered in unmarked burial sites in accordance with a process approved by the commissioner. The commissioner shall approve any process developed through consensus or agreement of the interested parties, including the municipality, the ~~governor's advisory~~ Vermont commission on Native American affairs, and private property owners of property on which there are known or likely to be unmarked burial sites, provided the commissioner determines that the process is likely to be effective, and includes all the following:

* * *

Sec. 11. 18 V.S.A. § 9405(b)(4) is amended to read:

(4) The commissioner shall develop a mechanism for receiving ongoing public comment regarding the plan and for revising it every four years or as needed. ~~The public oversight commission shall recommend revisions to the plan at least every four years and at any other time it determines revisions are warranted.~~

Sec. 12. 18 V.S.A. § 9405a is amended to read:

§ 9405a. PUBLIC PARTICIPATION AND STRATEGIC PLANNING

Each hospital shall have a protocol for meaningful public participation in its strategic planning process for identifying and addressing health care needs that the hospital provides or could provide in its service area. Needs identified through the process shall be integrated with the hospital's long-term planning and shall be described as a component of its four-year capital expenditure projections ~~provided to the public oversight commission under subdivision 9407(b)(2) of this title.~~ The process shall be updated as necessary to continue to be consistent with such planning and capital expenditure projections, and identified needs shall be summarized in the hospital's community report.

Sec. 13. 18 V.S.A. § 9405b is amended to read:

§ 9405b. HOSPITAL COMMUNITY REPORTS

(a) The commissioner, in consultation with representatives from ~~the public oversight commission,~~ 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:

* * *

(c) The community reports shall be provided to ~~the public oversight commission~~ and the commissioner. The commissioner 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. 14. 18 V.S.A. § 9433(c) is amended to read:

(c) The commissioner shall consult with hospitals, nursing homes and professional associations and societies, ~~the public oversight commission~~, the secretary of human services, and other interested parties in matters of policy affecting the administration of this subchapter.

Sec. 15. 18 V.S.A. § 9440 is amended to read:

§ 9440. PROCEDURES

* * *

(d) The review process shall be as follows:

(1) The ~~public oversight commission~~ department shall review:

(A) The application materials provided by the applicant.

(B) ~~The assessment of the applicant's materials provided by the department.~~

(C) Any information, evidence, or arguments raised by interested parties or amicus curiae, and any other public input.

(2) The ~~public oversight commission~~ commissioner shall hold a public hearing during the course of a review.

(3) The ~~public oversight commission~~ department shall ~~make a written findings and a recommendation~~ submit a report to the commissioner in favor of or against each application. A record shall be maintained of all information reviewed in connection with each application.

* * *

(5) After reviewing each application and after considering the ~~recommendations of the public oversight commission~~ report of the department, and any other information submitted in connection with the application, the

commissioner shall make a decision either to issue or to deny the application for a certificate of need. The decision shall be in the form of an approval in whole or in part, or an approval subject to such conditions as the commissioner may impose in furtherance of the purposes of this subchapter, or a denial. In granting a partial approval or a conditional approval the commissioner shall not mandate a new health care project not proposed by the applicant or mandate the deletion of any existing service. Any partial approval or conditional approval must be directly within the scope of the project proposed by the applicant and the criteria used in reviewing the application.

(6)(A) If the commissioner proposes to render a final decision denying an application in whole or in part, or approving a contested application, the commissioner shall serve the parties with notice of a proposed decision containing proposed findings of fact and conclusions of law, and shall provide the parties an opportunity to file exceptions and present briefs and oral argument to the commissioner. The commissioner may also permit the parties to present additional evidence.

~~(B) If the commissioner's proposed decision is contrary to the recommendation of the public oversight commission:~~

~~(i) the notice of proposed decision shall contain findings of fact and conclusions of law demonstrating that the commissioner fully considered all the findings and conclusions of the public oversight commission and explaining why his or her proposed decision is contrary to the recommendation of the public oversight commission and necessary to further the policies and purposes of this subchapter; and~~

~~(ii) the commissioner shall permit the parties to present additional evidence.~~

* * *

(8) The commissioner shall ~~establish~~ adopt rules governing the compilation of the record used by the ~~public oversight commission and department and~~ the commissioner in connection with decisions made on applications filed and certificates issued under this subchapter.

* * *

(f) Any applicant, competing applicant, or interested party aggrieved by a final decision of the commissioner under this section may appeal the decision to the supreme court. ~~If the commissioner's decision is contrary to the recommendation of the public oversight commission, the standard of review on appeal shall require that the commissioner's decision be supported by a preponderance of the evidence in the record.~~

* * *

Sec. 16. 18 V.S.A. § 9440a(a) is amended to read:

(a) Each application filed under this subchapter, any written information required or permitted to be submitted in connection with an application or with the monitoring of an order, decision, or certificate issued by the commissioner, and any testimony ~~taken before the public oversight commission~~, received by the commissioner, or a hearing officer appointed by the commissioner shall be submitted or taken under oath. The form and manner of the submission shall be prescribed by the commissioner. The authority granted to the commissioner under this section is in addition to any other authority granted to the commissioner under law.

Sec. 17. 18 V.S.A. § 9456(h)(3)(B) is amended to read:

(B) A person who knowingly makes a false statement under oath or who knowingly submits false information under oath to the commissioner ~~or to the public oversight commission~~ or to a hearing officer appointed by the commissioner or who knowingly testifies falsely in any proceeding before the commissioner ~~or the public oversight commission~~ or a hearing officer appointed by the commissioner shall be guilty of perjury and punished as provided in ~~section 13 V.S.A. § 2901 of Title 13.~~

Sec. 18. 21 V.S.A. § 1306(a) is amended to read:

(a) The governor shall appoint a state department of labor advisory council composed of eight members from the general public to include four employer representatives and four employee representatives who may fairly be regarded as employees because of their vocations, employment, and affiliations. Appointment of the four employee representatives, at least one of whom shall have experience in workers' compensation law and one of whom shall be a member of a building trade, shall be made from a list of qualified individuals submitted by the Vermont state labor council, the Vermont state employees' association, and the Vermont national education association. Appointment of the four employer representatives shall be made from a list of qualified individuals submitted by the Vermont chamber of commerce, associated general contractors of Vermont, and Vermont businesses for social responsibility. The council members shall be appointed for staggered terms of four years. The council shall meet at least ~~six~~ three times a year.

Sec. 19. 23 V.S.A. § 3310(a) is amended to read:

(a) The ~~state board~~ commissioner of forests, parks and recreation or a municipality in administering a swimming beach or waterfront program may designate a swimming area in front of the beach or land which the state or a

municipality owns or controls and may make rules pertaining to the area. The rules may provide that no person, except a lifeguard on duty and other authorized personnel, may operate any boat, canoe, or water vehicle of any sort within the designated swimming area.

Sec. 20. 28 V.S.A. § 121 is amended to read:

§ 121. COMMUNITY HIGH SCHOOL OF VERMONT BOARD

(a) ~~A board is established for the purpose of advising the education supervisor of the independent school established in section 120 of this title. The community high school of Vermont board shall have supervision over is established to recommend policy formation for the independent school, community high school of Vermont and offender work programs to the commissioner of corrections, except as otherwise provided, shall recommend school policy to the commissioner of corrections, shall advise the education supervisor, oversee local advisory boards of the school, and shall perform such other duties as requested from time to time by the commissioner of education or of corrections.~~

(b) The board shall consist of nine members, each appointed by the governor for a three-year term subject to the advice and consent of the senate, in such a manner that no more than three terms shall expire annually, as follows:

(1) ~~Six~~ Five representatives from the membership of local advisory boards serving the school sites, not to include more than one member from any advisory board.

(2) ~~Three members-at-large~~ Three representatives of public sector and private nonprofit organization customers of the products and services of offender work programs.

(3) One member-at-large.

(c) The board shall appoint a chair and vice chair, each of whom shall serve for one year or until a successor is appointed by the board.

(d) The board shall report on its activities at least annually to the state board of education and the commissioner of corrections.

(e) ~~The board may, with the approval of the commissioner of corrections, appoint the education supervisor of the independent school. The board shall review plans submitted by the director of offender work programs, conduct public hearings regarding potentially affected private businesses and labor groups, evaluate the impact on private sector business, and provide its recommendations to the commissioner of corrections.~~

Sec. 21. 28 V.S.A. § 751b is amended to read:

§ 751b. GENERAL PROVISIONS GOVERNING OFFENDER WORK

* * *

(d) The labor, work product, or time of an offender may be sold, contracted, or hired out by the state only:

(1) To the federal government.

(2) To any state or political subdivision of a state, or to any nonprofit organization which is exempt from federal or state income taxation, subject to federal law, to the laws of the recipient state and to the rules of the department. ~~Five~~ Two of the three members of the ~~offender work programs~~ community high school of Vermont board appointed under subdivision 121(b)(2) of this title at a scheduled and warned board meeting may vote to disapprove any future sales of offender produced goods or services to any nonprofit organization and ~~such~~ the vote shall be binding on the department.

(3) To any private person or enterprise not involving the provision of the federally authorized Prison Industries Enhancement Program, provided that the ~~offender work programs~~ community high school of Vermont board shall first determine that the offender work product in question is not otherwise produced or available within the state. ~~Five~~ Two of the three members of the ~~such~~ board appointed under subdivision 121(b)(2) of this title at a scheduled and warned board meeting may vote to disapprove any future sales of offender produced goods or services to any person or entity not involving the provisions of the federally authorized Prison Industries Enhancement Program and such vote shall be binding on the department.

* * *

(e) Offender work programs managers shall seek to offset production, service and related costs from product and service sales; however, this financial objective of offsetting the costs to the department of servicing and supervising offender work programs shall not be pursued to the detriment of accomplishing the purposes of offender work programs set out in subsection (a) of this section or to the detriment of private businesses as safeguarded by ~~section 761~~ subsection 121(e) of this title.

* * *

(g) Assembled products shall not be sold to any person, enterprise, or entity unless the ~~offender work programs~~ community high school of Vermont board has first reviewed any such proposed sale, and ~~five~~ two of the three members of the board appointed under subdivision 121(b)(2) of this title have voted in

favor of the proposal at a scheduled and warned meeting of the board.

* * *

Sec. 22. 28 V.S.A. § 752(b) is amended to read:

(b) Any expenses incurred by offender work programs ~~and the offender work programs board~~ shall be defrayed by this fund.

Sec. 23. 29 V.S.A. § 152(a)(3)(A) is amended to read:

(A) For which the legislature or the emergency board has made specific appropriations. In consultation with the department or agency concerned ~~and with the approval of the board of state buildings~~, the commissioner shall select sites, purchase lands, determine plans and specifications, and advertise for bids for the furnishing of materials and construction thereof and of appurtenances thereto. The commissioner shall determine the time for beginning and completing the construction. Any change orders occurring under the contracts let as the result of actions previously mentioned in this section shall not be allowed unless they have the approval of the secretary of administration.

Sec. 24. 29 V.S.A. § 152(a)(5) is amended to read:

(5) Inspect, appraise, and maintain a current appraisal schedule of all state-owned buildings, appendages, and appurtenances thereto based upon replacement value in the first instance and upon depreciated value in the second instance. ~~Such appraisals~~ Appraisals shall be furnished upon request to the secretary of administration, ~~the board of state buildings~~, the commissioner of buildings and general services, departments and agencies concerned, and appropriate committees of the general assembly.

Sec. 25. 32 V.S.A. § 1010(a) is amended to read:

(a) Except for those members serving ex officio or otherwise regularly employed by the state, the compensation of the members of the following boards shall be \$50.00 per diem:

- (1) Board of bar examiners
- (2) Board of libraries
- (3) Vermont milk commission
- (4) Board of education
- (5) State board of health
- (6) Emergency board

- (7) Liquor control board
- (8) ~~{Repealed.}~~
- (9) Human services board
- ~~(10) State board of forests, parks and recreation~~
- ~~(11)(9) State fish and wildlife board~~
- ~~(12)(10) State board of mental health~~
- ~~(13) Vermont development advisory board~~
- ~~(14) Vermont state water resources board~~
- ~~(15)(11) Vermont employment security board~~
- ~~(16)(12) Capitol complex commission~~
- ~~(17)(13) Natural gas and oil resources board~~
- ~~(18) Commission of the deaf and hearing impaired~~
- ~~(19)(14) Transportation board~~
- ~~(20) Health policy council~~
- ~~(21) Certificate of need review board~~
- ~~(22) Certificate of need appeals board~~
- ~~(23)(15) Vermont veterans' home board of trustees~~
- ~~(24)(16) Advisory council on historic preservation~~
- ~~(25) Vermont whey pollution abatement authority~~
- ~~(26)(17) The electricians' licensing board~~
- ~~(27) The alternatives to incarceration board~~
- ~~(28) Offender work programs board~~
- ~~(29) Firefighters'~~ (18) Emergency personnel survivors benefit review board
- ~~(30)(19) Community high school of Vermont~~ and offender work programs board
- ~~(31) Municipal land records commission.~~

Sec. 26. REPEAL

The following are repealed:

-
- (1) Subchapter 1 of chapter 21 of Title 1 (commission on interstate cooperation).
 - (2) The following sections, subsections, and subdivisions in Title 3:
 - (A) § 2(3)(C) (commission on interstate cooperation);
 - (B) § 2294 (technology advisory board);
 - (C) § 2503 (market Vermont advisory board);
 - (D) § 2873(h) (compliance advisory board).
 - (3) 8 V.S.A. § 4089b(h) (mental health insurance task force).
 - (4) The following chapters and subchapters in Title 10:
 - (A) Subchapter 1 of chapter 1 (Vermont business recruitment partnership);
 - (B) Chapter 4 (world trade office);
 - (C) Chapter 11A (Vermont qualifying facility contract mitigation authority);
 - (D) Chapter 24 (outdoor lighting);
 - (E) Chapter 28 (Vermont small business investment);
 - (F) Subchapter 5 of chapter 73 (forest resource advisory council).
 - (5) The following sections and subdivisions in Title 10:
 - (A) § 2604 (state board of forests, parks and recreation);
 - (B) § 2606a(b)(2)–(5) (technical site committees, duties, leases, administration).
 - (6) Subchapter 3 of chapter 125 of Title 16 (benefits under higher education facilities act of 1963).
 - (7) The following sections and subsections in Title 16:
 - (A) § 15 (council on civics education);
 - (B) § 132 (comprehensive health education advisory council).
 - (8) The following sections and subsections in Title 18:
 - (A) § 104b(c) and (d) (community health and wellness grant committee);
 - (B) § 4703 (opiate addiction treatment advisory committee);
 - (C) § 9402(15) (definitions; public oversight commission);

(D) § 9407 (public oversight commission; duties);

(9) The following subsections in Title 20:

(A) § 2673(d) (assistance of the state HAZMAT emergency operation team);

(B) § 2681(b) and (c) (state HAZMAT emergency operation team).

(10) 21 V.S.A. § 229 (VOSHA advisory councils).

(11) 23 V.S.A. § 735 (motorcycle training advisory committee).

(12) The following chapters in Title 24:

(A) Chapter 133 (Vermont independent school finance authority);

(B) Chapter 135 (Vermont municipal land records commission).

(13) 28 V.S.A. § 761 (offender work programs board).

(14) The following sections in Title 29:

(A) § 156 (composition of the board of state buildings);

(B) § 158 (land and office building development plan).

(15) The following chapters in Title 30:

(A) Chapter 85 (West River Basin energy authority);

(B) Chapter 90 (Vermont hydro-electric power authority);

(16) The following sections in Title 31:

(A) § 641 (Vermont breeder's stake board);

(B) § 642 (Vermont standard-bred development special fund).

(17) 32 V.S.A. § 203 (committee on coordination).

(18) Chapter 61 of Title 33 (Vermont independence fund).

(19) The following sections in Title 33:

(A) § 308 (child care advisory board);

(B) § 806 (alcohol and drug abuse advisor appointees).

(20) Sec. 1 of No. 204 of the Acts of the 2005 Adj. Sess. (2006) (commission to develop the next generation initiative) is repealed.

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

Senator Kitchel, 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, the bill was read the second time by title only pursuant to Rule 43, and the proposal of amendment was agreed to.

Thereupon, pending the question, Shall the bill be read a third time?, on motion of Senator Shumlin consideration was postponed.

**Rules Suspended; Proposals of Amendment; Bill Passed in Concurrence
with Proposals of Amendment**

H. 542.

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

An act relating to transfers of mobile homes and rent-to-own transactions.

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

Thereupon, pending third reading of the bill, Senator Ashe moved to amend the Senate proposal of amendment in Sec.1 as follows:

First: In 9 V.S.A. § 2602(b)(4) by striking out the first sentence in its entirety and inserting in lieu thereof the following: The buyer or transferee shall execute and then file the executed bill of sale with the clerk of the town in which the mobile home will be located within 10 days of executing the bill of sale.

Second: In 9 V.S.A. § 2602(b)(5), before the period, by inserting the following: at least 21 days prior to the sale or transfer of the mobile home

Third: In 9 V.S.A. § 2602(b)(6), before the period, by inserting the following: in the bill of sale pursuant to subdivision (c)(1) of this section

Fourth: In 9 V.S.A. § 2602(c)(2), in the body of the mobile home uniform bill of sale under the heading "Retail Installment Transaction", by striking out the following "4451(8)" and inserting in lieu thereof the following: 2351(4)

Fifth: In subsection 2062(f), following "transactions." and preceding "(1)" by inserting the following: Except for a mobile home that is financed or conveyed as real property:

Which was agreed to.

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

Consideration Resumed; Senate Proposal of Amendment Amended; Third Reading Ordered

H. 760.

Consideration was resumed on House bill entitled:

An act relating to the repeal or revision of certain boards and commissions.

Thereupon, pending the question, Shall the bill be read a third time?, Senator Flanagan moved to amend the Senate proposal of amendment as follows:

First: In Sec. 7, 18 V.S.A. § 1700(f), by striking out subdivision (3) in its entirety and inserting in lieu thereof a new subdivision (3) to read as follows:

(3) upon request, provide to all members of the panel all relevant information within the department's control relating to subjects within the scope of the duties of the panel.

Second: In Sec. 25, 3 V.S.A. § 1010(a)(19), by striking out the following: "and offender work programs"

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

Thereupon, pending the question, Shall the bill be read a third time?, Senator Flanagan moved to amend the Senate proposal of amendment as follows:

First: By striking out Secs. 2, 11, 12, 13, 14, 15, 16, 17, 20, 21 and 22 in their entirety.

Second: In Sec. 7, 18 V.S.A. § 1700(f), by striking out subdivision (3) in its entirety and inserting in lieu thereof a new subdivision (3) to read as follows:

(3) upon request, provide to all members of the panel all relevant information within the department's control relating to subjects within the scope of the duties of the panel.

Third: By striking out Sec. 25 in its entirety and inserting in lieu thereof a new Sec. 25 to read as follows:

Sec. 25. 32 V.S.A. § 1010(a) is amended to read:

(a) Except for those members serving ex officio or otherwise regularly employed by the state, the compensation of the members of the following boards shall be \$50.00 per diem:

- (1) Board of bar examiners
- (2) Board of libraries
- (3) Vermont milk commission
- (4) Board of education
- (5) State board of health
- (6) Emergency board
- (7) Liquor control board
- (8) ~~[Repealed.]~~
- ~~(9) Human services board~~
- ~~(10) State board of forests, parks and recreation~~
- ~~(11)(9) State fish and wildlife board~~
- ~~(12)(10) State board of mental health~~
- ~~(13) Vermont development advisory board~~
- ~~(14) Vermont state water resources board~~
- ~~(15)(11) Vermont employment security board~~
- ~~(16)(12) Capitol complex commission~~
- ~~(17)(13) Natural gas and oil resources board~~
- ~~(18) Commission of the deaf and hearing impaired~~
- ~~(19)(14) Transportation board~~
- ~~(20) Health policy council~~
- ~~(21) Certificate of need review board~~
- ~~(22) Certificate of need appeals board~~
- ~~(23)(15) Vermont veterans' home board of trustees~~
- ~~(24)(16) Advisory council on historic preservation~~
- ~~(25) Vermont whey pollution abatement authority~~

~~(26)~~(17) The electricians' licensing board

~~(27)~~ The alternatives to incarceration board

~~(28)~~(18) Offender work programs board

~~(29)~~ Firefighters' (19) Emergency personnel survivors benefit review board

~~(30)~~(20) Community high school of Vermont board

~~(31)~~ Municipal land records commission.

Fourth: By striking out Sec. 26 in its entirety and inserting in lieu thereof a new Sec. 26 to read as follows:

Sec. 26. REPEAL

The following are repealed:

(1) Subchapter 1 of chapter 21 of Title 1 (commission on interstate cooperation).

(2) The following sections, subsections, and subdivisions in Title 3:

(A) § 2(3)(C) (commission on interstate cooperation);

(B) § 2294 (technology advisory board);

(C) § 2503 (market Vermont advisory board);

(D) § 2873(h) (compliance advisory board).

(3) The following chapters and subchapters in Title 10:

(A) Subchapter 1 of chapter 1 (Vermont business recruitment partnership);

(B) Chapter 4 (world trade office);

(C) Chapter 11A (Vermont qualifying facility contract mitigation authority);

(D) Chapter 24 (outdoor lighting);

(E) Chapter 28 (Vermont small business investment);

(F) Subchapter 5 of chapter 73 (forest resource advisory council).

(4) The following sections and subdivisions in Title 10:

(A) § 2604 (state board of forests, parks and recreation);

(B) § 2606a(b)(2)–(5) (technical site committees, duties, leases, administration).

(5) Subchapter 3 of chapter 125 of Title 16 (benefits under higher education facilities act of 1963).

(6) The following sections and subsections in Title 16:

(A) § 15 (council on civics education);

(B) § 132 (comprehensive health education advisory council).

(7) The following sections and subsections in Title 18:

(A) § 104b(c) and (d) (community health and wellness grant committee);

(B) § 4703 (opiate addiction treatment advisory committee);

(8) The following subsections in Title 20:

(A) § 2673(d) (assistance of the state HAZMAT emergency operation team);

(B) § 2681(b) and (c) (state HAZMAT emergency operation team).

(9) 21 V.S.A. § 229 (VOSHA advisory councils).

(10) 23 V.S.A. § 735 (motorcycle training advisory committee).

(11) The following chapters in Title 24:

(A) Chapter 133 (Vermont independent school finance authority);

(B) Chapter 135 (Vermont municipal land records commission).

(12) The following sections in Title 29:

(A) § 156 (composition of the board of state buildings);

(B) § 158 (land and office building development plan).

(13) The following chapters in Title 30:

(A) Chapter 85 (West River Basin energy authority);

(B) Chapter 90 (Vermont hydro-electric power authority);

(14) The following sections in Title 31:

(A) § 641 (Vermont breeder's stake board);

(B) § 642 (Vermont standard-bred development special fund).

(15) 32 V.S.A. § 203 (committee on coordination).

(16) Chapter 61 of Title 33 (Vermont independence fund).

(17) The following sections in Title 33:

(A) § 308 (child care advisory board);

(B) § 806 (alcohol and drug abuse advisor appointees).

(18) Sec. 1 of No. 204 of the Acts of the 2005 Adj. Sess. (2006) (commission to develop the next generation initiative) is repealed.

Which was agreed to.

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

Adjournment

On motion of Senator Shumlin, the Senate adjourned until five o'clock in the afternoon.

Evening

The Senate was called to order by the President.

Message from the House No. 81

A message was received from the House of Representatives by Ms. 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. 51. Joint resolution supporting the assignment of the F-35 aircraft to the Vermont Air National Guard.

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 the following bill:

S. 292. An act relating to term probation, the right to bail, medical care of inmates, and a reduction in the number of nonviolent prisoners, probationers, and detainees.

And has severally concurred therein with further amendments in the passage of which the concurrence of the Senate is requested.

Proposals of Amendment; Third Reading Ordered

H. 66.

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

An act relating to including secondary students with disabilities in senior year activities and ceremonies.

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

First: In Sec. 1, 16 V.S.A. § 2944, by redesignating the section to be Sec. 22 and in the new Sec. 22 by redesignating subsections (h) and (i) as subsections (i) and (j) respectively and by inserting a new subsection to be subdivision (h) to read:

(h) A school shall not be required to permit a student to participate in a graduation ceremony or senior year activities pursuant to subsection (g) of this section if the student has not met graduation requirements for reasons that are wholly unrelated to the student's disability

Second: By adding twenty-one new sections to be numbered Secs. 1 through 21 to read as follows:

Sec. 1. FINDINGS

The general assembly finds that:

(1) the voluntary merger of Vermont's education governing units will support:

(A) increased educational opportunities for all students, including the effective use of technology to expand those opportunities;

(B) increased economies of scale;

(C) enhanced cost efficiencies available in personnel assignment and the management of resources, particularly at a time when many districts are experiencing declining enrollment;

(2) providing incentives, technical assistance, and statutory changes to encourage voluntary merger of school districts will allow governance changes to occur while preserving the authority of voters to make local decisions that are appropriate for their communities; and

(3) the voluntary merger of Vermont's education governing units:

(A) will assist schools and education governing units to obtain meaningful, standardized metrics for evaluating programs; comparing local, national, and international student data; assessing and identifying system improvements; and analyzing the costs and benefits of resource allocations;

(B) provides voters opportunities to make local decisions regarding school choice and other enrollment options, in Vermont public schools and in

approved independent schools, that are appropriate for their communities;

(C) recognizes school choice as a significant part of the Vermont elementary and secondary system as it currently exists and as it will continue to exist as changes to the structure are made in the future; and

(4) encouraging education governing units to enter into contracts to share administrative, educational, technical, labor, and material resources, which may be considered to be “virtual mergers,” will also assist the governing units to reduce costs, to improve educational outcomes, and to eliminate barriers to increased efficiency.

* * * School District Merger Incentive Program * * *

Sec. 2. SCHOOL DISTRICT MERGER INCENTIVE PROGRAM

(a) Program created. There is created a school district merger incentive program under which the incentives outlined in Sec. 4 of this act shall be available to each new unified union school district created pursuant to Sec. 3 of this act and to each new district created under that section by the merger of districts that provide secondary education by paying tuition. Incentives shall be available, however, only if the effective date of merger is on or before July 1, 2017.

(b) Board discussion. On or before December 1, 2010, the board of each supervisory union in the state shall discuss, and the board of every school district may discuss, whether it wishes to explore the merger of districts within the supervisory union or with one or more districts outside of the supervisory union, or both under the terms of this act.

(c) Board vote. On or before October 1, 2012, each supervisory union board shall vote whether to perform a more comprehensive analysis of potential merger, and shall report the results of its vote to the commissioner of education and the voters of each member school district.

Sec. 3. VOLUNTARY SCHOOL DISTRICT MERGER INCENTIVE PROGRAM

(a) Size.

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

(2) School districts interested in merger may request the state board of education to grant them a waiver from the requirements of subdivision (1) of this subsection, which shall be granted if the districts can demonstrate that the requirements would not be cost-effective, would decrease educational opportunities, or would diminish student achievement, or any combination of these.

(b) Elementary and Secondary Education.

(1) A RED formed under this act shall provide for the education of its resident students by operating one or more public schools offering elementary and secondary education.

(2) If they comply with all other provisions of this act, then notwithstanding subdivision (1) of this subsection, school districts that do not operate secondary schools may merge to form a RED, operate as a K–12 district, and receive the incentives in Sec. 4 of this act if the proposed RED operates one or more schools offering at least kindergarten through grade 6 for the resident students in those grade and implements one of the following options:

(A) The RED designates either a Vermont public school outside the district or a Vermont approved independent school located inside or outside the district as the sole public secondary school of the RED pursuant to the provisions of 16 V.S.A. § 827.

(B) The RED provides for the education of students in all grades for which it does not operate a school by paying tuition pursuant to 16 V.S.A. § 824, provided that the RED will neither operate a school offering the grades for which it pays tuition nor designate a school that offers those grades.

(3) If they comply with all other provisions of this act, then notwithstanding subdivision (1) of this subsection, school districts that do not operate any schools may merge to form a RED, operate as a K–12 district, and receive the incentives in Sec. 4 of this act if the proposed RED provides for the education of students in all grades by paying tuition pursuant to 16 V.S.A. § 824, provided that the RED will neither operate a school offering the grades for which it pays tuition nor designate a school that offers those grades.

(c) Supervisory unions and supervisory districts.

(1) School districts that merge to form a RED do not need to be members of the same supervisory union prior to merger.

(2) Upon merger, the state board of education shall assign the RED to a supervisory union or determine that the RED will operate as a supervisory

district. In addition, the state board shall assign any district or districts in the original supervisory union or unions that did not merge into the RED to one or more supervisory unions; provided, however, a district may request placement within a specified supervisory union pursuant to 16 V.S.A. § 261(b).

(d) Operation of schools. A RED shall not close any school within its boundaries during the first four years after the effective date of merger unless the electorate of the town in which the school is located consents to closure. The participating districts' plan of merger may include processes governing the manner in which the RED may close schools after the fourth year.

(e) Local participation. Because the RED shall be governed by one board, the plan for merger presented to the electorate for approval under chapter 11 of Title 16 shall include structures and processes that provide opportunities for local participation in the creation of RED policy and budget development.

(f) Enrollment options. The plan for merger presented to the electorate for approval shall include whether and to what extent elementary and secondary students residing within the RED may enroll in any school the RED operates, provided:

(1) a RED that operates or designates a secondary school shall comply with regional high school choice provisions of 16 V.S.A. § 1622;

(2) each RED shall provide, or provide access to, secondary technical education for students residing within its boundaries;

(3) if the approved merger plan provides fewer options to the students in one or more of the merging districts than they have prior to merger, then the RED shall pay tuition to a school pursuant to the provisions of 16 V.S.A. §§ 823 and 824 for any resident student who resided in one of those districts and was enrolled in the school at public expense at the time of merger, even if the approved merger plan does not otherwise require the RED to pay tuition to that school; and

(4) if a RED is created pursuant to subdivision (b)(2) or (b)(3) of this section and provides for the education of resident secondary students by paying tuition, and if after the effective date of merger the RED electorate is asked to vote on a proposal to limit enrollment options in those grades, then the proposed amendment, as with any change to a specific term of a merger agreement, shall be affirmed or rejected by the voters of each member town pursuant to 16 V.S.A. § 706n(a).

(g) Employment and labor relations. On the first day of its existence, the RED shall:

(1) assume the obligations of individual employment contracts between the participating districts and their bargaining unit employees;

(2) assume the collective bargaining agreements between the participating districts and their respective representative organizations, including any provisions that address the transition to the RED, until such time as it reaches its own agreement with teachers and administrators under 16 V.S.A. § 2005, and with other employees under 21 V.S.A. § 1725(a);

(3) recognize the representatives of the employees of the former member districts as the recognized representatives of the employees of the RED;

(4) ensure that an employee of the former member district who is not a probationary employee shall not be considered a probationary employee of the RED; and

(5) have reached an agreement with the recognized representatives of the employees, effective on the first day of the RED's existence, regarding how to address issues of seniority, reduction in force, layoff, and recall prior to reaching its first collective bargaining agreement with its employees.

(h) Cost-benefit analysis. School districts shall conduct a cost-benefit analysis as part of their merger planning. The plan for merger submitted to the state board of education pursuant to 16 V.S.A. § 706c and presented to the electorate for approval shall identify cost efficiencies and improved educational outcomes that will result from merger in order to demonstrate a rational basis for the decision to merge and shall address:

(A) real dollar efficiencies;

(B) operational efficiencies;

(C) student learning opportunities; and

(D) student outcomes.

(i) Qualification. No individual entitlement or private right of action is created by Secs. 2 through 4 of this act.

Sec. 4. VOLUNTARY SCHOOL DISTRICT MERGER; INCENTIVES

(a) Equalized homestead property tax rates.

(1)(A) Subject to the provisions of subdivision (2) of this subsection and notwithstanding any other provision of law, the RED's equalized homestead property tax rate shall be

(i) decreased by \$0.08 in the first year after the effective date of merger;

(ii) decreased by \$0.06 in the second year after the effective date of merger;

(iii) decreased by \$0.04 in the third year after the effective date of merger; and

(iv) decreased by \$0.02 in the fourth year after the effective date of merger.

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

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

(3) On and after the effective date of merger, the common level of appraisal shall be calculated independently for each town within the RED for purposes of determining the homestead property tax rate for each town.

(b) Capital debt service. Beginning in fiscal year 2018, and notwithstanding any other provision of law, the commissioner annually shall reimburse from the education fund the amount of interest paid in the prior year by a RED to its lender on borrowing in anticipation of any state school construction aid that was owed to a merging member of the RED as of the effective date of this act and has not been paid to the RED by the state as of July 1, 2016.

(c) Sale of school buildings. Subject to the provisions of Sec. 3(d) of this act:

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

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

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

(e) Consulting services reimbursement grant. From the education fund, the commissioner of education shall pay up to \$20,000.00 to the merger study committee established under 16 V.S.A. § 706 to reimburse the participating districts for legal and other consulting fees necessary for the analysis and report required by 16 V.S.A. § 706b. The study committee shall forward invoices to the commissioner on a quarterly basis. The commissioner shall reimburse one-half of the total amount reflected in each set of invoices and the remaining one-half upon completion of the final report, provided that no payment shall cause the total amount paid to exceed the \$20,00.00 limit. In addition, any facilitation grant funds paid to the RED pursuant to Sec. 5 of this act shall be reduced by the total amount of funds provided under this subsection (e).

(f) Multiyear budgets.

(1) In addition to the option of proposing a single-year budget on an annual basis pursuant to the provisions of chapter 11 of Title 16 and notwithstanding any other provision of law, a RED formed pursuant to Secs. 2 and 3 of this act shall also have the option to propose one or both of the following:

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

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

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

(g) Recent merger. If the Addison Northwest Unified Union School District becomes a body corporate and politic on or before July 1, 2010, then the merged district shall be entitled to receive any of the benefits set forth in this section that it elects and is otherwise eligible to receive if, on or before July 1, 2011:

(1) it notifies the commissioner of its election; and

(2) it provides the commissioner with a cost-benefit analysis as required by Sec. 3(h) of this act.

Sec. 5. Sec. 168a of No. 122 of the Acts of the 2003 Adj. Sess. (2004) as amended by Sec. 23 of No. 66 of the Acts of 2007 is amended to read:

Sec. 168a. SCHOOL DISTRICT CONSOLIDATION; TRANSITION AID; APPROPRIATION SUNSET

(a) After voter approval of the establishment of a union, unified union, or interstate school district, the commissioner of education shall pay to the board of the union, unified union, or interstate school district a facilitation grant of five percent of the base education ~~payment~~ amount in 16 V.S.A. § 4001(13) based on the combined enrollment of the participating districts on October 1 of the year in which the successful vote was taken or \$150,000.00, whichever is less, from the education fund. The grant shall be in addition to funds received under 16 V.S.A. § 4028.

(b) This section shall sunset on June 30, 2010 2014.

Sec. 6. STUDY; TUITION VOUCHERS

On or before January 15, 2011, the state board of education's commission on redistricting shall research, analyze, and report to the senate and house committees on education, the senate committee on finance, and the house committee on ways and means regarding the fiscal impacts on the education fund, the general fund, property tax rates, and school budgets as well as the effects on educational outcomes if the state were to make tuition vouchers available to all Vermont students. The report shall include a summary of peer-reviewed research, with particular emphasis on research related to Vermont or other demographically or geographically similar states. Areas of inquiry shall include student achievement, property values, special education services, transportation, income levels served, community involvement, and social and economic stratification, if any.

Sec. 7. MERGER TEMPLATE

After reviewing existing models, the department of education shall develop a merger template to assist study committees formed pursuant 16 V.S.A. § 706

to consider the advisability of and prepare a proposal for merger. Among other things, the template shall provide data regarding the enrollment and finances of the participating school districts and demographic statistics. It shall also outline common issues considered by districts exploring merger and provide links to related resources. The department shall publish the template on its website on or before December 15, 2010.

Sec. 8. REPORTS; EFFECTS OF MERGER; RECOMMENDATIONS

(a) On or before January 15, 2011, and in every January thereafter through 2018, the commissioner shall report to the house and senate committees on education regarding the status of merger discussions and votes.

(b) The James M. Jeffords Center of the University of the Vermont, the department of education, and school districts participating in the voluntary merger process authorized by this act shall collaborate to study:

(1) data and comments from school districts and supervisory unions statewide that are discussing voluntary merger;

(2) the results of local district elections to approve voluntary merger under the provisions of this act; and

(3) in connection with USDs that are formed under the provisions of this act:

(A) real dollar efficiencies realized;

(B) operational efficiencies realized;

(C) changes in student learning opportunities; and

(D) changes in student outcomes.

(d) On or before January 15, 2018, the James M. Jeffords Center and the department of education shall present a final report concerning the study required in subsection (c) of this section, including recommendations to the house and senate committees on education regarding what further actions, if any, should be pursued to encourage or require merger by nonparticipating school districts, and shall provide interim reports in each January until that date.

* * * Virtual Merger; Supervisory Unions; Superintendents; Class Sizes * * *

Sec. 9. 16 V.S.A. § 261a is amended to read:

§ 261a. DUTIES OF SUPERVISORY UNION BOARD

(a) Duties. The board of each supervisory union shall:

(1) ~~set policy to coordinate curriculum plans among the sending and receiving schools in that supervisory union~~ establish a supervisory union-wide curriculum, by either developing the curriculum or assisting the member districts to develop it jointly, and ensure implementation of the curriculum. The curriculum ~~plans~~ shall meet the requirements adopted by the state board under subdivision 165(a)(3)(B) of this title;

(2) ~~take reasonable steps to~~ assist each school in the supervisory union to follow ~~its respective~~ the curriculum plan as adopted under the requirements of the state board pursuant to subdivision 165(a)(3)(B) of this title;

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

(4) in accordance with criteria established by the state board, establish and implement a plan for receiving and disbursing federal and state funds distributed by the department of education, including funds awarded under P.L. 89-10, the Elementary and Secondary Education Act of 1965 as amended;

(5) ~~provide for the establishment of a written policy on professional development of teachers employed in the supervisory union and periodically review that policy. The policy may~~ professional development programs or arrange for the provision of them, or both, for teachers, administrators, and staff within the supervisory union, which may include programs offered solely to one school or other component of the entire supervisory union to meet the specific needs or interests of that component; a supervisory union has the discretion to provide financial assistance outside the negotiated agreements for teachers' professional development activities and may require the superintendent periodically to develop and offer professional development activities within the supervisory union;

(6) ~~provide or, if agreed upon by unanimous vote at a supervisory union meeting, coordinate provision of the following educational services on behalf of member districts:~~

(A) ~~special education;~~

(B) ~~except as provided in section 144b of this title, compensatory and remedial services; and~~

(C) ~~other services as directed by the state board and local boards~~ provide special education services on behalf of its member districts and, except as provided in section 144b of this title, compensatory and remedial services, and provide or coordinate the provision of other educational services as directed by the state board or local boards; provided, however, if a supervisory

union determines that services would be provided more efficiently and effectively in another manner, then it may ask the commissioner to grant it a waiver from this provision;

(7) employ a person or persons qualified to ~~manage~~ provide financial and student data management services for the supervisory union accounts;

(8) at the option of the supervisory union, provide the following services for the benefit of member districts ~~according~~ in a manner that promotes the efficient use of financial and human resources, which shall be provided pursuant to joint agreements under section 267 of this title whenever feasible; provided, however, if a supervisory union determines that services would be provided more efficiently and effectively in another manner, then it may ask the commissioner to grant it a waiver from this subdivision:

(A) ~~centralized purchasing~~ manage a system to procure and distribute goods and operational services;

(B) ~~construction management~~ manage construction projects;

(C) ~~budgeting, accounting and other financial management~~ provide financial and student data management services, including grant writing and fundraising as requested;

(D) teacher negotiations negotiate with teachers and administrators, pursuant to chapter 57 of this title, and with other school personnel, pursuant to chapter 22 of Title 21, at the supervisory union level; provided that

(i) contract terms may vary by district; and

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

(E) ~~transportation~~ provide transportation or arrange for the provision of transportation, or both in any districts in which it is offered within the supervisory union; and

(F) provide human resources management support; and

(G) provide other appropriate services according to joint agreements pursuant to section 267 of this title;

(9) require that the superintendent as executive officer of the supervisory union board be responsible to the commissioner and state board for reporting on all financial transactions within the supervisory union. On or before August 15 of each year, the superintendent, using a format approved by the commissioner, shall forward to the commissioner a report describing the

~~financial operations of the supervisory union for the preceding school year. The state board may withhold any state funds from distribution to a supervisory union until such returns are made; [Repealed.]~~

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

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

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

(11) on or before June 30 of each year, adopt a budget for the ensuing school year; and

(12) adopt supervisory union-wide truancy policies consistent with the model protocols developed by the commissioner.

(13)–(17) [Repealed.]

(b) Virtual merger. In order to promote the efficient use of financial and human resources, and whenever legally permissible, supervisory unions are encouraged to reach agreements with other supervisory unions jointly to provide any service or perform any duty under this section pursuant to section 267 of this title. Agreements between supervisory unions are not subject to the waiver requirement of subdivision (a)(8) of this section. Agreements shall include a cost-benefit analysis outlining the projected financial savings or enhanced outcomes, or both, that the parties expect to realize through shared services or programs.

Sec. 10. 16 V.S.A. § 242 is amended to read:

§ 242. DUTIES OF SUPERINTENDENTS

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

(1) carry out the policies adopted by the school ~~board~~ boards relating to the educational or business affairs of the school district or supervisory union, and develop procedures to do so;

(2) ~~identify~~ prepare, for adoption by a local school board, plans to achieve the educational goals and objectives of established by the school district and prepare plans to achieve those goals and objectives for adoption by the school board;

(3) ~~recommend that the school board employ or dismiss persons as necessary to carry out the work of the school district~~ (A) nominate a candidate for employment by the school district or supervisory union if the vacant position requires a licensed employee; provided, if the appropriate board declines to hire a candidate, then the superintendent shall nominate a new candidate;

(B) select nonlicensed employees to be employed by the district or supervisory union; and

(C) dismiss licensed and nonlicensed employees of a school district or the supervisory union as necessary, subject to all procedural and other protections provided by contract, collective bargaining agreement, or provision of state and federal law;

(4)~~(A) furnish the commissioner~~ provide data and information required by the commissioner; ~~and~~

(B) report all financial operations within the supervisory union to the commissioner and state board for the preceding school year on or before August 15 of each year, using a format approved by the commissioner;

(C) report all financial operations for each member school district to the commissioner and state board for the preceding school year on or before August 15 of each year, using a format approved by the commissioner; and

(D) prepare for each district an itemized report detailing the portion of the proposed supervisory union budget for which the district would be assessed for the subsequent school year identifying the component costs by category and explaining the method by which the district's share for each cost was calculated; and provide the report to each district at least 14 days before a budget, including the supervisory union assessment, is voted on by the electorate of the district;

* * *

Sec. 11. 16 V.S.A. § 563(11)(C) is amended to read:

(C) At a school district's annual or special meeting, the electorate may vote to provide notice of availability of the school budget required by this subdivision to the electorate in lieu of distributing the budget. If the electorate of the school district votes to provide notice of availability, it must specify how notice of availability shall be given, and such notice of availability shall be provided to the electorate at least 30 days before the district's annual meeting. The proposed budget shall be prepared and distributed at least ten days before a sum of money is voted on by the electorate. Any proposed budget shall show the following information in a format prescribed by the commissioner of education:

(i) all revenues from all sources, and expenses, including as separate items any assessment for a supervisory union of which it is a member; and any tuition to be paid to a technical center; and including the report required in subdivision 242(4)(D) of this title itemizing the component costs of the supervisory union assessment;

* * *

Sec. 12. REPEAL

16 V.S.A. § 563(13) (duty of school district board to report financial information to the commissioner) is repealed.

Sec. 13. 16 V.S.A. § 1981(8) and (9) are 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 to engage in professional negotiations with a teachers' or administrators' organization.

~~(A) School districts within a supervisory union that has more than one public high school, however, may form separate negotiations councils, each consisting of representatives, as appropriate, designated by:~~

~~(i) Each school district providing kindergarten through grade 12 within the supervisory union; or~~

~~(ii) The school board for a high school within the supervisory union and the board of each elementary school, if any, that sends its students to the high school.~~

~~(B) A school district, however, may form a separate negotiations council if it:~~

- ~~(i) Maintains a school but does not offer grades 9 through 12;~~
- ~~(ii) Is not a member of a union high school district; and~~
- ~~(iii) Is in a supervisory union that includes a district providing kindergarten through grade 12.~~

(9) “Teachers’ organization negotiations council” or “administrators’ organization negotiations council” means the body comprising representatives designated by each teachers’ organization or administrators’ organization within a supervisory district or supervisory union to act as its representative for professional negotiations.

~~(A) Teachers’ or administrators’ organizations within a supervisory union that has more than one public high school, however, may form separate negotiations councils, each consisting of representatives designated by the teachers’ or administrators’ organization, as appropriate, of:~~

- ~~(i) Each school district providing kindergarten through grade 12 within the supervisory union; or~~
- ~~(ii) A high school within the supervisory union and of each elementary school, if any, that sends its students to the high school.~~

~~(B) A teachers’ or administrators’ organization, however, may form a separate negotiations council if it is within a school district that:~~

- ~~(i) Maintains a school but does not offer grades 9 through 12;~~
- ~~(ii) Is not a member of a union high school district; and~~
- ~~(iii) Is in a supervisory union that includes a district providing kindergarten through grade 12.~~

Sec. 14. 21 V.S.A. § 1722(18) and (19) are 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 to engage in collective bargaining with their school employees’ negotiations council.

~~(A) School districts within a supervisory union that has more than one public high school, however, may form separate negotiations councils, each consisting of representatives, as appropriate, designated by:~~

- ~~(i) Each school district providing kindergarten through grade 12 within the supervisory union; or~~

~~(ii) The school board for a high school within the supervisory union and the board of each elementary school, if any, that sends its students to the high school.~~

~~(B) A school district, however, may form a separate negotiations council if it:~~

~~(i) Maintains a school but does not offer grades nine through 12;~~

~~(ii) Is not a member of a union high school district; and~~

~~(iii) Is in a supervisory union that includes a district providing kindergarten through grade 12.~~

(19) "School employees' negotiations council" means the body comprising representatives designated by each exclusive bargaining agent within a supervisory district or supervisory union to engage in collective bargaining with its school board negotiations council.

~~(A) Exclusive bargaining agents within a supervisory union that has more than one public high school, however, may form separate negotiations councils, each consisting of representatives designated by the exclusive bargaining agent, as appropriate, of:~~

~~(i) Each school district providing kindergarten through grade 12 within the supervisory union; or~~

~~(ii) A high school within the supervisory union and of each elementary school, if any, that sends its students to the high school.~~

~~(B) An exclusive bargaining agent, however, may form a separate negotiations council if it is within a school district that:~~

~~(i) Maintains a school but does not offer grades nine through 12;~~

~~(ii) Is not a member of a union high school district; and~~

~~(iii) Is in a supervisory union that includes a district providing kindergarten through grade 12.~~

Sec. 15. Sec. 10. 16 V.S.A. § 242(5) is amended to read:

(5) work with the school boards of the member districts to develop and implement policies regarding minimum and optimal average class sizes for regular and technical education classes. The policies may be supervisory union-wide, may be course- or grade-specific, and may reflect differences among school districts due to geography or other factors; and

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

Sec. 16. MINIMUM AND OPTIMAL CLASS SIZE POLICIES

(a) On or before January 15, 2011, the policy required by Sec. 15 of this act, 16 V.S.A. § 242(5), regarding minimum and optimal average class size, shall be:

- (1) adopted by each supervisory union board and member district board;
- (2) posted on the website maintained by the supervisory union; and
- (3) forwarded to the commissioner of education.

(b) On or before August 31, 2010, the commissioner of education shall develop two or more model policies regarding minimum and optimal class size and shall post them on the department's website.

Sec. 17. STUDENT-TO-STAFF RATIOS; DATA

In order to develop meaningful proposals to determine optimal cost-effective student-to-staff ratios, the commissioner of education shall research and, on or before January 15, 2011, shall present to the senate and house committees on education the following statistics for the most recent academic year for which data is available:

(1) the total staff-to-student ratios at a supervisory unionwide level, without including transportation, food service, maintenance, enterprise operations, or community service operations;

(2) classroom teacher-to-student ratios at a supervisory unionwide level, without including transportation, food service, maintenance, enterprise operations, or community service operations;

(3) administrative staff-to-student ratios at a supervisory unionwide level, without including transportation, food service, maintenance, enterprise operations, or community service operations;

(4) licensed educator-to-student ratios at a supervisory unionwide level, without including transportation, food service, maintenance, enterprise operations, or community service operations; and

(5) total expenditures, at both the supervisory unionwide and statewide levels, of transportation, food service, maintenance, enterprise operations, or community service operations, with a breakdown of contractual services and services provided by the supervisory union or school district.

Sec. 18. TRANSITION

Each supervisory union shall provide for any transition of employment of special education staff by member districts to employment by the supervisory

union, pursuant to Sec. 9 of this act, 16 V.S.A. § 261a(6), 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 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 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, will address issues of seniority, reduction in force, layoff, and recall.

Sec. 19. INTEGRATED FINANCIAL MANAGEMENT PROCESS

(a) The commissioner of education shall develop an integrated process, including consistent policies and practices, for financial management and reporting that includes common accounting standards, to be used by supervisory unions in the state to enable the supervisory unions share financial information with each other, with the public, and with the department and to ensure that all districts and supervisory unions consistently use uniform, high quality practices. In developing the integrated process, the commissioner shall include standards requiring that persons responsible for the financial management of Vermont education entities share an equivalent level of training and expertise.

(b) The commissioner shall ensure that the integrated process of financial management and reporting is fully implemented no later than July 1, 2011, and shall report to the senate and house committees on education regarding implementation on or before January 15, 2012.

Sec. 20. HIGH SCHOOL TUITION; UNDERCHARGES AND OVERCHARGES

On or before January 15, 2011, the department of education shall:

(1) review 16 V.S.A. § 824(b)(1) regarding tuition payments that are three percent more or less than the calculated net cost per secondary pupil for the year of attendance;

(2) calculate the number of receiving schools that have been subject to the provisions of subdivision 824(b)(1) during the last three years;

(3) calculate the total amount of additional tuition that sending districts have paid to receiving schools pursuant to the provisions of subdivision 824(b)(1) during the last three years;

(4) calculate the number of total amount of tuition that receiving schools have credited to sending districts pursuant to the provisions of subdivision 824(b)(1) during the last three years;

(5) calculate the number of total amount of tuition that receiving schools have refunded to sending districts pursuant to the provisions of subdivision 824(b)(1) during the last three years;

(6) consider and propose to the senate and house committees on education alternative means by which tuition payments that are three percent more or less than the calculated net cost per secondary pupil can be addressed.

* * * Small Schools * * *

Sec. 21. RECOMMENDATIONS; SMALL SCHOOLS

On or before January 15, 2011, the commissioner of education shall develop and present to the general assembly a detailed proposal to:

(1) identify annually the school districts that are “eligible school districts” pursuant to 16 V.S.A. § 4015 due to geographic necessity, including the criteria that indicate geographic necessity;

(2) calculate and adjust the level of additional financial support necessary for the districts identified in subdivision (1) of this section to provide an education to resident students in compliance with state education quality standards and other state and federal laws; and

(3) withdraw small school support gradually from districts that are “eligible school districts” pursuant to 16 V.S.A. § 4015 as currently enacted but will not be identified as “eligible school districts” pursuant to subdivision (1) of this section.

Third: By adding a new section to be numbered Sec. 23 to read as follows:

Sec. 23. EFFECTIVE DATES

(a) Secs. 5 and 22 of this act shall take effect on passage.

(b) Secs 9 through 12 of this act shall take effect on July 1, 2012, subject to the provisions of existing contracts.

(c) This section and all other sections of this act not mentioned in subsections (a) and (b) of this section shall take effect on July 1, 2010.

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

“An act relating to voluntary school district merger, virtual merger, supervisory union duties, and including secondary students with disabilities in senior year activities and ceremonies.”

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

Senator Mazza Assumes the Chair

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

First: In the *second* proposal of amendment, in Sec. 2, subsection (a), in the first sentence, by striking out the word “secondary”

Second: In the *second* proposal of amendment, in Sec. 3, by striking out subsection (h) in its entirety and inserting in lieu thereof a new subsection (h) to read as follows:

(h) Cost-benefit analysis. School districts shall conduct a cost-benefit analysis as part of their merger planning. The plan for merger submitted to the state board of education pursuant to 16 V.S.A. § 706c and presented to the voters for approval shall identify cost efficiencies and improved educational outcomes that will result from merger in order to demonstrate a rational basis for the decision to merge and shall outline and, to the extent possible, document projected:

(A) real dollar efficiencies;

(B) operational efficiencies;

(C) expanded student learning opportunities; and

(D) improved student outcomes.

Third: In the *second* proposal of amendment, in Sec. 6, in the first sentence, by striking out the words “the state board of education’s commission on redistricting” and inserting in lieu thereof the words the joint fiscal office and the office of legislative council

Fourth: In the *second* proposal of amendment, in Sec. 9, 16 V.S.A. § 261a, in subdivision (a)(6), by striking out the words “in another manner” and inserting in lieu thereof the words in whole or in part at the district level

Fifth: In the *second* proposal of amendment, after Sec. 9, by inserting a new section to be Sec. 9a to read as follows:

Sec. 9a. AGREEMENTS BETWEEN SUPERVISORY UNIONS;
REIMBURSEMENT

From the education fund, the commissioner of education shall pay up to \$10,000.00 to supervisory unions to reimburse the transitional costs, including legal and other consulting fees, necessary for the supervisory unions to enter into agreements to provide services or perform duties jointly pursuant to the provisions of 16 V.S.A. §§ 261a(b) and 267.

Sixth: In the *third* proposal of amendment, in Sec. 23, by striking out subsection (b) in its entirety and inserting in lieu thereof a new subsection (b) to read as follows:

(b) Secs 9 through 12 of this act shall take effect on passage and shall be fully implemented by July 1, 2012, subject to the provisions of existing contracts.

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

Senator Kitchel, 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 Education, as amended.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and the pending question, Shall the Senate propose to amend the bill as recommended by the Committee on Education?, was agreed to.

Thereupon, pending the question, Shall the proposal of amendment of the Committee on Education be amended as recommended by the Committee on Finance?, Senator Giard, on behalf of the Committee on Finance, moved to amend the proposal of amendment of the Committee on Finance as follows:

By striking out the *third* proposal of amendment in its entirety and inserting in lieu thereof a new *third* proposal of amendment to read as follows:

Third: In the *second* proposal of amendment, in Sec. 6, in the first sentence, by striking out the following: “On or before January 15, 2011, the state board of education’s commission on redistricting shall research, analyze, and report” and inserting in lieu thereof the following: The commissioner of education shall request the Regional Education Laboratory Northeast and Islands (REL-NEI) to research, analyze and, on or before January 15, 2011, report

Which was agreed to.

Thereupon, the pending question, Shall the proposal of amendment of the Committee on Education be amended as recommended by the Committee on Finance, as amended?, was decided in the affirmative.

Thereupon, pending the question, Shall the Senate propose to the House to amend the bill as proposed by the Committee on Education, as amended?, Senator Flory, on behalf of the Committee on Education, moved to amend the proposal of amendment by adding an internal caption and a new section to be Sec. 21a to read as follows:

* * * Designation; Codification * * *

Sec. 21a. 16 V.S.A. § 827(e) is added to read:

(e) Notwithstanding any other provision of law to the contrary:

(1) the school districts of Pawlet, Rupert, and Wells may designate a public high school located in New York as the public high school of the district pursuant to the provisions of this section; and

(2) unless otherwise directed by an affirmative vote of the school district, when the Wells board approves parental requests to pay tuition to a nondesignated approved independent or public school, the board shall pay tuition in an amount not to exceed the base education amount as determined under section 4011 of this title for the fiscal year in which tuition is being paid.

Which was agreed to.

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

Thereupon, pending the question, Shall the bill be read a third time?, Senator Lyons moved that the Senate proposal of amendment be amended by adding two new sections to be Secs. 18a and 18b to read as follows:

Sec. 18a. 16 V.S.A. § 1071(b) is amended to read:

(b) Hours of operation; academic year. Within the minimum set by the state board, the school board shall fix the number of hours that shall constitute a school day, subject to change upon the order of the state board. The first student day shall not occur before Labor Day in any academic year.

Sec. 18b. APPLICATION

Sec. 18a of this act shall apply in the 2011–2012 academic year and after.

Which was agreed to.

Thereupon, third reading of the bill was ordered.

**House Proposals of Amendment to Senate Proposals of Amendment
Concurred In**

S. 88.

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

An act relating to health care financing and universal access to health care in Vermont.

Were taken up.

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

First: By striking out Sec. 33 in its entirety and inserting in lieu thereof a new Sec. 33 to read as follows:

Sec. 33. 18 V.S.A. § 4632 is amended to read:

**§ 4632. DISCLOSURE OF ALLOWABLE EXPENDITURES AND GIFTS
BY MANUFACTURERS OF PRESCRIBED PRODUCTS**

(a)(1) Annually on or before October 1 of each year, every manufacturer of prescribed products shall disclose to the office of the attorney general for the fiscal year ending the previous June 30th the value, nature, purpose, and recipient information of:

(A) any allowable expenditure or gift permitted under subdivision 4631a(b)(2) of this title to any health care provider, except:

(i) royalties and licensing fees as described in subdivision 4631a(a)(1)(F) of this title;

(ii) rebates and discounts for prescribed products provided in the normal course of business as described in subdivision 4631a(b)(2)(F) of this title;

(iii) payments for clinical trials as described in subdivision 4631a(a)(1)(C) of this title, which shall be disclosed after the earlier of the date of the approval or clearance of the prescribed product by the Food and Drug Administration or two calendar years after the date the payment was made. For a clinical trial for which disclosure is delayed under this subdivision (iii), the manufacturer shall identify to the attorney general the clinical trial, the start date, and the web link to the clinical trial registration on the national clinical trials registry; ~~and~~

~~(iv) samples of a prescription drug or biological product provided to a health care professional for free distribution to patients~~ interview expenses as described in subdivision 4631a(a)(1)(G) of this title; and

(v) coffee or other snacks or refreshments at a booth at a conference or seminar.

(B) any allowable expenditure or gift ~~permitted under subdivision 4631a(b)(2) of this title~~ to an academic institution, to a nonprofit hospital foundation, or to a professional, educational, or patient organization representing or serving health care providers or consumers located in or providing services in Vermont, except:

(i) royalties and licensing fees as described in subdivision 4631a(a)(1)(F) of this title;

(ii) rebates and discounts for prescribed products provided in the normal course of business as described in subdivision 4631a(b)(2)(F) of this title; and

(iii) payments for clinical trials as described in subdivision 4631a(a)(1)(C) of this title, which shall be disclosed after the earlier of the date of the approval or clearance of the prescribed product by the Food and Drug Administration or two calendar years after the date the payment was made. For a clinical trial for which disclosure is delayed under this subdivision (iii), the manufacturer shall identify to the attorney general the clinical trial, the start date, and the web link to the clinical trial registration on the national clinical trials registry; ~~and~~

~~(iv) samples of a prescription drug provided to a health care professional for free distribution to patients.~~

(2)(A)(i) Subject to the provisions of subdivision (B) of this subdivision (a)(2) and to the extent allowed under federal law, annually on or before April 1 of each year beginning in 2012, each manufacturer of prescribed products shall disclose to the office of the attorney general all free samples of prescribed products provided to health care providers during the preceding calendar year, identifying for each sample the product, recipient, number of units, and dosage.

(ii) The office of the attorney general may contract with academic researchers to release to such researchers data relating to manufacturer distribution of free samples, subject to confidentiality provisions and without including the names or license numbers of individual recipients, for analysis and aggregated public reporting.

(iii) Any public reporting of manufacturer distribution of free samples shall not include information that allows for the identification of individual recipients of samples or connects individual recipients with the monetary value of the samples provided.

(B) Subdivision (A) of this subdivision (a)(2) shall not apply to samples of prescription drugs required to be reported under Sec. 6004 of 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, if as of January 1, 2011, the office of the attorney general has determined that the U.S. Department of Health and Human Services will collect and report state- and recipient-specific information regarding manufacturer distribution of free samples of such prescription drugs.

~~(2)(3)~~ Annually on July 1, each manufacturer of prescribed products also shall disclose to the office of the attorney general the name and address of the individual responsible for the manufacturer's compliance with the provisions of this section.

~~(3)(4)~~ Disclosure shall be made on a form and in a manner prescribed by the office of the attorney general and shall require manufacturers of prescribed products to report each allowable expenditure or gift permitted under subdivision 4631a(b)(2) of this title including:

(A) except as otherwise provided in subdivision (a)(2) of this section, the value, nature, and purpose of each allowable expenditure, and gift permitted under subdivision 4631a(b)(2) of this title according to specific categories identified by the office of the attorney general;

(B) the name of the recipient;

(C) the recipient's address;

- (D) the recipient's institutional affiliation;
- (E) prescribed product or products being marketed, if any; and
- (F) the recipient's state board number.

~~(4)~~(5) The office of the attorney general shall report annually on the disclosures made under this section to the general assembly and the governor on or before April 1. The report shall include:

(A) Information on allowable expenditures and gifts required to be disclosed under this section, which shall be presented in both aggregate form and by selected types of health care providers or individual health care providers, as prioritized each year by the office.

(B) Information on violations and enforcement actions brought pursuant to this section and section 4631a of this title.

~~(5)~~(6) After issuance of the report required by subdivision ~~(a)~~(5) of this ~~section~~ subsection and except as otherwise provided in subdivision (2)(A)(i) of this subsection, the office of the attorney general shall make all disclosed data used for the report publicly available and searchable through an Internet website.

~~(6)~~(7) The office of Vermont health access shall examine the data available from the office of the attorney general for relevant expenditures and determine whether and to what extent prescribing patterns by health care providers of prescribed products reimbursed by Medicaid, VHAP, Dr. Dynasaur, VermontRx, and VPharm may reflect manufacturer influence. The office may select the data most relevant to its analysis. The office shall report its analysis annually to the general assembly and the governor on or before October 1.

(b)(1) Annually on July 1, the office of the attorney general shall collect a \$500.00 fee from each manufacturer of prescribed products filing annual disclosures of expenditures greater than zero described in subsection (a) of this section.

(2) Fees collected under this section shall fund collection and analysis of information on activities related to the marketing of prescribed products under ~~sections~~ section 4631a and 4632 of Title 18 this title and under this section. The fees shall be collected in a special fund assigned to the office.

(c) The attorney general may bring an action in Washington superior court for injunctive relief, costs, and attorney's fees, and to impose on a manufacturer of prescribed products that fails to disclose as required by subsection (a) of this section a civil penalty of no more than \$10,000.00 per

violation. Each unlawful failure to disclose shall constitute a separate violation.

(d) The terms used in this section shall have the same meanings as they do in section 4631a of this title.

Second: By striking out Sec. 38b in its entirety and inserting in lieu thereof a new Sec. 38b to read as follows:

Sec. 38b. 18 V.S.A. chapter 82, subchapter 2 is added to read:

Subchapter 2. Menu Labeling

§ 4086. MENUS AND MENU BOARDS

(a) Restaurants and similar food establishments that are part of a chain with 20 or more locations doing business under the same name and offering for sale substantially the same menu items shall disclose on the menu and on the menu board:

(1) adjacent to the name of each standard menu item the number of calories contained in the item; and

(2) a succinct statement concerning suggested daily caloric intake.

(b) This section shall not apply to alcoholic beverages or to grocery stores except for separately owned food facilities to which this section otherwise applies that are located in a grocery store. For purposes of this section, grocery stores include convenience stores.

(c) If at any time subsection (a) or (b) of this section or both are preempted by federal law, then restaurants and similar food establishments that are part of a chain with 20 or more locations doing business under the same name and offering for sale substantially the same menu items shall comply with the menu labeling provisions of the applicable federal statutes and regulations.

(d) A violation of this section shall be deemed a violation of the Consumer Fraud Act, chapter 63 of Title 9, provided that no private right of action shall arise from the provisions of this section. The attorney general has the same authority to make rules, conduct civil investigations, enter into assurances of discontinuance, and bring civil actions as provided under subchapter 1 of chapter 63 of Title 9.

Third: In Sec. 41, by adding a subsection (e) to read as follows:

(e) Secs. 38a (statutory revision) and 38b (menu labeling) of this act shall take effect on January 1, 2011.

Fourth: In Sec. 6, in subdivision (g)(3), in the first sentence, following “health care reform efforts”, by adding the following: , the new federal insurance exchange, insurance regulatory provisions, and other provisions in the Patient Protection and Affordable Care Act of 2010, as amended by the Health Care and Education Reconciliation Act of 2010

Thereupon, the question, Shall the Senate concur in the House proposals of amendment to the Senate proposals of amendment?, was decided in the affirmative on a roll call, Yeas 25, Nays 4.

Senator Ashe 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, Bartlett, Campbell, Carris, Choate, Cummings, Doyle, Flanagan, Giard, Hartwell, Illuzzi, Kitchel, Kittell, Lyons, MacDonald, McCormack, Miller, Nitka, Racine, Sears, Shumlin, Snelling, Starr, White.

Those Senators who voted in the negative were: Brock, Flory, Mullin, Scott.

The Senator absent or not voting was: Mazza (presiding).

Rules Suspended; Bill Passed in Concurrence with Proposals of Amendment

H. 760.

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

An act relating to the repeal or revision of certain boards and commissions.

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

H. 66.

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

An act relating to including secondary students with disabilities in senior year activities and ceremonies.

Was taken up for immediate consideration.

Thereupon, on motion of Senator Shumlin, the rules were suspended and the bill was placed on all remaining stages of its passage in concurrence with proposals of amendment.

Senator Shumlin Assumes the Chair

Thereupon, pending third reading of the bill, Senators MacDonald and Miller moved to amend the bill by in Sec. 2, subsection (a), by striking out the final sentence in its entirety and inserting in lieu thereof the following: Incentives shall be available, however, only if the vote to merge occurs on or before Town Meeting Day in March 2013.

Which was disagreed to.

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

Rules Suspended; House Proposal of Amendment Concurred in with Proposal of Amendment; Rules Suspended; Bill Messaged

S. 296.

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

An act relating to sale or lease of the John H. Boylan state airport.

Was taken up for immediate consideration.

House Proposal of Amendment Concurred In with Amendment

S. 296.

House proposal of amendment to Senate bill entitled:

An act relating to sale or lease of the John H. Boylan state airport.

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. SALE OR LEASE OF THE JOHN H. BOYLAN STATE AIRPORT

(a) Pursuant to the provisions of 5 V.S.A. § 204(3), the secretary of transportation is authorized to sell or lease the John H. Boylan state airport to

the town of Brighton or to the Vermont Renewable Energy Company, LLC, d/b/a Vermont Biomass Energy at fair market value.

(b) Conditions of the lease or sale shall include:

(1) The state shall retain an ownership interest in sufficient flat, open acreage which is in close proximity to route 105 to be used for landing of helicopters. The land purchaser or lessee shall maintain the helicopter landing area so that it is accessible for authorized uses.

(2) The agency of transportation shall have received inactive status for the John H. Boylan state airport from the FAA in order to preserve air space for future use as an airport.

(3) If the conveyance is a lease agreement, the lessee shall purchase liability insurance sufficient to cover potential injuries and damages and shall indemnify the state from loss or injury during the lessee's tenancy.

(4) The purchaser or lessee shall have obtained all necessary permits.

(c) The property shall be conveyed subject to the following covenants:

(1) The property shall be used only for storage and processing of logs for a pellet manufacturing operation in the former Ethan Allen facility on route 105 in Brighton.

(2) If the property is conveyed through a sale, the property shall not be assigned to any other person except that:

(A) at the request of the purchaser, the land may be sold back to the state in the condition required under subdivision (3) of this subsection at the original sale price not increased by interest or an inflation index,

(B) the purchaser may sell the land to another party subject to the conditions and covenants of this section, or

(C) if the purchaser ceases to use the land for storage and processing of logs for a pellet manufacturing operation for 18 months or more, or uses the land in a manner contrary to the conditions and covenants of this section, the land shall revert to the state at no cost to the state.

(3) Upon termination of a lease or sale of the property back to the state, the owner shall return the property to the state in a condition sufficient to support a grass strip airport of the size in existence at the time of the first sale. Upon lease or purchase of the property, the lessor or purchaser or assignee shall also purchase a 7-year performance bond of \$50,000 to ensure that if the land is returned to the state, it will be returned to the state in the required condition.

(d) Any purchaser or lessee shall agree to purchase the hangars, including the concrete pads, on the property from their owners at replacement value as mutually agreed upon by the purchaser or lessee and hangar owner, or as determined by an appraiser mutually agreed upon by the purchaser or lessee and hangar owner, and paid for by the purchaser or lessee. The state shall terminate the hangar leases at the John H. Boylan state airport or, if the owner so desires, shall transfer the lease for placement of the hangar to a nearby airport on the same terms for the remainder of the lease. Any building movement of the hangar shall be at the expense of the hangars owner.

(e) The secretary of transportation is authorized to sell the residence and up to an acre of associated land on the airport property to the highest bidder, provided that the residence and land shall not be sold for less than fair market value.

(f) Proceeds from the state of Vermont's sales or leases authorized by this section shall be deposited into the transportation fund, except for up to \$5,000.00 which may be used by the agency of transportation to create a memorial park at a location mutually agreed upon by the town of Brighton and by the agency to commemorate the contributions to the state of Vermont of the late Senator John H. Boylan and the late Essex District Probate Court Judge Lena Boylan.

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?, 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 the following:

Sec. 1. SALE OR LEASE OF THE JOHN H. BOYLAN STATE AIRPORT

(a) Pursuant to the provisions of 5 V.S.A. § 204(3), the secretary of transportation is authorized to sell or lease the John H. Boylan state airport to the town of Brighton or to the Vermont Renewable Energy Company, LLC, d/b/a Vermont Biomass Energy at fair market value.

(b) Conditions of the lease or sale shall include:

(1) The state shall retain an ownership interest in sufficient flat, open acreage which is in close proximity to VT route 105 to be used for landing of

helicopters. The land purchaser or lessee shall maintain the helicopter landing area so that it is accessible for this purpose.

(2) The agency of transportation shall have received inactive status for the John H. Boylan state airport from the U.S. Federal Aviation Administration (FAA) in order to preserve air space for future use as an airport.

(3) If the conveyance is a lease agreement, the lessee shall purchase liability insurance sufficient to cover potential injuries and damages and shall indemnify the state from loss or injury during the lessee's tenancy.

(4) The purchaser or lessee shall have obtained all necessary permits.

(c) The property shall be conveyed subject to the following covenants:

(1) The property shall be used only for storage and processing of wood for a pellet manufacturing operation at the former Ethan Allen property on VT route 105 in Brighton, and other uses directly related to the operation.

(2) If the property is conveyed through a sale, the property shall not be sold or assigned to any other person except that:

(A) at the request of the purchaser, the land may be sold back to the state in the condition required under subdivision (3) of this subsection at the original sale price not increased by interest or an inflation index;

(B) the purchaser may sell the land to another person subject to the applicable conditions and covenants of this section; or

(C) if the purchaser ceases to use the land for storage and processing of logs for a pellet manufacturing operation for a continuous period of more than 18 months, or uses the land in a manner contrary to the applicable conditions and covenants of this section, the land shall revert to the state at no cost to the state.

(3) Upon termination of a lease or sale of the property back to the state, the owner shall return the property to the state in a condition sufficient to support a grass strip airport of the size in existence at the time of the first sale. Upon lease or purchase of the property, the lessor or purchaser or assignee shall also purchase a seven-year performance bond of \$50,000.00 to ensure that if the land is returned to the state, it will be returned to the state in the required condition.

(d) Any purchaser or lessee shall agree to purchase the hangars, including the concrete pads, on the property from their owners at fair market value as mutually agreed upon by the purchaser or lessee and hangar owner, or as determined by an appraiser mutually agreed upon by the purchaser or lessee

and hangar owner, and paid for by the purchaser or lessee. If there is no agreement, the matter shall be resolved by binding arbitration no later than January 1, 2011 by a single arbitrator selected by the secretary of transportation with all arbitration fees and costs to be shared by the hangar owners and the purchaser or lessor. The state shall terminate the hangar leases at the John H. Boylan state airport or, if the owner so desires, shall transfer one or more lease for placement of the hangar to a nearby airport on the same terms for the remainder of the lease. Any movement of the hangar shall be at the expense of the hangar owner.

(e) The secretary of transportation is authorized to sell the residence and up to an acre of associated land on the airport property to the highest bidder, provided that the residence and land shall not be sold for less than fair market value.

(f) Proceeds from the state of Vermont's sales or leases authorized by this section shall be deposited into the transportation fund, except for up to \$5,000.00 which may be used by the agency of transportation to create a memorial park at a location mutually agreed upon by the town of Brighton and by the agency to commemorate the contributions to the state of Vermont of the late Senator John H. Boylan and the late Essex District Probate Court Judge Lena Boylan.

(g) Any issue not addressed or contemplated by this section may be addressed by the secretary and included in any purchase or lease agreement after consultation with the chairs of the senate committee on institutions, the house committee on corrections and institutions, and the senate and house committees on transportation.

Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.

Which was agreed to.

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

Rules Suspended; Bills Messaged

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

H. 66, H. 542, H. 760.

Rules Suspended; Concurrent Resolution Messaged

On motion of Senator Ayer, the rules were suspended, and the following concurrent resolution was ordered messaged to the House forthwith:

S.C.R. 54.

Rules Suspended; Bill Delivered

On motion of Senator Ayer, the rules were suspended, and the following bill was ordered delivered to the Governor forthwith:

S. 88.

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

H. 470. An act relating to restructuring of the judiciary.

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. 759. An act relating to executive branch fees.

And has adopted the same on its part.

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

H. 781. An act relating to renewable energy.

And has severally concurred therein.

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

H.C.R. 356. House concurrent resolution congratulating Alice Jersey on her 101st birthday.

H.C.R. 357. House concurrent resolution congratulating Donna Smith on her receipt of the 2010 Patricia Cummings Pierce Excellence in Teaching Award.

H.C.R. 358. House concurrent resolution in memory of Stratton Mountain Ski Resort skiing legend Emo Henrich.

H.C.R. 359. House concurrent resolution congratulating the Milton High School and Thetford Academy 2010 Vermont Drama Festival cochampions.

H.C.R. 360. House concurrent resolution honoring Vermont Association for Mental Health Executive Director Ken Libertoff for his exemplary work as a mental health care advocate.

H.C.R. 361. House concurrent resolution honoring the Reverend Kathryn Hult of Bellows Falls for her compassionate community leadership.

H.C.R. 362. House concurrent resolution honoring Richard Slusky's career and civic service in Windsor County.

H.C.R. 363. House concurrent resolution congratulating the Peacham Library on its bicentennial anniversary.

H.C.R. 364. House concurrent resolution honoring Dr. Peter M. Wright for his leadership in public education.

H.C.R. 365. House concurrent resolution welcoming the National Speleological Society to Vermont for its 2010 national convention.

H.C.R. 366. House concurrent resolution honoring Michael J. Chernick for his dedicated service to the Vermont state house.

H.C.R. 367. House concurrent resolution thanking legislative staff, the department of buildings and general services guards and custodial staff, and the cafeteria employees.

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. 52. Senate concurrent resolution honoring Green Up Day on its 40th anniversary.

S.C.R. 53. Senate concurrent resolution congratulating Gregory MacDonald on being named the Northeast Kingdom Chamber of Commerce 2010 Citizen of the Year.

And has adopted the same in concurrence.

The Governor has informed the House that on May 8, 2010, he approved and signed a bill originating in the House of the following title:

H. 507. An act relating to fostering connections to success in guardianships.

The Governor has informed the House that on May 10, 2010, he approved and signed a bill originating in the House of the following title:

H. 622. An act relating to solicitation by prescreened trigger lead information.

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, are hereby adopted in concurrence:

By Representative Sweaney,

By Senators Campbell, McCormack and Nitka,

H.C.R. 356.

House concurrent resolution congratulating Alice Jersey on her 101st birthday.

By Representatives Clark and Bray,

By Senators Ayer and Giard,

H.C.R. 357.

House concurrent resolution congratulating Donna Smith on her receipt of the 2010 Patricia Cummings Pierce Excellence in Teaching Award.

By Representative Olsen and others,

By Senators Shumlin and White,

H.C.R. 358.

House concurrent resolution in memory of Stratton Mountain Ski Resort skiing legend Emo Henrich.

By Representative Turner and others,

H.C.R. 359.

House concurrent resolution congratulating the Milton High School and Thetford Academy 2010 Vermont Drama Festival cochampions.

By Representative Donahue and others,

By Senators Choate, Kitchel, Kittell, Lyons, Mullin, Racine, Shumlin, Snelling and White,

H.C.R. 360.

House concurrent resolution honoring Vermont Association for Mental Health Executive Director Ken Liberto for his exemplary work as a mental health care advocate.

By Representatives Obuchowski and Partridge,

H.C.R. 361.

House concurrent resolution honoring the Reverend Kathryn Hult of Bellows Falls for her compassionate community leadership.

By Representative Sweaney and others,

By Senators Campbell, McCormack and Nitka,

H.C.R. 362.

House concurrent resolution honoring Richard Slusky's career and civic service in Windsor County.

By Representative Toll,

By Senators Kitchel and Choate,

H.C.R. 363.

House concurrent resolution congratulating the Peacham Library on its bicentennial anniversary.

By Representatives Manwaring and Moran,

By Senators Shumlin, White, Hartwell and Sears,

H.C.R. 364.

House concurrent resolution honoring Dr. Peter M. Wright for his leadership in public education.

By Representative Nease and others,

H.C.R. 365.

House concurrent resolution welcoming the National Speleological Society to Vermont for its 2010 national convention

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[The full text of the House concurrent resolutions appeared in the Senate calendar addendum for May 8, 2010, and, if adopted in concurrence by the House, will appear in the volume of the Public Acts and Resolves to be published for this session of the sixty-ninth biennial session of the Vermont General Assembly.]

Adjournment

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